

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
ELENA ASTURIAS and EDUARDO PANIAGUA,)

Appeal No. **23-042**

Appellant(s))

vs.)

DEPARTMENT OF BUILDING INSPECTION,)
PLANNING DEPARTMENT APPROVAL)

Respondent

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on September 12, 2023, the above-named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above-named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the Cancellation on September 7, 2023, of a Building Permit (new dwelling unit on ground floor per RH-2 Zoning density; to comply with Complaint No. 2015-014724ENF; legalization of unpermitted interior remodeling and vertical addition at rear; restoration of front façade; see Permit Application No. 201402067948). The permit was canceled for: (1) failing to submit the requested or required revisions per the Planning Commission decision DRA-822 deadline, and (2) Other: Same project is under duplicate Permit No. 2019/0215/3076) at 1228 Funston Avenue.

APPLICATION NO. 2021/01/13/2631

FOR HEARING ON October 25, 2023

Address of Appellant(s):

Address of Other Parties:

Elena Asturias and Eduardo Paniagua, Appellant(s) c/o Laura Strazzo, Attorney for Appellant(s) Patterson & O'Neill, PC 600 California Street, Eleventh Floor San Francisco, California 94108	N/A
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Date Filed: September 12, 2023

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 23-042

I / We, **Elena Asturias and Eduardo Paniagua**, hereby appeal the following departmental action:

CANCELLATION of Building Permit No. 2021/01/13/2631 by the **Department of Building Inspection** which was issued on: **September 7, 2023**, for the property located at: **1228 Funston Avenue**.

BRIEFING SCHEDULE:

Appellants' Brief is due on or before: 4:30 p.m. on **October 5, 2023**, (no later than three Thursdays prior to the hearing date). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org and matthew.greene@sfgov.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **October 19, 2023**, (no later than one Thursday prior to hearing date). The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and laura@pattersononeil.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, October 25, 2023, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

Not Submitted.

Appellant or Agent:

Signature: Via Email

Print Name: Laura Strazzo, attorney for appellants.



September 7, 2023

NOTICE OF CANCELLATION
Building Permit Application No: 202101132631
Job Address: 1228 Funston Ave
Cancel Date: November 6, 2023

Panagua Eduardo Arturo
1228 Funston Ave
San Francisco, CA 94131

Dear Applicant(s):

The above referenced application has been canceled by the San Francisco Planning Department for the following reason(s):

- Failure to submit requested or required revisions per Planning Commission decision DRA-822 deadline.
- Other: Same project under duplicate permit #201902153076

If you have questions regarding this matter, please contact Laura Ajello from Planning at (628) 652-7353 within 60 days of this letter or else your permit application will be canceled per 2022 SFBC 106A.3.8 on **November 6, 2023**.

You may appeal the cancellation of this building permit application to the Board of Appeals within fifteen (15) days of the date of this letter. To file an appeal, bring a copy of this letter to the Board of Appeals, Suite 1475 of 49 South Van Ness, San Francisco. If you have questions regarding the appeals process, please call the Board of Appeals at (628) 652-1150.

If you have further questions, please call the Department of Building Inspection, Permit Processing Center at (628) 652-3783.

Sincerely,

A handwritten signature in blue ink that reads "Carrie Pei".

Carrie Pei
Permit Processing Center

CC: Francisco Matos
P.O. Box 42699
San Francisco, CA 94142

CERTIFIED MAIL RETURN RECEIPT

CERTIFIED MAIL RETURN RECEIPT ON FILE

Permit Processing Center (PPC)
49 South Van Ness Avenue – San Francisco CA 94103
Office (628) 628-3200 – www.sfdbi.org

BRIEF SUBMITTED BY THE APPELLANT(S)

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12 **SAN FRANCISCO BOARD OF APPEALS**

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ELENA ASTURIAS, and EDUARDO
PANIAGUA,

Permit Holders,

vs.

SAN FRANCISCO DEPARTMENT OF
BUILDING INSPECTION, SAN
FRANCISCO PLANNING DEPARTMENT,

Respondents.

APPEAL NO: 23-042

PERMIT HOLDERS' BRIEF

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I. INTRODUCTION

Permit Holders Elena Asturias and Eduardo Paniagua file this appeal to challenge the Planning Commission’s imposition of unlawful conditions on Building Permit Application No. 202101132631 (the “Permit”). This unfortunate situation results from Permit Holder’s mistaken reliance in their previous structural engineer, Rodrigo Santos, to complete a modest renovation of the home to add a rear extension, deck, and spiral staircase within the lot’s buildable area. Unbeknownst to them, he failed to obtain the proper approvals and the work, while code-compliant, was not properly permitted. They have struggled considerably over the years to find a workable solution to legalize work under difficult financial conditions.

Although not initially intending to increase the lot’s density, Permit Holders are proposing to contribute two additional units to the City’s housing stock to help with the City’s severe housing shortage. Permit Holders received the support of both adjacent neighbors for the proposed project. However, instead of approving it, the Planning Commission imposed punitive permit conditions rejecting the additional units and requiring the removal of the code-compliant rear extension, deck, and stairs. These permit conditions clearly violate state law by imposing improper and subjective design standards that decreased the Project’s residential density in violation of the Housing Accountability Act (“HAA”). Moreover, the Planning Commission’s decision improperly seeks to punish Permit Holders by requiring unnecessary, and prohibitively expensive, modifications to the building envelope while denying Permit Holders their legal right to add to the residential density of the lot.

1 For the reasons further outlined below, Permit Holders request that the Board of Appeals
2 grant their appeal to modify the Permit conditions, approve the Project as proposed, and resolve
3 a long standing impasse between Permit Holders and the Planning Department.

4 **II. BACKGROUND**

5 **A. The Property**

6 1228 Funston Avenue (the “Property”) is a single-family home located in a RH-2 zoning
7 district. It has been in Permit Holder Elena’s family for three generations. Her grandmother, Luz
8 Delia Conde Escobar, purchased it in 1969. When she passed away 17 years ago, she left her
9 home to her daughters – Permit Holder’s mother Carlota del Portillo and Aunt Catherine
10 Echevarria (who tragically just passed away in 2022). Permit Holder Elena’s mother and aunt
11 entrusted them to upgrade the Property to help with family expenses. (Declaration of Elena
12 Asturias “Asturias Decl.,” **Exhibit 1.**)

13 The Permit Holders put their misplaced trust in their previous structural engineer,
14 Rodrigo Santos, to renovate their home. He agreed to develop architectural and structural plans
15 and to secure permits for the project. The initially proposed project was a modest rear extension,
16 deck, and spiral staircase within the lot’s buildable area. In December 2015, Mr. Santos told
17 Permit Holders that the site permit was approved and encouraged them to commence
18 construction. Only after construction was nearly complete did Permit Holders realize the permit
19 had never actually been issued; it had been re-routed back to Planning. (Asturias Decl., **Exhibit**

20 **1.**)¹

21 ¹ Permit Holders also sued Mr. Santos for fraud, and the U.S. Department of Justice placed Permit Holders in the
22 Victim Notification System for victims of Rodrigo Santos. (Asturias Decl., **Exhibit 2.**)

1 At Planning staff's direction, Permit Holders filed a new application to legalize the
2 completed construction. As part of a staff-initiated DR, the Planning Commission approved the
3 permit in 2017 with the following conditions:

4 1. The ground floor should not extend any deeper than the original ground
5 floor depth but can be extended laterally to each side property line.

6 2. The second and third stories should extend no deeper than the original
7 second and third stories at the rear; side setbacks of at least five feet in width must
8 be provided above the ground floor.

9 3. The two-story deck and spiral stair at the rear of the building must be
10 removed.

11 Although the previous unpermitted work to the building was done within the buildable
12 envelope, the Planning Commission decided that the proposed project was not consistent with
13 the Residential Design Guidelines to “[d]esign the height and depth of the building to be
14 compatible with the existing building scale at the mid-block open space,” and to “[a]rticulate the
15 building to minimize impacts to light and privacy to adjacent properties.” (Strazzo Decl., **Exhibit**
16 **A**, p. 5.)

17 This design determination came primarily from the location of the legally non-
18 conforming rear cottage at the adjacent property at 1222 Funston Avenue. Planning Staff felt
19 that the rear addition was “not sensitive” to the existing cottage and would have impacts to its
20 light and air. Whatever the merits of those arguments in 2017, the design considerations
21 changed in 2021 due to the Planning Commission’s approval of a new four-story home at the
22 front of 1222 Funston’s lot. The new construction will dramatically alter the neighborhood
23 conditions by changing the existing building scale and midblock open space. Furthermore,
24 in approving the 1222 Funston project, the Planning Commission recognized that previous
25 light and air concerns for the existing cottage were no longer warranted.
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B. Changes in State Housing Law

Furthermore, the legal landscape of state housing law has changed considerably since 2017 due to a severe statewide housing shortage. In passing the HAA amendments in 2017, the Legislature determined that “local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects” (Gov. Code § 65589.5(a)(1)(D).) The Legislature has since enacted a series of laws intended to “meaningfully and effectively curb[] the capability of local governments to deny, **reduce the density for**, or render infeasible housing development projects.” (Gov. Code § 65589.5(a)(2)(K) [emphasis added].)

To that end, the HAA now requires approval of housing development projects (like this one) unless the local government can make certain written findings based upon a preponderance of the evidence in the record, including that the housing development project would have a “specific, adverse impact upon the public health and safety” (Gov. Code § 65589.5(d).) The HAA states that any ambiguities in the law must be resolved in favor of a housing development project because the policy of the state is that these laws must be “interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.” (Gov. Code §§ 65913.4(n); 65589.5(2)(L).)

Similarly, state law now requires that a permit application for an accessory dwelling unit or a junior accessory dwelling unit be considered and approved ministerially “without discretionary review or a hearing” within 60 days from the date the permitting agency receives a completed application. (Gov. Code § 65852.2(a)(3)(A).) The Planning Code mirrors state law and also requires that such ADUs be approved ministerially. (Planning Code § 207(c)(6)(C).)

C. Proposed Project

To bring resolution to this difficult situation, Permit Holders brought on a new team of design professionals and attorneys to help them in 2021. This team spent countless hours with Planning Department staff to design a project to create additional housing density while preserving the rear extension. Permit Holders applied for a new project to add two additional housing units: a garden apartment on the ground floor and a state accessory dwelling unit

1 (“ADU”) in the rear while legalizing the rear extension. A family-sized unit would remain
2 on the second and third floors (altogether, the “Project”). The proposed new units were
3 affordable by design. The family-sized unit would retain three bedrooms to meet the policy
4 goals of Planning Code section 207.7 to ensure an adequate supply of family-sized units.

5 Although the Project met all applicable objective Planning Code requirements, it was
6 subjected to a staff-initiated discretionary review process because its scope differed from the
7 conditions the Planning Commission imposed under the prior permit. On March 30, 2023,
8 the Planning Commission held a hearing on the Project. Permit Holders submitted letters of
9 support from both adjoining properties. Planning Staff indicated support for adding
10 additional housing units and that the Project may be subject to the HAA. (Strazzo Decl.,
11 **Exhibit A.**) However, the Commission incorrectly determined that the HAA did not apply
12 because the Project deviated from its 2017 discretionary review decision. The Commission
13 took discretionary review, adopted conditions of approval that revert back to the 2017
14 conditions, and disallowed the two additional housing units.

15 Permit Holders are ready to build the Project as proposed, and to add two much
16 needed housing units to San Francisco. However, removing the code-complying rear
17 extension would impose significant and insurmountable costs on Permit Holders.

18 **III. LEGAL ARGUMENTS**

19 **A. The Housing Accountability Act Requires that the City Approve the Project at its** 20 **Proposed Density**

21 As a housing development project consisting of residential units, the Project is subject to
22 the protections of the HAA. (*See* Government Code § 65589.5(h)(2).) Therefore, the City can
23 only impose “objective, quantifiable, written development standards, conditions, and policies
24 appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need
25” (Gov. Code § 65589.5(f)(1).) Moreover, “the development standards, conditions, and
26 policies shall be applied **to facilitate and accommodate development at the density permitted**
27 **on the site and proposed by the development.**” (*Id.* [emphasis added].) The City has the burden
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of proof that its decision to approve the Project on the condition it be developed at a lower density confirms with state law. (Gov. Code § 65589.6.)

There is no dispute that the Project’s proposed rear extension is “within the buildable envelope per the Planning Code” (Strazzo Decl., **Exhibit A**, p. 5.) The proposed units are also principally permitted. (Planning Code §§ 209.1, 207(c)(6).) Nevertheless, the Planning Commission maintains that the Project does not comply with the property specific requirements it imposed as conditions on the prior permit. Those conditions were derived from subjective design criteria based on neighborhood conditions that have since changed. The Planning Commission asserts that its prior conditions, imposed as part of a different permit application for a different project, create objective code requirements that follow the Property and apply to future project applications regardless of changes to state or local law.

However, this analysis is incorrect. Current law makes it clear that the City cannot impose subjective design standards on housing development projects. Even if the HAA did not apply, the Commission should have taken into consideration that its approval of 1222 Funston’s project fundamentally changed the neighborhood condition and should have re-evaluated its prior determination on the design guidelines. Yet, the Commission inexplicably relies on a legal theory that it is not bound by the HAA because it can amend the Planning Code to create new code standards for specific properties. At the hearing, the Planning Commission relied heavily on section 174 of the Planning Code, even though it does not allow the Planning Commission to create indefinite, project-specific code requirements. Therefore, the Board of Appeals should correct this error by modifying the permit conditions to approve the Project as proposed.

1. The Planning Commission Cannot Rely on Its Prior Application of the Residential Design Guidelines

a. **The Residential Design Guidelines are Not Objective Standards under the HAA and Cannot be Imposed on the Project**

Urban design guidelines that, on their face, require interpretation and subjective judgment are not objective requirements under the HAA. (Gov. Code § 66300(a)(7); *see also Calif. Renters Legal Advoc. & Educ. Fund, et al. v. City of San Mateo, et al.* (2021) 68 Cal.App.5th 820, 840-842 [CRLA].) An objective design standard “involves **no personal or subjective judgment by a public official** and is **uniformly verifiable** by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.” (Gov. Code § 66300(a)(7) [emphasis added].)

Although the Planning Code has specific requirements for residential design, the Planning Department employs the “Residential Design Guidelines” or “RDGs” to “articulate expectations regarding the character of the built environment and are intended to promote design that will protect neighborhood character, enhancing the attractiveness and quality of life in the City.” (Strazzo Decl., **Exhibit B.**) The RDGs are largely subjective design guidelines that cannot be uniformly verified. In fact, the Planning Department implicitly acknowledges this because it uses an in-house Residential Design Advisory Team (made up of design professionals) to make project specific determinations on the applicability of the guidelines.

Furthermore, the specific guidelines applied to the Project are plainly not objective. The first guideline concerns “Building Scale at the Street”:

GUIDELINE: Design the height and depth of the building to be compatible with the existing building scale at the street.

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If a proposed building is taller than surrounding buildings, or a new floor is being added to an existing building, it may be necessary to modify the building height or depth to maintain the existing scale at the street. By making these modifications, the visibility of the upper floor is limited from the street, and the upper floor appears subordinate to the primary facade. The key is to design a building that complements other buildings on the block and does not stand out, even while displaying an individual design. (*Id.* at p. 24.)

This guideline provides no uniformly verifiable standard. The compatibility requirement requires a subjective judgment about consistency with the existing building scale. The language's application is also ambiguous as it only states that it "may be necessary" to modify the building. (*CRLA, supra*, at 840.) Moreover, the Planning Code already imposes applicable and objective code requirements concerning setbacks, permitted obstructions, and height limits, which the Project meets. (*See* Planning Code §§ 130, 136, and 250.)

Similarly, the "Rear Yard" guideline states:

GUIDELINE: Articulate the building to minimize impacts on light and privacy to adjacent properties.

Rear yards are the open areas of land between the back of the building and the rear property line. When expanding a building into the rear yard, the impact of that expansion on light and privacy for abutting structures must be considered. This can be challenging given San Francisco's dense pattern of development, however, modifications to the building's design can help reduce these impacts and make a building compatible with the surrounding context. (Strazzo Decl., Exhibit (RDG), p. 16.)

This guideline is also clearly subjective and provides no uniform standard. When it applies is ambiguous as it states only that light and privacy impacts "must be considered," while simultaneously stating it "can be challenging" to reduce the impacts given the "dense pattern of development," implying there are some unknown situations where no modifications are necessary. Applying this guideline cannot be objective and requires personal and subjective judgment by a public official, in this case the Residential Design Advisory team.

1 Therefore, neither guideline can be applied to reduce the density of a housing
2 development project under the HAA.

3 **b. Even if the HAA does not Apply, the Planning Commission Erred by Failing**
4 **to Evaluate the Changed Neighborhood and Midblock Open Space**
5 **Conditions after it Approved 1222 Funston Avenue's Project in 2021**

6 The Planning Commission simply re-adopted the 2017 permit conditions without further
7 design analysis. However, re-evaluating the design guidelines was necessary because, in 2021,
8 it approved the construction of a new four-story home on existing open space of 1222 Funston
9 Avenue. This construction meaningfully changes the height and depth of the neighboring
10 properties, and it was designed to match the Property's existing building envelope. The
11 Property's building envelope is now considerably more compatible with the neighboring
12 properties than in 2017.

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14 Furthermore, in approving the 1222 Funston project, the Commission overlooked its
15 prior concerns with protecting the light and air of that property's existing cottage. Yet, it still
16 required the Property to comply with its prior design guideline determination without
17 explanation. These changes to the neighborhood condition were not acknowledged or evaluated
18 in the Commission's decision, and more importantly, are no longer relevant or necessary.
19 Therefore, the Commission further erred and the Permit should be approved as proposed.
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22 2. The Planning Commission Does Not Have the Authority to Amend the Planning Code
23 to Impose Additional Code Requirements

24 The Planning Code can only be amended by the enactment of an ordinance passed by the
25 Board of Supervisors. (Planning Code § 302.) The Planning Code's objective requirements
26 cannot be amended through the limited discretionary review process. Planning Code section 311
27 provides: "[t]he project sponsor of a building permit application may request discretionary
28 review by the Planning Commission to resolve conflicts between the Director of Planning and
the project sponsor concerning requested modifications to comply with the Residential Design

1 Guidelines, or other applicable design guidelines.” (Planning Code § 311(e).) It authorizes
2 limited discretion, when staff has already determined a project complies with the Planning
3 Code’s objective requirements, to resolve design disputes between Planning staff and project
4 applicants. It does not create a process for the Commission to create new objective code
5 requirements. Therefore, it erred by determining it could evade HAA’s protections and reimpose
6 subject design standards.

7 3. The Planning Commission Cannot Create Objective Code Requirements under Planning
8 Code Section 174

9 The Planning Commission suggested it has the authority to impose property-specific
10 code requirements on new permit applications (even if those conditions no longer comply with
11 current law) pursuant to Planning Code § 174. However, nothing in this section gives the
12 Planning Commission such authority. Planning Code § 174 merely states:

13 Every condition, stipulation, special restriction and other limitation
14 imposed by administrative actions pursuant to this Code, whether
15 such actions are discretionary or ministerial, shall be complied with
16 in the development and use of land and structures. All such
17 conditions, stipulations, special restrictions and other limitations
18 shall become requirements of this Code, and failure to comply with
19 any such condition, stipulation, special restriction or other limitation
20 shall constitute a violation of the provisions of this Code. (Planning
21 Code § 174.)

22 It is true that certain conditions for specific entitlements or permits must be complied with for
23 enforcement purposes. However, section 174 does not state that prior permit conditions, for
24 permits that never issue, become code requirements for a property indefinitely.

25 Moreover, this position would contradict the way permits and entitlements are treated
26 under other sections of the Planning Code and state law. Permits and entitlements are only valid
27 for a discrete period and then expire. For example, conditional use authorizations are valid for
28 only three years from their effective date if a permit is not issued in that period. (*See* Planning
Code § 178(d).) An SB-330 application vests a project to the ordinances, policies, and standards
adopted and in effect when a preliminary application is submitted for 2.5 years after the project
receives final approval. (Gov. Code § 65589.5(o)(2)(D).) Issued permits are only valid if the

1 work is commenced within 12 months. (Cal. Health & Saf. Code § 18938.6.) Otherwise, after
2 the validity period elapses, a project *is* subject to current code requirements. As is the case here,
3 the 2017 DR decision has long since expired, the permit never issued, and there have been
4 interim changes to state and local laws that require approval of the Project.

5 4. The Planning Commission Cannot Impose Punishment

6 The Planning Code specifically delegates enforcement authority to the Zoning
7 Administrator, which has the ability to assign administrative penalties and issue notices of
8 violation, which happened in this case as part of a separate proceeding. (Planning Code §176(c).)
9 Other civil enforcement authority can only be undertaken in a civil action brought by the City
10 Attorney (*Id.* at §176(c)(2).) Here, the Planning Commission was obviously unhappy that Permit
11 Holders chose to bring the Property into compliance by utilizing state law protections to preserve
12 the existing building envelope. However, the Planning Commission cannot require Permit
13 Holders to comply with its 2017 conditions as a prerequisite to any future development of the
14 lot simply to punish them. It also cannot deny Permit Holders additional units for the same
15 reason. Since it did both, its decision should be amended.

16 **B. Even if the HAA did not apply, the Planning Commission Erred Because State Law**
17 **Requires that the City Ministerially Approve State-Law ADU Permits**

18 “A permit application for an accessory dwelling unit or a junior accessory dwelling unit
19 shall be considered and approved ministerially without discretionary review or a hearing
20 within 60 days from the date the permitting agency receives a completed application if there is
21 an existing single-family or multifamily dwelling on the lot.” (Gov. Code § 65852.2(a)(3)(A).)
22 If a permitting agency denies an application for an ADU, it must return in writing a full set of
23 comments to the applicant with a list of items that are defective or deficient and a description of
24 how the application can be remedied by the applicant within 60 days. (*Id.* at § 65852.2(a)(3)(B).)
25 The Planning Code also requires that state ADUs be approved ministerially. (Planning Code §
26 207(c)(6)(C).)

27 The Planning Commission violated the Government Code and the Planning Code when
28 it denied Permit Holders’ application to construct a state-law ADU and subjected it to a

1 discretionary review hearing. (Gov. Code § 65852.2(a)(3)(A); Planning Code § 207(c)(6)(C).)
2 The Department failed to provide any comments to Permit Holders that the proposed state ADU
3 did not comply with state law. Instead, to penalize Permit Holders, the Planning Commission
4 acted in violation of its authority (and state law) by unequivocally denying Permit Holders' state-
5 law ADU application solely on the basis that they sought to construct a different project than the
6 one that had been approved by the Commission in 2017.

7 However, the Planning Code does not allow the Planning Commission to prohibit the
8 addition of housing units as punishment for failing to abate violations. In fact, such actions are
9 prohibited by state law. At the hearing, Commissioners confirmed that they were explicitly
10 rejecting Permit Holders' proposal to add a state-law ADU and that no ADU would be approved
11 until the property complied with the 2017 permit conditions. For example, one Commissioner
12 stated: "if the applicant wants to build two more housing units in the future that's something they
13 can do through a separate independent process once the current issue has been abated." (Strazzo
14 Decl., Exhibit C, Hearing Transcript at 3:14.) Neither state law nor the Planning Code gives the
15 Planning Commission discretion to deny applications for state-law ADUs. The Board of Appeals
16 should modify the Planning Commission's permit conditions and approve the ADU application.

17 **IV. CONCLUSION**

18 Because the Project is subject to the protections of the HAA and state ADU law, and
19 complies with all objective Planning Code requirements, Permit Holders respectfully request
20 that the Board of Appeals approve the Project as proposed.

21
22 Dated: October 5, 2023

PATTERSON & O'NEILL, P.C.

23
24 

25 By: Ryan J. Patterson
26 Laura Strazzo
27 Attorneys for Permit Holders
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10 Attorneys for Appellants
11 Elena Asturias and Eduardo Paniagua

12 **SAN FRANCISCO BOARD OF APPEALS**

13 ELENA ASTURIAS, and EDUARDO
14 PANIAGUA,

15 Permit Holders,

16 vs.

17 SAN FRANCISCO DEPARTMENT OF
18 BUILDING INSPECTION, SAN
19 FRANCISCO PLANNING DEPARTMENT,

20 Respondents.

APPEAL NO:23-042

**DECLARATION OF LAURA STRAZZO
IN SUPPORT OF PERMIT HOLDERS'
BRIEF**

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I, Laura Strazzo, declare as follows:

1. I am an attorney for Permit Holders in this matter. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently there to.

2. Attached as **Exhibit A** is a true and correct copy of the staff report prepared by Planning Staff concerning 2021-001219DRM prepared for the Planning Commission hearing on March 30, 2023.

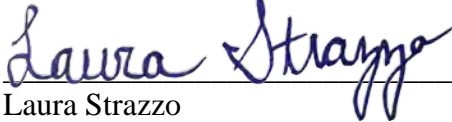
3. Attached as **Exhibit B** are true and correct excerpts from the San Francisco Planning Department's Residential Design Guidelines.

4. Attached as **Exhibit C** is a true and correct transcript excerpt from the Planning Commission's March 30, 2023 hearing on 2021-001219DRM prepared by our office. The entire hearing can be viewed at https://sanfrancisco.granicus.com/player/clip/43288?view_id=20&meta_id=993362&redirect=true&h=0f7d428f7563ea5b9b51b7f46c5481e9.

5. Attached as **Exhibit D** is a true and correct copy of a San Francisco Chronicle Article titled "S.F. corruption scandal: City audits thousands of properties connected to indicted former officials" by St. John Barned-Smith dated April 10, 2023.

I declare under the penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed this date in San Francisco, CA.

Dated: October 5, 2023



Laura Strazzo

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, SUITE 950
SAN FRANCISCO, CALIFORNIA 94104

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EXHIBIT A



MANDATORY DISCRETIONARY REVIEW ANALYSIS

HEARING DATE: March 30, 2023

Record No.: 2021-001219DRM
Project Address: 1228 Funston Avenue
Permit Applications: 2021.0113.2631
Zoning: RH-2 [Residential House, Two Family]
40-X Height and Bulk District
Block/Lot: 1738/ 039
Project Sponsor: Elena Asturias
1228 Funston
San Francisco, CA 94122
Staff Contact: David Winslow – (628) 652-7335
david.winslow@sfgov.org

Recommendation: Take DR and Approve with Conditions

Background

On February 6, 2014, the subject property owners and their representative, Rodrigo Santos filed a Building Permit Application (BPA) No. 2014.0206.7948 for interior alterations and a three-story rear horizontal addition. In May 2015, it came to the Planning Department's attention that the three-story rear horizontal addition had already been constructed without the benefit of a permit and approval from the Planning Department. Additionally, the vertical addition was built larger than the plans submitted under BPA No. 2014.0206.7948. In November 2015, the property owner sought to withdraw BPA No. 2014.0206.7948. Accordingly, the Planning Department sent the permit to DBI for cancellation. However, the permit was not withdrawn and returned to the Planning Department for its review on April 29, 2016. In May and August 2016, the property owners submitted revisions to BPA No. 2014.0206.7948 to seek legalization of the unauthorized rear addition. In March 2017, Planning Department staff initiated a Discretionary Review Application (DRA) No. 2014-000599DRM because the unauthorized addition and exterior alterations at the front and rear of a circa 1937 three-story, single-family house did not comply with the Planning Department Residential Design Guidelines. The unauthorized addition and exterior alterations included:

1. Demolition of a 20' wide by 25' deep one-story shed structure located in the rear yard.
2. Construction of a three-story horizontal addition at the rear of the single-family dwelling.
3. Construction of a two-story deck and spiral stairs at the rear of the property.
4. Front façade alterations to windows, trim, and the front entry.

In June 2017, the Planning Commission approved the project with the following design modifications documented under DR Action Memo, DRA-0532:

1. The ground floor should not extend any deeper than the original ground floor depth but can be extended laterally to each side property line.
2. The second and third stories should extend no deeper than the original second and third stories at the rear; side setbacks of at least five feet in width must be provided above the ground floor.
3. The two-story deck and spiral stair at the rear of the building must be removed.

Pursuant to DRA-0532, the property owner was required to submit revised plans under BPA No. 2014.0206.7948. However, the property owners did not submit the revisions despite repeated reminders and enforcement notices from the Planning Department through November 2018. Consequently, BPA No. 2014.0206.7948 was disapproved in November 2018. The property owners initially appealed the disapproval and then withdrew the appeal agreeing to comply with the Planning Commission DR Action Memo, DRA-0532.

In February 2019, the property owners filed another BPA No. 2019.0215.3076 to comply with DRA-0532. BPA No. 2019.0215.3076 was issued in September 2020. The property owners were required to submit an addendum to this permit in a timely manner and pursue completion of BPA No. 2019.0215.3076 in a diligent manner.,

In January 2021, the property owners filed a new BPA No. 2021.0113.2631, instead of submitting a full addendum required under BPA No. 2019.0215.3076 to complete the work and abate the violation. This permit seeks to legalize the as-built rear three-story vertical addition which is contrary to the modifications required by the Planning Commission under DRA-0532.

In May 2021, the property owners submitted an addendum which is not consistent with the project approved under BPA No. 2019.0215.3076. The property owners have requested the Department of Building inspection to place the addendum review on hold until a decision is issued under BPA No. 2021.0113.2631.

The Planning Department requires timely violation abatement to bring the subject property into Code compliance. The Planning Department requested the property owners submit a full addendum under BPA No. 2019.0215.3076 to move that permit along. The property owners have failed to follow the Planning Department's direction. Consequently, a \$250 per day penalty has been accruing since May 2021 and will continue to accrue

until the corrective actions are taken to bring the subject property into compliance.

Project Description

The project proposes legalize a 3-story horizontal addition to the rear and façade alterations performed without benefit of a permit and to add a second dwelling unit and an Accessory Dwelling Unit at the ground level behind the garage.

Site Description and Present Use

The site is an approximately 25'-0" wide x 120'-0" deep lot containing an existing 3-story, single family home. The existing building is a Category 'B' - Age eligible historic resource built in 1912.

Surrounding Properties and Neighborhood

The buildings on this block of Funston Avenue are consistently 3-stories, with varied setbacks from the street. The massing, side setbacks, and alignment of the rear building walls create a consistent mid-block open space.

Building Permit Notification

Type	Required Period	Notification Dates	DR File Date	DR Hearing Date	Filing to Hearing Date
NA	NA	NA	May 20, 2021	December 2, 2021	196 days

Hearing Notification

Type	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	20 days	November 13, 2021	November 13, 2021	20 days
Mailed Notice	20 days	November 13, 2021	November 13, 2021	20 days
Online Notice	20 days	November 13, 2021	November 13, 2021	20 days

Public Comment

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

Department Review.

At the previous Staff Initiated Discretionary Review on June 15, 2017, the Commission took Discretionary Review (DRA-0532) and stipulated:

1. The ground floor should not extend any deeper than the original ground floor depth but can be extended laterally to each side of the property.
2. The second and third stories should extend no deeper than the original second and third stories at the

rear; side setbacks of at least five feet in width must be provided above the ground floor.

3. The spiral stair and deck at the rear of the building must be removed.

This corrective work was never completed.

Although the previous unpermitted work to the building was done within the buildable envelope per the Planning Code, it was not consistent with the Residential Design Guidelines “*Design the height and depth of the building to be compatible with the existing building scale at the mid-block open space.*” (pgs. 25-27) and “*Articulate the building to minimize impacts to light and privacy to adjacent properties.*” (pg. 16).

However, this is a different permit which seeks to legalize previous work done without a permit and adds two new dwelling units and therefore may be subject to the Housing Accountability Act.

The Planning Department appreciates and supports the addition of a two dwelling units as proposed in this most recent revision to the permit, as the additional dwelling units support the City’s housing goals.

Staff deems there are exceptional and extraordinary circumstances in the history of the arriving at compliance and therefore recommends taking Discretionary Review to condition and memorialize that final permits reflecting the work to be corrected be submitted within 90 days and that the certificate of final completion for the both the second unit and the Accessory Dwelling Unit be obtained before the abatement of the violation be considered complete.

Recommendation: Take DR and Approve and Approve with Conditions

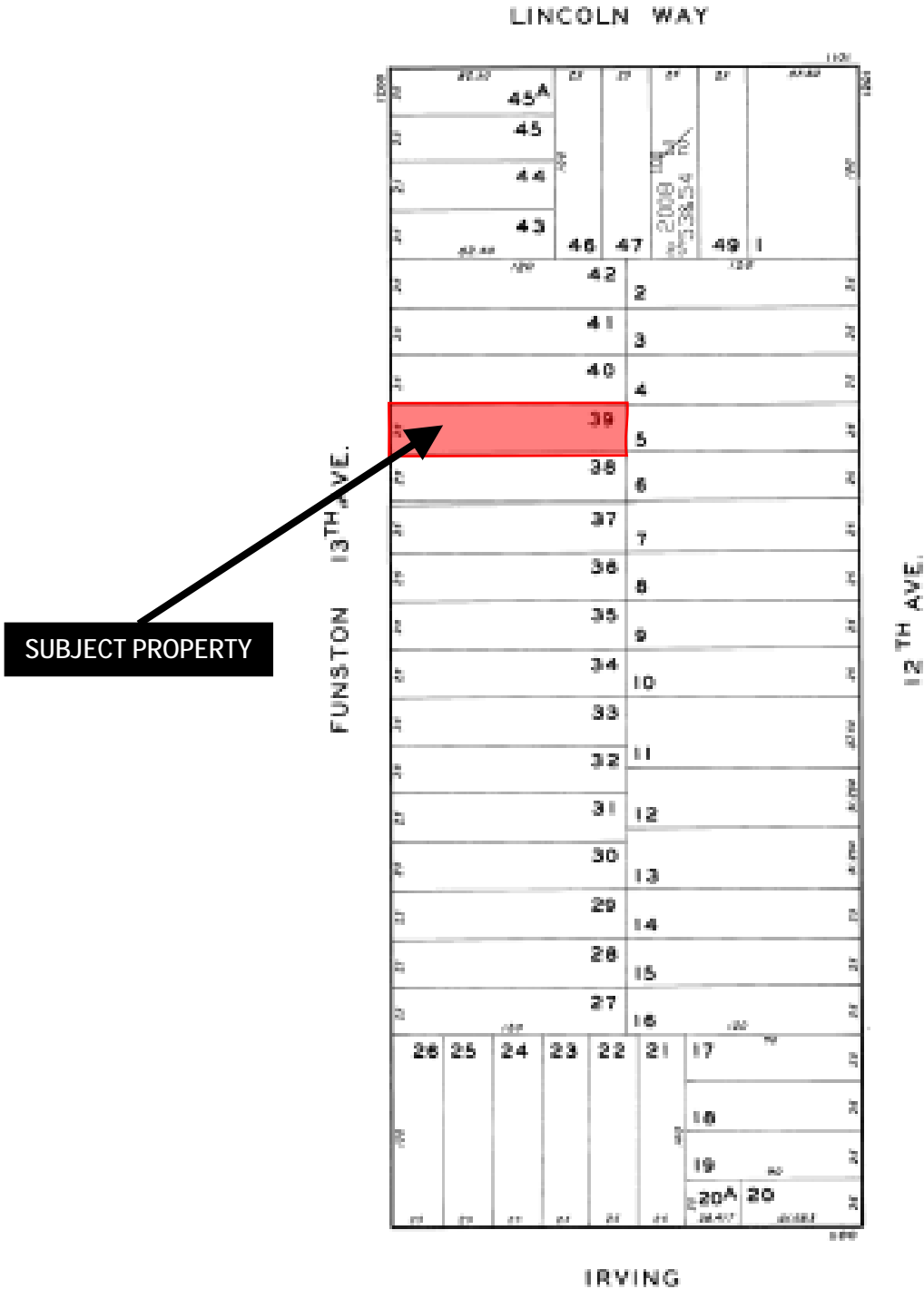
Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
CEQA Determination
ADU screening
Eviction history
Mandatory DR Application
2014-000599DRM Discretionary Review Action Memo DRA-0532
DR response
Letters of support
Reduced plans dated 3.13.23

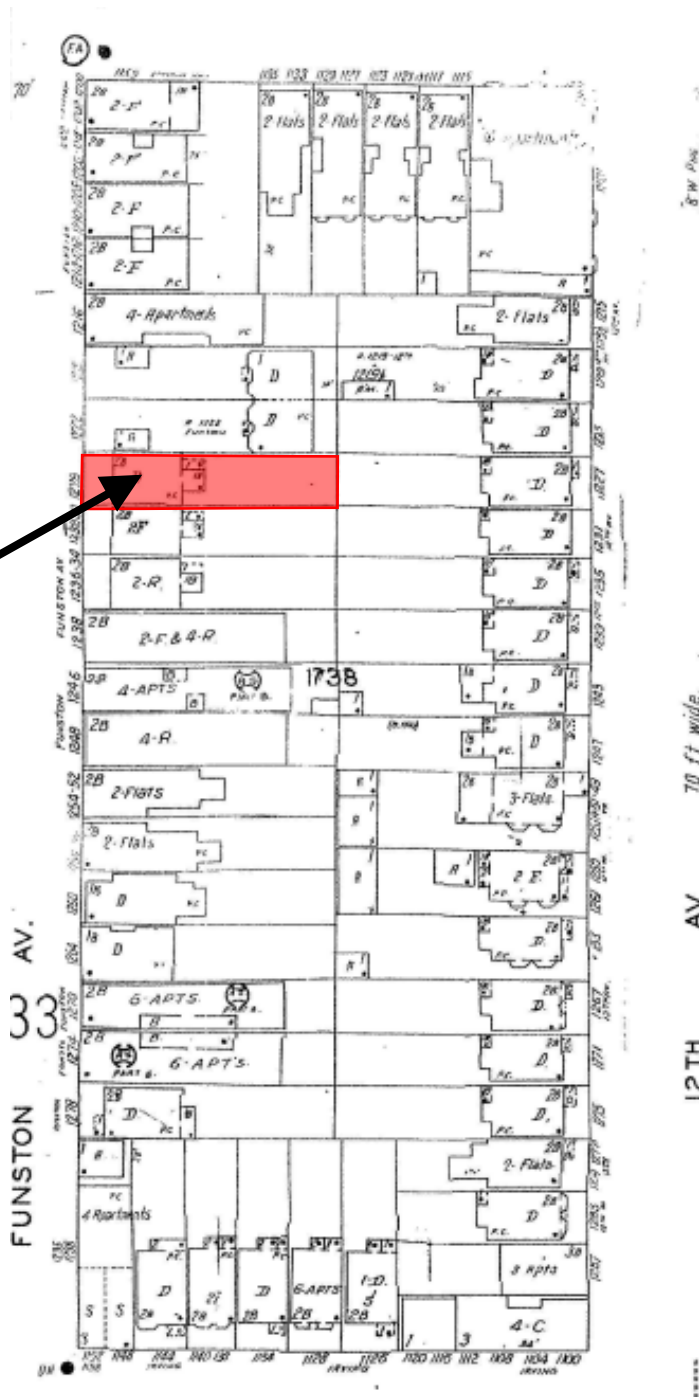
Exhibits

Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Parcel Map



Sanborn Map*



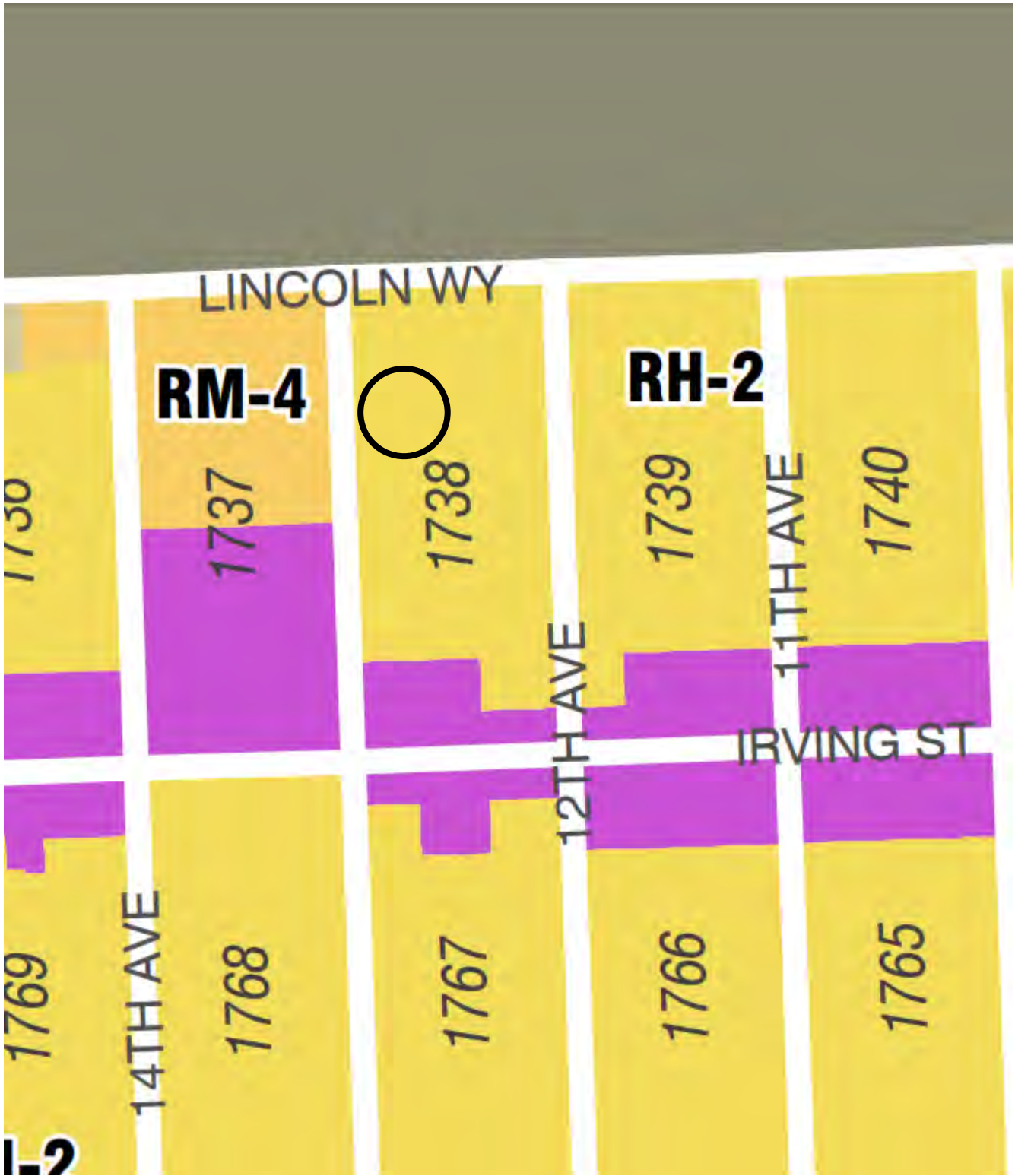
SUBJECT PROPERTY

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



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Zoning Map



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Aerial Photo

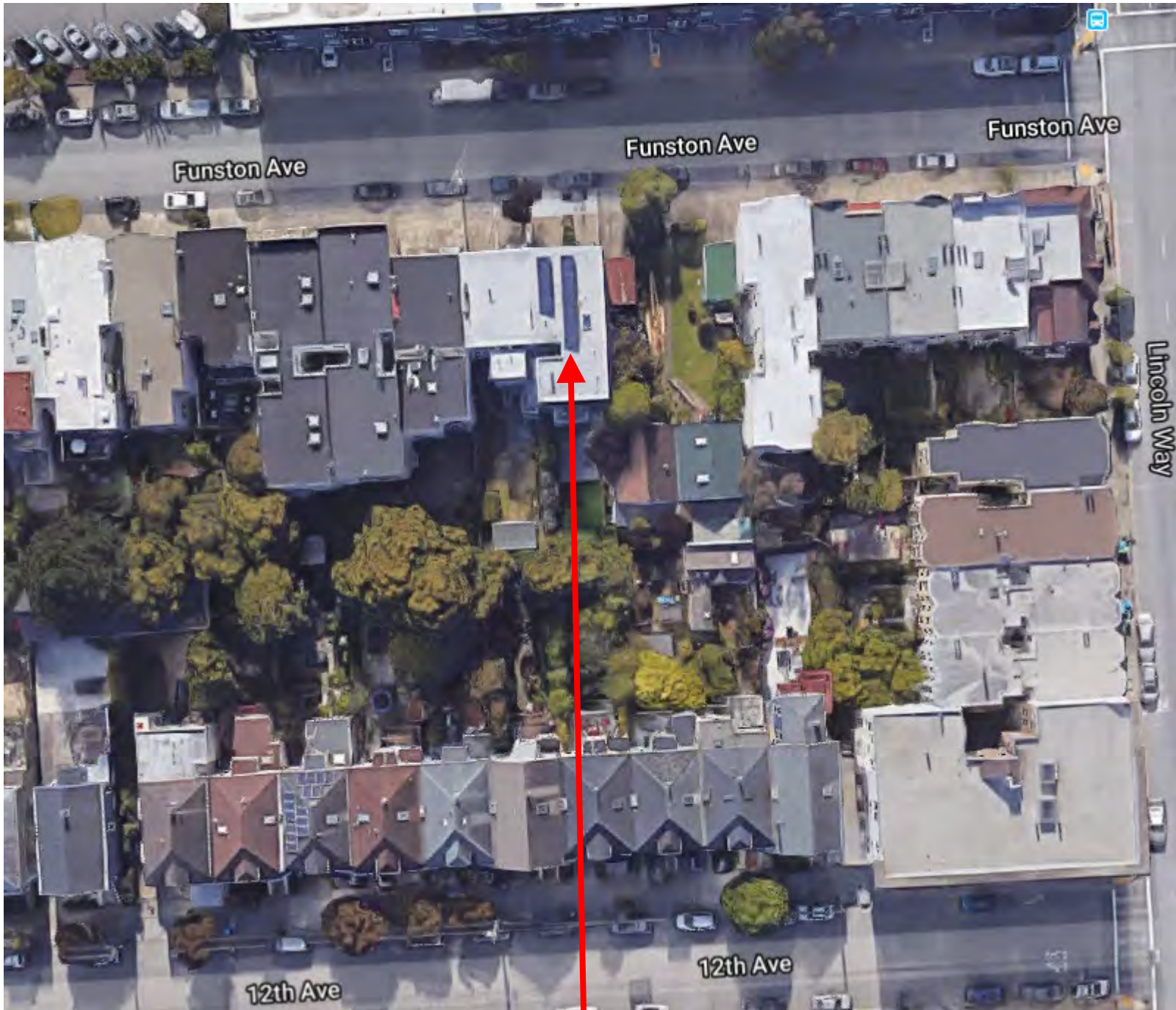


SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Aerial Photo



SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Aerial Photo

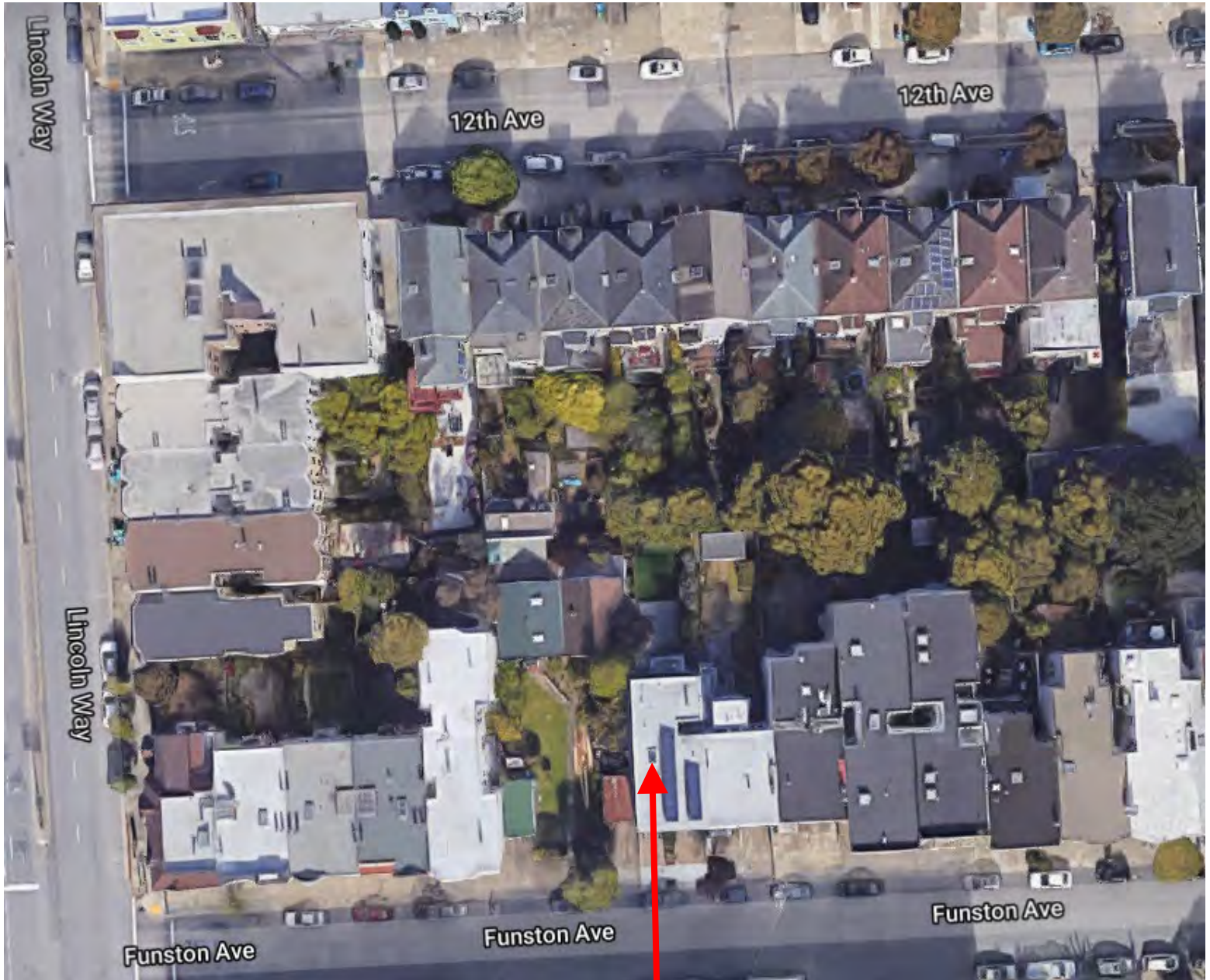


SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Aerial Photo

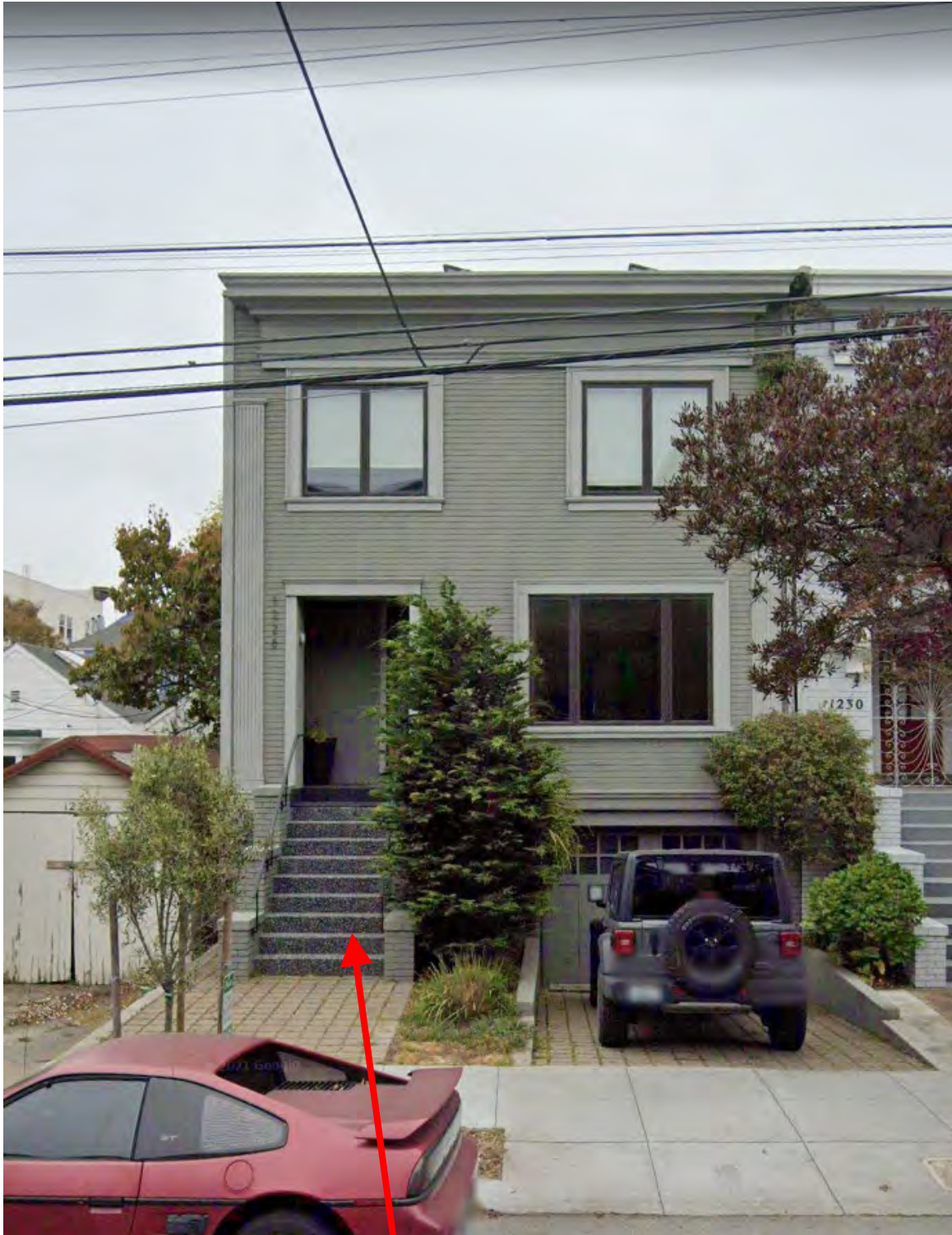


SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue

Site Photo



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2021-001219DRM
1228 Funston Avenue



CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address 1228 Funston Avenue		Block/Lot(s) 1738039
Case No. 2021-001219PRJ		Permit No. 202101132631
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. The project would include the following: legalize unpermitted work at the rear, add a dwelling unit at ground floor within existing building envelope; and restoration of front façade to its original historic condition.</p>		

STEP 1: EXEMPTION TYPE

The project has been determined to be 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 checked="" 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"/>	<p>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:</p> <p>(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.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p>
<input type="checkbox"/>	Other _____
<input type="checkbox"/>	Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment.

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? <i>(refer to the Environmental</i></p>
<input type="checkbox"/>	<p>Hazardous Materials: <input type="checkbox"/> Maher or <input type="checkbox"/> Cortese Is the project site located within the Maher area or on a site containing potential subsurface soil or groundwater contamination and would it involve ground disturbance of at least 50 cubic yards or a change of use from an industrial use to a residential or institutional use? Is the project site located on a Cortese site or would the project involve work on a site with an existing or former gas station, parking lot, auto repair, dry cleaners, or heavy manufacturing use, or a site with current or former underground storage tanks? <i>if Maher box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant.</i> Note that a categorical exemption shall not be issued for a project located on the Cortese List</p>
<input type="checkbox"/>	<p>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? Would the project involve the intensification of or a substantial increase in vehicle trips at the project site or elsewhere in the region due to autonomous vehicle or for-hire vehicle fleet maintenance, operations or</p>
<input type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic Hazard: <input type="checkbox"/> Landslide or <input type="checkbox"/> Liquefaction Hazard Zone: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Don Lewis</p>	

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

PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)	
<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 checked="" 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 checked="" type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Reclassification of property status. (Attach HRER Part I) <input type="checkbox"/> Reclassify to Category A a. Per HRER b. Other (specify): <input type="checkbox"/> Reclassify to Category C (No further historic review)
<input type="checkbox"/>	2. 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"/>	3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character defining features.
<input type="checkbox"/>	4. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.

<input type="checkbox"/>	6. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input checked="" type="checkbox"/>	7. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	8. Work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties (Analysis required)</i> :
<input type="checkbox"/>	9. Work compatible with a historic district (Analysis required):
<input type="checkbox"/>	10. Work that would not materially impair a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input checked="" type="checkbox"/>	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.
Comments (optional): General restoration of the front façade / enforcement action.	
Preservation Planner Signature: Elizabeth Gordon Jonckheer	

STEP 6: EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

<input checked="" type="checkbox"/>	No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Building Permit	Signature: Moses Corrette
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the	11/22/2021
	Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/PIM/ . Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link. Once signed or stamped and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination to the Board of Supervisors can only be filed within 30 days of the project receiving the approval action.	

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

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 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

Planner Name:

Date:



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Action DRA-0532

HEARING DATE: JUNE 15, 2017

Case No.: 2014-000599DRM
Project Address: 1228 FUNSTON AVENUE
Permit Application: 2014.02.06.7948
Zoning: RH-2 (Residential House, Two-Family)
40-X Height and Bulk District
Block/Lot: 1738/039
Project Sponsor: Eduardo Paniagua
176 Randall Street
San Francisco, CA 94131
Staff Contact: Laura Ajello – (415) 575-9142 or laura.ajello@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

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF CASE NO. 2014-000599DRM AND THE APPROVAL OF BUILDING PERMIT 2014.02.06.7948 PROPOSING TO LEGALIZE CONSTRUCTION OF A THREE-STORY HORIZONTAL ADDITION AT THE REAR OF A THREE-STORY, SINGLE-FAMILY DWELLING WITHIN THE RH-2 (RESIDENTIAL, HOUSE, TWO-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 6, 2014, Building Permit Application No. 2014.02.06.7948 was filed proposing construction of a three-story horizontal addition at the rear of a three-story, single-family dwelling within the RH-2 (Residential, House, Two-Family) District and a 40-X Height and Bulk District. The application was subsequently revised to include legalization of work that was completed without permit.

This is a staff-initiated request for Discretionary Review (2014-000599DRM) of Building Permit Application No. 2014.02.06.7948 because the applicant is seeking legalization of unpermitted exterior alterations at the front and rear of a circa 1937 three-story single-family house that do not comply with the *Residential Design Guidelines*. The exterior alterations that were made without permit are as follows:

1. Demolition of a 20' wide by 25' deep one-story shed structure located in the rear yard.
2. Construction of a three-story horizontal addition at the rear of the single-family house.
3. Construction of a two-story deck and spiral stair located at the rear of the house.
4. Front façade alterations to windows, trim and the front entry.

The Department has determined that the proposed project as conditioned is exempt 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).

On June 15, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2014-000599DRM.

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

ACTION

The Commission hereby takes Discretionary Review requested in Application No. 2014-000599DRM and approves the project with the proposed amendments recommended by Planning staff subject to the following modifications:

Design changes to the addition:

1. The ground floor should not extend any deeper than the original ground floor depth but can be extended laterally to each side property line.
2. The second and third stories should extend no deeper than the original second and third stories at the rear; side setbacks of at least five feet in width must be provided above the ground floor.
3. The two-story deck and spiral stair at the rear of the building must be removed.

The reasons that the Commission took the action described above include:

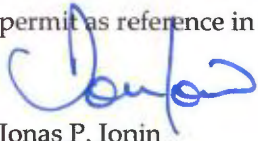
1. There are exceptional or extraordinary circumstances related to the project in that the horizontal addition as constructed is larger than the Residential Design Guidelines would allow and is incompatible with the adjacent buildings and the existing building scale at the mid-block open space.
2. The subject building is potentially a historic resource due to its age, and the construction without permit removed character-defining elements on the front facade that would not otherwise be allowed. Restoration of the building façade can be approved as proposed in the subject application because that aspect of the project meets all applicable requirements of the Planning Code and conforms to the Residential Design Guidelines.
3. Legalization of the demolition of the rear yard shed can be allowed because there is no permit record for the structure that was demolished and it is not shown on historic Sanborn maps.
4. Based on its consideration of written materials and oral testimony presented at the June 15, 2017 Planning Commission Hearing, the Commission determined that the project should be modified per Department recommendations. Additionally, the Commission indicated that it wants to ensure that applicants respect City permit and CEQA processes in order to not damage the integrity of the permit process and erode public trust in that process.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is issued. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street # 304, San Francisco, CA, 94103-2481.

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

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

I hereby certify that the Planning Commission took Discretionary Review and approved the building permit as reference in this action memo on June 15, 2017.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Richards, Koppel and Moore

NAYS: None

ABSENT: Johnson and Fong

RECUSED: Melgar

ADOPTED: June 15, 2017



Addition of Dwelling Units per Ordinance

No. 162-16 and subsequent amendments or

No. 95-17 and subsequent amendments (check one box only)

SCREENING FORM – No fee to file

Section 1 and 3 of the screening form shall be completed by the owner or agent to determine the eligibility for adding dwelling units per Ordinance No. 162-16 based on permits for Mandatory Seismic Retrofitting under SFEBC Chapter 5E, or voluntary seismic retrofitting per AB-094, or existing residential building complies with the requirements of Ordinance No. 162-16 and subsequent amendments or No. 95-17 and subsequent amendments. Section 2 shall only be completed by the owner.

Submit the completed Screening Form (with the supporting documents) either:

- As a pdf attachment to dbi.adu@sfgov.org with "ADU Screening Submittal" in subject line; or
- As a hardcopy by U.S. mail to: 49 South Van Ness Avenue, Suite 500 San Francisco, CA 94103 Attn: Technical Services

BLOCK / LOT NUMBER: 1738/039

ADDRESS: 1228 FUNSTON AVENUE

CONTACT (OWNER OR AGENT): KATE MCGEE

SECTION 1 – ADMINISTRATIVE INFORMATION

Kate McGee

415.298.5219

kate@kmplanningstrategy.com

Contact Name

Contact Telephone

Contact Email

2031 1/2 Powell Street, SF, CA, 94133

Contact Mailing Address

SECTION 2 - OWNER AFFIDAVIT - HOUSING SERVICES

(Completed by Owner only)

- A. Owner(s) acknowledges that pursuant to Rent Ordinance 37.2(r) severance of garage facilities, parking facilities, driveways, storage space, laundry rooms, decks, patios, and gardens on the same lot, or kitchen facilities and lobbies within an SRO from an existing tenancy requires a "just cause". The issuance of a permit does not constitute a just cause. A signature below asserts that the Owner(s) is aware of these legal requirements and is proceeding with filing a permit to convert existing space within their building into an Accessory Dwelling Unit(s), or owner signature asserts that property is not subject to these controls in Rent Ordinance or project does not propose removal of housing services, therefore B & C as described below, not required as part of Screening Form process.

Elena Asturias

Printed Name of Owner

Signature

12/07/21

Date

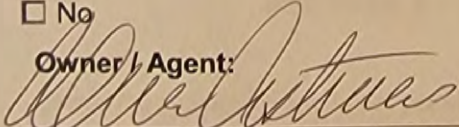
- B. AND Owner must notify affected tenants of the Owner(s) intention to convert aforementioned space(s) to Accessory Dwelling Unit(s):
 - i) Notice to be posted for 15-days in a common area of the building; and
 - ii) Notice to be mailed to all tenants and to property owner.
- C. AND Submit copy of posted/mailed notice, postmarked letter to owner, photograph of posted notice, and copy of mailing list with this Screening Form.

SECTION 3 – DETERMINATION OF ELIGIBILITY TO ADD DWELLING UNITS

	<u>Yes</u>	<u>No</u>
Has mandatory seismic retrofitting been filed under SFEBC Chapter 4D, Mandatory Earthquake Retrofit of Wood Frame Buildings?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, Permit Application Number: _____	<u>Yes</u>	<u>No</u>
Has voluntary seismic strengthening been filed under Administrative Bulletin AB-094, Definition and Design Criteria for Voluntary Seismic Upgrade of Soft Story, Type-V (wood frame) Buildings?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, Permit Application Number: _____	<u>Yes</u>	<u>No</u>
Does existing residential building comply with Ordinance No. 162-16 or No. 95-17 for addition of dwelling units? (Subject to Planning review)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SECTION 4 – QUESTIONNAIRE

1. Is the ADU in a single family home or multi-unit building ?
2. The current owner has owned the property for 15 years.
3. The applicant is an individual or business.
4. Is the intent to rent the future ADU?
 - Yes, anticipated rent \$ 1000
 - No
5. Does the applicant have or has the applicant had building permit applications for other residential properties in the city within the last 10 years?
 - Yes
 - No
6. Does the applicant own in whole or in part other residential property in San Francisco as an individual or as part of a partnership or corporation?
 - Yes
 - No

Owner / Agent:


 Signature

12/07/21

 Date

- Owner
- Agent

FOR DBI USE ONLY

DBI has received the materials submitted and filed under "Addition of dwelling units per Ordinance No. 162-16 or No. 95-17".

Further discussions on code issues and equivalencies on compliance will be via pre-application meetings or Administrative Bulletin AB-005.

 Date received by DBI

Rent Board Response to Request from Planning Department for Eviction History Documentation

Re: 1228 Funston

This confirms that the undersigned employee of the San Francisco Rent Board has reviewed its records pertaining to the above-referenced unit(s) to determine whether there is any evidence of evictions on or after the date specified. All searches are based upon the street addresses provided.

No related eviction notices were filed at the Rent Board after:

- 12/10/13
- 03/13/14
- 10 years prior to the following date: 1-13-21

Yes, an eviction notice was filed at the Rent Board after:

- 12/10/13
- 03/13/14
- 10 years prior to the following date: _____
 - o See attached documents.

There are no other Rent Board records evidencing an eviction after:

- 12/10/13
- 03/13/14
- 10 years prior to the following date: 1-13-21

Yes, there are other Rent Board records evidencing an eviction after:

- 12/10/13
- 03/13/14
- 10 years prior to the following date: _____
 - o See attached documents.

Signed:



Dated: 12-8-21

Van Lam
Citizens Complaint Officer

The Rent Board is the originating custodian of these records; the applicability of these records to Planning permit decisions resides with the Planning Department.



DISCRETIONARY REVIEW STAFF - INITIATED (DRM)

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.

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.

WHAT TO SUBMIT:

- One (1) complete application signed.
- A Letter of Authorization for Agent from the owner giving you permission to communicate with the Planning Department on their behalf.
- Photographs or plans that illustrate your concerns.
- A digital copy (CD or USB drive) of the above materials (optional)
- Payment via e-check, debit or credit for the total fee amount for this application. (See [Fee Schedule](#))

HOW TO SUBMIT:

To file your Discretionary Review Staff-Initiated application, please email the completed application to CPC.Intake@sfgov.org.

Once the Department reviews the application for completeness, you will receive an email with information on how to pay for the application fee. Please refer to the [Planning Department Fee Schedule](#) available at www.sfplanning.org. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.



DISCRETIONARY REVIEW STAFF - INITIATED (DRM)

APPLICATION

Property Information

 Project Address:

 Block/Lot(s):

Related Building Permit Applications

 Related Permit Application No(s):

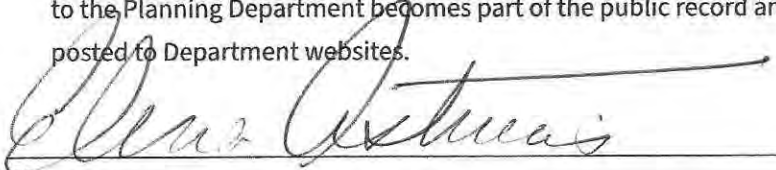
Discretionary Review Staff Initiated Request For Additional Information

In the space below, please provide a narrative that summarizes the changes that have been requested by the Department and why you believe such changes are not warranted or necessary to your project.

In the space below, please describe how you believe your project complies with the Residential Design Guidelines. Please be specific and site specific sections or pages of the Residential Design Guidelines.

Under penalty of perjury the following declarations are made:

- a) The undersigned is the owner or authorized agent of the owner of this property.
- b) The information presented is true and correct to the best of my knowledge.
- c) Other information or applications may be required.
- d) I hereby authorize City and County of San Francisco Planning staff to conduct a site visit of this property as part of the City's review of this application, making all portions of the interior and exterior accessible through completion of construction and in response to the monitoring of any condition of approval.
- e) I attest that personally identifiable information (PII) - i.e. social security numbers, driver's license numbers, bank accounts - have not been provided as part of this application. Furthermore, where supplemental information is required by this application, PII has been redacted prior to submittal to the Planning Department. I understand that any information provided to the Planning Department becomes part of the public record and can be made available to the public for review and/or posted to Department websites.



Signature

Elena Asturias

Name (Printed)

May 20, 2021

Date

Owner

415.533.5824

elena_asturias@yahoo.com

Relationship to Project
(i.e. Owner, Architect, etc.)

Phone

Email

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

ATTACHMENT
Discretionary Review Staff-Initiated
Application Packet

May 21, 2021

1228 Funston Avenue

In the space below, please provide a narrative that summarizes the changes that would have been requested by the Department and why you believe such changes are not warranted or necessary to your project.

In 2014 building permit Application Number 201402067948 was filed to construct a three-story horizontal addition at the rear, a two-story deck and new interior remodel. In December 2015 the Site Permit was approved per attached building permit detail (Exhibit A).

We relied on our engineer who assured us the permits would be issued any day and he encouraged us to begin construction. Building was completed in 2016 and it was only after construction was commenced did we realize the permit had never been issued. We have been in construction for over 27 years in San Francisco and have never had a permit issue on any project. We would never have begun construction had we known the permit was not forthcoming.

The Commission took DR in a staff-initiated hearing on June 15, 2017 and approved the permit subject to the following modifications. The permit was eventually disapproved in 2019.

1. The ground floor should not extend any deeper than the original ground floor depth but can be extended laterally to each side property line.
2. The second and third stories should extend no deeper than the original second and third stories at the rear; side setbacks of at least five feet in width must be provided above the ground floor.
3. The two-story deck and spiral stair at the rear of the building must be removed.

According to the Motion, the reasons for the above action taken by the Commission were two-fold:

1. The horizontal addition as constructed is larger than the Residential Design Guidelines would allow and is incompatible with the adjacent building and the existing building scale at the mid-block open space, and
2. The restoration of the façade can be approved as proposed because the aspect of the project meets all applicable requirements of the Planning Code and conforms to the Residential Design Guidelines.

A month before the City shut down due to Covid-19, building permit application 2019.02.15.3076 was submitted to the Department to comply with DRA-05320; to restore the front facade, legalize the reduced size rear addition and demolish the rear deck and stairs. On August 25, 2020 during the pandemic, the permit was issued but the work was never performed due in part because of the complicated landscape of constructing during the pandemic, the expense, and lack of the needed structural calculations associated with the permit.

The building permit application that is the subject of this staff-initiated discretionary review (#2021.01.13.2631) proposes to legalize the unpermitted work consistent with the Planning Commission's 2017 decision with one exception; the permit seeks to retain the ground floor as originally proposed and add a dwelling unit.

Recognizing the city's shortage of housing and utilizing the property's RH-2 zoning designation, building permit application 2021.01.13.2631 seeks to retain the ground floor as is and occupy the ground floor with a new unit, converting the single-family home to a two-unit building.

In addition, the reason provided for the Commission's decision to scale down the rear addition was due in part to it being "incompatible with the adjacent building". Since then, a proposal to construct a new building on the adjacent lot at 1222 Funston has been approved. While the proposal may have been incompatible with the existing built scale at the time the project was approved, this may no longer be the case.

In the space below, please describe how you believe your project complies with the Residential Design Guidelines. Please be specific and site-specific sections or pages of the Residential Design Guidelines.

Site Design

Design Principle: Place the building on its site so it responds to the topography of the site, its position on the block, and to the placement of surrounding buildings.

Guideline: Articulate the building to minimize impacts on light to adjacent cottages.

Buildings located in rear yards are non-complying structures under the Planning Code and may themselves have an impact on the rear yard open space. However, when a proposed project is adjacent to a lot that has a cottage used as a dwelling unit at the rear of the lot, modifications to the building's design may be necessary to reduce light impacts to that cottage specifically. Consider the following modifications; other measures may also be appropriate depending on the circumstances of a particular project:

- Provide side setbacks at the rear of the building.
- Minimize rear projections such as decks and stairs.

Pursuant to the DRA-0532, the proposal includes the restoration of the side setbacks at the rear of the building on the second and third story. The proposal also includes the removal of the rear deck and stairs. Refer to Exhibit B, which shows the view from the cottage to both the existing and approved 1228 and 1222 Funston Streets, respectively. 1222 Funston provides a 19'

separation between the cottage and the rear building wall. 1228 Funston proposes a 9' separation. Exhibit C includes a photo that shows the relationship between the adjacent cottage and the ground floor addition. Based on the photos, rendering, and proposal, we believe the proposal minimizes light impacts to the adjacent cottage.

Building Scale and Form

Design Principle: Design the building's scale and form to be compatible with that of surrounding buildings, in order to preserve neighborhood character.

Guideline: Design the height and depth of the building to be compatible with the existing building scale at the mid-block open space.

The following design modifications may reduce the impacts of rear yard expansions; other modification may also be appropriate depending on the circumstances of a particular project:

- Set back upper floors to provide larger rear yard setbacks.
- Notch the building at the rear or provide setbacks from side property lines.
- Reduce the footprint of the proposed building or addition.

The existing mid-block open space has an irregular mid-block open space pattern. Exhibit D demonstrates this; the block contains cottages and sheds located in the rear of lots and many buildings extend in irregular ways into the rear yard open space, including one building that occupies the entire lot. Please note that the project included the demolition of an unpermitted shed in the rear yard. This contributed to the lot's open space pattern; helping it to retain a more regular shape. The proposal seeks to comply with the guideline reducing the footprint consistent with the property's neighboring buildings. Note that the structure is lower than new adjacent building.

Permit Details Report**Report Date:** 5/20/2021 8:04:03 PM

Application Number: 201402067948
 Form Number: 3
 Address(es): 1738 / 039 / 0 1228 FUNSTON AV
 Description: INTERIOR REMODELING AND VERTICAL ADDITION AT REAR, REMODEL SECOND FLOOR KITCHEN AND BATHROOM, VERTICAL ADDITION THIRD FLOOR REAR - 1 NEW BEDROOM
 Cost: \$312,000.00
 Occupancy Code: R-3
 Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
2/6/2014	TRIAGE	
2/6/2014	FILING	
2/6/2014	FILED	
1/28/2019	DISAPPROVED	

Contact Details:**Contractor Details:**

License Number: 717691
 Name: EDUARDO PANIAGUA
 Company Name: PANIAGUA CONSTRUCTION INC
 Address: 176 RANDALL ST * SAN FRANCISCO CA 94131-2765
 Phone:

Addenda Details:**Description:**

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	CPB	2/6/14	2/6/14			2/6/14	SHEK KATHY	628-652-3240	
2	CP-ZOC	2/6/14	3/13/14			11/16/15	AJELLO LAURA	628-652-7300	requires RDT review, scheduled for May 11/16/15 returned application and plans per DBI request. Project is related to active enforcement case.
3	BLDG	11/17/15	11/23/15	12/4/15		12/4/15	MCEVOY VINCENT	628-652-3780	Approved site
4	DPW-BSM	12/15/15	12/24/15			12/24/15	DENNIS RASSENDYLL	628-271-2000	Approved 12/24/15: SITE Permit only. ADDENDA requirement(s) for sign off: Street Improvement. All sidewalk applications and plans MUST be applied IN-PERSON for intake at 1155 Market St, 3rd Floor. Download sidewalk application at http://www.sfdpw.org/index.aspx?page=1697 . Your construction addenda will be ON-HOLD until all necessary DPW-BSM permits are completed or plan checker(s) could recommend sign off to the satellite office via email. -RD
5	SFPUC	12/4/15	12/15/15	12/15/15		12/15/15	SZU-WHITNEY MONICA	628-652-6040	Requested document received, hold released - 12/15/15. On Hold until PDFs of the requested drawings are received - 12/15/15. Permit has been assessed a Capacity Charge. DBI will collect charges. See Invoice attached to application. Route to PPC - 12/15/15.
6	PPC	12/28/15	12/28/15			12/28/15	THAI SYLVIA	628-652-3780	12/28/15: to CPB due to Withdrawal; snt. 12/14/15: to BSM ; TH. 12/4/15: to PUC ; TH. 12/3/15: to BLDG ; TH.
7	CP-ZOC	4/29/16	7/11/16			11/14/18	AJELLO LAURA	628-652-7300	5/9/16 - placed in backlog queue for eventual assignment to Laura Ajello 6/17/16 - assigned to Laura Ajello 7/19/16 - NOPDR3 sent 2/9/17 - NOPDR4 sent 7/18/17 - Planning Commission hearing and decision, DRA-0532 10/11/18 - Final notice sent, NOPDR5 11/14/18 - BPA

Department of Building Inspection

									cancellation memo sent, permit returned to DBI for cancellation
8	PPC	11/15/18	11/27/18			1/28/19	MOK CALVIN	628-652-3780	1/28/19: to CPB for cancellation; cm 11/27/18: Cancellation letter sent; cm 11/15/18: to PPC to send out cancellation letter; EC. 4/29/16: to DCP; TH.
9	CPB	12/28/15	1/28/19			1/28/19	MARIE OSORIO CHRISTINE	628-652-3240	1/28/19: Disapproved per planning. co 12/18/16 LOG INTO CPB. PLANNING REQUEST TO ROUTE BACK PER LAUR/ ON 4/28/16. WF

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

[Station Code Descriptions and Phone Numbers](#)

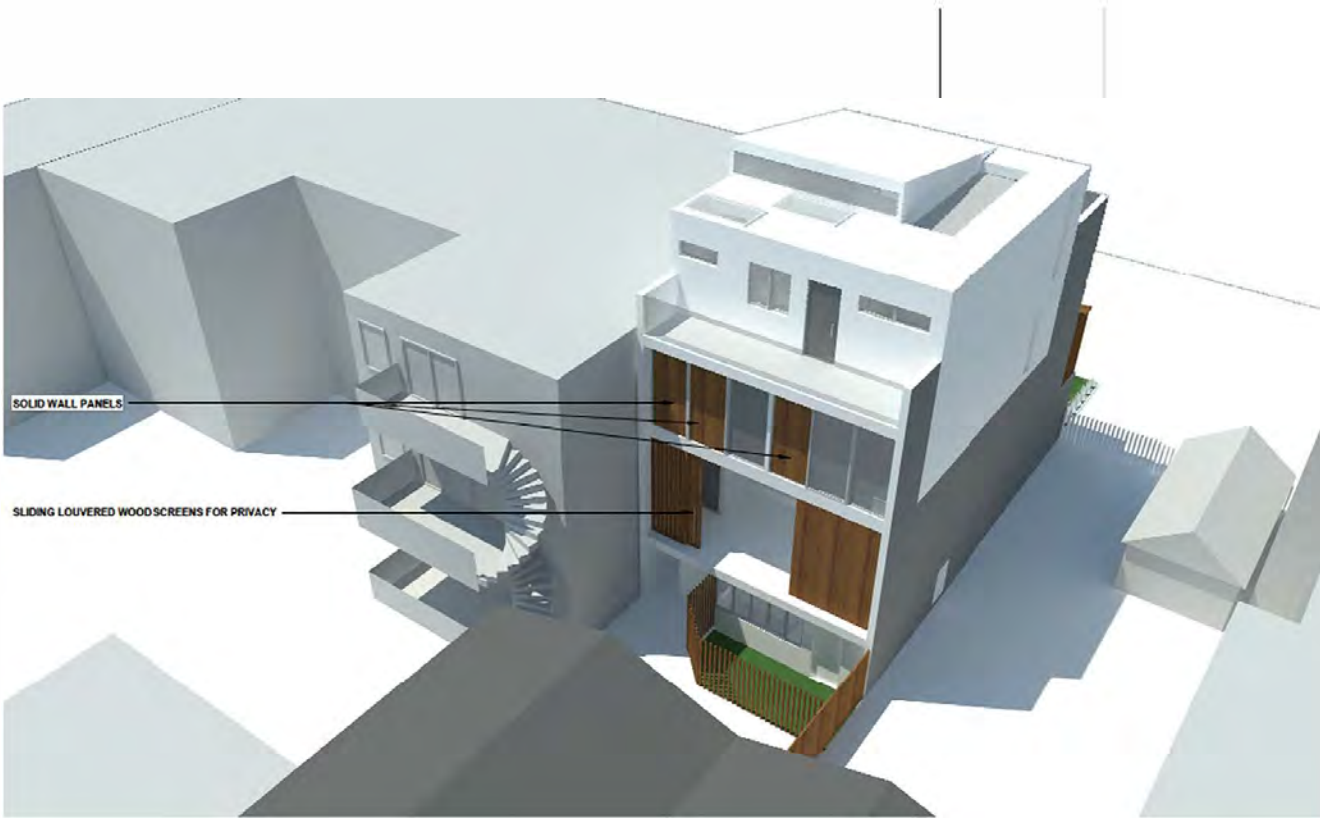
[Online Permit and Complaint Tracking home page.](#)

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Contact SFGov Accessibility Policies
City and County of San Francisco © 2021

Exhibit B: View from cottage (source: Kermon Morris Architects-1222 Funston plan set)



VIEW FROM REAR YARD



VIEW FROM REAR YARD



Kermon
Morris
Architects LP
137 New Street
San Francisco, CA
94118
415.749.0203

Revisions

NO.	DESCRIPTION

1222 FUNSTON
AVE

NIERAN WOODS, WOODS
FAMILY INVESTMENTS, LP
BLOCK: 1758 / LOT: 040

NOTICE
These drawings and specifications are the property and copyright of Kermon/Morris Architects and shall not be used on any other work without the written consent of Kermon/Morris Architects.
The Contractor shall verify all existing conditions. Written dimensions take precedence over scaled dimensions and shall be verified on the project site. Any discrepancy shall be brought to the attention of Kermon Morris Architects prior to the commencement of any work.
These drawings are an industry standard building set for building permit and to assist the contractor in construction. The drawings show limited and only representative typical details.
All alterations, corrections,

Exhibit C: Photo depicting relationship between the adjacent cottage and the ground floor addition.



REAR OF 1230-1232 FUNSTON (ADJACENT PROPERTY)

Exhibit D: This photo shows the irregular mid-block open space and the shed in the rear yard (demolished). Source: SF Planning Department staff report, case number 2014-000599.

SUBJECT PROPERTY



ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

601 Montgomery Street, Suite 400
San Francisco, California 94111
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zfplaw.com

March 16, 2023

President Rachael Tanner
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103
Commissions.Secretary@sfgov.org

Re: 1228 Funston Avenue - Case No. 2021-001219PRJ
Project Sponsors' Brief

Dear President Tanner and Commissioners:

Our office represents project sponsors Elena Asturias and Eduardo Paniagua, whose property at 1228 Funston Avenue has been in the family for three generations. The proposed project is an opportunity to bring needed housing to the Inner Sunset and to bring this property into compliance. **Today's proposal will add two housing units while respecting the neighborhood character.**

This situation stems from the owners' reliance on bad advice from their previous structural engineer, Rodrigo Santos, which has resulted in a cascade of problems to this day. They filed a lawsuit against Mr. Santos, which was settled, and the U.S. Department of Justice placed them in the Victim Notification System for victims of Rodrigo Santos. (See attached DOJ correspondence.) The owners recognize that mistakes were made in the past concerning the property, and they wish to make amends with the City.

In 2017, Mr. Santos asked the Commission for approval to legalize the property in its as-built condition – as a single-family home – which was not well received. However, this new proposal responds to the concerns articulated by the Planning Commission in 2017 regarding respecting the City's processes. It would be easier and less costly to keep the current configuration of the Property, but the owners would like to make a contribution to the community by creating more housing. This project also reflects the changed circumstances of the newly approved development at 1222 Funston Avenue and reflects the current mid-block open space of neighboring properties.

The project should be approved as proposed for the following additional reasons:

- This new revision proposes to add two additional housing units.
- Both adjacent neighbors support the project.
- The project is fully code compliant.
- The Housing Accountability Act requires project approval.

1. The Project Adds Two Additional Housing Units.

The project proposes to legalize the rear extension by adding two additional housing units. A garden apartment will be created on the ground floor, an ADU will be created in the rear, and a family-sized unit will remain on the second and third floors. The new units are affordable by design and have direct access to the rear yard, laundry, and interior bicycle parking. The family sized unit has four bedrooms and meets the policy goals of Planning Code section 207.7.

2. The Adjoining Neighbors Support the Project as Proposed.

The project received letters of support from both adjoining properties. 1222 Funston was recently approved for a four-story single-family residence. The approval was based in part on the existing conditions of 1228 Funston (the project site) – most importantly the existing rear extension. The 2017 Planning Commission decision to require removal of the rear yard extension was predicated on there being no structure on the north side of the Property. Now, however, a large four-story structure has been approved on the north side. (Notably, the 1222 Funston project was DRed by a neighbor who lived in a rear cottage on the other side of that property, but the Commission approved the project anyway.) These changed circumstances, and support from the owner of 1222 Funston, merit further reconsideration of the 2017 decision. The neighbor to the south at 1230-1232 Funston Avenue has also submitted a letter of support.

3. The Project is Fully Code-Compliant.

The project is fully code-compliant as proposed. The main building is within the buildable area and complies with the Planning Code's setback requirements. The ADU application (BPA No. 202303163767) is part of this project and was filed pursuant to State ADU law.

4. The Housing Accountability Act Requires Approving the Project as Proposed.

State law mandates that the project be approved. The Housing Accountability Act requires approval of proposed housing development projects that meet objective criteria unless the denial is based on written findings that the project would have a specific adverse impact on public health or safety based on written regulations. (Gov. Code §65589.5(j)(1).)

This project proposes to create two new dwelling units. As discussed in the owners' statement (attached), the creation of these new units as part of the project is only feasible if the existing code-compliant rear extension can remain in place. Otherwise, the cost of demolishing part of the house, as well as the resulting loss of property value, would render it financially and structurally infeasible to create the two new dwelling units.

Conclusion

We respectfully request that the Planning Commission approve the project as proposed. The project would add two additional, affordable-by-design units to San Francisco's housing stock while preserving a family-sized unit. The project has the support of both adjacent

President Rachael Tanner
March 16, 2023
Page 3

neighbors. Furthermore, the project is code-compliant, and the Housing Accountability Act requires approval.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Ryan J. Patterson _____

ATTACHMENTS:

- A. Owners' Statement
- B. Paniagua And Asturias v. Rodrigo Santos, et al. (San Francisco Superior Court Case No. CGC-18-568271)
- C. U.S. Department of Justice: Victim Notification Re U.S. v. Rodrigo Santos
- D. Neighbor Letters of Support
- E. Project Plans

A. OWNERS' STATEMENT

Owners' Statement

History of the Family Home

1228 Funston Avenue has been in our family for three generations. My grandmother, Luz Delia Conde Escobar, purchased it in 1969 when she moved to San Francisco to be closer to her daughters. She secured a job as a lab technician at UCSF to support herself, and she rented rooms to women to supplement her income.

Our grandmother was a character, well-liked by her neighbors and local merchants. She used to joke when leaving the house for work early in the morning in her white lab coat that no one could tell if she was a doctor or just a technician in her uniform. Mama Delia passed away 17 years ago, leaving her home to her daughters -- my mother Carlota del Portillo and my aunt Catherine Echevarria (who tragically just passed away a few months ago). My mother and my aunt entrusted us to upgrade the property to help with family expenses, including my aunt's cancer treatment.

Hiring Engineer Rodrigo Santos to Manage the Project

To that end, we hired an engineer named Rodrigo Santos, and he committed to develop architectural and structural plans and to secure permits for the project.

We met with neighbors to discuss the proposed project, which included a rear extension within the buildable envelope. The project was well received, and all adjacent neighbors gave their full support, signing the plans and providing letters of support. Mr. Santos proceeded to submit the application and plans for approval.

In December 2015, Mr. Santos told us the site permit was approved and encouraged us to commence construction. Only after construction was nearly complete did we realize the permit had never actually been issued; it had been re-routed back to Planning.

At staff's direction, we filed a new application with as-built plans to legalize the completed construction. A staff-initiated DR hearing was scheduled for June 15, 2017, and Rodrigo Santos told us he would take care of it. To our dismay, Mr. Santos attended but did not speak – instead he had an unlicensed architect present the project – and the Planning Commission was furious. As a result, the permit was eventually disapproved in 2019.

Lawsuit Against Rodrigo Santos, and Aftermath

We filed a lawsuit against Rodrigo Santos and settled before trial.

We have cooperated with the Department of Justice in their charging of Mr. Santos with various federal offences. We are listed on the FBI's list of Rodrigo Santos' victims and have been assigned a Victims Witness Specialist to assist us in the process.

Since then, we have struggled to find a way to make the project work. Fortunately, we have brought in a new team of professionals to guide us in the Planning process. We are trying to make the situation right – for the property, for the neighbors, and for the City. In that spirit, we are proposing the addition of two extra units to help with the housing shortage. This contribution is made possible by keeping the as-built structure in place; the new units are not structurally or financially feasible otherwise, and, given the cost of construction and the loss of value it would cause, we certainly cannot afford to create the new units if we are required to remove any of the as-built structure. Fortunately, it is entirely within the lot's buildable area and is allowed by Code and supported by the neighbors.

The home at 1228 Funston Avenue has solar panels, green finishes, and an electric car charging station in the garage. It is within the required setbacks and within the comparable size and depth of the adjacent homes. As mentioned, it will have one unit upstairs, a garden apartment on the first floor, and an ADU in the rear. We feel good about this proposal as a fair compromise and a contribution to the City.

We sincerely thank you for your consideration.

Elena Asturias & Eduardo Paniagua

**B. PANIAGUA AND ASTURIAS v.
RODRIGO SANTOS, ET AL. (SAN
FRANCISCO SUPERIOR COURT
CASE NO. CGC-18-568271)**

1 Victor M. Marquez, Esq. (SBN: 151520)
2 THE MARQUEZ LAW GROUP
3 649 Mission Street, 5th Floor
4 San Francisco, CA 94105
5 Telephone: (415) 848-8971
6 Facsimile: (415) 677-9798

7 Attorney for:
8 EDUARDO PANIAGUA AND ELENA ASTURIAS

FILED
San Francisco County Superior Court

JUL 23 2018

CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

9
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF SAN FRANCISCO

12 EDUARDO PANIAGUA and ELENA
13 ASTURIAS, individuals,

14 Plaintiffs,

15 v.

16 RODRIGO SANTOS, ALBERT URRUTIA,
17 individuals, and SANTOS & URRUTIA,
18 INC., a corporation, and DOES 1-100,
19 inclusive.

20 Defendants.

Case No. **CGC-18-568271**

COMPLAINT FOR

1. BREACH OF CONTRACT
2. NEGLIGENT MISREPRESENTATION
3. NEGLIGENCE
4. FRAUD

21 Plaintiffs EDUARDO PANIAGUA and ELENA ASTURIAS ("PLAINTIFFS") herein
22 complain against Defendants RODRIGO SANTOS, ALBERT URRUTIA, individuals, and
23 SANTOS & URRUTIA, INC., a corporation ("SANTOS" "URRUTIA, or "DEFENDANTS") as
24 follows:

25 **THE PARTIES**

26 1. DEFENDANTS are a corporation incorporated in the State of California, and at all times
27 herein mentioned was doing business in the City of San Francisco, County of San Francisco,
28 State of California.

**C. U.S. DEPARTMENT OF JUSTICE:
VICTIM NOTIFICATION RE U.S. v.
RODRIGO SANTOS**



*United States Attorney
Northern District of California*

*11th Floor, Federal Building
450 Golden Gate Ave., Box 36055
San Francisco, CA 94102-3495*

*(415)436-7200
FAX: (415)436-7234*

September 8, 2022

San Francisco Planning Department
49 Van Ness Ave., Ste 1400
San Francisco, CA 94103

Re: *United States v. Rodrigo Santos*, 21-CR-00268 SI (N.D. Ca.)

To Whom It May Concern,

This letter is to inform you that Ms. Elena Asturias and Mr. Eduardo Paniagua have been identified as victims in the above referenced criminal fraud case in their capacity as owners of Paniagua Construction. The defendant, Rodrigo Santos, was charged on July 1, 2021 via Indictment with Bank Fraud, Destruction, Alteration or Falsification of Records in a Federal Investigation, and Aggravated Identity Theft related to his operation as the principal and co-founder of Santos & Urrutia Structural engineers, Inc. and his conduct from approximately November 2012 through at least March 2019 which included the depositing of checks made by his clients to DBI, DPW, and other municipal departments/agencies, private companies and individuals for his personal use.

The case is currently being prosecuted by Assistant United States Attorney (AUSA) Casey Boome and we are currently working to resolve this criminal matter.

If you have any questions or concerns regarding this letter and/or this case, please feel free to contact me at (415) 436-6993.

Respectfully,

A handwritten signature in cursive script that reads "Janice Pagsanjan".

JANICE PAGSANJAN
Victim Witness Specialist
United States Attorney's Office
Northern District of California

**D. NEIGHBOR LETTERS OF
SUPPORT**

March 13, 2023

Laura Ajello, Assigned Project Planner
c/o San Francisco Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Re: LETTER OF SUPPORT-1228 Funston Avenue

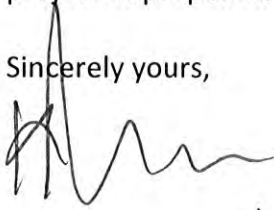
Dear Ms. Ajello:

We are the owners of the home at 1222 Funston Avenue, neighbor to the subject property, 1228 Funston Street, owned by Elena Asturias and Eduardo Paniagua.

We are in full support of retaining the existing structure as is and adding the ADU in the rear yard. The rear horizontal and vertical expansion of 1228 Funston, constructed in 2015, complements our building, including the spiral staircase and decks.

We support the project as it currently exists and ask that the Planning Commission approve the project as proposed.

Sincerely yours,



Kieran Woods, owner
WFI, LP

P.O. Box 1113
South San Francisco, CA 94083

June 21, 2021

Laura Ajello, Assigned Project Planner
c/o San Francisco Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Re: LETTER OF SUPPORT-1228 Funston Avenue

Dear Ms. Ajello:

We are the owners of the home at 1230-32 Funston Avenue, south side neighbor to the subject property, 1228 Funston Street, owned by Elena Asturias and Eduardo Paniagua.

We are in full support of retaining the existing structure as is. The recently remodeled building is less impactful compared to what previously existed; the removal of the second-floor deck and rear cottage provides a nice addition to the mid-block open space. The rear horizontal and vertical expansion of 1228 Funston, constructed in 2015, complements our building, including the spiral staircase, decks, and upper story pop-outs. The neighbors are very happy with their work and for the conscious manner they worked during the project.

We support the project as it currently exists and propose that the Planning Department, in coordination with the Planning Commission, approve a permit to legalize this work.

Thank you for your consideration,



Bill Isetta
1230 & 1232 Funston Avenue
San Francisco, CA 94122
(415) 730-7669

July 7, 2021

San Francisco Planning Department
David Winslow, Principal Architect
49 South Van Ness, Suite 1400
San Francisco, CA 94103
Via email: David.Winslow@sfgov.org

RE: 1228 Funston Avenue
Case Number: 2021-001219DRM

Dear Mr. Winslow,

1228 Funston Avenue is located within the Richmond Outside Lands Area and is zoned RH-2 and within a 40-X Height and Bulk District. The Property is a three-story single-family residence constructed in approximately 1937. The home has only had 3 owners.

Our grandmother purchased the property in 1969 to follow her daughters out from New York. Over the forty years she had the property, she housed many dozens of women renting rooms to them as they found themselves between living and work situations. She enjoyed entertaining on her rear, second story deck which reached almost to the edge of the adjacent property cabin (refer to Exhibit 1: photo of rear deck). Our grandmother passed away 15 years ago at the age of 94 after spending her mornings walking to UCSF at sunrise where she worked as a lab technician well past retirement age. As she liked to observe "they can't tell if I am a doctor or not in the lab coat". We waited until all the tenants she had living in the home moved away to begin the voluntary retrofitting of the foundation and planning green updating and refurbishment of the home.

In January 2014, as part of San Francisco Planning Department requirements, we met with neighbors to discuss plans for 1228 Funston Avenue. The project was well received, and all adjacent neighbors gave their full support signing the plans and providing letters of support (refer to Exhibit 2: pre-application meeting materials dated January 22, 2014).

In February 2014, we filed Permit Number 201402067948 for an interior remodel and to construct a three-story horizontal addition at the rear with a two-story deck and circular staircase. Unbeknownst to us, the plan review comments were based on an inaccurate depiction of the site plan; it did not include the existing rear twenty-foot deck. Because of the deck's length and height in relation to the adjacent rear cottage, we thought the deck provided an informative detail when determining the compatibility of our proposed expansion. We insisted the engineer correct the site plan and re-submit the site plan to the San Francisco Planning Department. We never heard whether the new site plan was reviewed and reconsidered. We've attached a revised site plan that accurately

depicts this pre-existing condition compared with the pre-existing site plan from the 2014 plan set (refer to Exhibit 3: pre-existing site-plan (accurate and inaccurate)).

In December 2015, our engineer told us the Site Permit was approved and encouraged us to commence construction. Only after construction was commenced did we realize the permit had never been issued; it had been re-routed to Planning. Not knowing that the permit had been re-routed to Planning we completed our improvements in 2016.

As a legacy SMB/DBE firm, we have been in residential construction in San Francisco neighborhoods for over 28 years and have never had a permit issue on any project. We would never have begun construction had we known the permit was not approved and forthcoming. We filed a lawsuit against the engineer and settled before trial in July of 2019. The time and resources dedicated to this lawsuit diverted our efforts for that year to comply with the Planning Commission directives.

On June 15, 2017, at a staff-initiated Discretionary Review hearing to legalize the constructed upgrades and alterations to the home, the Planning Commission took DR and approved the permit subject to some modifications. The permit was eventually disapproved in 2019 because the required amendments listed below were never received by the Department.

A month before the city shut down due to Covid-19, building permit application 201902153076 was submitted to the Department to comply with DRA-05320; to restore the front facade, legalize the reduced size rear addition and demolish the rear deck and stairs. On August 25, 2020, during the pandemic, the permit was issued but the work was never performed due in part because of the complicated landscape of constructing during the pandemic, the expense, and lack of the needed structural calculations associated with the permit. For health and safety reasons most operations scaled down and this impacted suppliers, subcontractors, and service providers for the course of last year.

On January 13, 2021, building permit application 202101132631 was filed with the Department to add a new dwelling unit on the ground floor by retaining the ground floor as is and removing the addition on the 2nd and 3rd floors consistent with the Planning Commission's June 15, 2017, direction.

In response to enforcement letters from Planning requesting that we submit an Addendum to DBI that include the structural calculations for the issued plan set, we submitted the Addendum on May 7, 2021. The Addendum reflected updated 'existing conditions', namely, it incorporated the approved plan set from 1222 Funston, and reflected the structural calculations in concert with the pending plan set for 1228 Funston: the removal of the 2nd and 3rd floor addition and the retention of the ground floor. However, it is our hope that through the forthcoming staff-initiated Discretionary

Review process for the pending plan set, that we can retain the structure, based on the following rationale and their attendant justification:

1. *New Site Conditions*

A primary reason for the Commission's decision to reduce the size of the proposal for the subject property was neighborhood character; the subject property was adjacent to essentially a vacant lot with a rear cottage. Since the decision, on February 4, 2021, Planning approved building permit application 201812118001 filed by the owner of 1222 Funston Avenue to construct a four-story structure (three stories over garage) on the adjacent property. The existing structure is now compatible with the adjacent property which is no longer a vacant lot but proposed to be occupied with a more substantial structure than the subject property.

2. *Enhancing the Mid-block Open Space*

The existing mid-block open space has an irregular mid-block open space pattern (refer to Exhibit 4: mid-block open space). The block contains cottages and sheds located in the rear of lots and many buildings extend in irregular ways into the rear yard open space, including one building that occupies the entire lot. Please note that the project included the demolition of an unpermitted shed in the rear yard and second story deck measuring 7' by 20'6". The demolition of the deck and shed in turn contributes to the block's open space pattern.

3. *Provides Housing*

During the past few years, the house has been rented below the going rate for like housing, providing much needed housing to families. The house was rented in 2017-2018 by four members of the San Francisco Giants for off season training. In 2018-2019 the house was rented by a family waiting for their home construction completion in SOCAL. The house was rented in 2019-2020 by a family with two small children who stayed in place and worked there through the pandemic. They moved to South Carolina at the end of last year. The month of December the house was rented by a family whose grandfather was undergoing chemotherapy at nearby UCSF and could not be near his grandchildren. His daughters took turns there caring for him. This year, the house has been rented by another family awaiting their home construction completion in SOCAL. With the proposed addition of the new unit to the property, retaining the structure as is allows for the provision of permanent housing for two households, adding much-needed housing stock to the area.

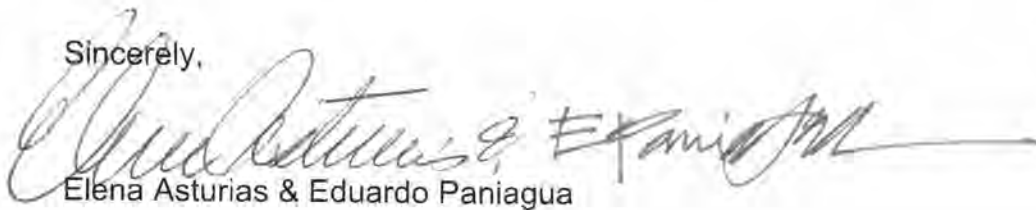
4. *Neighbor Support*

The primary reason the Commission requested that our structure be reduced in size was based on neighbor compatibility. Since that time, development has occurred on the adjacent lot. Our neighbors support the existing structure as is (refer to Exhibit 5: letter of support).

We are requesting Planning Department reconsideration and support for our original proposal plus an additional unit (refer to Exhibit 6: building permit application 201402067948) based on neighborhood compatibility and neighbor support. The current home at 1228 Funston Avenue has solar panels, green finishes, and an electric car charging station in the garage. The family home had been re-modeled within allowable setbacks and is now well within the comparable size and depth of the adjacent homes. As currently proposed, the home will have one unit on the top two floors and a garden apartment on the first floor. We would like to retain the existing building envelope while adding a unit to the city's housing stock.

Thank you for your continued assistance and consideration.

Sincerely,



Elena Asturias & Eduardo Paniagua

Exhibits:

1. Photo of rear deck
2. Pre-application meeting materials
3. Pre-existing site plan (accurate and inaccurate)
4. Mid-block open space
5. Letter of support
6. Building Permit Application 201402067948

Cc:

Corey Teague, Zoning Administrator
Laura Ajello, Planner
Rachna Rachna, Senior Planner

Exhibit 1: Photographs of Rear Deck



Exhibit 2: Pre-Application Packet

Date: January 22, 2014

Dear Neighbor:

You are invited to a neighborhood Pre-Application meeting.

The Neighborhood Pre-Application is to review and discuss the development proposal at 1228 Funston Avenue, at Lincoln & Irving Streets (Block/Lot#:1738/039; Zoning: RH-2), in accordance with the San Francisco Planning Department's Pre-Application procedures. The Pre-Application meeting is intended as a way for the Project Sponsor(s) to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the City. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is submitted for the Planning Department's review. Once a Building Permit has been submitted to the City, you may track its status at www.sfgov.org/dbi.

The Pre-Application process is only required for projects subject to Planning Code Section 311 or 312 Notification. It serves as the first step in the process prior to building permit application or entitlement submittal. Those contacted as a result of the Pre-Application process will also receive a formal entitlement notice or 311 or 312 notification when the project is submitted and reviewed by Planning Department staff.

The pre-application meeting is required because this project includes (check all that apply):

- New Construction;
- Any vertical addition of 7 feet or more;
- Any horizontal addition of 10 feet or more;
- Decks over 10 feet above grade or within the required rear yard;
- All Formula Retail uses subject to a Conditional Use Authorization.

The development proposal is to:

Interior remodel. Work to include: Lowering and bringing forward the garage. Horizontal addition on the west side. Expansion of existing dormer on the west. Addition of dormer on the east.

Existing # of dwelling units:	1	Proposed: 1	Permitted: 2
Existing bldg square footage:	3,079 sf	Proposed: 3,842 sf	Permitted: N/A
Existing # of stories:	3	Proposed: 3	Permitted: N/A
Existing bldg height:	28'-6"	Proposed: 28'-6"	Permitted: 40'-0"
Existing bldg depth:	52'-6"	Proposed: 59'-6"	Permitted: 64'-5"

MEETING INFORMATION:

Property Owner(s) name(s): Eduardo Paniagua
 Project Sponsor(s): Yakuh Askew (Y.A. studio)
 Contact information (email/phone): yakuh@ya-studio.com 415.920.1839
Meeting Address*: 1228 Funston Avenue (Project Site)
 Date of meeting: Wednesday, February 5, 2014
 Time of meeting**:

6:00pm

*The meeting should be conducted at the project site or within a one-mile radius, unless the Project Sponsor has requested a Department Facilitated Pre-Application Meeting, in which case the meeting will be held at the Planning Department offices, at 1650 Mission Street, Suite 400.

**Weeknight meetings shall occur between 6:00 p.m. - 9:00 p.m. Weekend meetings shall be between 10:00 a.m. - 9:00 p.m., unless the Project Sponsor has selected a Department Facilitated Pre-Application Meeting.

If you have any questions about the San Francisco Planning Code, Residential Design Guidelines, or general development process in the City, please call the Public Information Center at 415-558-6378, or contact the Planning Department via email at publicinfo@sfgov.org. You may also find information about the San Francisco Planning Department and on-going planning efforts at www.sfgov.org/planning.

Summary of discussion from the Pre-Application Meeting

Meeting Date: WEDNESDAY, FEBRUARY 5, 2014
Meeting Time: 6:00pm
Meeting Address: 1228 FUNSTON AVENUE, SAN FRANCISCO, CA 94122
Project Address: 1228 FUNSTON AVENUE, SAN FRANCISCO, CA 94122
Property Owner Name: EDUARDO PANIAGUA
Project Sponsor/Representative: YAKUH ASKEW, AIA, Y.A. STUDIO

Please summarize the questions/comments and your response from the Pre-Application meeting in the space below. Please state if/how the project has been modified in response to any concerns.

Question/Concern #1 by (name of concerned neighbor/neighborhood group): _____

- BILL AND MARILYN EXPRESSED SUPPORT FOR THE PROPOSED PROJECT

Project Sponsor Response: _____

Question/Concern #2: _____

Project Sponsor Response: _____

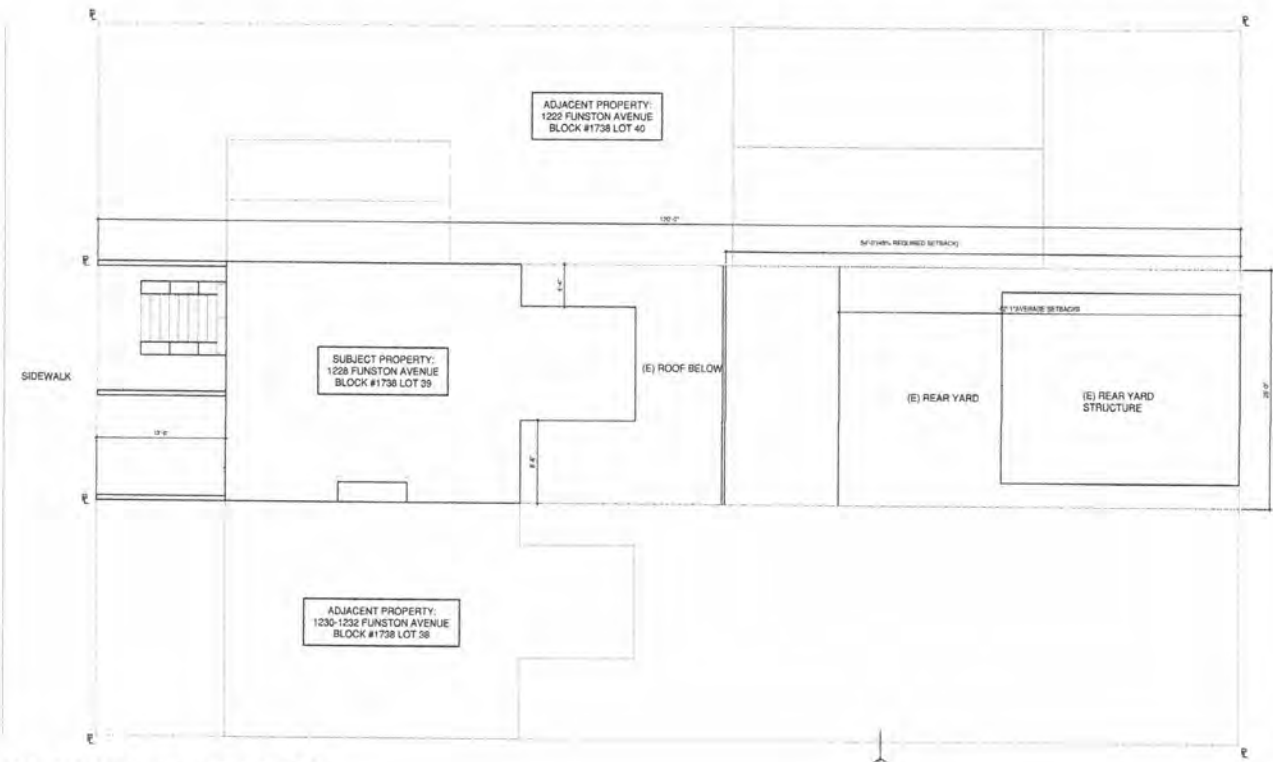
Question/Concern #3: _____

Project Sponsor Response: _____

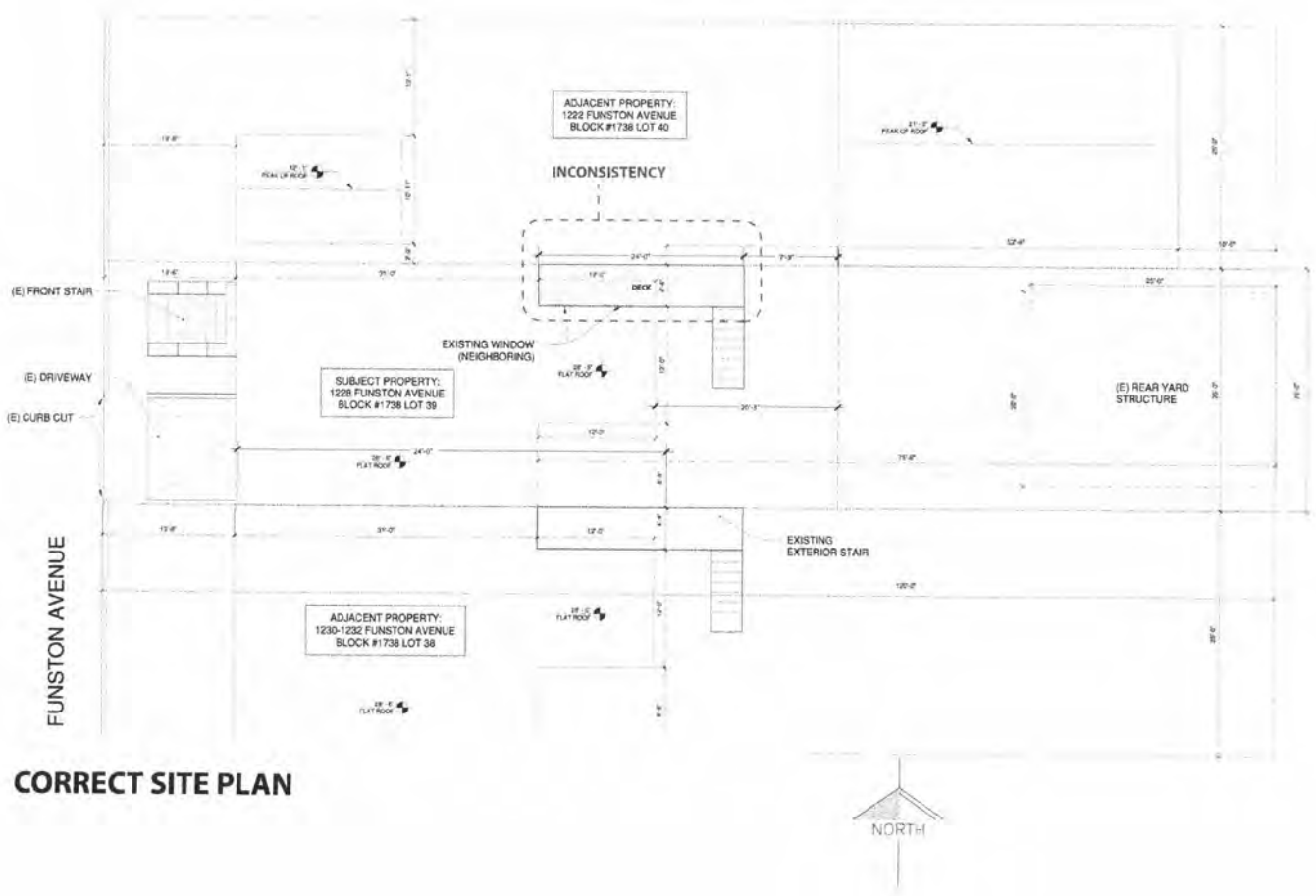
Question/Concern #4: _____

Project Sponsor Response: _____

Exhibit 3: Pre-Existing Site Plan (Inaccurate and Accurate)



INCORRECT SITE PLAN



CORRECT SITE PLAN

Exhibit 4: Mid-Block Open Space

Photo dated 6/13/2014

SUBJECT PROPERTY



Source: Planning Department
Discretionary Review Hearing,
Staff Report

June 21, 2021

Laura Ajello, Assigned Project Planner
c/o San Francisco Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Re: LETTER OF SUPPORT-1228 Funston Avenue

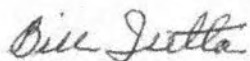
Dear Ms. Ajello:

We are the owners of the home at 1230-32 Funston Avenue, south side neighbor to the subject property, 1228 Funston Street, owned by Elena Asturias and Eduardo Paniagua.

We are in full support of retaining the existing structure as is. The recently remodeled building is less impactful compared to what previously existed; the removal of the second-floor deck and rear cottage provides a nice addition to the mid-block open space. The rear horizontal and vertical expansion of 1228 Funston, constructed in 2015, complements our building, including the spiral staircase, decks, and upper story pop-outs. The neighbors are very happy with their work and for the conscious manner they worked during the project.

We support the project as it currently exists and propose that the Planning Department, in coordination with the Planning Commission, approve a permit to legalize this work.

Thank you for your consideration,

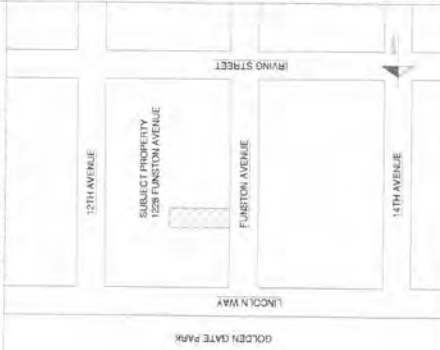


Bill Isetta
1230 & 1232 Funston Avenue
San Francisco, CA 94122
(415) 730-7669

Exhibit 6-2014 Building Permit Application

ADDITION AND REMODEL 1228 FUNSTON AVENUE SAN FRANCISCO, CALIFORNIA

AERIAL VIEW



PLANNING INFORMATION

OWNER: EDUARDO PANIAGUA

PROJECT CONTACT: SANTOS & URRUTIA STRUCTURAL ENGINEERS
2451 HARRISON STREET
SAN FRANCISCO, CALIFORNIA 94110
(415) 642-7722
(415) 642-7590

BUILDINGS INFO:
BLOCK: 1786050
BUILDING USE: SINGLE FAMILY DWELLING
TYPE: V-B
NUMBER OF STORIES: 2 OVER BASEMENT
OCCUPANCY CLASS: R3
COUNCIL DISTRICT: RR-2
NUMBER OF DWELLING UNITS: 2
LOT DEPTH: 120 FEET
LOT WIDTH: 25 FEET
REQUIRED YARD: 45% OF LOT DEPTH OR AVG. OF ADJACENT PROPERTIES

APPLICABLE CODES:
2010 CALIFORNIA BUILDING CODE WITH LOCAL AMENDMENTS
2010 CALIFORNIA ELECTRICAL CODE
2010 CALIFORNIA MECHANICAL CODE
2010 CALIFORNIA PLUMBING CODE

SHEET INDEX

A0	TITLE SHEET, DRAWING INDEX, GENERAL INFO AND SITE PLAN
A1	EXISTING AND AS-BUILT SITE PLAN
A2	EXISTING AND AS-BUILT FIRST FLOOR PLAN
A3	EXISTING AND AS-BUILT SECOND FLOOR PLAN
A4	EXISTING AND AS-BUILT THIRD FLOOR PLAN
A5	EXISTING AND AS-BUILT ROOF PLAN
A6	EXISTING AND PROPOSED WEST ELEVATION
A7	EXISTING AND AS-BUILT WEST ELEVATION
A8	EXISTING AND AS-BUILT NORTH ELEVATION
A9	EXISTING AND AS-BUILT SOUTH ELEVATION
A10	EXISTING AND AS-BUILT SECTIONS
A11	EXISTING AND AS-BUILT SECTIONS
A12	EXISTING AND AS-BUILT SECTIONS
SK1	AS-BUILT SITE PHOTOGRAPHS
SK2	AS-BUILT SITE PHOTOGRAPHS
SK3	AS-BUILT SITE PHOTOGRAPHS
SK4	ARCHIVAL PHOTOGRAPHS

DRAWING SYMBOLS

- 10 BUILDING ELEVATION TAG
- 11 BUILDING SECTION TAG
- 8 WINDOW / STOREFRONT TAG
- 12 DETAIL TAG
- 13 INT. WALL TYPE TAG NUMBERS; LOWER CASE LETTER DENOTES SUBCATEGORY
- 14 EXT. WALL TYPE TAG (LETTERS)
- 15 KEY NOTE
- 16 DOOR TAG

SCOPE OF WORK

INTERIOR REMODELING AND VERTICAL ADDITION AT REAR
RESTORATION OF FRONT-FACADE TO ORIGINAL HISTORIC CONDITION
DEMOLITION OF ILLEGAL, 20' x 25' BACKYARD STRUCTURE



SITE PLAN
SCALE: NTS

1	11/30/15	RS
2	04/15/16	DI
3	08/04/2016	di

SANTOS & URRUTIA
STRUCTURAL ENGINEERS
2451 HARRISON STREET
SAN FRANCISCO, CA 94110
(415) 642-7722



PROJECT INFORMATION
1228 FUNSTON
SAN FRANCISCO, CALIFORNIA

Date	08/04/2016
Scale	
Sheet No.	4/33
Sheet	AO

DATE: 11/30/15
 BY: RS
 3 08/04/2016 dl

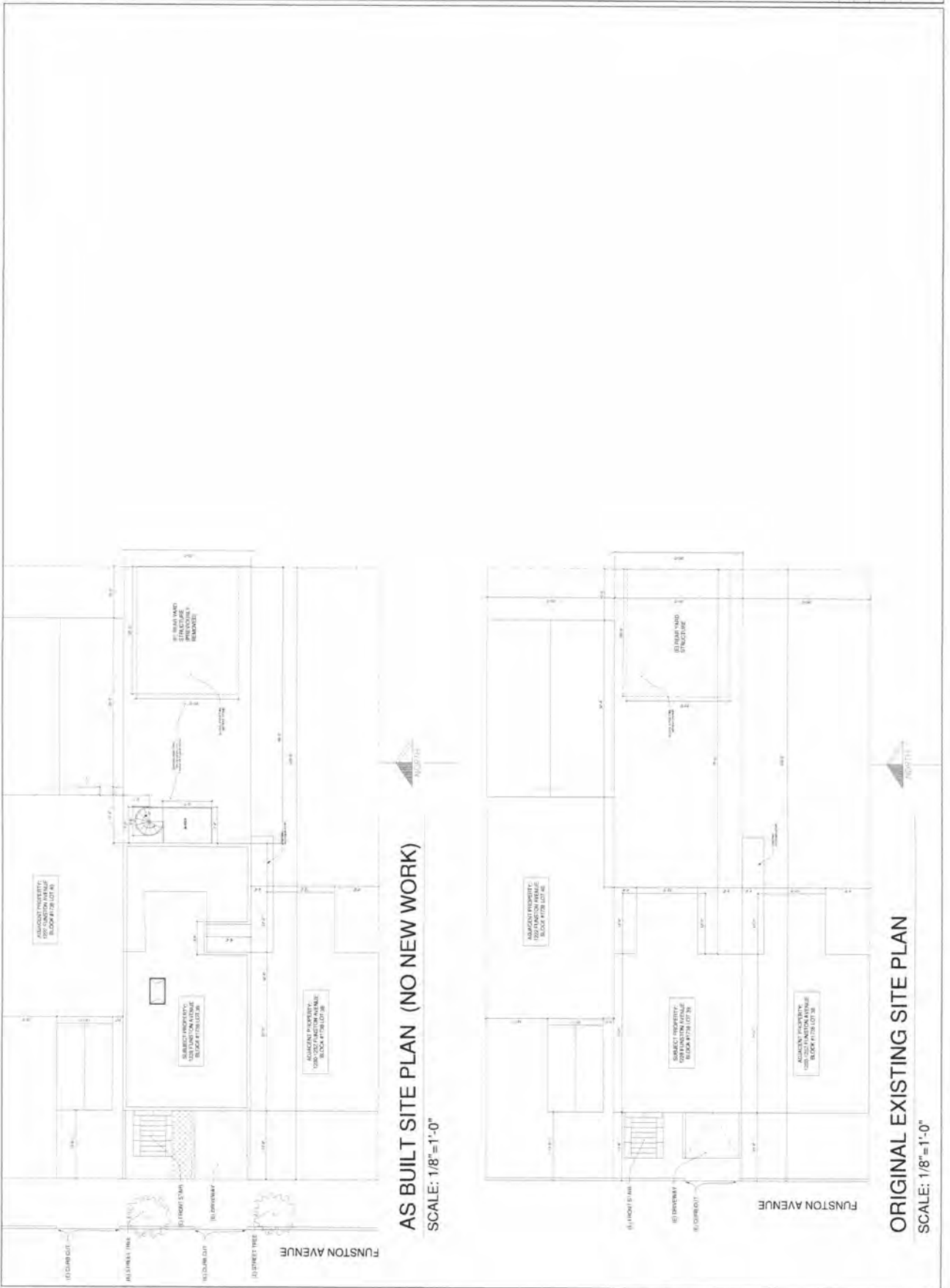
SANTOS & URRUTIA
 INC
 1000 F STREET, N.W.
 SUITE 1000
 WASHINGTON, D.C. 20004
 TEL: 202-331-1100
 FAX: 202-331-1101
 WWW.SANTOSURRUTIA.COM



EXISTING AND AS-BUILT
 SITE PLAN

ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

DATE: 08/11/2016
 DRAWN BY: RS
 SHEET NO.: 0101
 SHEET: A1
 OF: 10



1 11/30/15 RS
 3 08/04/2016 di

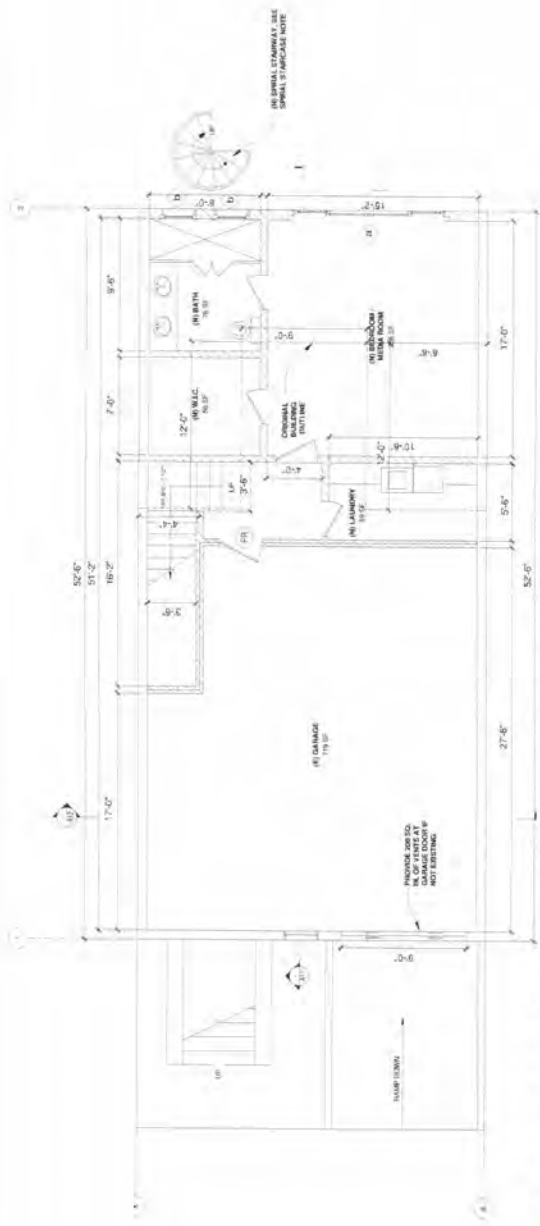
SANTOS & URRUTIA
 ARCHITECTS



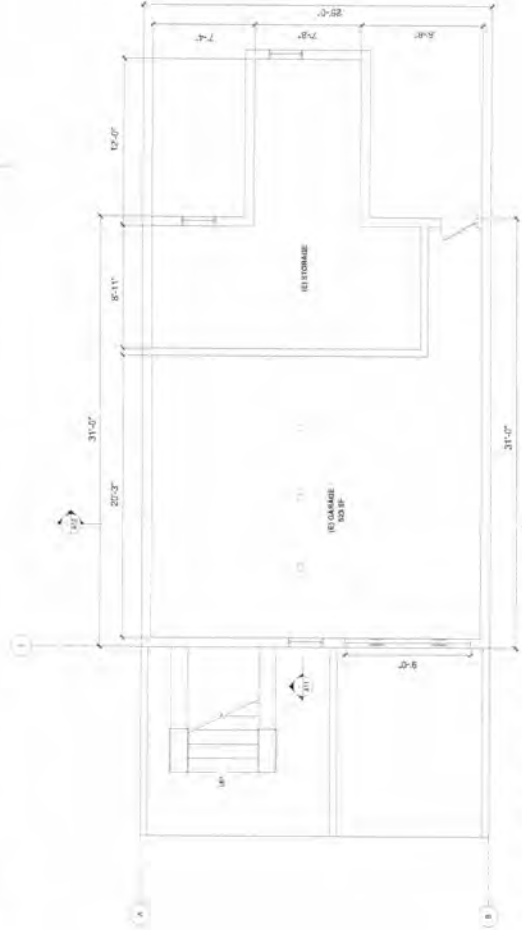
EXISTING AND AS-BUILT
 FIRST FLOOR PLAN

1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

10/07/2016
 R 2
 A2



AS BUILT FIRST FLOOR PLAN (NO NEW WORK)
 SCALE: 1/4"=1'-0"



ORIGINAL EXISTING FIRST FLOOR PLAN
 SCALE: 1/4"=1'-0"

LEGEND

SYMBOL	DESCRIPTION
(RS)	RESCUE WINDOW, 20"x24" CLIP MIN. OPERABLE AREA
(FR)	FIRE-RATED DOOR w/ SELF-CLOSER
(FR)	FIRE-RATED DOOR w/ TIGHTFITTING
(FR)	DEMOLITION WALLS
(FR)	1-HR FIRE RATED WALL
(FR)	WALL

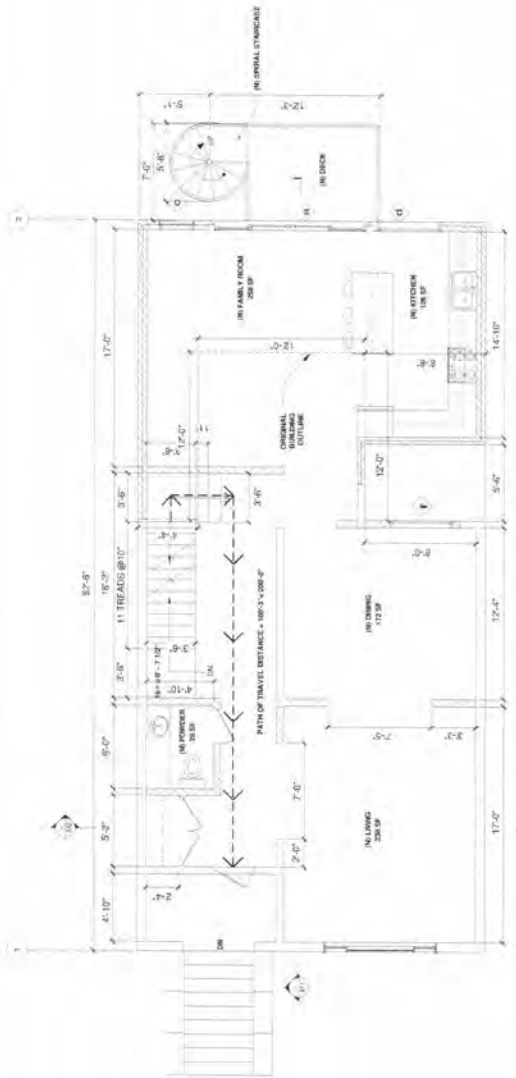
SPIRAL STAIRCASE NOTE:
 A SPIRAL STAIRWAY SHALL HAVE A 17 IN (430 MM) MINIMUM CLEAR TREAD DEPTH AT A POINT 17 IN (430 MM) FROM THE NARROW EDGE. THE RISERS SHALL BE MAXIMUM 7 IN (178 MM) BUT NOT BE MORE THAN 9 1/2 IN (241 MM). THE MINIMUM STAIRWAY CLEAR WIDTH FROM BELOW THE HANDRAIL SHALL BE 28 IN (713 MM). (CALIFORNIA BUILDING CODE: 203.1.10.2.1)

SYMBOL	SIZE	WIDTH	HEIGHT	WALL HEIGHT	TYPE	NOTES
a	10'-0"	1'-0"	1'-0"	0'-0"	ALUMINUM CURB	100% ALUM.
b	2'-0"	1'-0"	0'-0"	0'-0"	FR	FR
c	2'-0"	1'-0"	0'-0"	0'-0"	SHALL MATCH	100% ALUM.
d	4'-0"	4'-0"	8'-0"	8'-0"	STEEL	100% ALUM.
e	5'-0"	8'-0"	8'-0"	8'-0"	STEEL	100% ALUM.
f	4'-0"	1'-0"	1'-0"	1'-0"	2x4x8	100% ALUM.
g	8'-0"	1'-0"	1'-0"	1'-0"	2x4x8	100% ALUM.



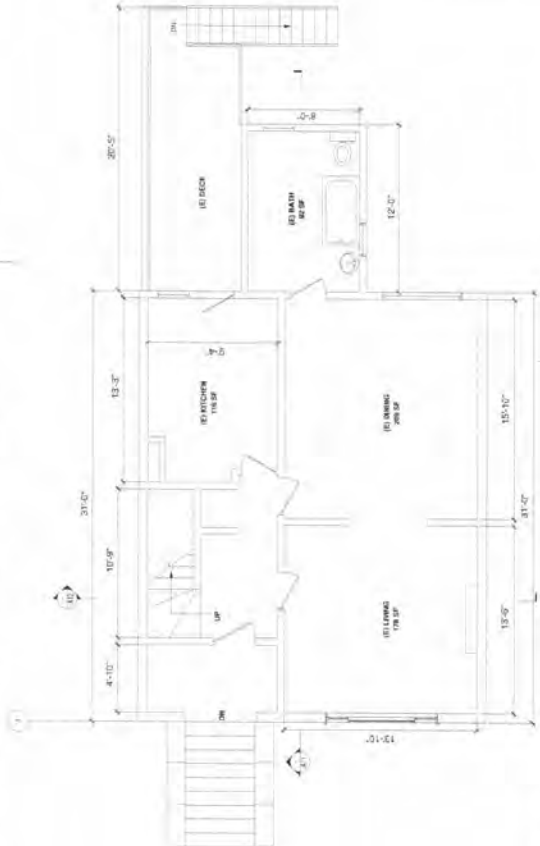
EXISTING AND AS-BUILT
SECOND FLOOR PLAN

ADDITION AND REMODEL
1228 FUNSTON
SAN FRANCISCO, CALIFORNIA



AS BUILT SECOND FLOOR PLAN (NO NEW WORK)

SCALE: 1/4"=1'-0"



ORIGINAL EXISTING SECOND FLOOR PLAN

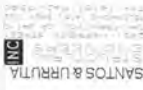
SCALE: 1/4"=1'-0"

SYMBOL	DESCRIPTION
(RS)	RESCUE WINDOW, 20"x24" MIN. CLEARANCE AREA
(FR)	FIRE-RATED DOOR w/ SELF-CLOSING DOOR FITTING
(DW)	DEMOLITION WALLS
(FR)	1-HR FIRE RATED WALL
(W)	WALL

SPIRAL STAIRCASE NOTE
A SPIRAL STAIRWAY SHALL HAVE A 12 IN (305 MM) MINIMUM CLEAR TREAD DEPTH AT A POINT 12 IN (305 MM) FROM THE WINDOW EDGE. THE TREADS SHALL BE 12 IN (305 MM) MINIMUM, BUT TREAD HEIGHT SHALL NOT BE MORE THAN 5 1/2 IN (140 MM). THE MINIMUM STAIRWAY CLEARANCE SHALL BE 6 FT (1830 MM). CALIFORNIA BUILDING CODE 2013 - 60801.2

SYMBOL	NEW WINDOW SCHEDULE	FIN. HEIGHT	FIN. WIDTH	TYPE	REMARKS
a)	4100	7'-0"	6'-0"	SLIDING DOOR	7/101
b)	2040	4'-0"	6'-0"	FIXED	7/101
c)	2040	4'-0"	6'-0"	FIXED	7/101
d)	4-110	3'-0"	6'-0"	FIXED	7/101
e)	2040	4'-0"	6'-0"	FIXED	7/101
f)	4-110	3'-0"	6'-0"	FIXED	7/101
g)	4-110	3'-0"	6'-0"	FIXED	7/101

1 11/30/15 RS
 3 08/04/2016 df

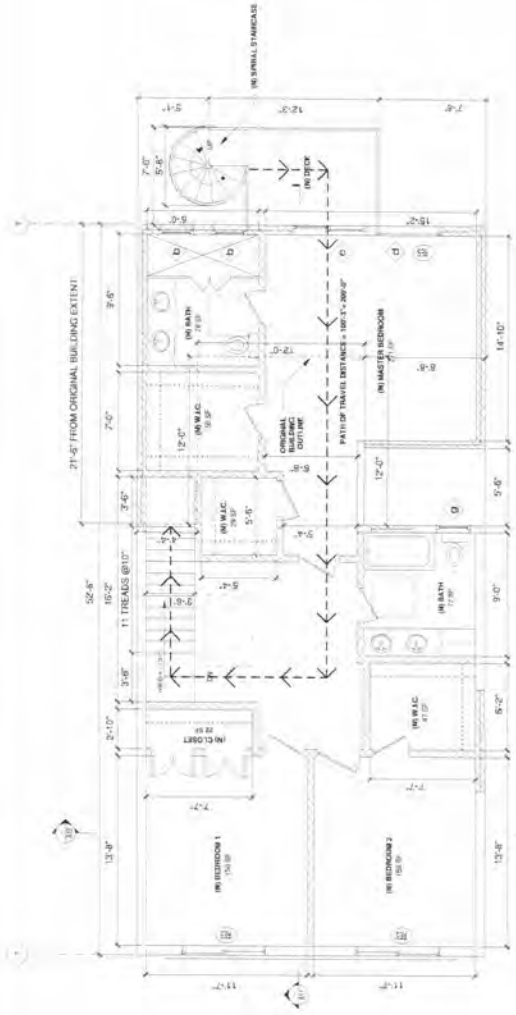


EXISTING AND AS BUILT
 THIRD FLOOR PLAN

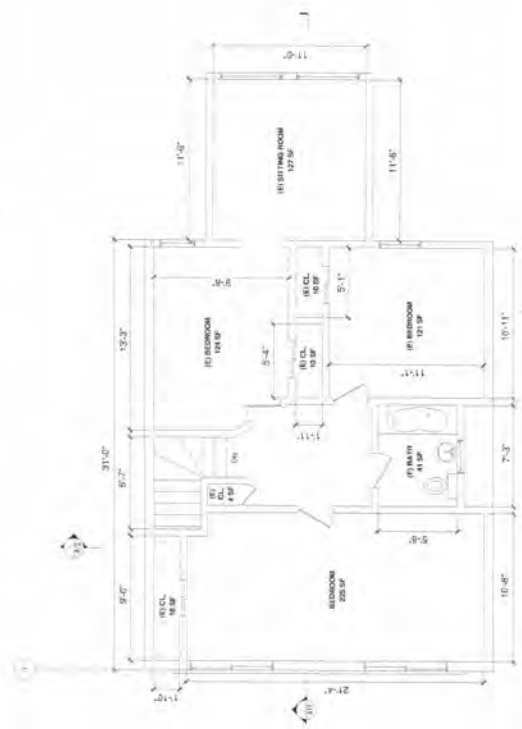
ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

DATE: 08/04/2016
 DRAWN BY: RS
 CHECKED BY: DF

A4



AS BUILT THIRD FLOOR PLAN (NO NEW WORK)
 SCALE: 1/4"=1'-0"



ORIGINAL EXISTING THIRD FLOOR PLAN
 SCALE: 1/4"=1'-0"

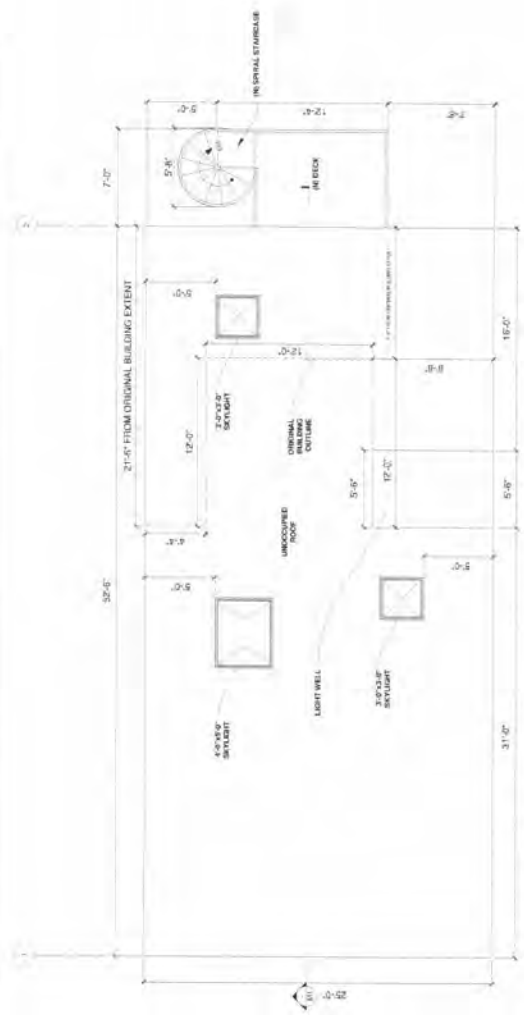
LEGEND

SYMBOL	DESCRIPTION
(RE)	RESQUE WINDOW 20%24" CLR MIN. OPERABLE AREA 5.7 SQ FT MIN. 4" SILL MAX. FINISH TO 400'-20 MIN. SELF-CLOSING TIGHT-FITTING.
(H)	DEM'D (H) WALLS
(N)	(N) FIRE RATED WALL
(N WALL)	(N) WALL

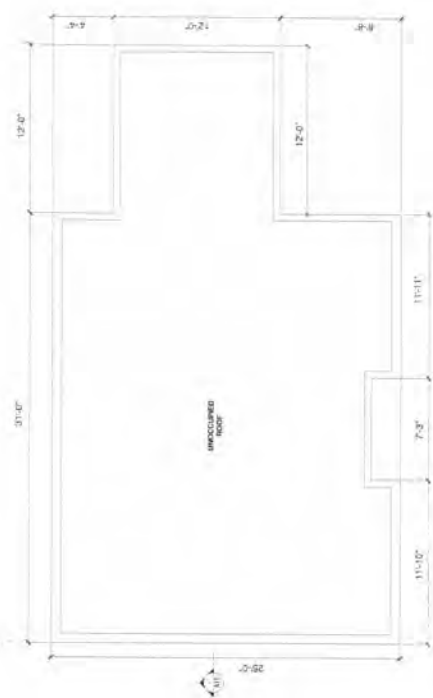
SPRICAL STAIRCASE NOTE
 A SPIRAL STAIRCASE SHALL HAVE A 7'-0" IN (9'1" MIN.) MINIMUM CLEARANCE DEPTHA. THE RISERS SHALL BE SUFFICIENT TO PROVIDE A HEADROOM OF 76 IN (6'0" MIN.) CLEARANCE. THE MINIMUM STAIRWAY CLEAR WIDTH AT ANY BELOW THE HANDRAIL SHALL BE 26 IN (6'0" MIN.) (CALIFORNIA BUILDING CODE 2013 - 1009.12)

NEW WINDOW SCHEDULE

SYMBOL	ADD'D	REMOVED	CHG. OR DATE	TYPE	MATERIAL
a	1	0	0	ALUMINUM RTTB	6090L
b	0	0	0	1110	UPPL
c	1	0	4	SHADE 6090	UPPL
d	0	0	0	2000-0	UPPL
e	0	0	0	2000-0	UPPL
f	0	0	0	2000-0	UPPL
g	0	0	0	2000-0	UPPL



AS BUILT ROOF PLAN (NO NEW WORK)
SCALE: 1/4"=1'-0"



ORIGINAL EXISTING ROOF PLAN
SCALE: 1/4"=1'-0"

SYMBOL	DESCRIPTION
(RS)	RESCUE WINDOW: 20"x24" CLEAR OPERABLE AREA 57.43 IN MIN. CLEARANCE PROVIDE 30"x60" 20 MIN. FRI
(FR)	FIRE-RATED DOOR w/ SELF-CLOSER
(D)	DOOR TO WALLS
(N)	1-HR FIRE RATED WALL
(N)	WALL

SPIRAL STAIRCASE NOTE:
A SPIRAL STAIRWAY SHALL HAVE A 7'-12" (241 MM) MINIMUM CLEAR TREAD DEPTH AT A POINT 12 IN (305 MM) FROM THE WINDOW EDGE. THE RISERS SHALL BE MAX MINIMUM, BUT RISER HEIGHT SHALL NOT BE MORE THAN 8-1/2 IN (216 MM). THE MINIMUM STAIRWAY CLEARANCE SHALL BE 7'-0" (2130 MM). SEE CALIFORNIA BUILDING CODE (CBC) 1008.10.

UNFINISHED	FINISHED	WIDTH	HEIGHT	TYPE	NOTATION
(a)	11'-0"	7'-0"	0	GLASS DOOR	(RS)
(b)	2'-6"	5'-0"	4'-0"	GLASS DOOR	(RS)
(c)	4'-0"	4'-0"	4'-0"	GLASS DOOR	(RS)
(d)	4'-0"	4'-0"	4'-0"	GLASS DOOR	(RS)
(e)	2'-0"	4'-0"	4'-0"	GLASS DOOR	(RS)
(f)	4'-0"	4'-0"	4'-0"	GLASS DOOR	(RS)
(g)	2'-0"	4'-0"	4'-0"	GLASS DOOR	(RS)

11/30/15 RS
 3/08/04/2016 df

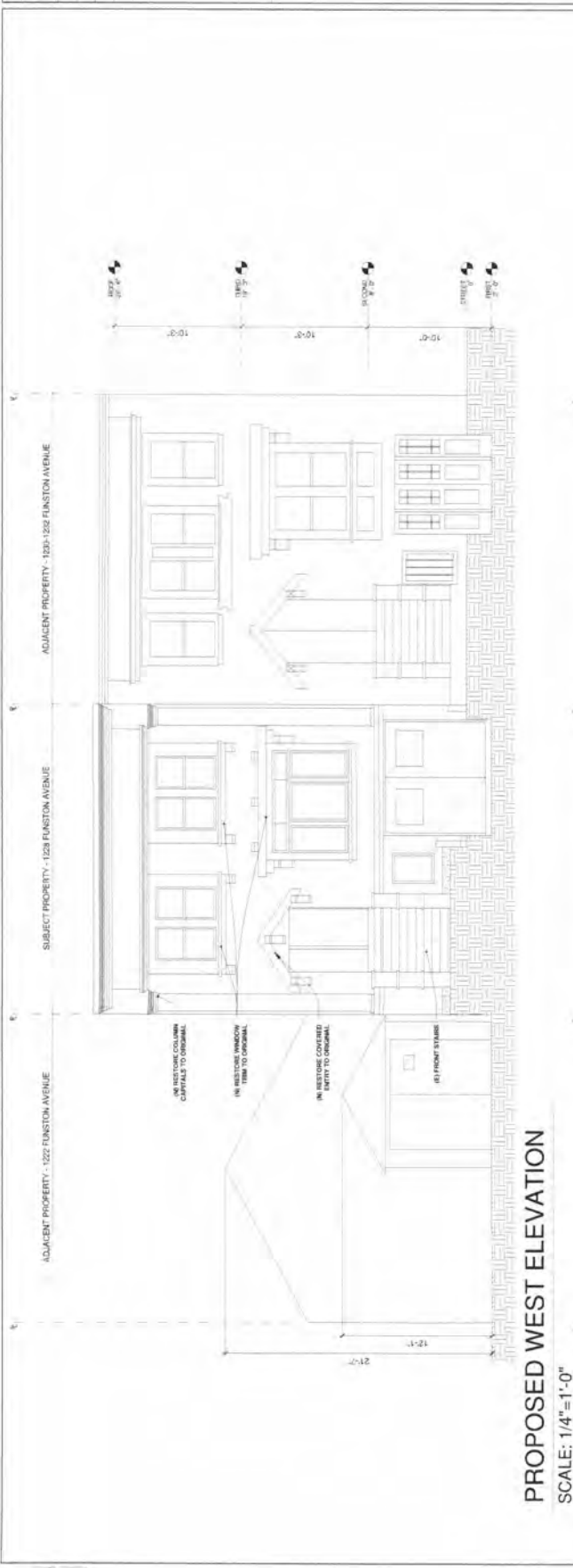
SANTOS & URRUTIA
 INC
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CA 94108
 TEL: 415.774.8800
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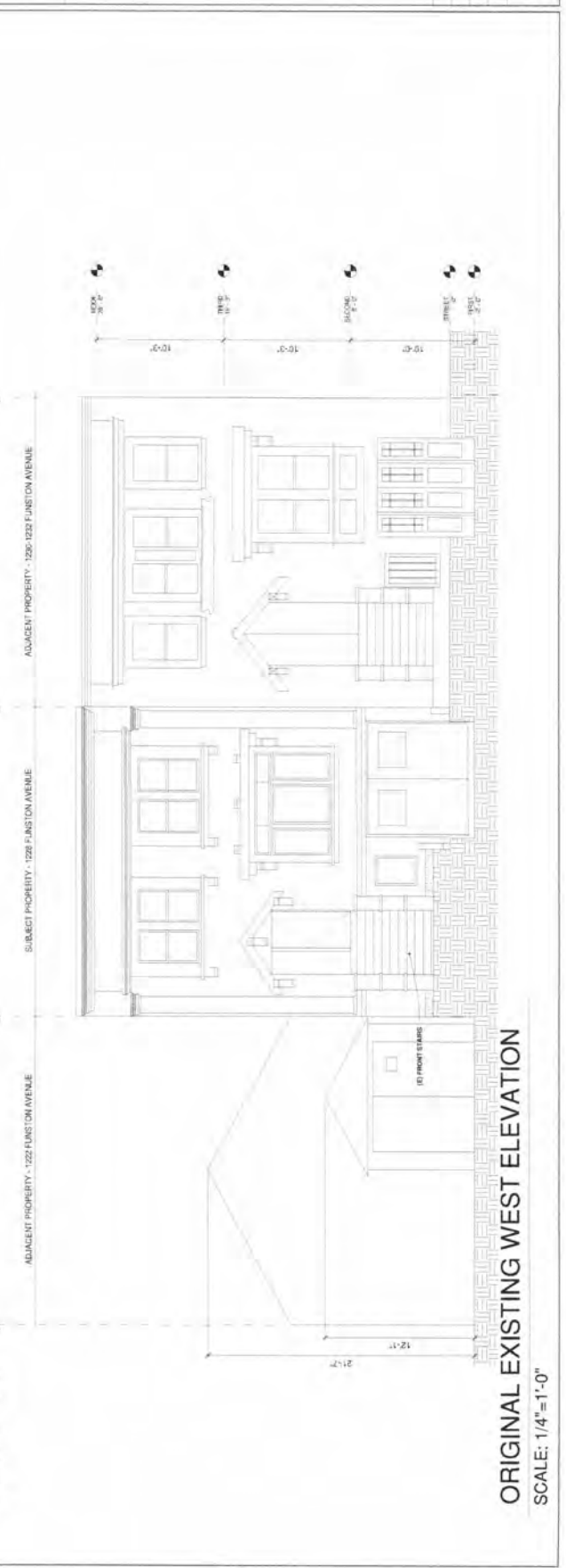
EXISTING AND PROPOSED
 WEST ELEVATION
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

Sheet: 08/11/2016
 Date: 08/11/2016
 Title: 1228 FUNSTON
 A6
 08/11/2016



PROPOSED WEST ELEVATION
 SCALE: 1/4"=1'-0"



ORIGINAL EXISTING WEST ELEVATION
 SCALE: 1/4"=1'-0"

DATE: 11/30/15
 3 08/04/2016

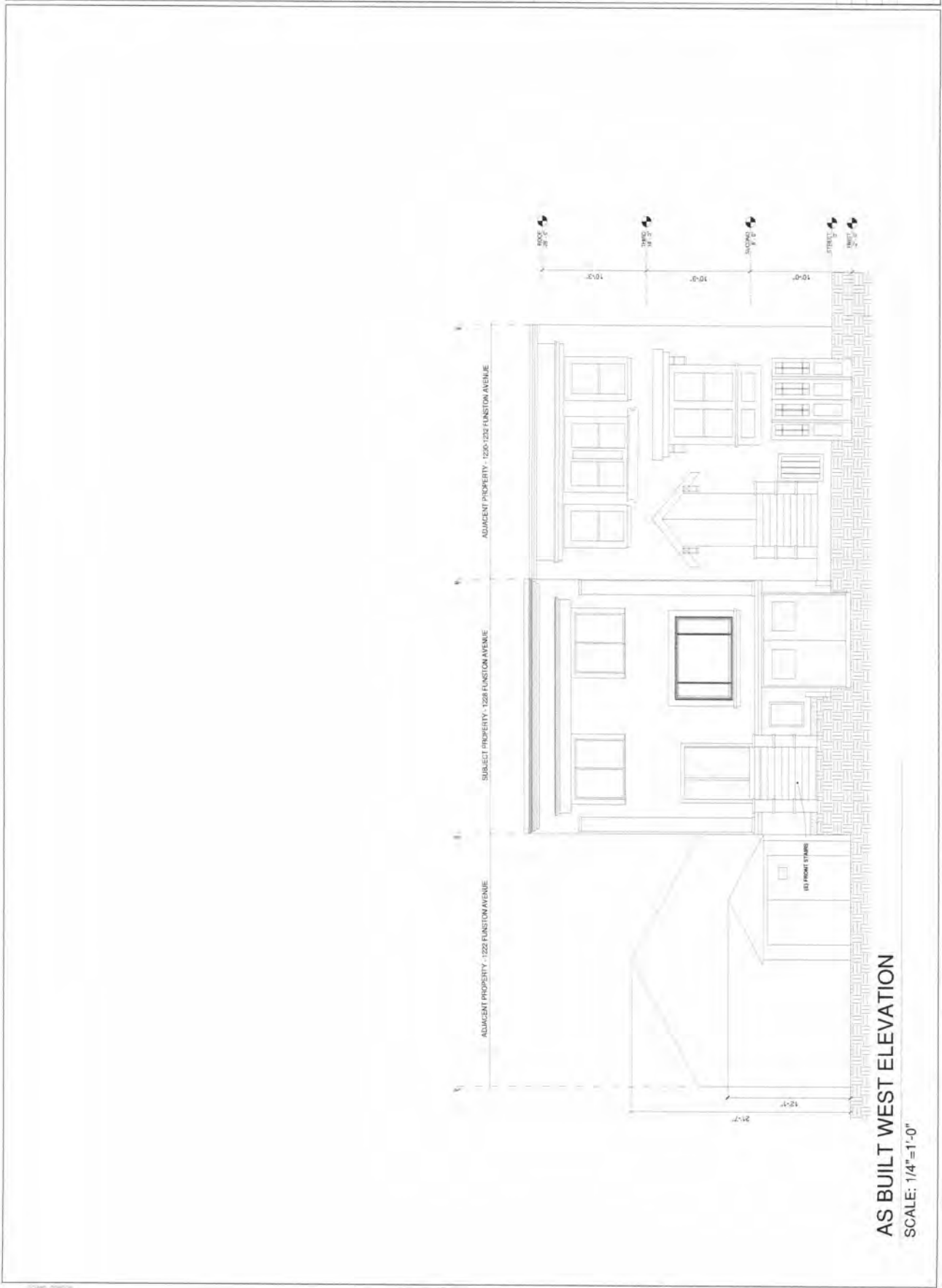
SANTOS & URRUTIA
 ARCHITECTS INC
 2001 CALIFORNIA STREET
 SAN FRANCISCO, CA 94109
 TEL: 415.774.8800
 WWW.SANTOSURRUTIA.COM



AS-BUILT
 WEST ELEVATION

ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

DATE: 08/04/2016
 DRAWN BY: PLS
 SHEET NO: 013
 SCALE: 1/4"=1'-0"
 A7



AS BUILT WEST ELEVATION
 SCALE: 1/4"=1'-0"

REV. NO. DATE BY

1	11/30/15	RS
3	08/04/2016	df

DATE: 11/30/15
 DRAWN BY: RS
 CHECKED BY: [blank]
 APPR. BY: [blank]

SANTOS & URRUTIA INC.
 ARCHITECTS
 1000 CALIFORNIA STREET, SUITE 100
 SAN FRANCISCO, CALIFORNIA 94109
 TEL: 415.774.8800
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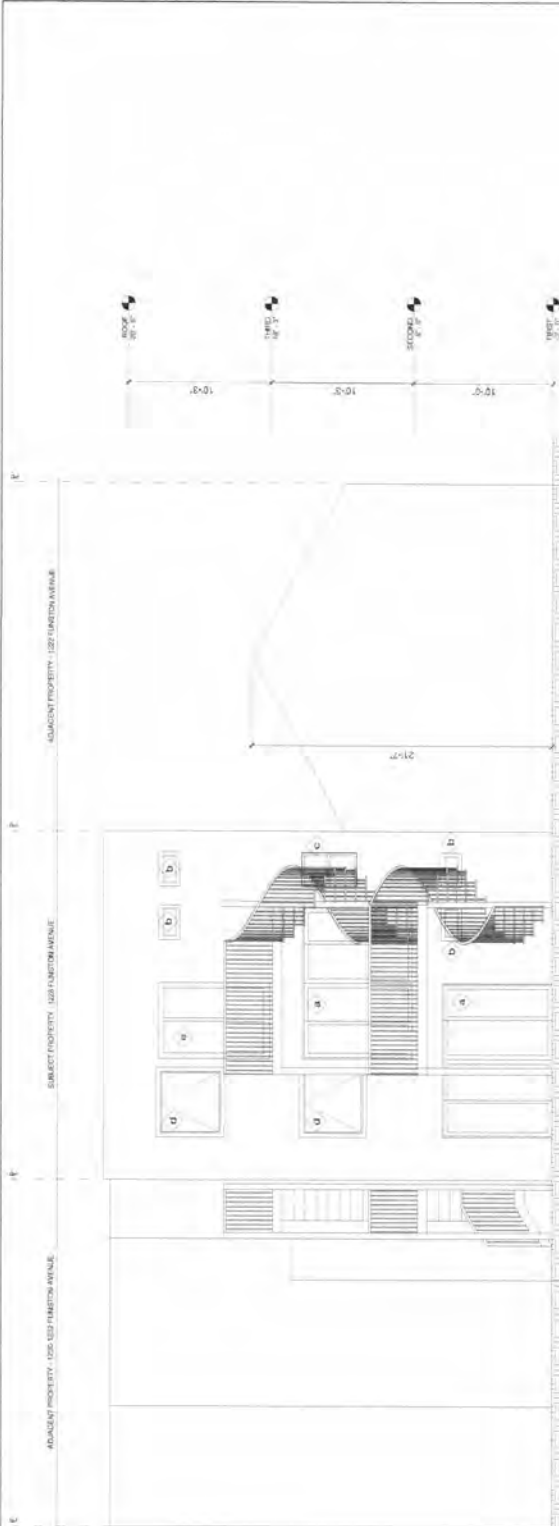


EXISTING AND AS-BUILT EAST ELEVATION

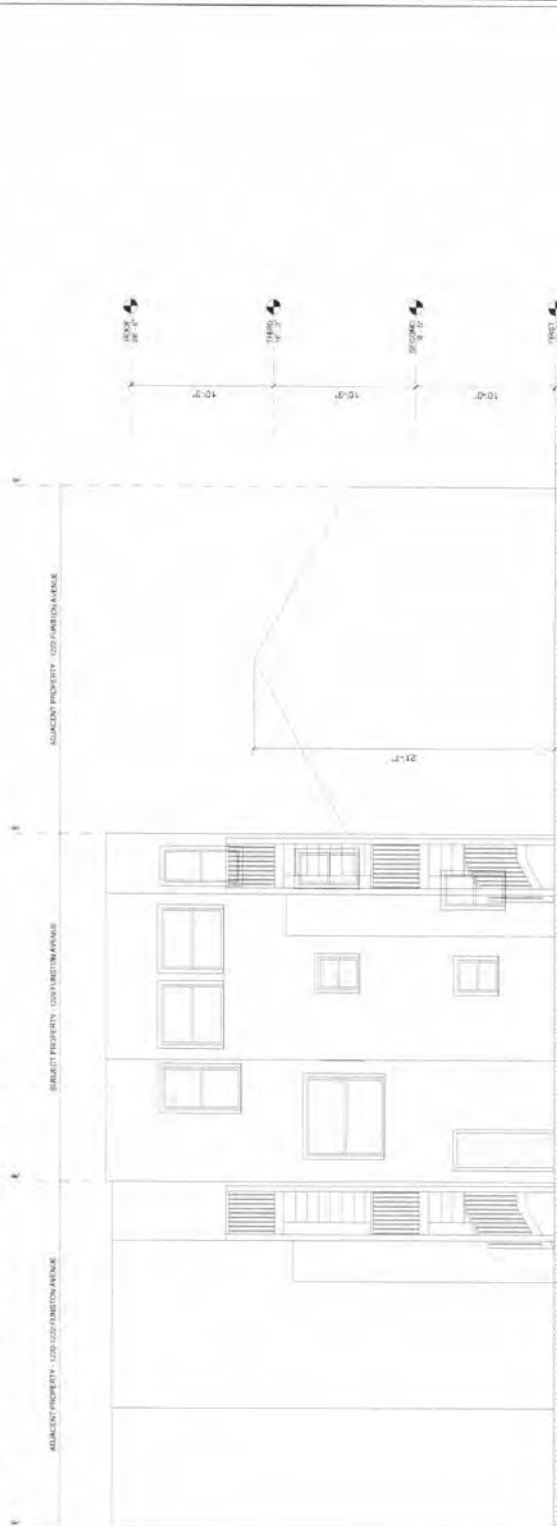
ADDITION AND REMODEL
1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

DATE: 08/04/2016
 DRAWN BY: RS
 CHECKED BY: [blank]
 APPR. BY: [blank]

SHEET: **A8**
 OF 12 SHEETS



AS BUILT EAST ELEVATION (NO NEW WORK)
 SCALE: 1/4"=1'-0"



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

DATE	DESCRIPTION
1 11/30/15	RS
3 08/04/2016	df

SANTOS & URRUTIA
INC



EXISTING AND AS-BUILT
NORTH ELEVATION

ADDITION AND REMODEL
1228 FUNSTON
SAN FRANCISCO, CALIFORNIA

DATE: 08/27/2016

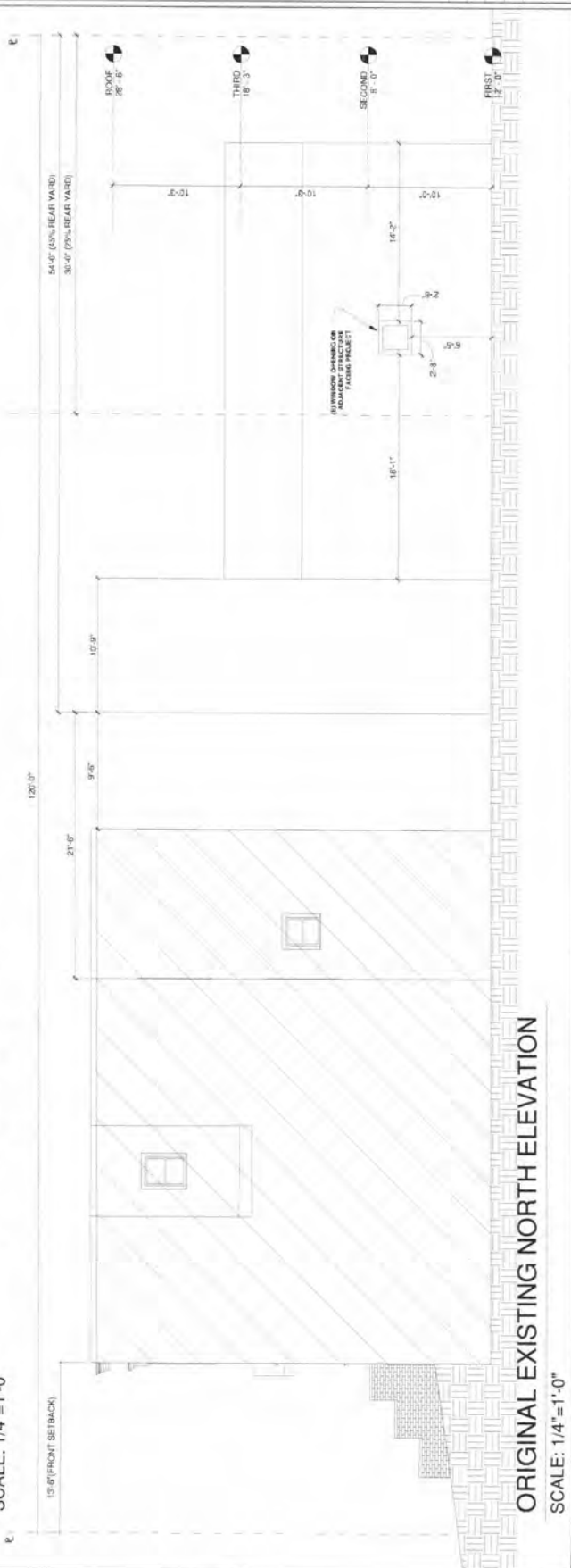
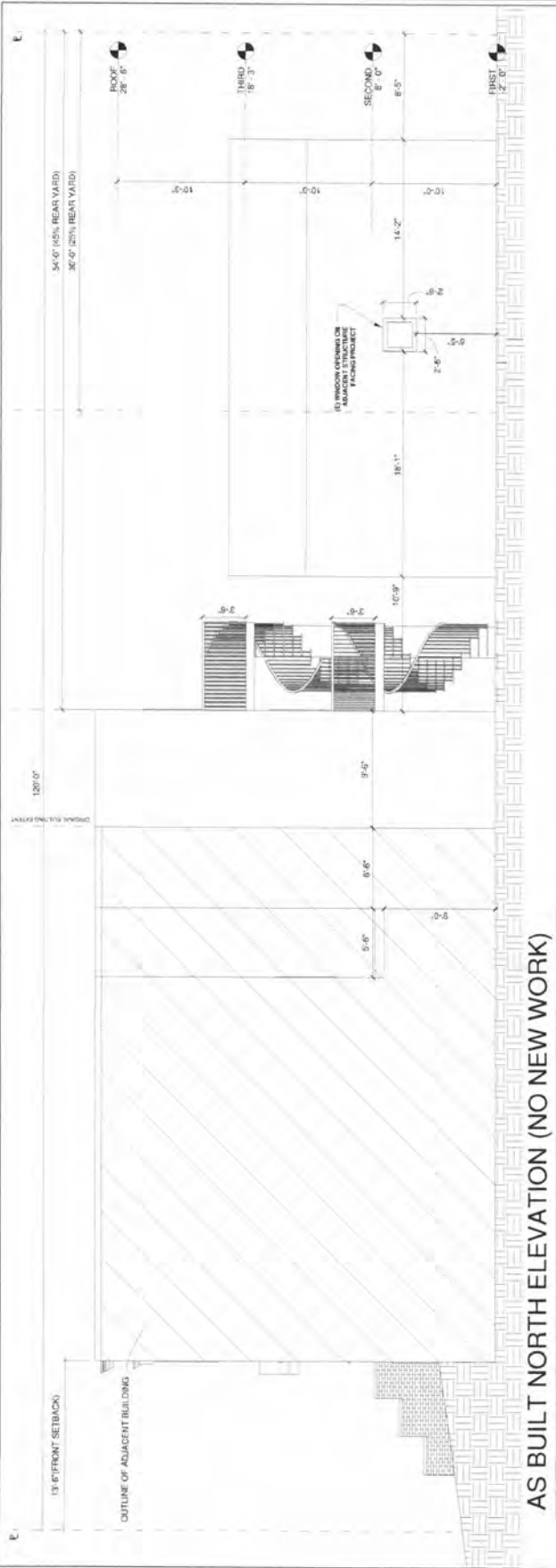
SCALE: 1/4" = 1'-0"

PROJECT NO: 1117

SHEET

A9

1 of 16 Sheets



DATE: 11/30/15
 BY: RS
 3 08/04/2016 dl

PROJECT: 1228 FUNSTON
 ADDITION AND REMODEL

DATE: 08/02/2016
 BY: RS
 3197

SCALE: A10

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 1000 CALIFORNIA STREET
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 FAX: 415.774.1235



EXISTING AND AS-BUILT
 SOUTH ELEVATION
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA



AS BUILT SOUTH ELEVATION (NO NEW WORK)
 SCALE: 1/4"=1'-0"



ORIGINAL EXISTING SOUTH ELEVATION
 SCALE: 1/4"=1'-0"

DATE: 11/30/15 1:5
 3 08/04/2016 dl

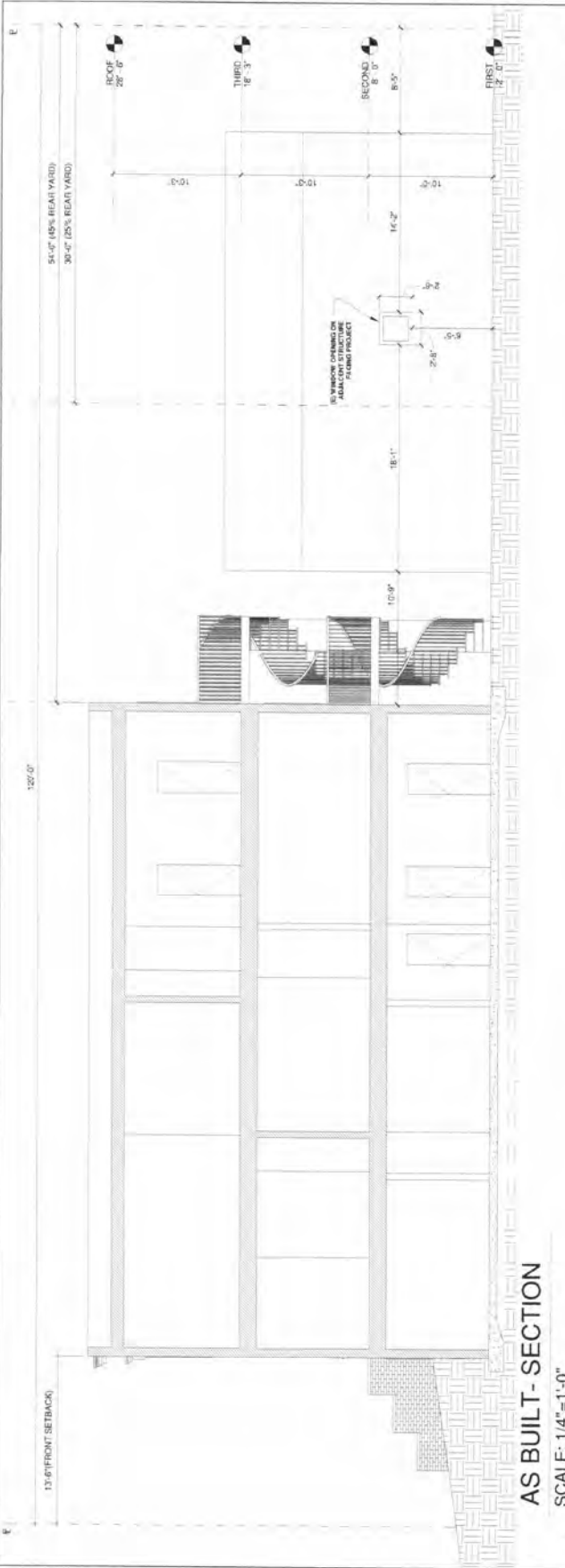
SANTOS & URRUTIA INC.
 ARCHITECTS
 1500 CALIFORNIA STREET
 SAN FRANCISCO, CA 94109
 TEL: 415.398.1000
 WWW.SANTOSURRUTIA.COM



EXISTING AND AS-BUILT SECTIONS

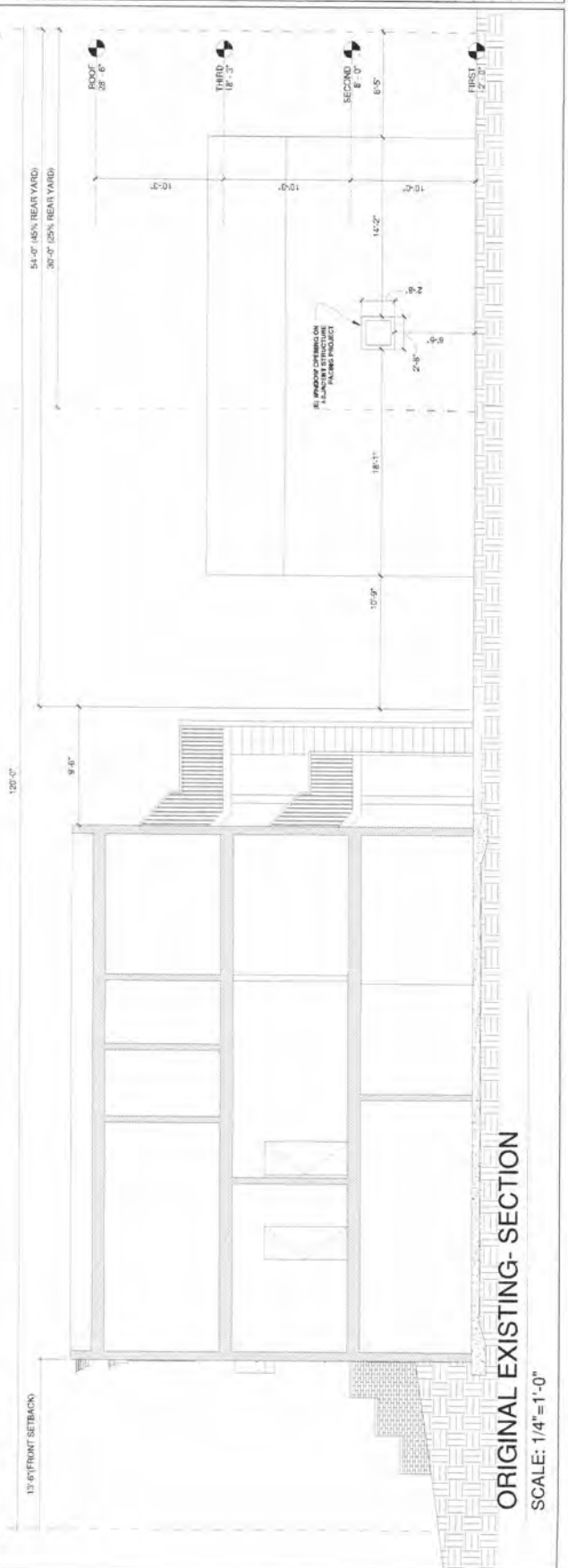
ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

Scale: DETAIL 1/4" = 1'-0"
 Sheet No: 01-5
 Job No: 21157
 Drawn: A11
 Checked: [Signature]



AS BUILT - SECTION

SCALE: 1/4" = 1'-0"



ORIGINAL EXISTING - SECTION

SCALE: 1/4" = 1'-0"

REV	DATE	BY
1	11/30/15	RL
3	08/04/2016	dl

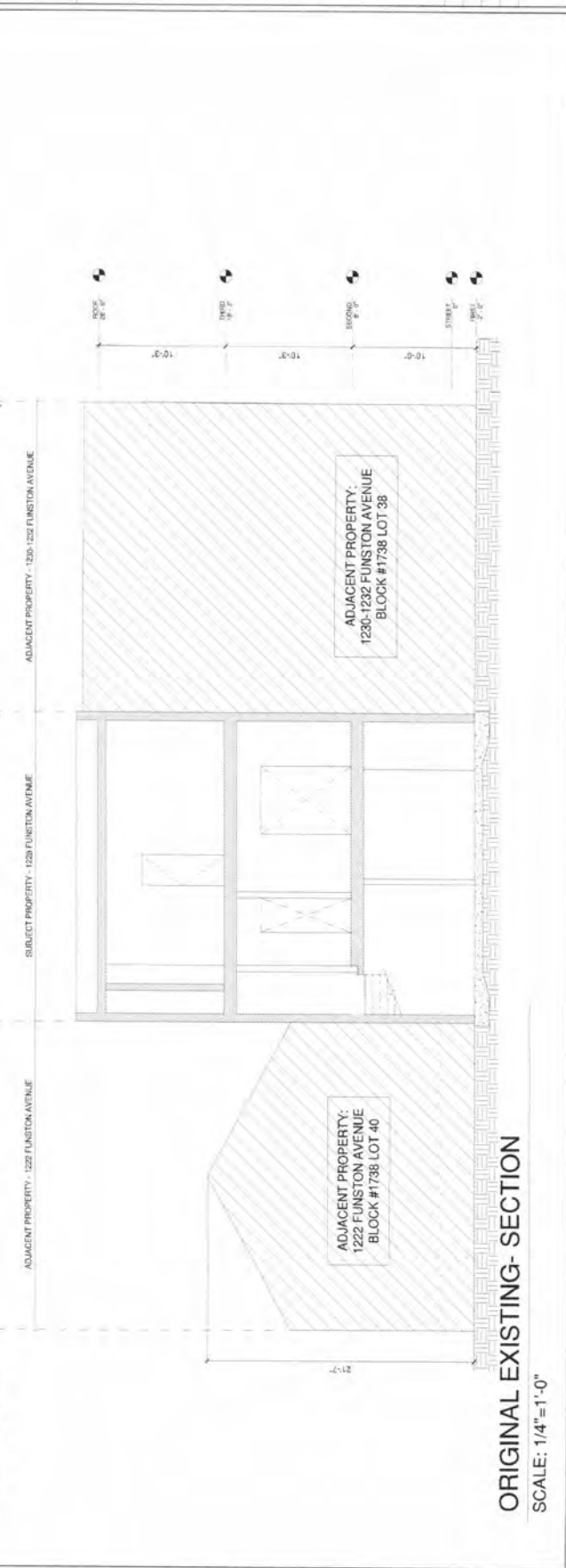
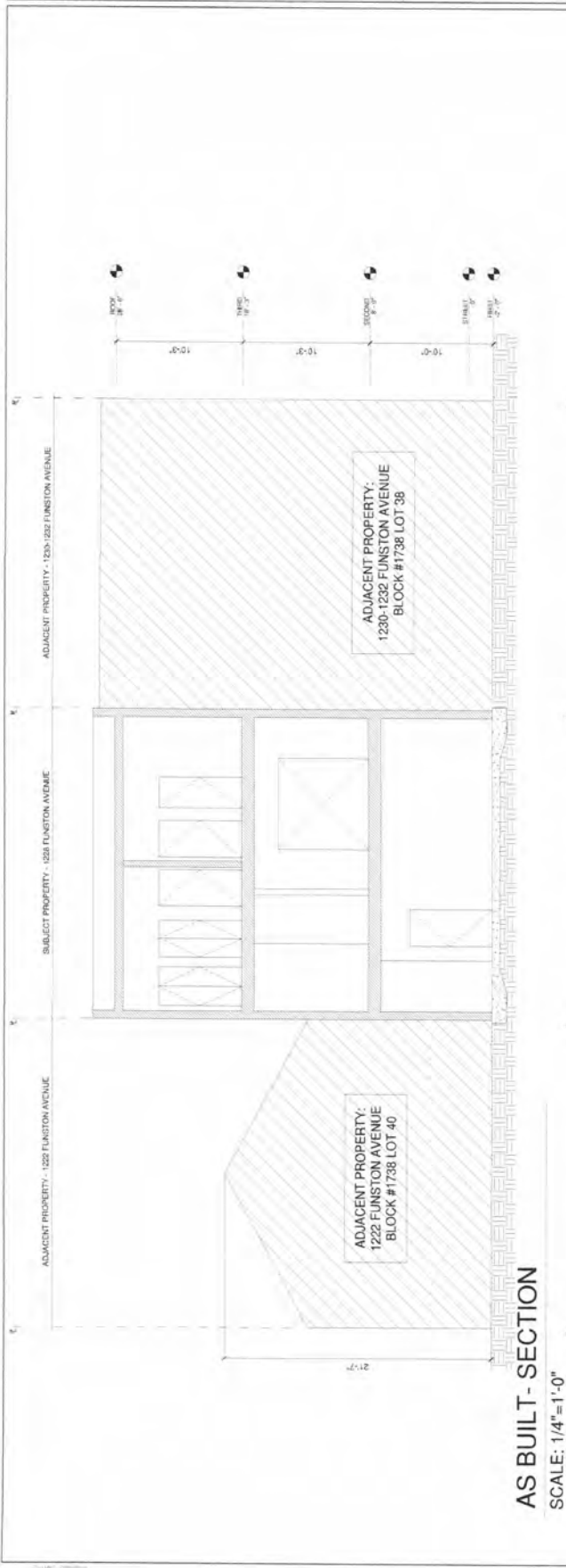
SANTOS & URRUTIA
INC
1700 CALIFORNIA STREET
SAN FRANCISCO, CA 94109
TEL: 415.774.8444
WWW.SANTOSURRUTIA.COM



EXISTING AND AS-BUILT
SECTIONS

ADDITION AND REMODEL
1228 FUNSTON
SAN FRANCISCO, CALIFORNIA

Sheet	A12
Scale	AS SHOWN
Drawn By	RL
Check By	DL
Date	8/15/16



1	11/30/15	RS
2	04/15/16	DI
3	06/04/2016	CH

DATE PLOTTED: 06/04/2016
 SCALE: 1/8" = 1'-0"
 SHEET: 1 OF 3

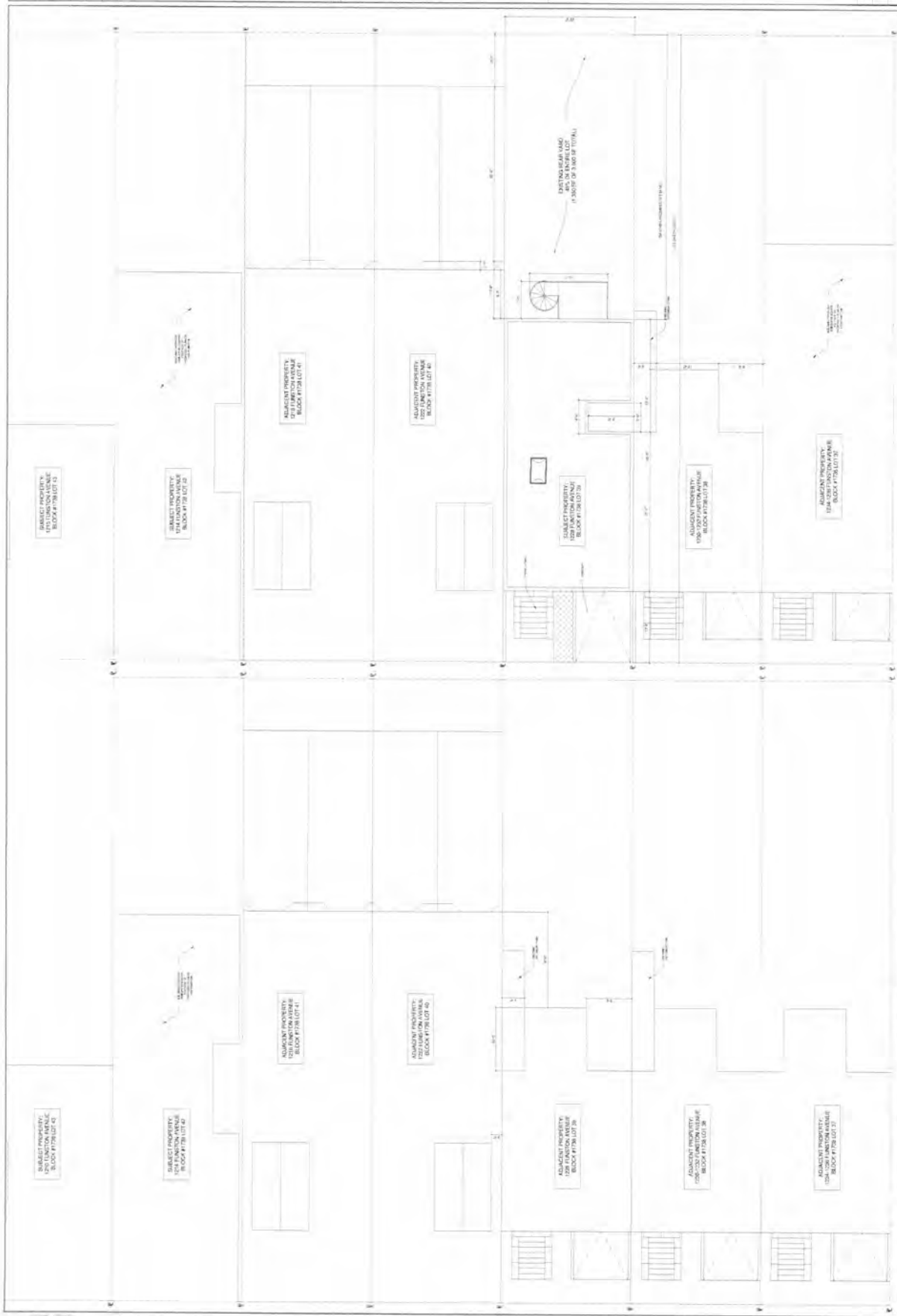
SANTOS & URRUTIA INC.
 1234 MARKET STREET
 SAN FRANCISCO, CA 94102
 TEL: 415-555-1234
 FAX: 415-555-5678
 WWW.SANTOSURRUTIA.COM



**HISTORICAL & AS-BUILT
 NEIGHBORHOOD PATTERN**

**ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA**

DATE: 06/04/2016
 SCALE: 1/8" = 1'-0"
 SHEET: 1 OF 3
 SHEET: SK2



SITE PLAN- EXISTING (AS BUILT)
 SCALE: 1/8"=1'-0"

SITE PLAN- 1978 SANBORN MAP
 SCALE: 1/8"=1'-0"

REV	DATE	BY
1	11/30/15	MS
2	04/15/16	DI
3	08/04/2016	cb

SANTOS & URRUTIA
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 SAN FRANCISCO, CA 94109
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 FAX: 415.774.8889
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AS-BUILT SITE CONDITION PHOTOGRAPHS

ADDITION AND REMODEL
 1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

DATE	08/02/2016
SCALE	1/4" = 1'-0"
PROJECT NO.	15-001
DATE	08/02/2016
SCALE	1/4" = 1'-0"
PROJECT NO.	15-001
DATE	08/02/2016
SCALE	1/4" = 1'-0"
PROJECT NO.	15-001

SK3



AS BUILT SITE CONDITION PHOTOGRAPH
SCALE: NTS

AS BUILT SITE CONDITION PHOTOGRAPH
SCALE: NTS

DATE: 11/30/15
 BY: JRS
 08/04/2016 di

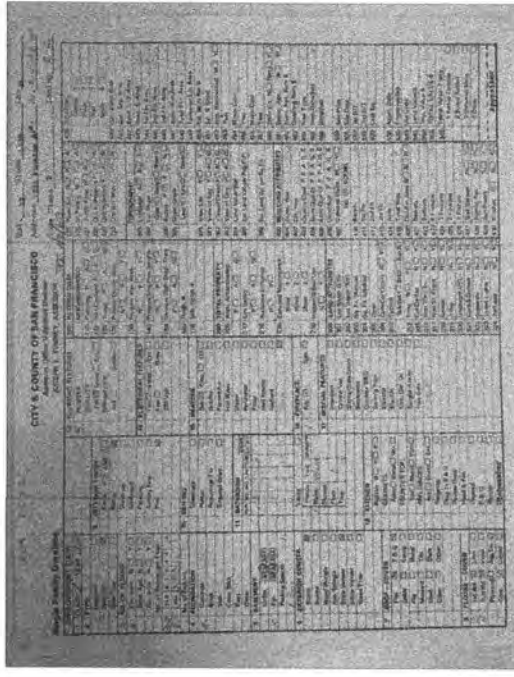
SANTOS & URRUTIA INC
 ARCHITECTS
 1000 MARKET STREET, SUITE 100
 SAN FRANCISCO, CA 94102
 TEL: 415.774.1100
 FAX: 415.774.1101



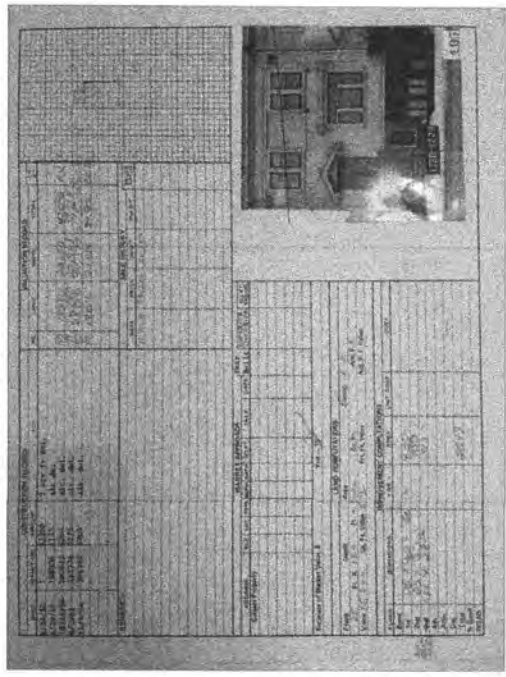
ARCHIVAL PHOTOGRAPH
 ORIGINAL EXISTING CONDITION

ADDITION AND REMODEL
1228 FUNSTON
 SAN FRANCISCO, CALIFORNIA

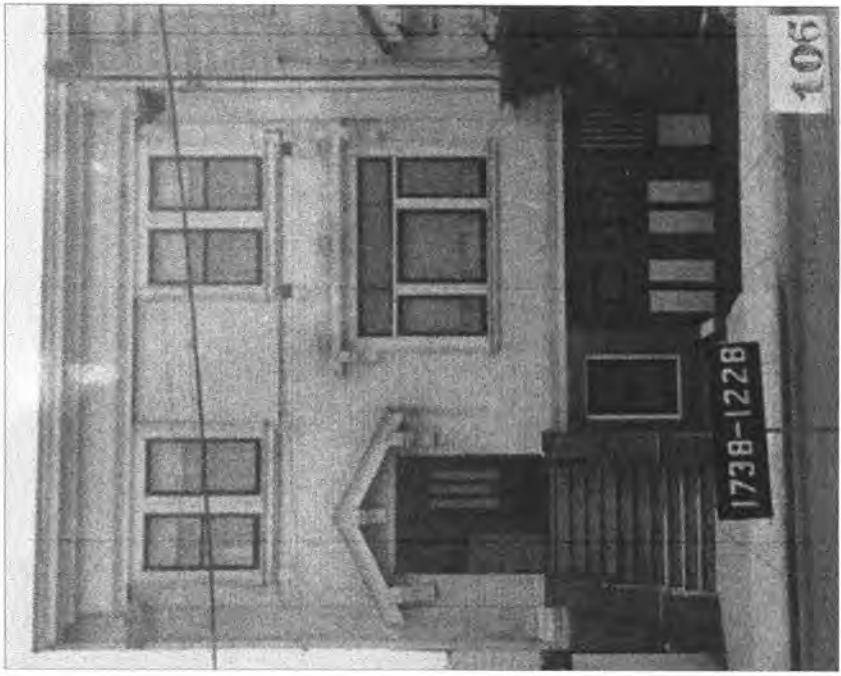
DATE: 08/07/2016
 DRAWN BY: JTT
 PROJECT NO.: R-3
 SHEET NO.: 3101
SK4
 SCALE: 1/8" = 1'-0"



ARCHIVAL PHOTOGRAPH OF ORIGINAL EXISTING CONDITION
 SCALE: NTS



ARCHIVAL PHOTOGRAPH OF ORIGINAL EXISTING CONDITION
 SCALE: NTS



ARCHIVAL PHOTOGRAPH OF ORIGINAL EXISTING CONDITION
 SCALE: NTS

"All drawings and written material appearing herein constitute the original and unpublished work of the architect and the same may not be duplicated, used, or disclosed without the written consent of the architect."

STAMP



1228 FUNSTON AVENUE
SAN FRANCISCO,
CALIFORNIA

1228 FUNSTON AVENUE SAN FRANCISCO, CALIFORNIA

HORIZONTAL AND VERTICAL EXPANSION LEGALIZATION

VICINITY MAP	PLANNING INFORMATION	SHEET INDEX	DRAWING SYMBOL																																						
	<p>OWNER : EDUARDO PANIAGUA</p> <p>PROJECT CONTACT : M. CHAD KELLOGG, AIA</p> <p>BUILDING INFO :</p> <p>BLOCK / LOT : 1738/039 BUILDING USE : RESIDENTIAL TYPE OF CONSTRUCTION : TYPE V-B NUMBER OF STORIES : 2 OVER BASEMENT OCCUPANCY CLASS : R3 ZONING DISTRICT : RH-2 NUMBER OF DWELLING UNITS : (E)1 (N)2 LOT DEPTH : 120 FEET LOT WIDTH : 25 FEET REQUIRED YARD : 45% OF LOT OR AVG OF ADJACENT PROPERTIES HISTORIC STATUS : B - UNKNOWN HEIGHT AND BULK : 40-X</p> <p>APPLICABLE CODES :</p> <p>2022 CALIFORNIA BUILDING CODE WITH LOCAL AMENDMENTS 2022 CALIFORNIA MECHANICAL CODE 2022 CALIFORNIA ELECTRICAL CODE 2022 CALIFORNIA PLUMBING CODE</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">SHEET INDEX</th> </tr> <tr> <th style="width: 50%;">SHEET NUMBER</th> <th style="width: 50%;">SHEET NAME</th> </tr> </thead> <tbody> <tr><td>A0.0</td><td>PROJECT INFORMATION</td></tr> <tr><td>A0.1</td><td>SITE PLANS</td></tr> <tr><td>A0.2</td><td>SITE PLANS</td></tr> <tr><td>A1.1</td><td>FIRST FLOOR PLANS</td></tr> <tr><td>A1.2</td><td>SECOND FLOOR PLANS</td></tr> <tr><td>A1.3</td><td>THIRD FLOOR PLANS</td></tr> <tr><td>A1.4</td><td>ROOF PLANS</td></tr> <tr><td>A1.5</td><td>PROPOSED ADU PLAN</td></tr> <tr><td>A2.1</td><td>FRONT FACADE ELEVATION</td></tr> <tr><td>A2.2</td><td>EAST ELEVATIONS</td></tr> <tr><td>A2.3</td><td>NORTH ELEVATIONS</td></tr> <tr><td>A2.4</td><td>SOUTH ELEVATION</td></tr> <tr><td>A2.5</td><td>ADU PROPOSED ELEVATIONS</td></tr> <tr><td>A3.0</td><td>PROPOSED ELEVATION DETAIL</td></tr> <tr><td>A4.1</td><td>SHORT SECTIONS</td></tr> <tr><td>A4.2</td><td>LONG SECTIONS</td></tr> <tr><td>A5.0</td><td>MID BLOCK OPEN SPACE ANALYSIS</td></tr> </tbody> </table>	SHEET INDEX		SHEET NUMBER	SHEET NAME	A0.0	PROJECT INFORMATION	A0.1	SITE PLANS	A0.2	SITE PLANS	A1.1	FIRST FLOOR PLANS	A1.2	SECOND FLOOR PLANS	A1.3	THIRD FLOOR PLANS	A1.4	ROOF PLANS	A1.5	PROPOSED ADU PLAN	A2.1	FRONT FACADE ELEVATION	A2.2	EAST ELEVATIONS	A2.3	NORTH ELEVATIONS	A2.4	SOUTH ELEVATION	A2.5	ADU PROPOSED ELEVATIONS	A3.0	PROPOSED ELEVATION DETAIL	A4.1	SHORT SECTIONS	A4.2	LONG SECTIONS	A5.0	MID BLOCK OPEN SPACE ANALYSIS	<p>1 AS BUILDING ELEVATION TAG</p> <p>1 AB BUILDING SECTION TAG</p> <p>A WINDOW / STOREFRONT TAG</p> <p>1 A9 DETAIL TAG</p> <p>1 KEY NOTE</p> <p>FR DOOR TAG</p>
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A4.2	LONG SECTIONS																																								
A5.0	MID BLOCK OPEN SPACE ANALYSIS																																								

	ORIGINAL / PRE-EXISTING	AS BUILT WITH UNAUTHORIZED ADDTION	LAST APPROVED (PERMIT 201902153076)	PROPOSED
1ST FLOOR	838 SQFT	1,258 SQFT	1,032 SQFT	1,258 SQFT
2ND FLOOR	784 SQFT	1,155 SQFT	863 SQFT	1,155 SQFT
3RD FLOOR	860 SQFT	1,207 SQFT	918 SQFT	1,207 SQFT
TOTAL GSF	2,482 SQFT	3,620 SQFT	2,813 SQFT	3,620 SQFT

SCOPE OF WORK

The proposal seeks to add two units to the single-family home. One 430-square-foot unit will be added by converting the ground floor to a new unit and the second 340-square-foot unit will be added as a detached State ADU located in the rear yard for a total of 3 dwelling units on the lot. The application for the State ADU is filed under a separate permit but included here for reference.

This permit application, originally filed on January 13, 2021, seeks to provide the two additional units in lieu of the modifications requested by the Commission in 2017 to more accurately align with the adjacent conditions, which have changed since the original proposal.

On June 15, 2017, the Planning Commission took DR and approved building permit application 2014.0206.7948 with the condition that the application be modified with three design changes that reduced the mass of the building in the rear. The application was never modified and subsequently disapproved by the Planning Department on January 28, 2019. On February 15, 2019, building permit application number 2019.0215.3076 which addressed the modifications requested by the Planning Commission, was approved as a site permit, was issued on September 6, 2020, and is pending required addendums (minor sidewalk encroachment and construction addendum). Since that time, the adjacent property located at 1222 Funston received permits to construct a new 4-story single-family home at the front of the lot, while retaining the existing non-complying cottage in the rear.

The proposal seeks to legalize the remaining 876 square feet of the 1,110-square-foot extension in the rear (234 square feet was approved by Planning in the last approved set shown on the plans). The proposal includes a two-story deck and spiral stair and seeks to legalize the demolition of the rear yard shed and proposes to restore the building's façade. The restoration of the front façade includes the restoration of column capitals to original, the restoration of window trim to original, and the restoration of covered entry to original. The proposal also seeks to provide two new bike parking spaces, removes a front window on the ground floor, and shifts the garage door slightly to make space for the ADU entry.

TABULATION BY FLOOR OF UNAUTHORIZED, LAST APPROVED AND NET PROPOSED FLOOR AREA

1st floor:
 Unauthorized: 414 square feet
 Last Approved: 169 square feet (245 square feet to be removed)
 Net Proposed: 245 square feet (difference between what was built, last approved, and currently proposed)

2nd floor:
 Unauthorized: 367 square feet
 Last Approved: 49 square feet (318 square feet to be removed)
 Net Proposed: 318 square feet. (difference between what was built, last approved, and currently proposed)

3rd floor:
 Unauthorized: 329 square feet
 Last Approved: 16 square feet (313 square feet to be removed)
 Net Proposed: 313 square feet. (difference between what was built, last approved, and currently proposed)

Total Net Proposed: 876 square feet.

TABULATION OF OCCUPIED FLOOR AREA BY UNIT

	EXISTING	PROPOSED
UNITS	1 UNIT	3 UNITS
SIZE	2,923 SQ FT	2,412 SQ FT (UNIT 1) 430 SQ FT (UNIT 2) 340 SQ FT (ADU) (UNDER SEPRATE PERMIT)

Submittals

Pricing	Date
PERMIT SET	3/13/2023

Author:
 Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

PROJECT INFORMATION



1228 FUNSTON AVENUE
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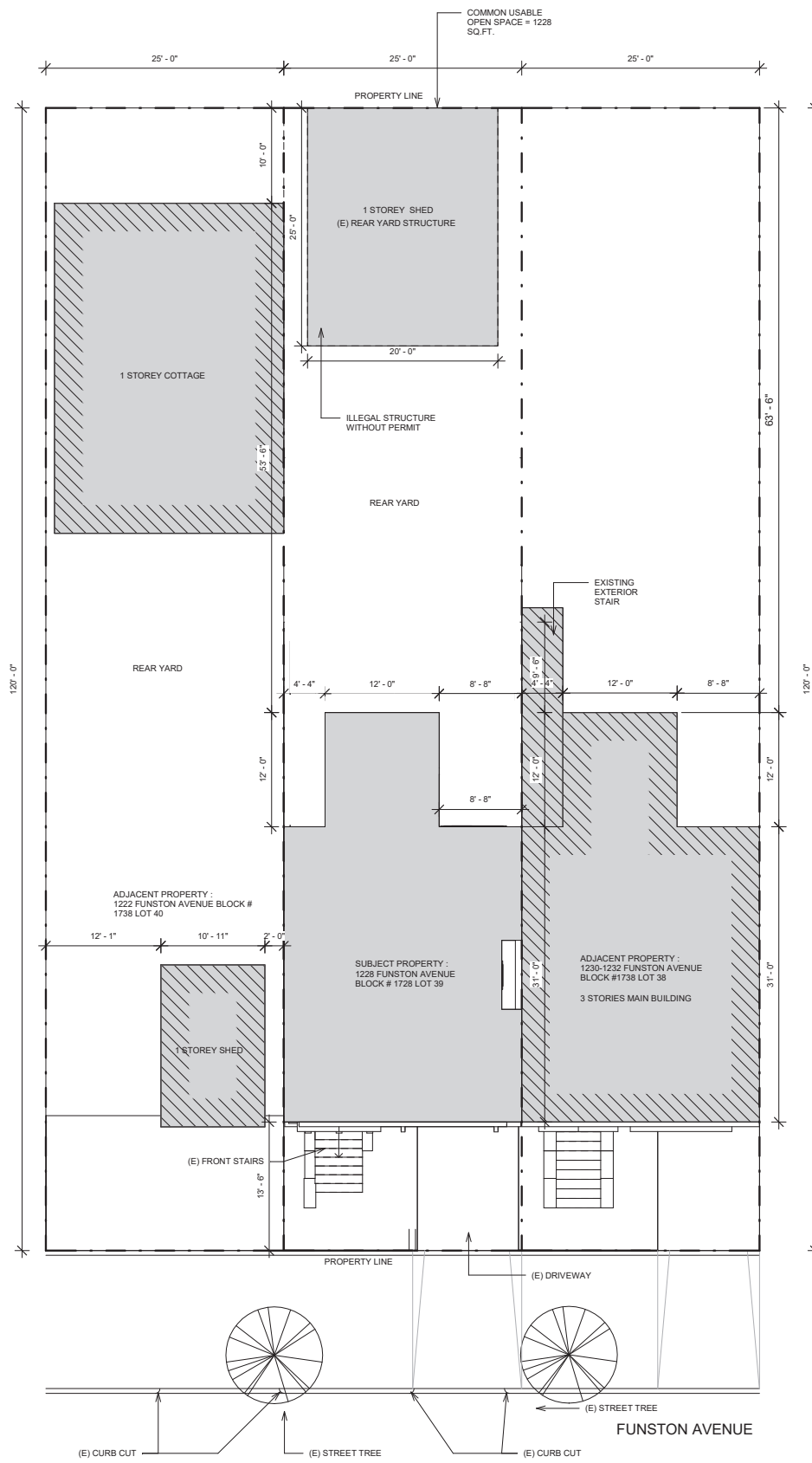
Submittals

Pricing	Date
PERMIT SET	3/13/2023

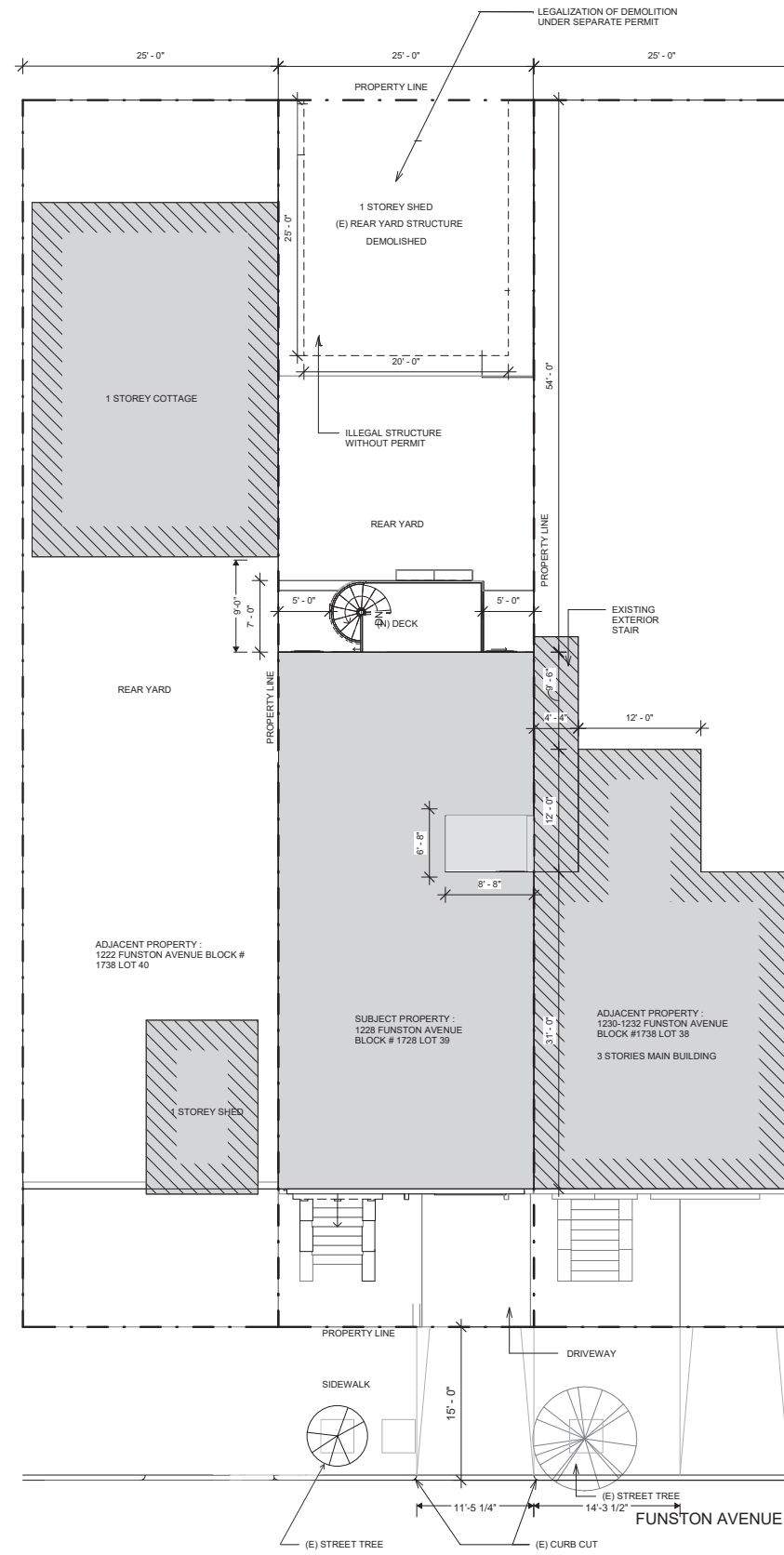
Author:
Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

SITE PLANS

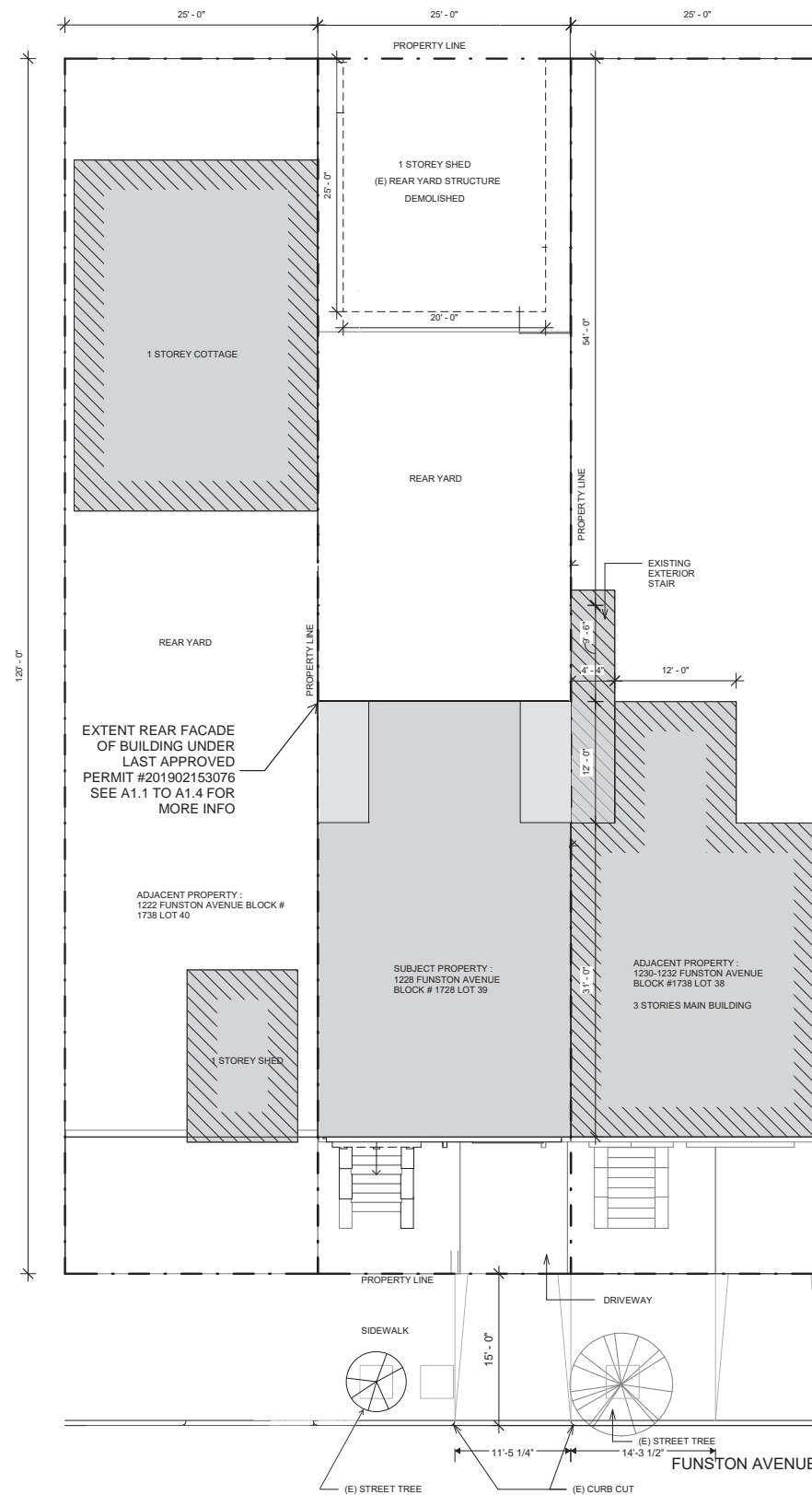


ORIGINAL / PRE-EXISTING.
SCALE : 1/8" = 1'-0" SITE PLAN

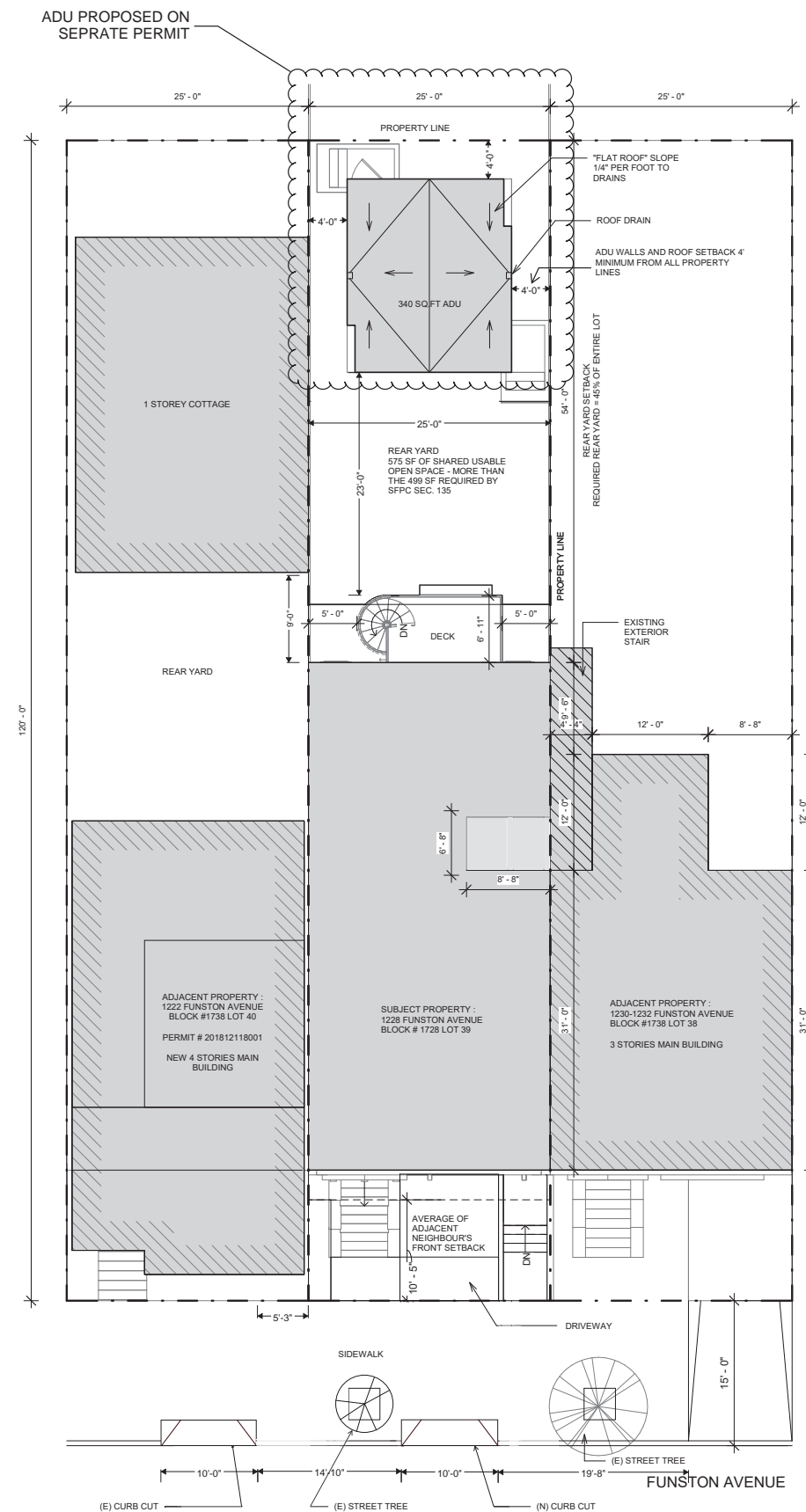


AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/8" = 1'-0" SITE PLAN





LAST APPROVED (PERMIT 201902153076)
 SCALE : 1/8" = 1'-0"
 SITE PLAN



PROPOSED
 SCALE : 1/8" = 1'-0"
 SITE PLAN

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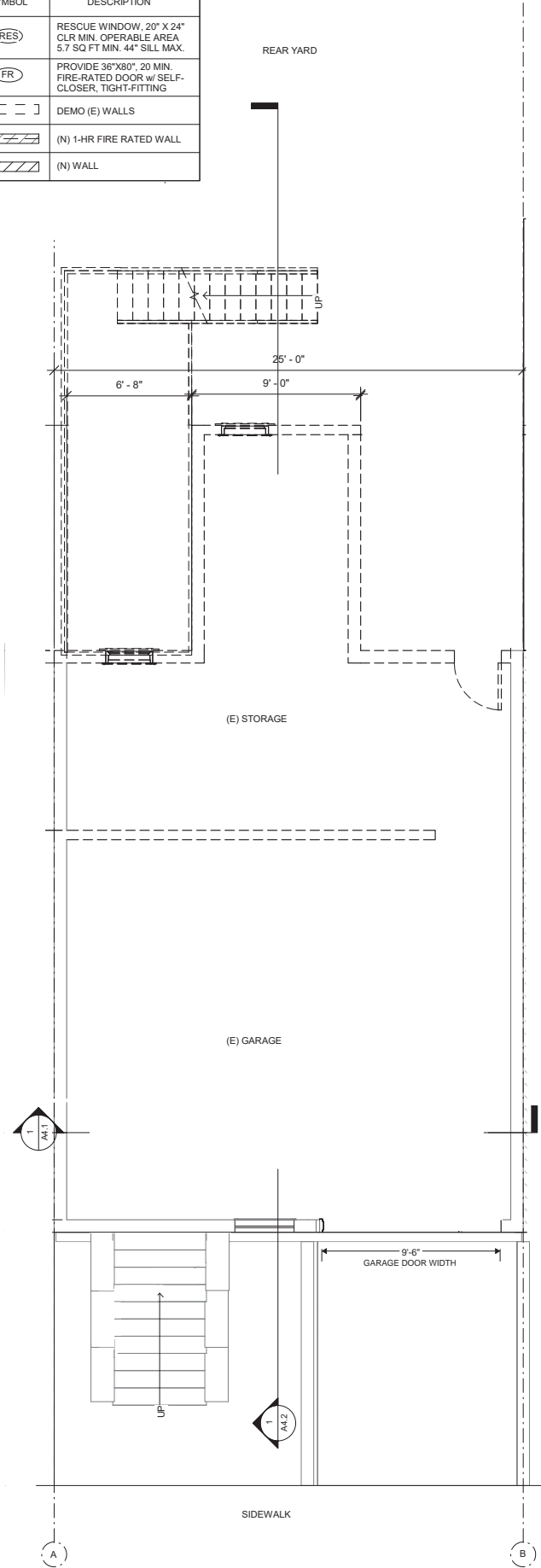
Filing	Date
PERMIT SET	3/13/2023

Author:
 Job Number: 1701

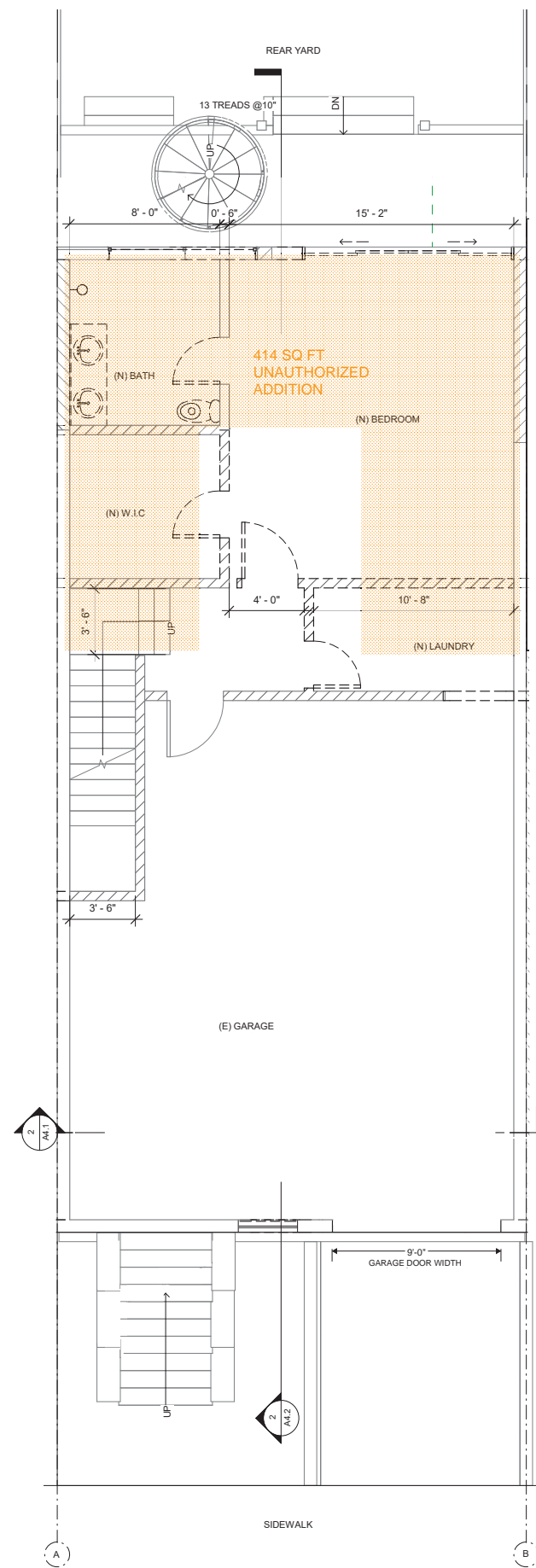
IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

SITE PLANS

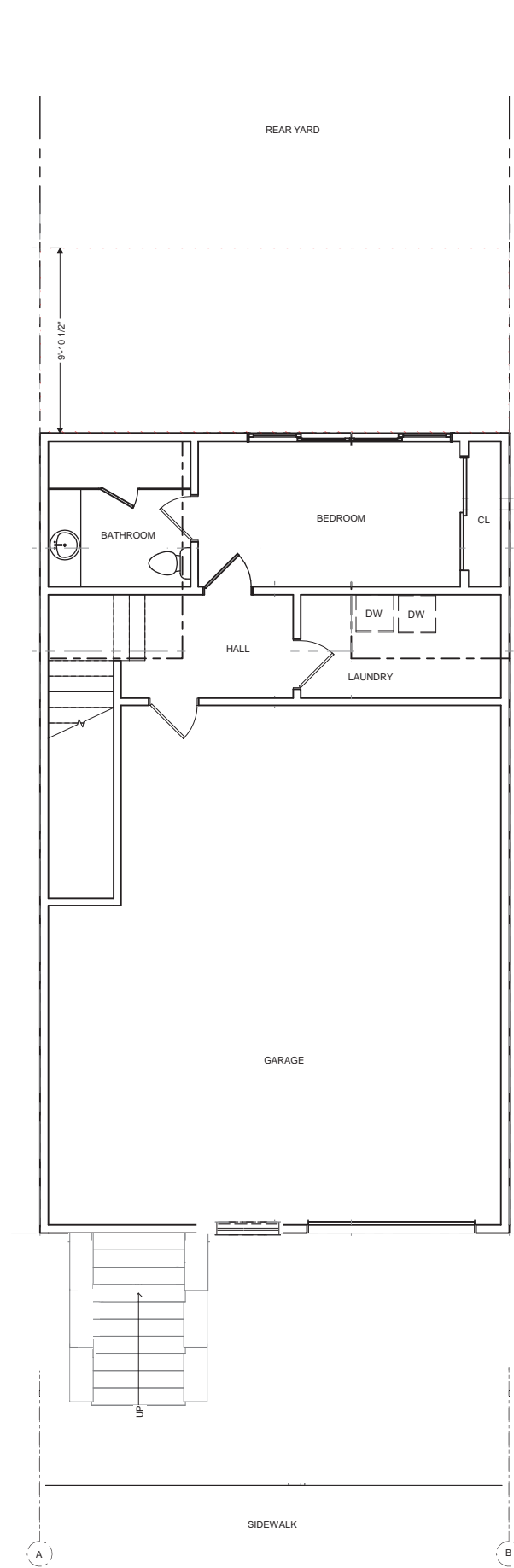
LEGEND	
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(RES)	RESCUE WINDOW, 20" X 24" CLR MIN. OPERABLE AREA 5.7 SQ FT MIN. 44" SILL MAX.
(FR)	PROVIDE 36"X80" 20 MIN. FIRE-RATED DOOR W/ SELF-CLOSER, TIGHT-FITTING
[- - -]	DEMO (E) WALLS
[//]	(N) 1-HR FIRE RATED WALL
[/ /]	(N) WALL



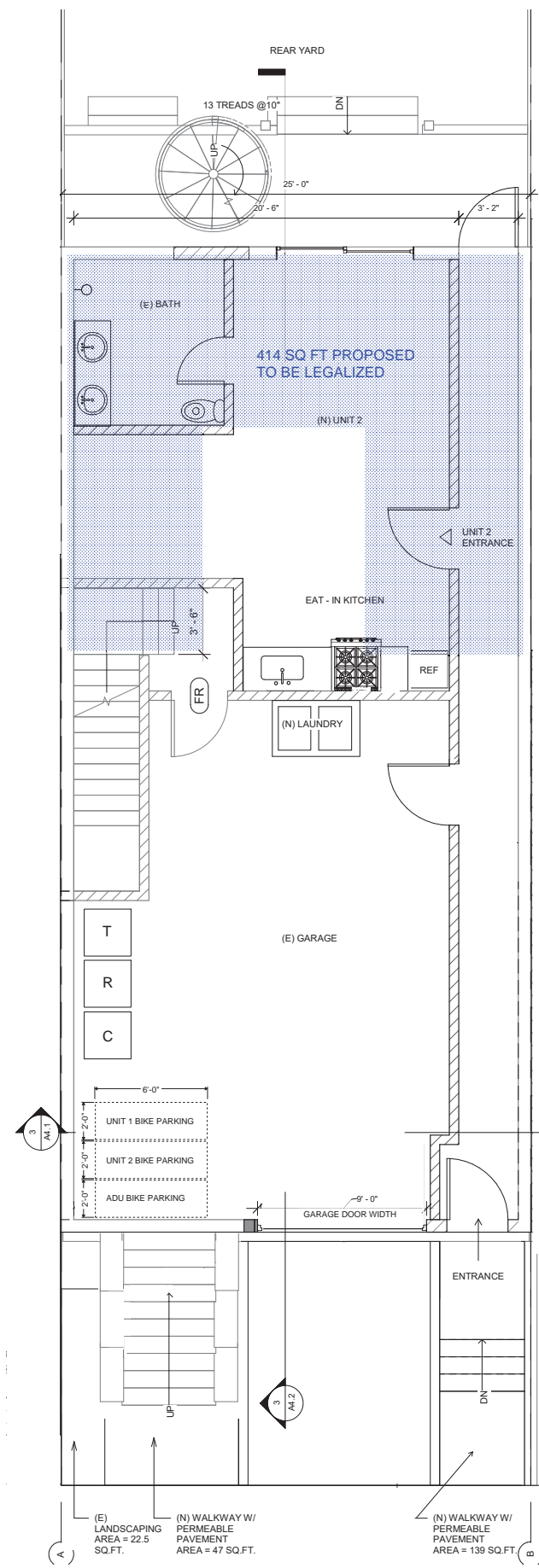
ORIGINAL / PRE-EXISTING
SCALE : 1/4" = 1'-0" FIRST FLOOR PLAN



AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/4" = 1'-0" FIRST FLOOR PLAN



LAST APPROVED (PERMIT 201902153076)
SCALE : 1/4" = 1'-0" FIRST FLOOR PLAN



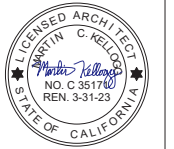
PROPOSED
SCALE : 1/4" = 1'-0" FIRST FLOOR PLAN

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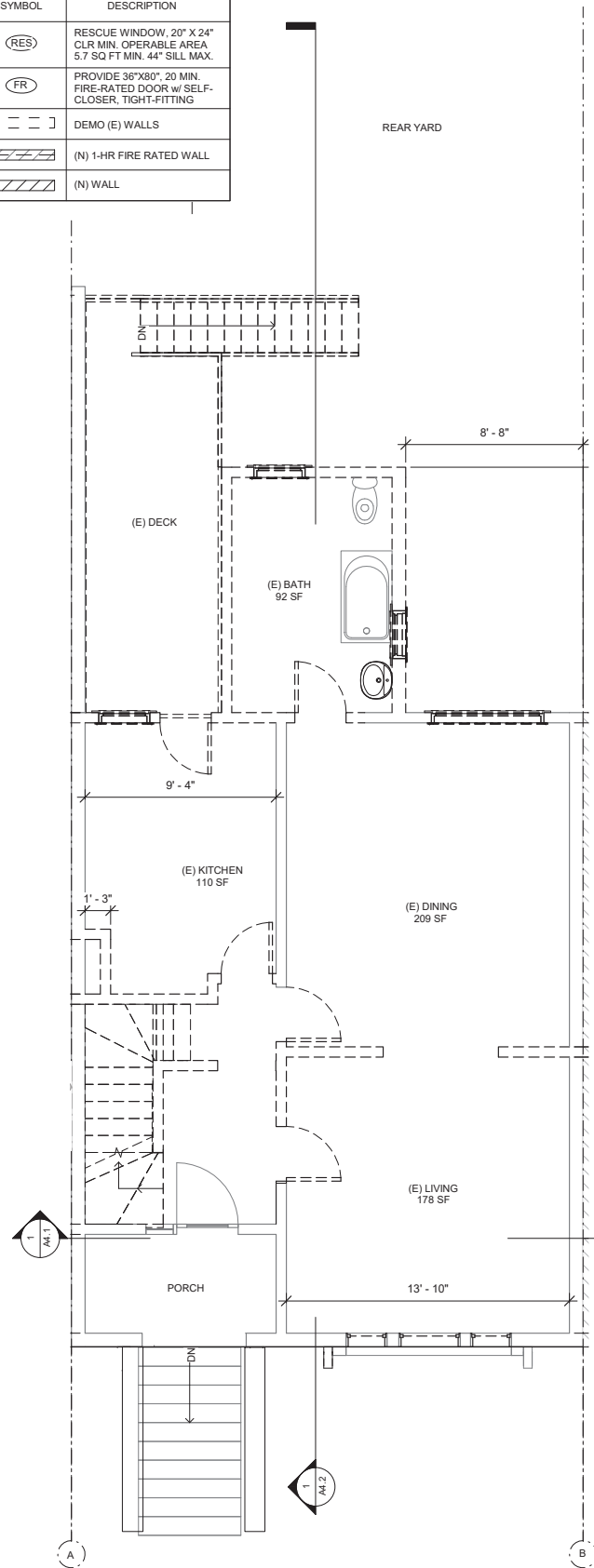
IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE



FIRST FLOOR PLANS

A1.1

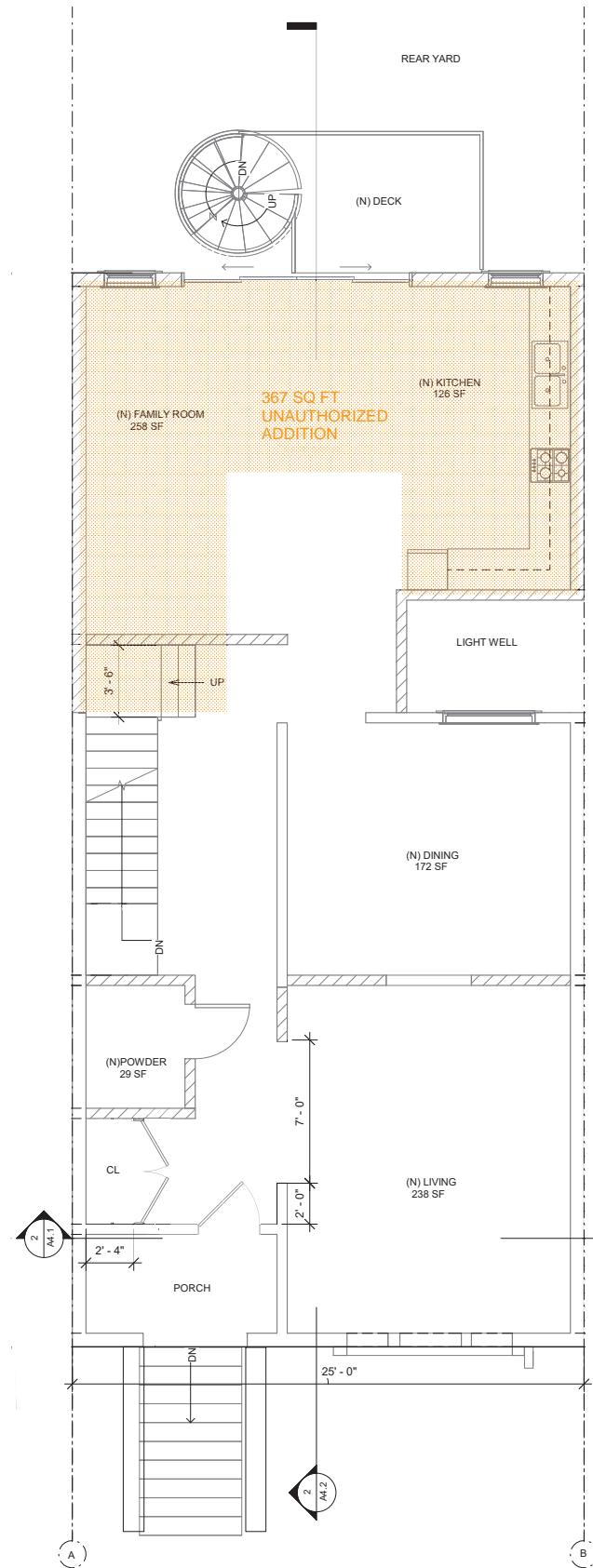
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SYMBOL	DESCRIPTION
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(FR)	PROVIDE 36"X80" 20 MIN. FIRE-RATED DOOR W/ SELF-CLOSER, TIGHT-FITTING
[- - -]	DEMO (E) WALLS
[//]	(N) 1-HR FIRE RATED WALL
[/ /]	(N) WALL



ORIGINAL / PRE-EXISTING

SCALE : 1/4" = 1'-0"

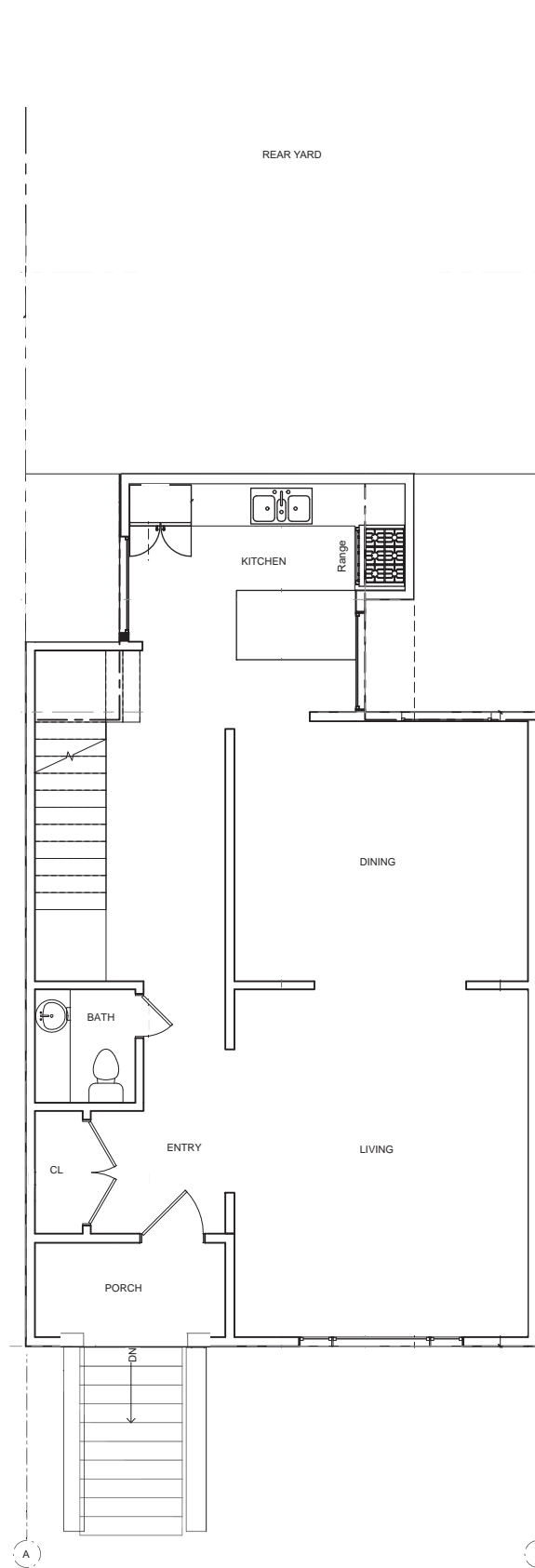
SECOND FLOOR PLAN



AS-BUILT WITH UNAUTHORIZED ADDITION

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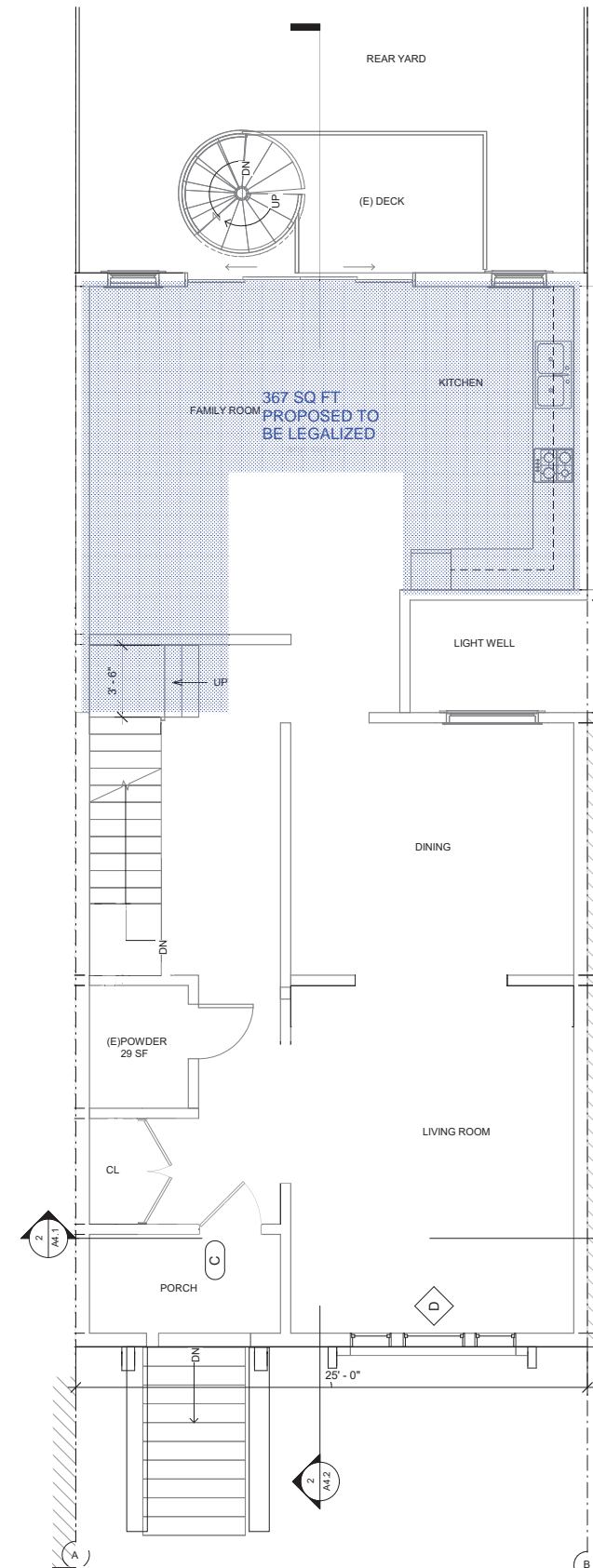
SECOND FLOOR PLAN



LAST APPROVED (PERMIT 201902153076)

SCALE : 1/4" = 1'-0"

SECOND FLOOR PLAN



PROPOSED

SCALE : 1/4" = 1'-0"

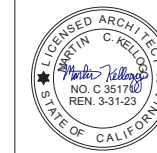
SECOND FLOOR PLAN

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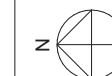
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Submittals

Plotting Date
PERMIT SET 3/13/2023

Author:
Job Number: 1701

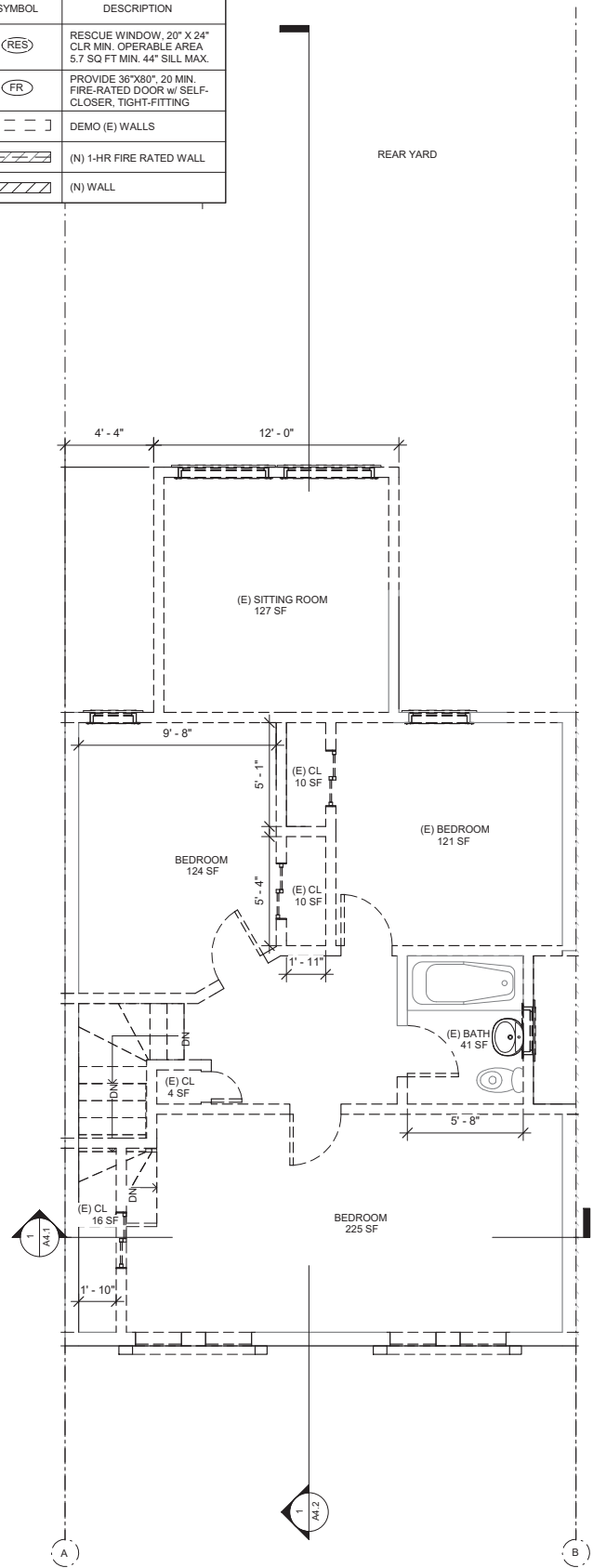
IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE



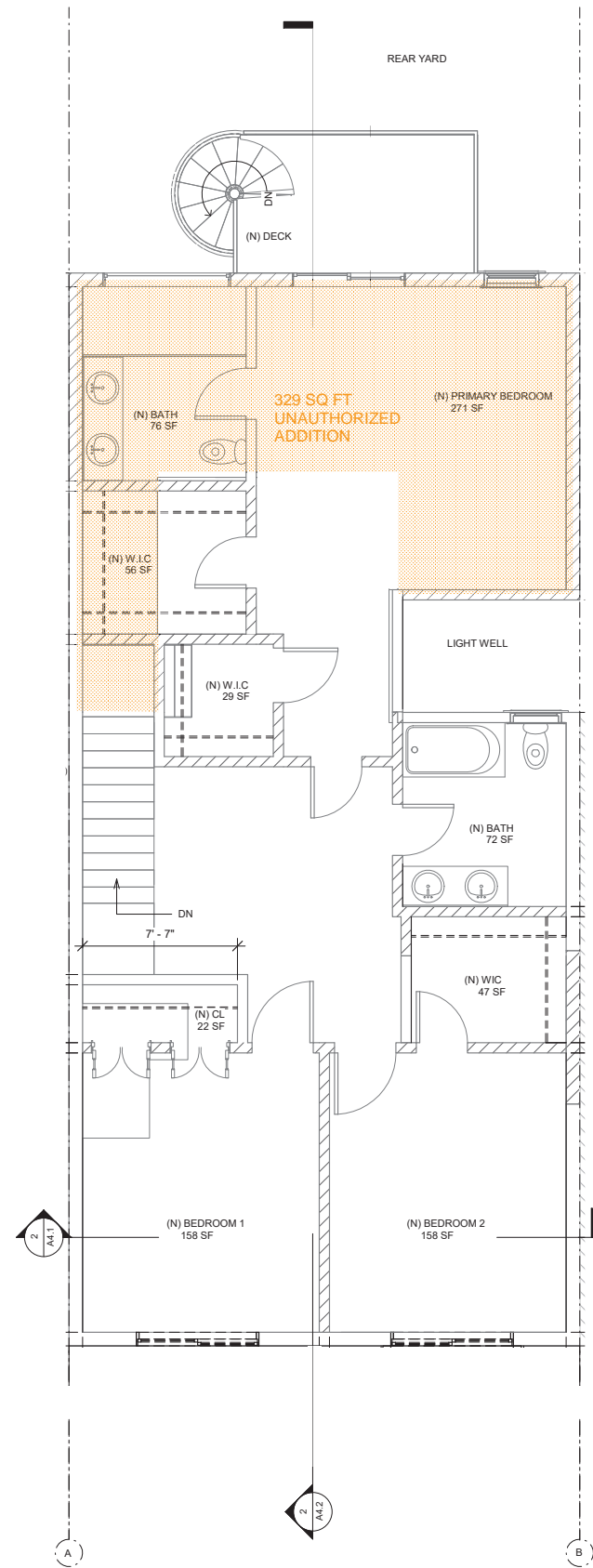
SECOND FLOOR PLANS

A1.2

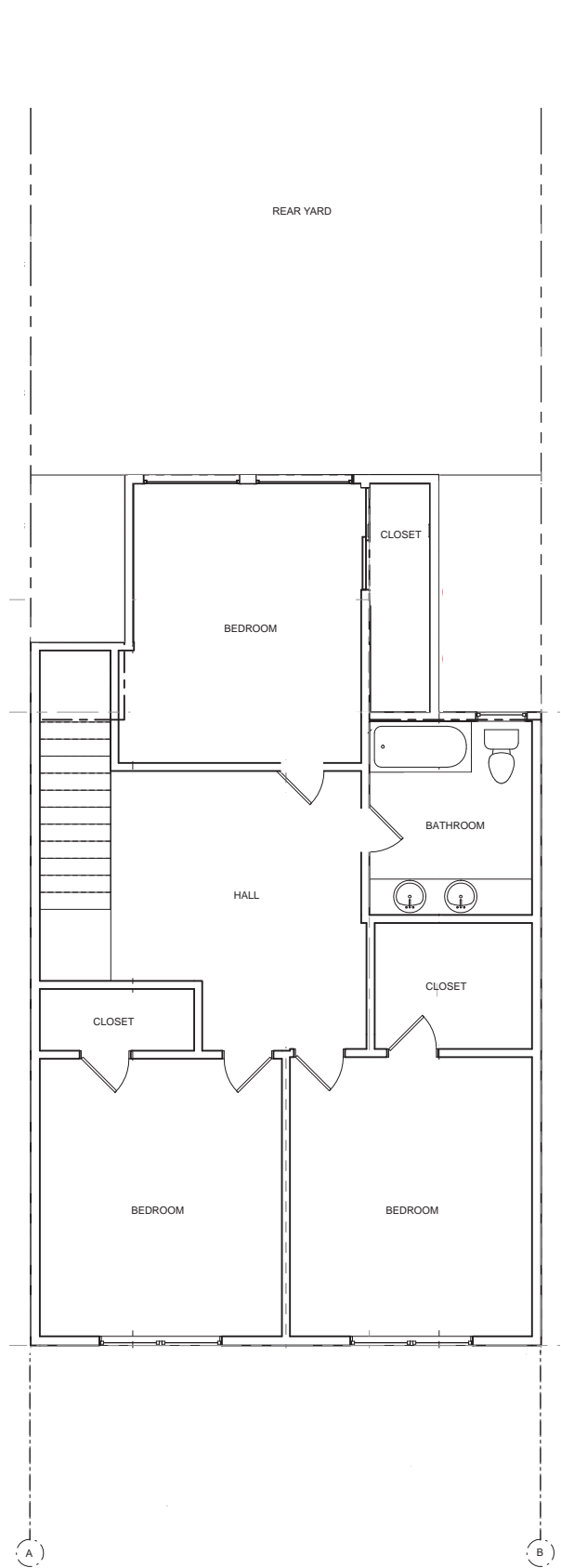
LEGEND	
SYMBOL	DESCRIPTION
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[- - -]	DEMO (E) WALLS
[/ / /]	(N) 1-HR FIRE RATED WALL
[/ /]	(N) WALL



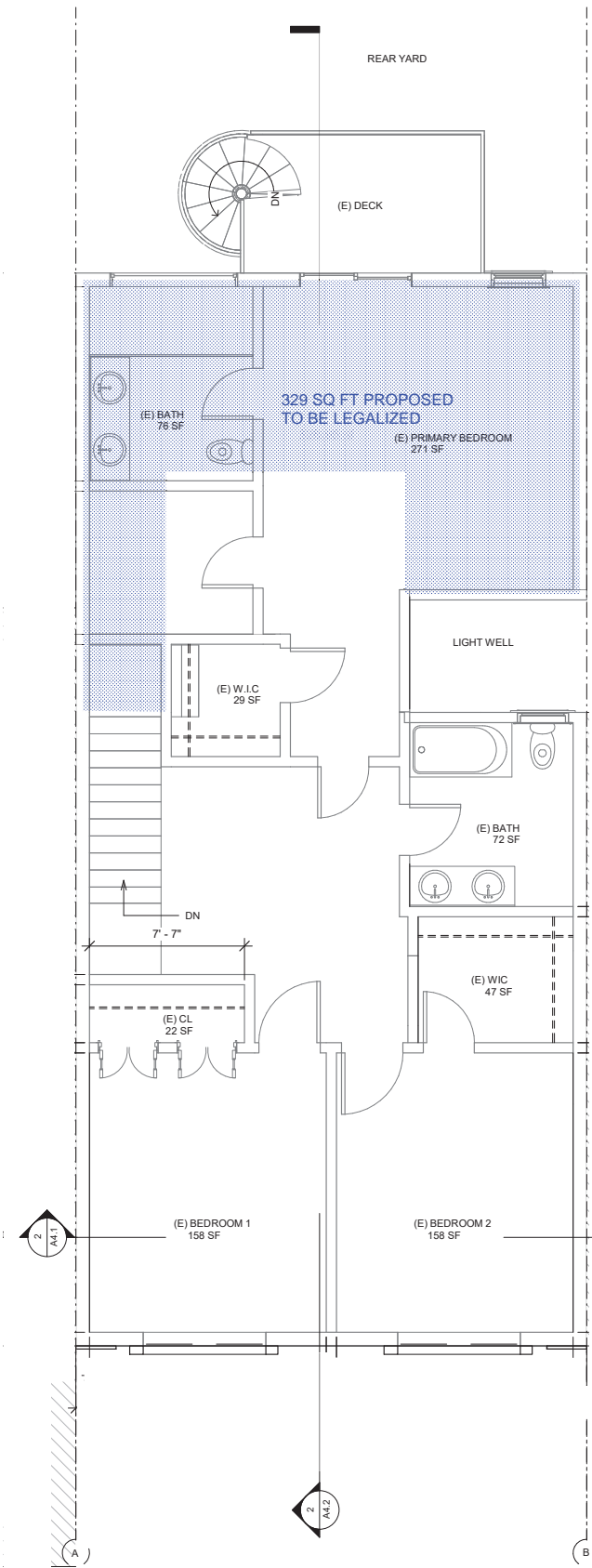
ORIGINAL / PRE-EXISTING
SCALE : 1/4" = 1'-0"
THIRD FLOOR PLAN



AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/4" = 1'-0"
THIRD FLOOR PLAN



LAST APPROVED (PERMIT 201902153076)
SCALE : 1/4" = 1'-0"
THIRD FLOOR PLAN

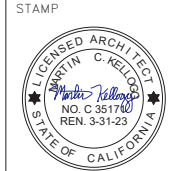


PROPOSED
SCALE : 1/4" = 1'-0"
THIRD FLOOR PLAN

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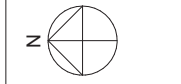


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Submittals	
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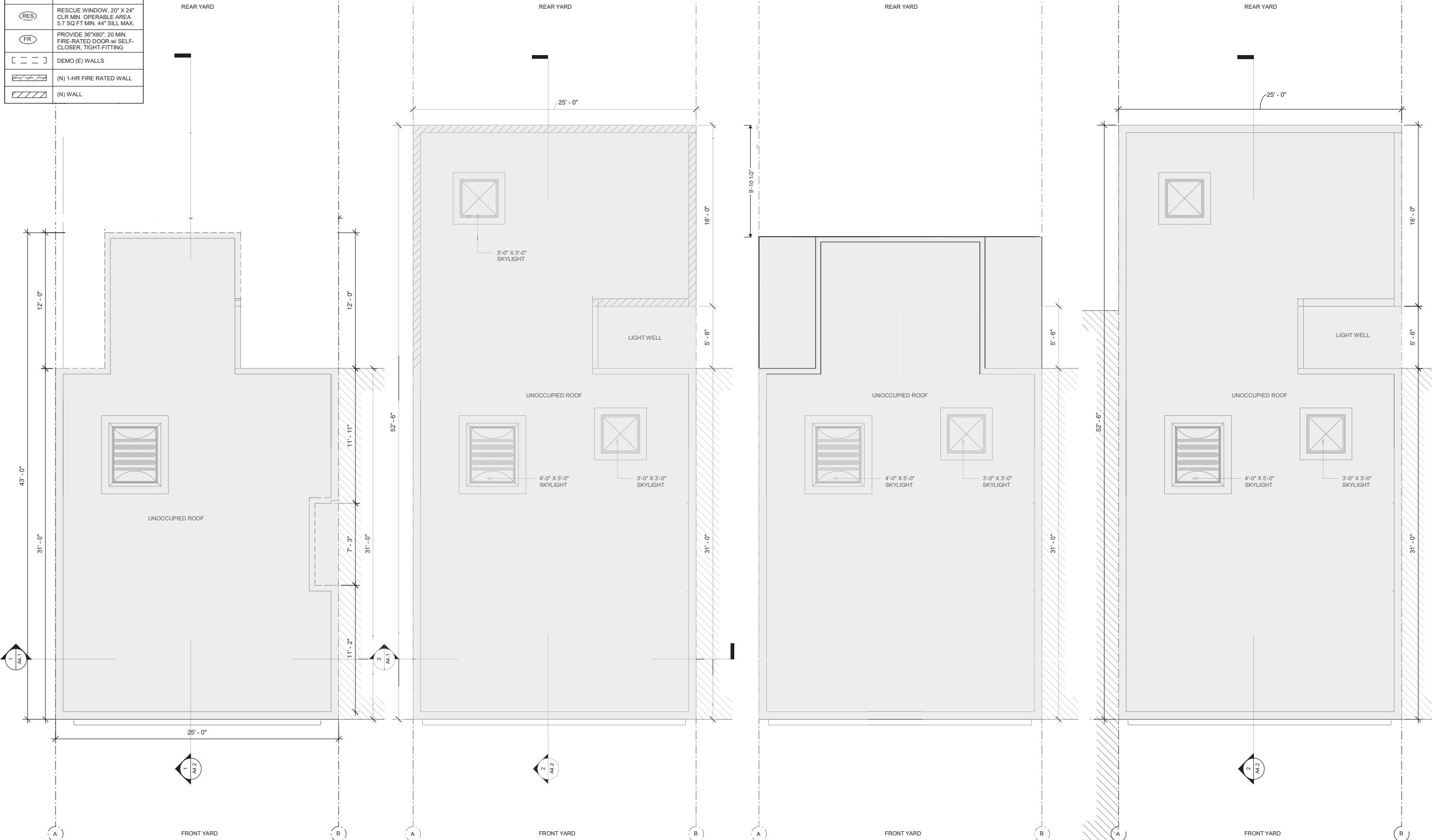
Author:
Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE



THIRD FLOOR PLANS

LEGEND	
SYMBOL	DESCRIPTION
	RESCUE WINDOW, 20" X 24" CLR MIN. OPERABLE AREA 5.7 SQ FT MIN. 44" SILL MAX.
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	DEMO (E) WALLS
	(N) 1-HR FIRE RATED WALL
	(N) WALL



ORIGINAL / PRE-EXISTING
SCALE : 1/4" = 1'-0"
FLOOR PLAN

AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/4" = 1'-0"
FLOOR PLAN

LAST APPROVED (PERMIT 201902153076)
SCALE : 1/4" = 1'-0"
FLOOR PLAN

PROPOSED
SCALE : 1/4" = 1'-0"
FLOOR PLAN

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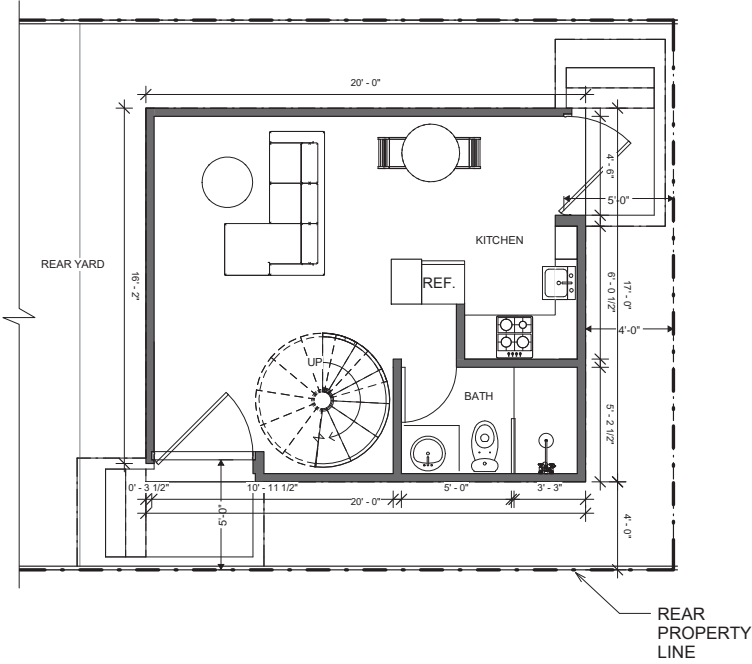


ROOF PLANS

A1.4

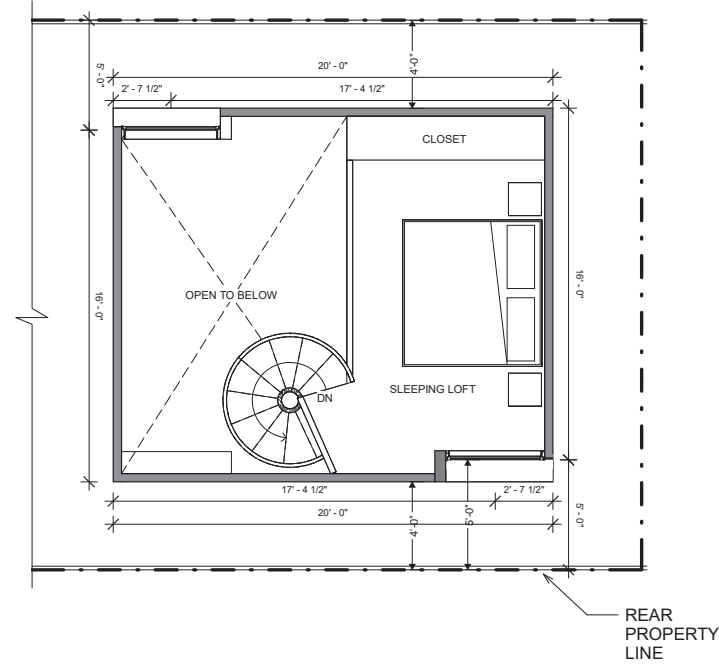


ADU PROPOSED ON SEPRATE PERMIT



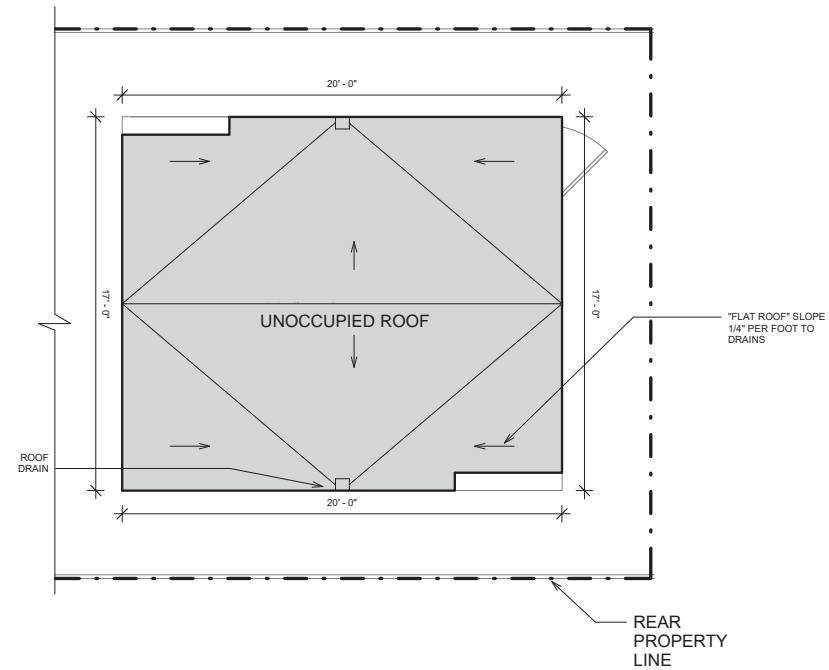
PROPOSED ADU FIRST FLOOR PLAN

SCALE : 1/4" = 1'-0"



PROPOSED ADU SECOND FLOOR PLAN

SCALE : 1/4" = 1'-0"



PROPOSED ADU ROOF PLAN

SCALE : 1/4" = 1'-0"

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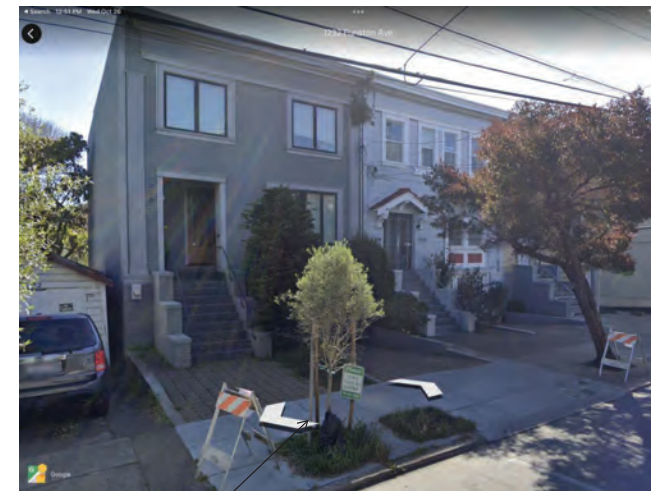


ARCHIVAL PHOTOGRAPH OF ORIGINAL EXISTING CONDITION

SCALE : NTS



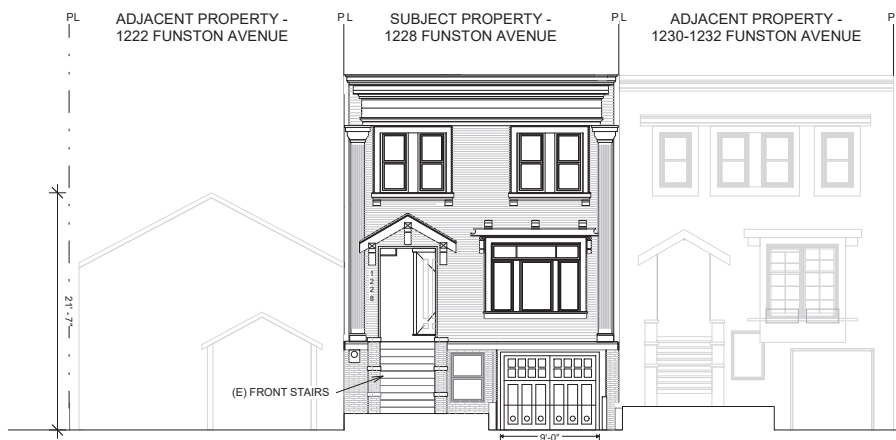
AS BUILT FACADE



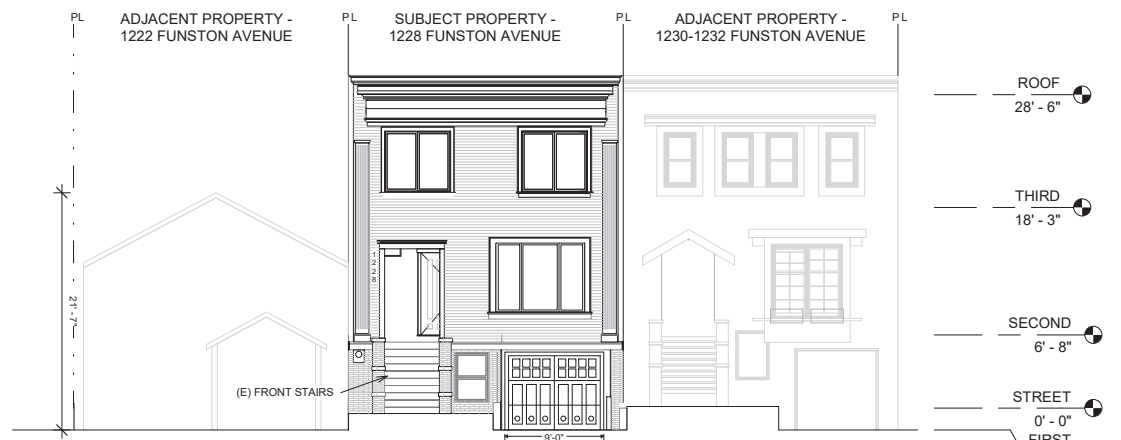
STREET TREE



PROPOSED WEST ELEVATION
SCALE : 1/8" = 1'-0"



LAST APPROVED (PERMIT 201902153076) WEST ELEVATION
SCALE : 1/8" = 1'-0"



AS-BUILT WITH UNAUTHORIZED ADDITION WEST ELEVATION
SCALE : 1/8" = 1'-0"



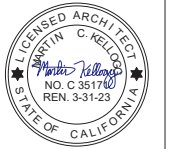
ORIGINAL / PRE-EXISTING WEST ELEVATION
SCALE : 1/8" = 1'-0"

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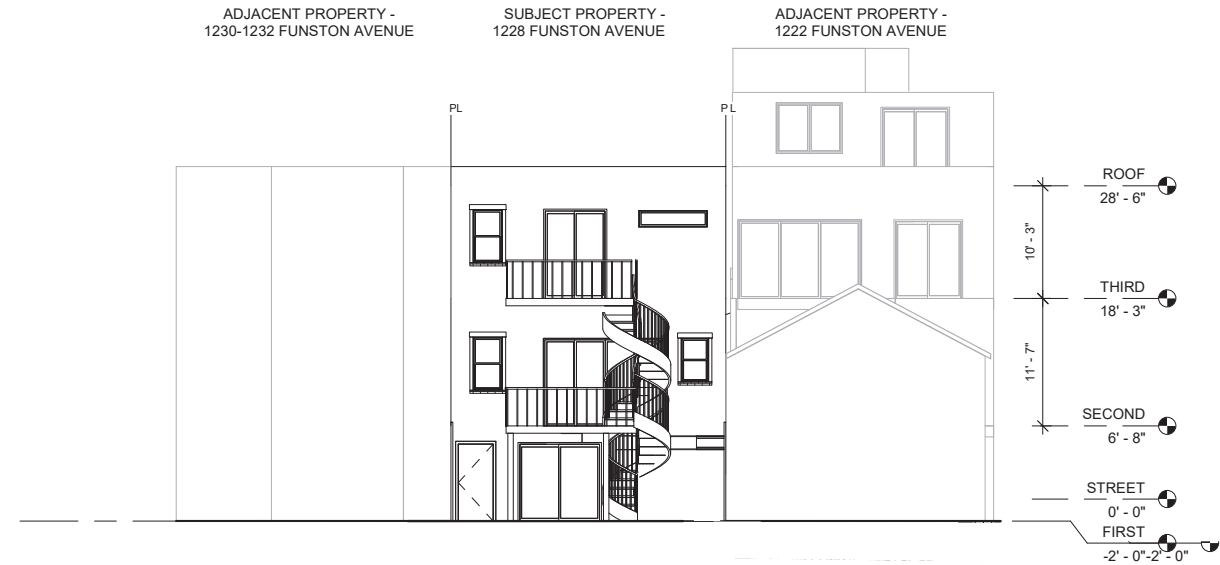
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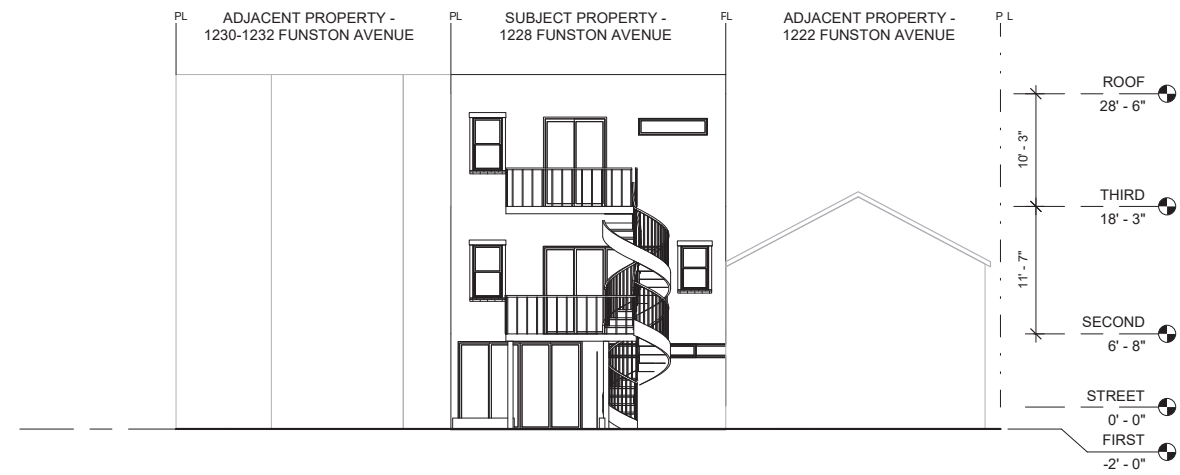
IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

FRONT
FACADE
ELEVATION

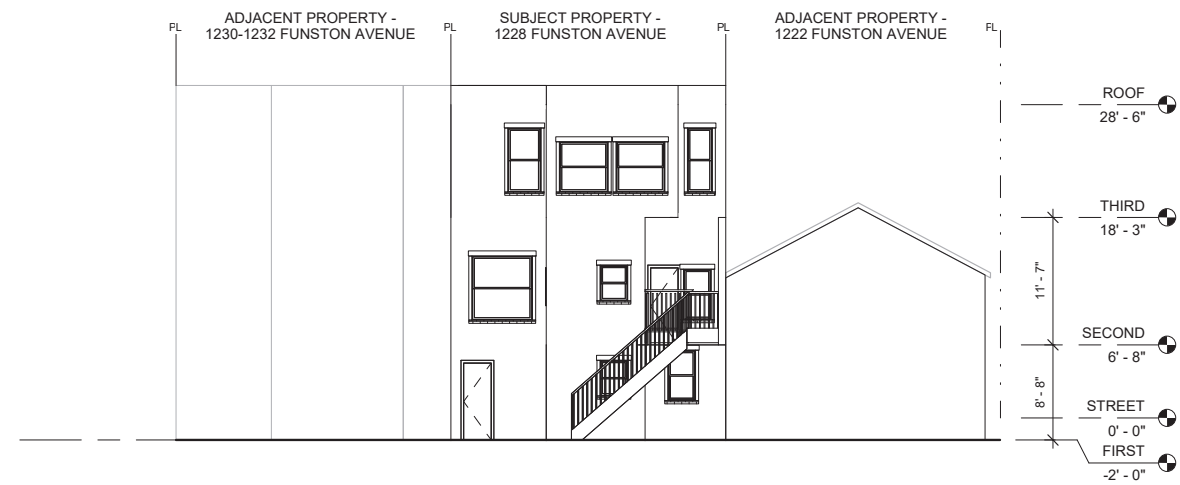
A2.1



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



AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/8" = 1'-0"
EAST ELEVATION



ORIGINAL / PRE-EXISTING
SCALE : 1/8" = 1'-0"
EAST ELEVATION



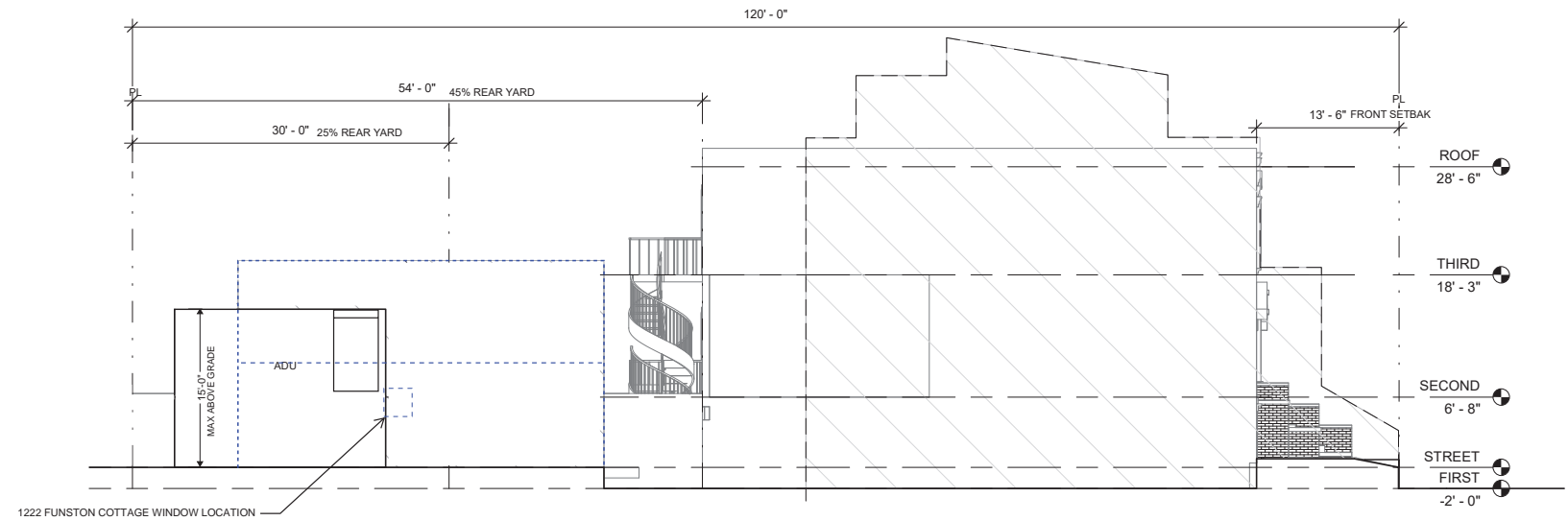
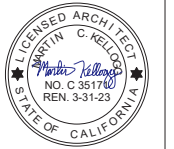
LAST APPROVED (PERMIT 201902153076)
SCALE : 1/8" = 1'-0"
PARTIAL EAST ELEVATION

Submittals	
Pricing	Date
PERMIT SET	3/13/2023

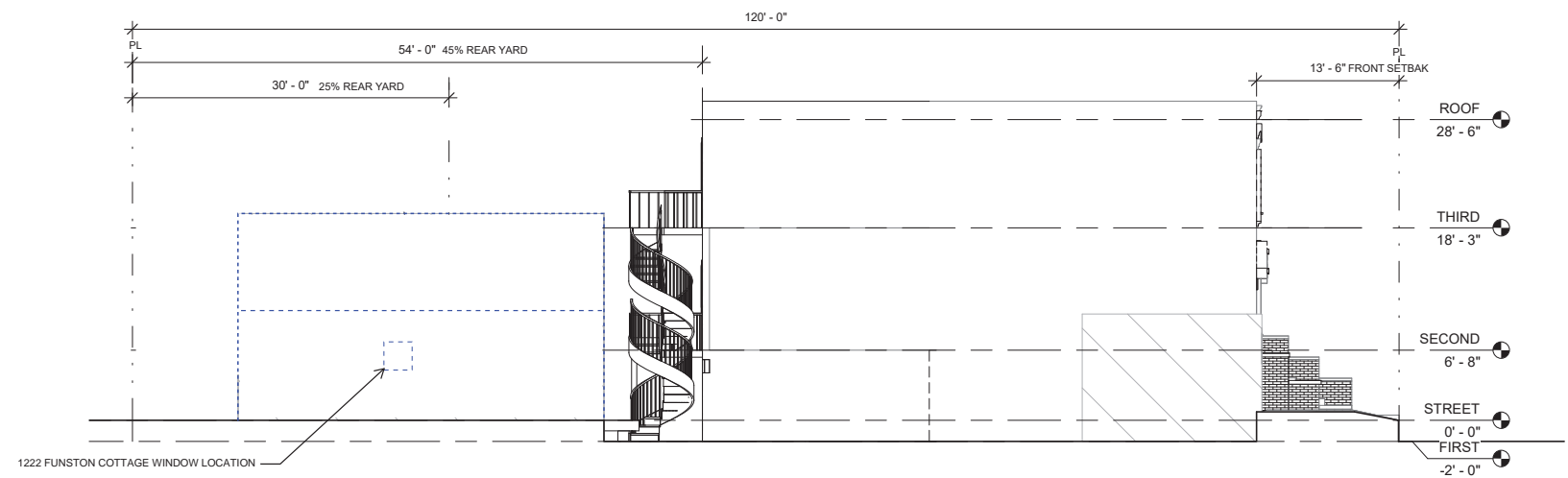
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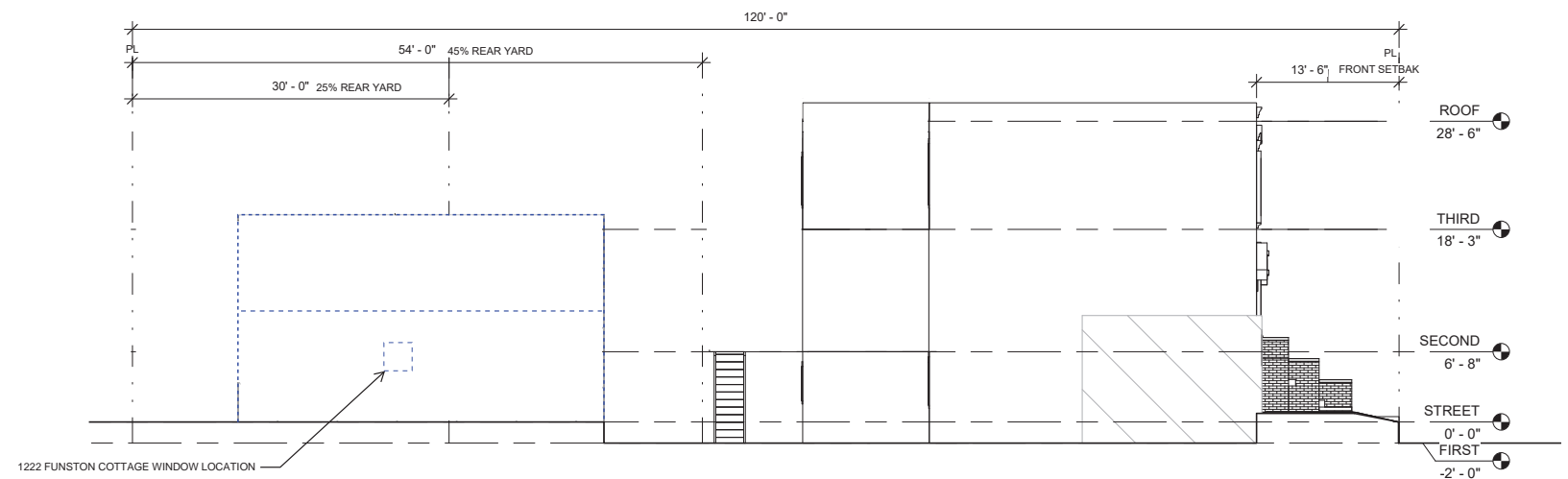
EAST ELEVATIONS



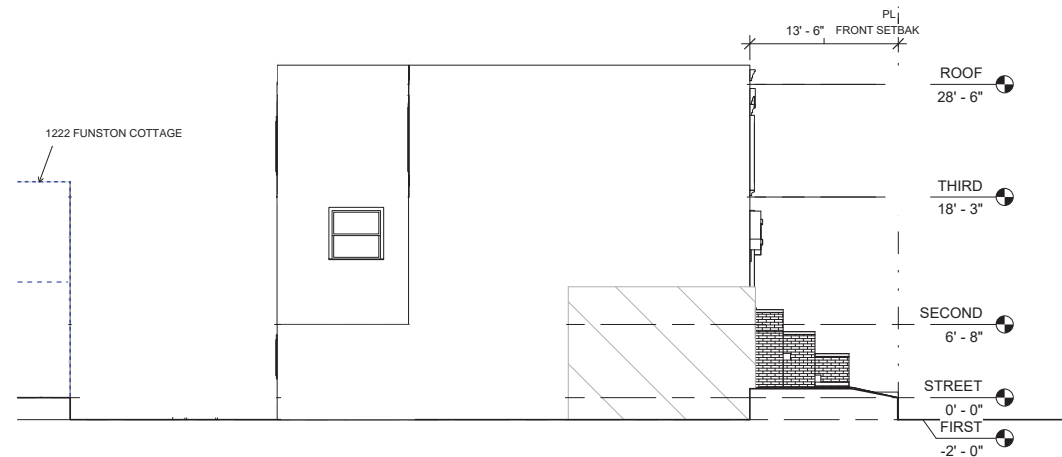
PROPOSED
SCALE : 1/8" = 1'-0"
NORTH ELEVATION



AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/8" = 1'-0"
NORTH ELEVATION



ORIGINAL / PRE-EXISTING
SCALE : 1/8" = 1'-0"
NORTH ELEVATION



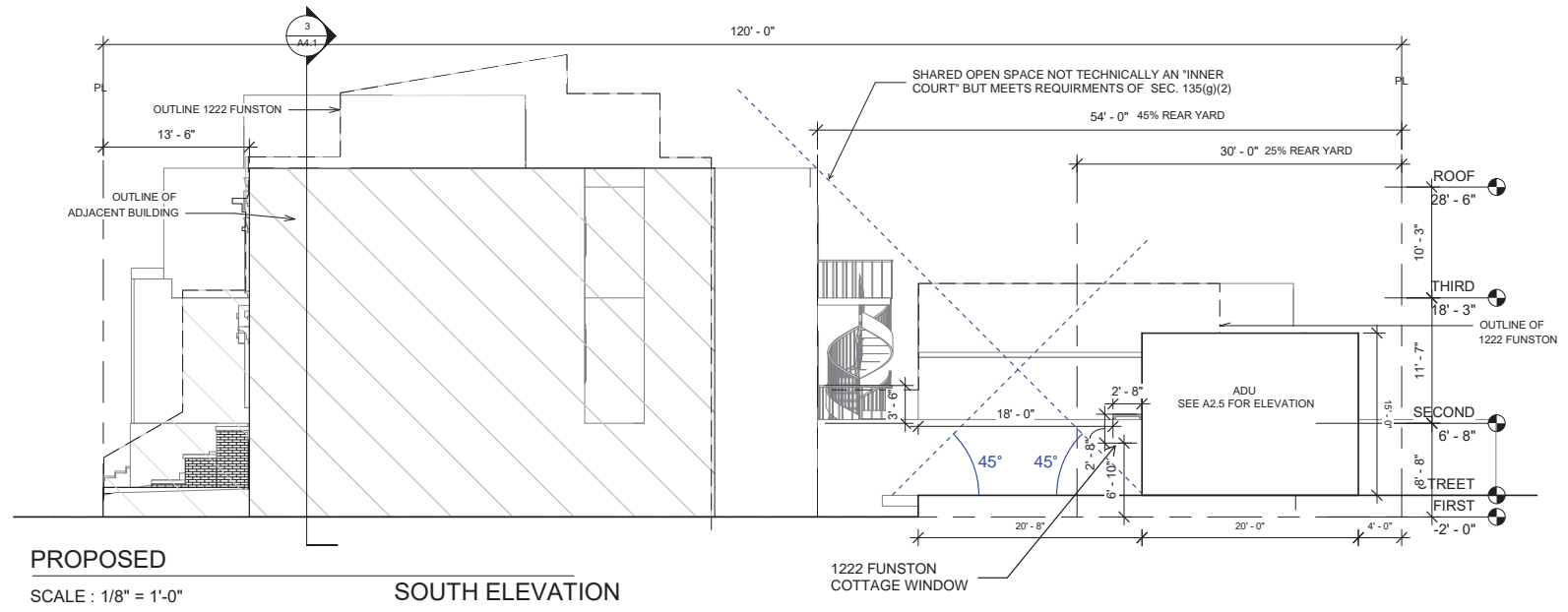
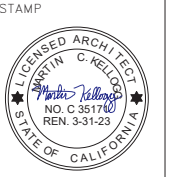
LAST APPROVED (PERMIT 201902153076)
SCALE : 1/8" = 1'-0"
NORTH ELEVATION

Submittals	
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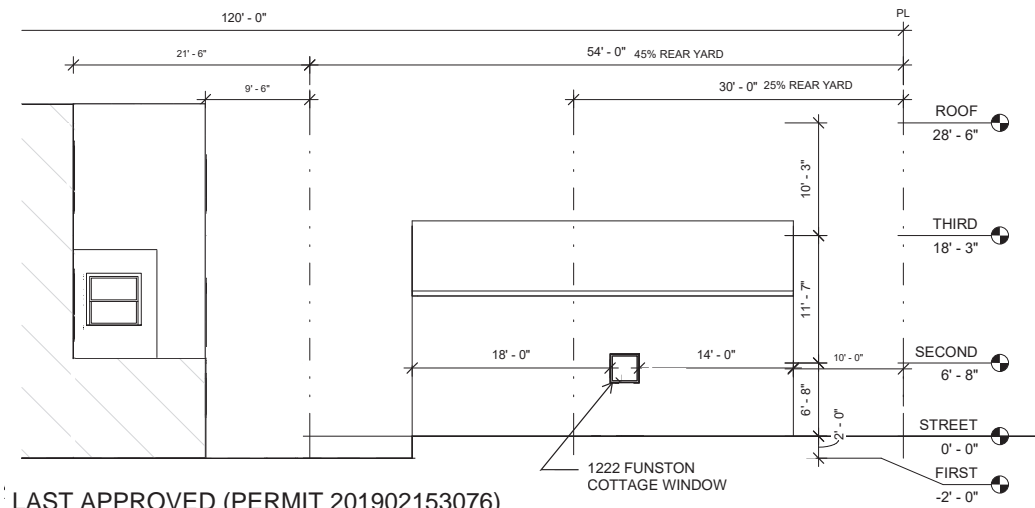
NORTH ELEVATIONS



PROPOSED

SCALE : 1/8" = 1'-0"

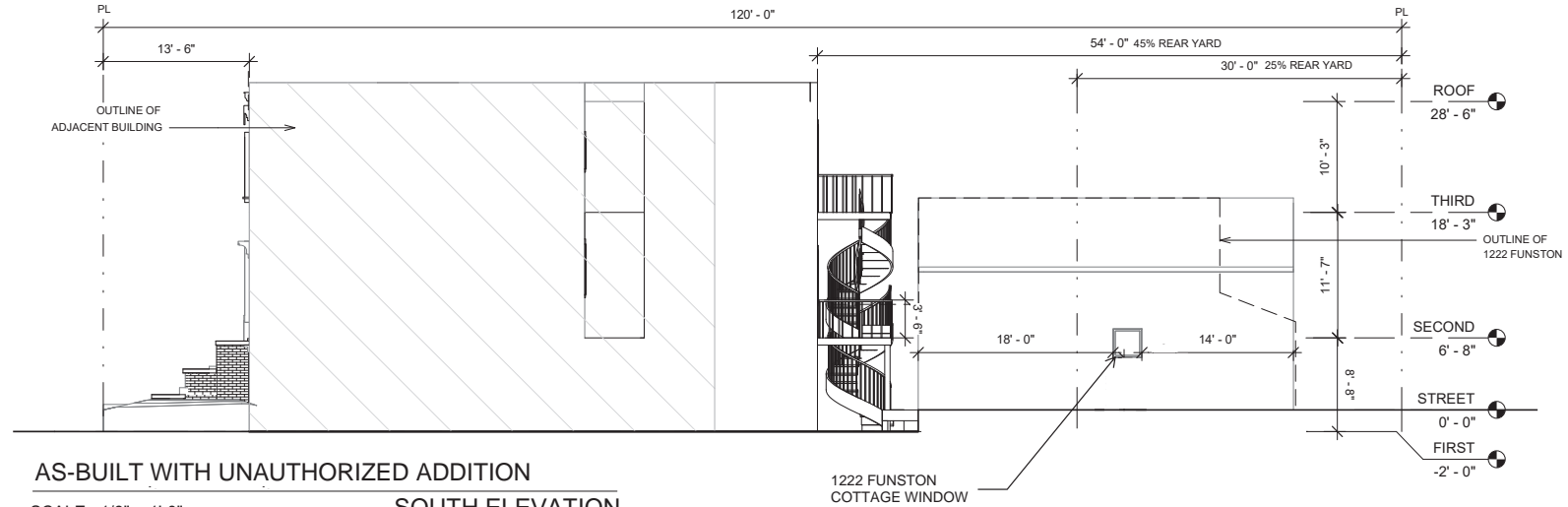
SOUTH ELEVATION



LAST APPROVED (PERMIT 201902153076)

SCALE : 1/8" = 1'-0"

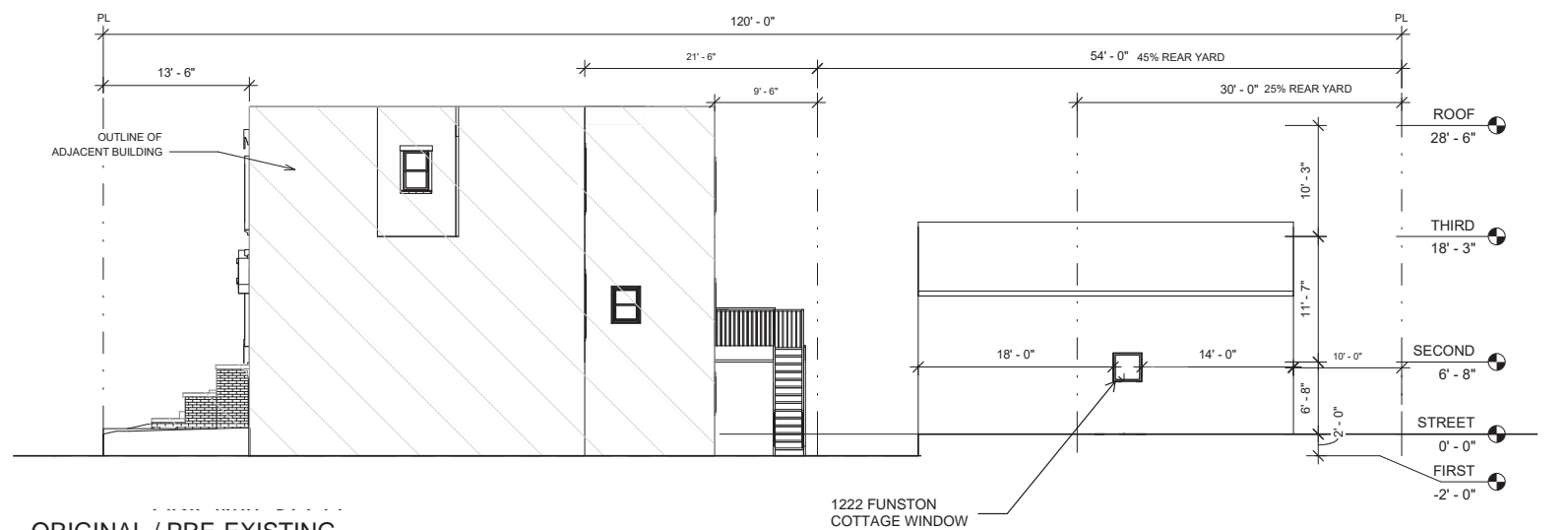
PARTIAL SOUTH ELEVATION



AS-BUILT WITH UNAUTHORIZED ADDITION

SCALE : 1/8" = 1'-0"

SOUTH ELEVATION



ORIGINAL / PRE-EXISTING

SCALE : 1/8" = 1'-0"

SOUTH ELEVATION

Submittals

Pending	Date
PERMIT SET	3/13/2023

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Job Number: 1701

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ADU PROPOSED ON SEPRATE PERMIT

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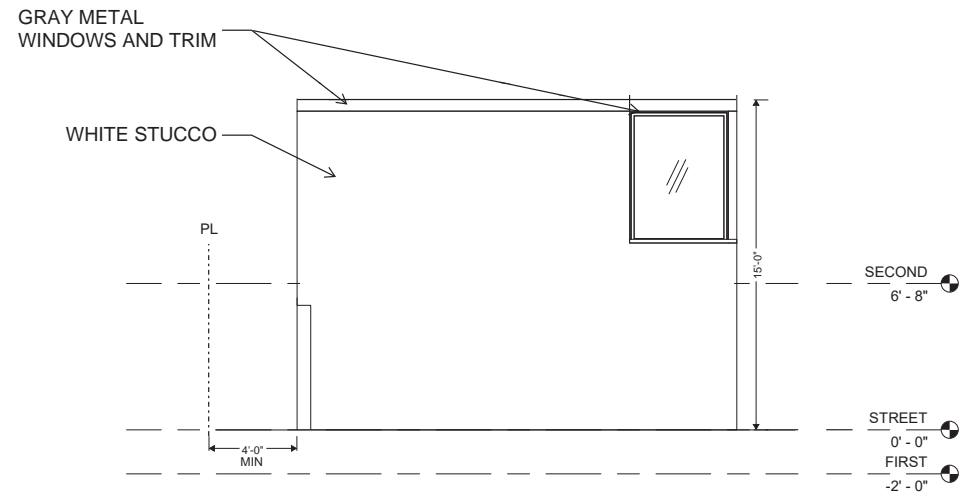
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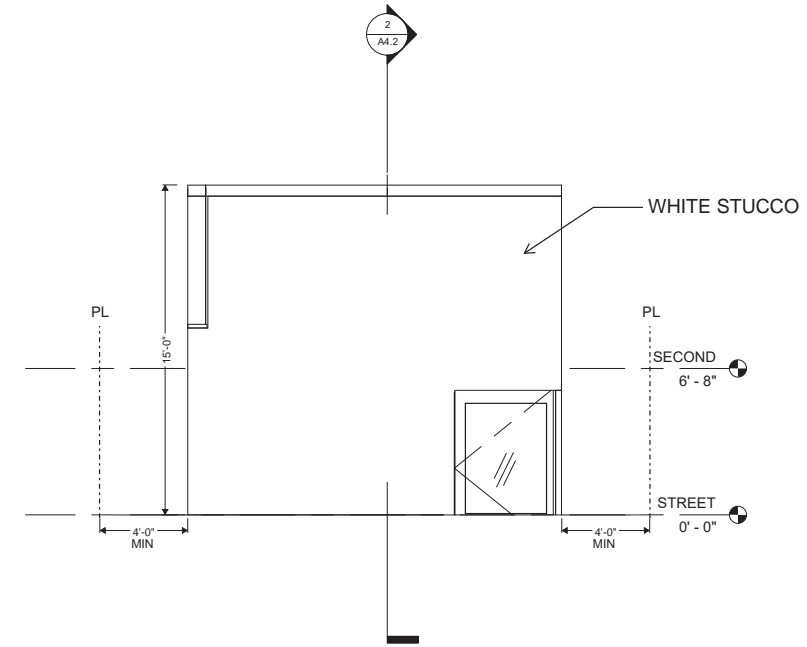


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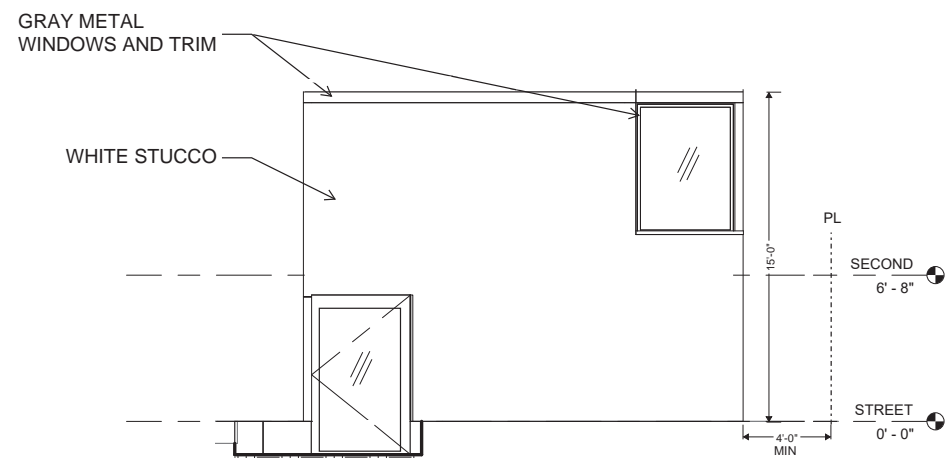
PROPOSED NORTH ELEVATION

SCALE : 1/4" = 1'-0"



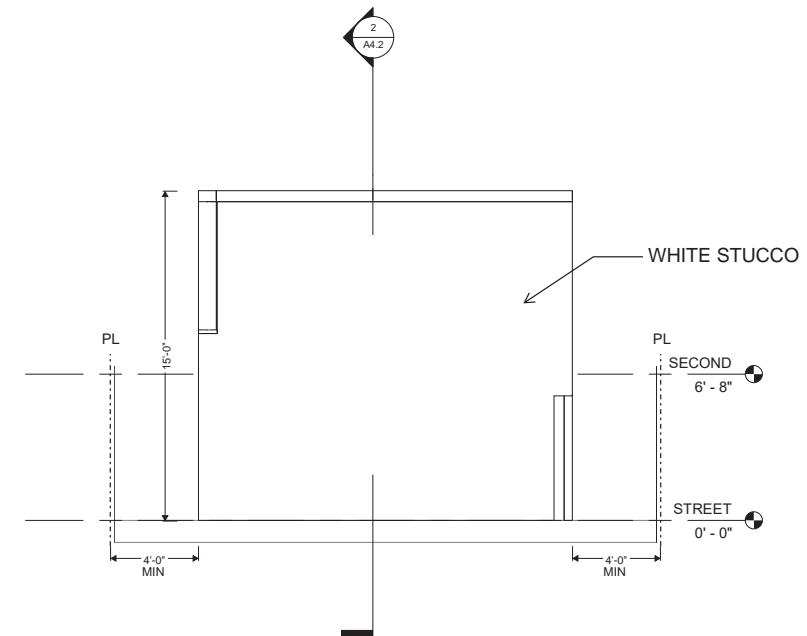
PROPOSED EAST ELEVATION

SCALE : 1/4" = 1'-0"



PROPOSED SOUTH ELEVATION

SCALE : 1/4" = 1'-0"



PROPOSED WEST ELEVATION

SCALE : 1/4" = 1'-0"

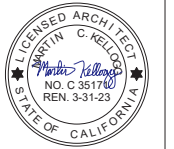
Submittals

Pricing	Date
PERMIT SET	3/13/2023

Author:
Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

ADU PROPOSED ELEVATIONS



WINDOW SCHEDULE				
MARK	WINDOW OPENING		WINDOW OPERATION	COMMENTS
	WIDTH	HEIGHT		
A	6' 0"	5' 6"	DOUBLE HUNG	WOOD WINDOW WITH 2" RECESS FOR GLAZING
B	8' 0"	6' 3"	CASEMENT AND FIXED	WOOD WINDOW WITH 2" RECESS FOR GLAZING

PL

PL

SUBJECT PROPERTY -
1228 FUNSTON AVENUE

RESTORE CAPITALS

WOOD WINDOW WITH 2" RECESS FOR GLAZING

RESTORE WOOD PORTICO

PAINTED WOOD COLUMN AND CAPITAL

NO CHANGE TO FRONT DOOR

- 1
- 2
- 2
- 8

WOOD WINDOW WITH 2" RECESS FOR GLAZING

RESTORE WINDOW FRAME DETAILS

WOOD WINDOW WITH 2" RECESS FOR GLAZING

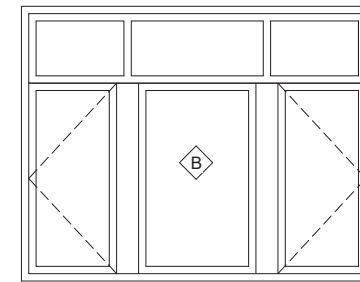
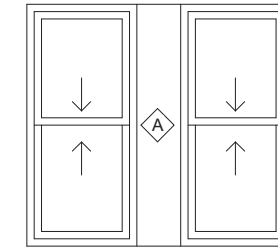
ROOF
28' - 6"

THIRD
18' - 3"

SECOND
6' - 8"

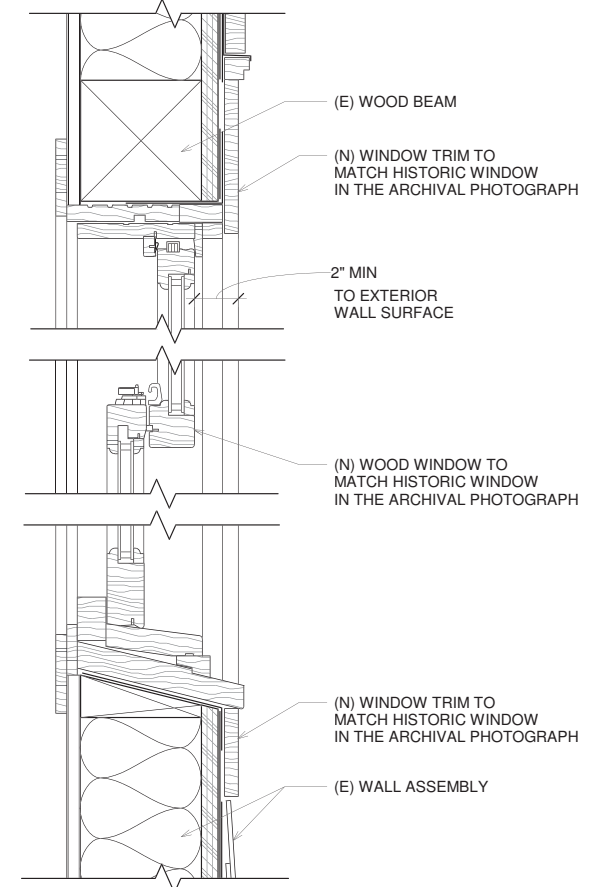
STREET
0' - 0"

FIRST
-2' - 0"



WINDOW DETAIL

SCALE : 1/2" = 1'-0"



WINDOW DETAIL - TYPICAL SECTION

SCALE : 3" = 1'-0"

PROPOSED WEST ELEVATION

SCALE : 1/2" = 1'-0"

Submittals

Printing Date

PERMIT SET 3/13/2023

Author:

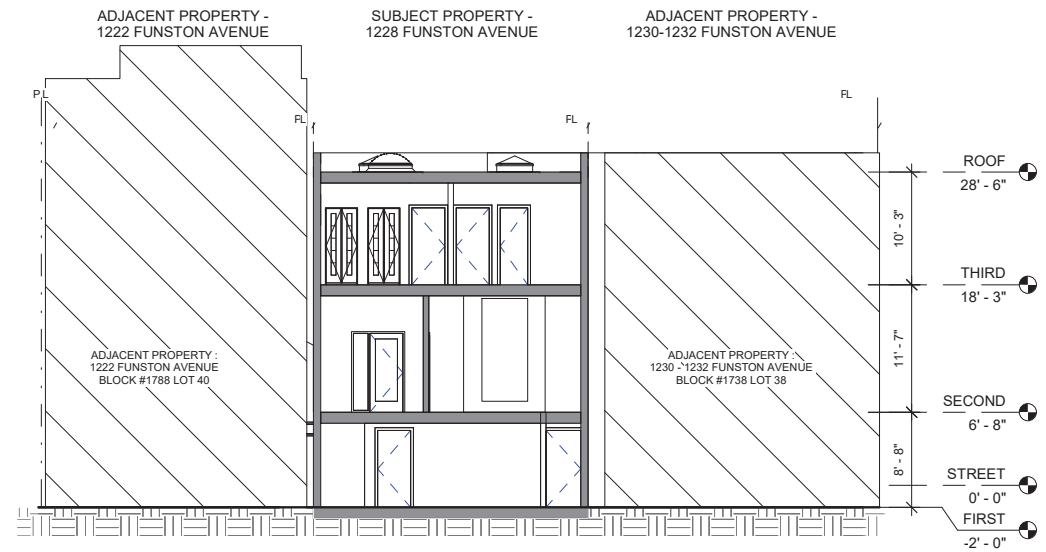
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PROPOSED ELEVATION DETAIL



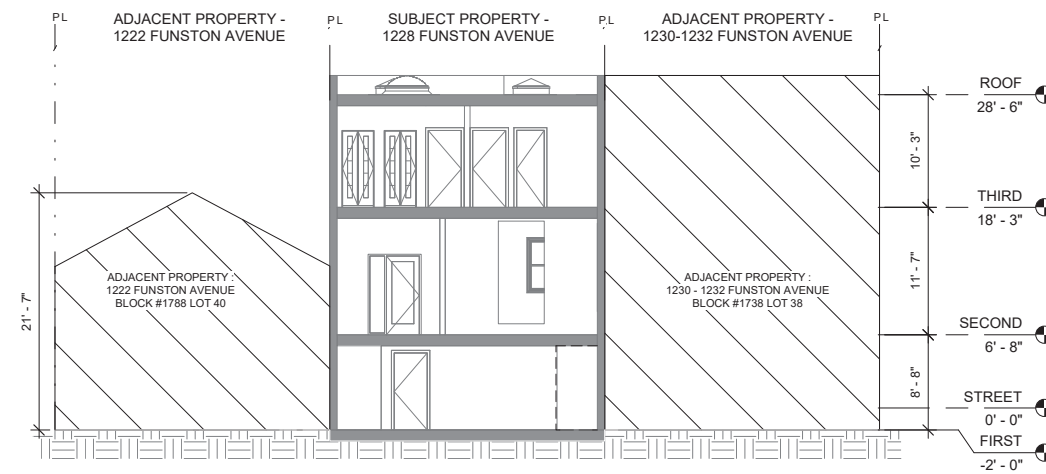
1228 FUNSTON AVENUE
SAN FRANCISCO,
CALIFORNIA



PROPOSED

SCALE : 1/8" = 1'-0"

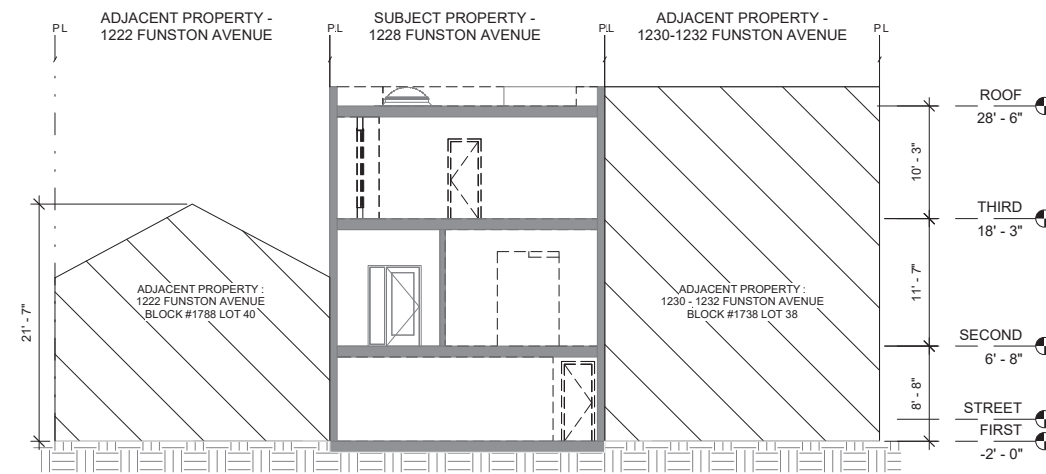
SECTION



AS-BUILT WITH UNAUTHORIZED ADDITION

SCALE : 1/8" = 1'-0"

SECTION



ORIGINAL / PRE-EXISTING

SCALE : 1/8" = 1'-0"

SECTION

Submittals

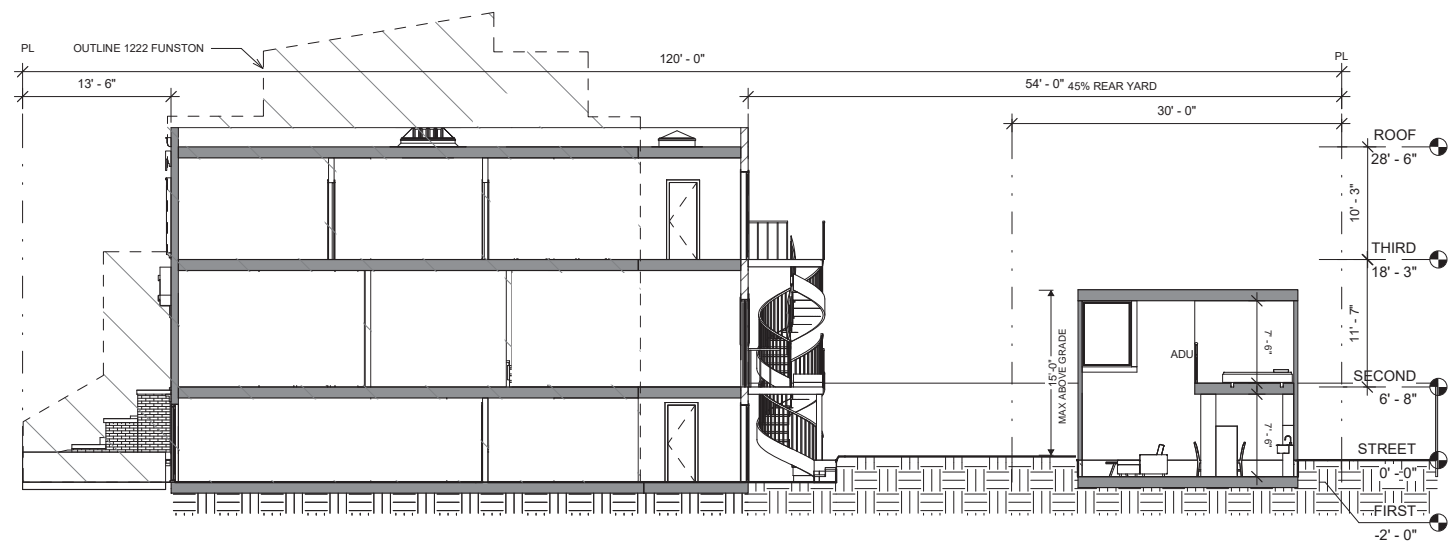
Posting	Date
PERMIT SET	3/13/2023

Author:

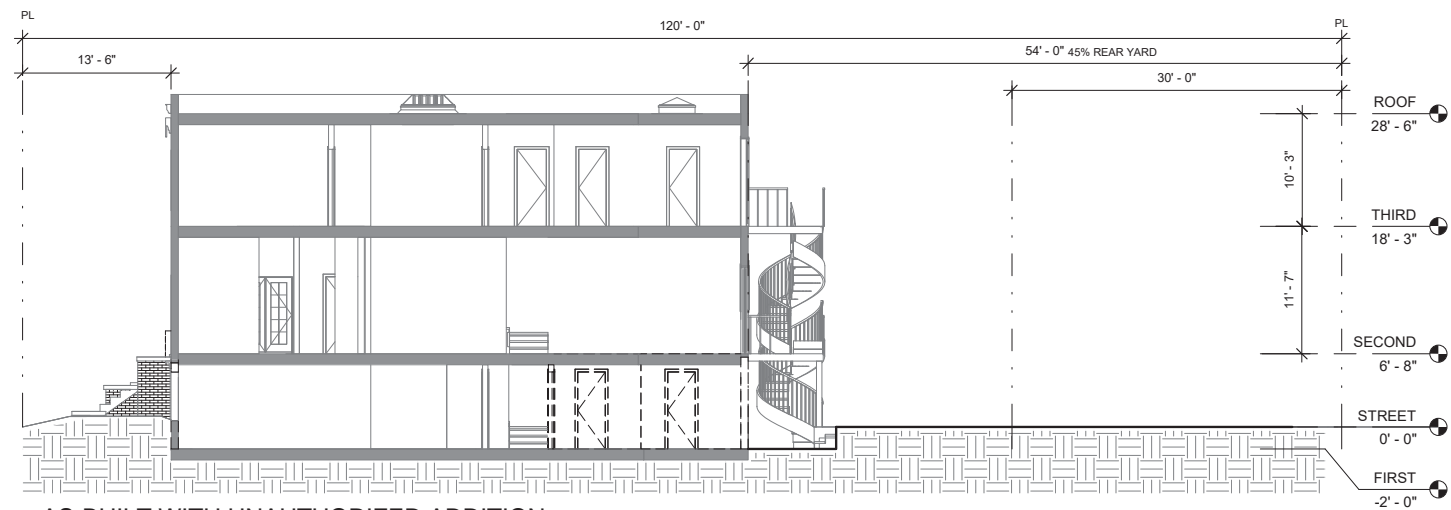
Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

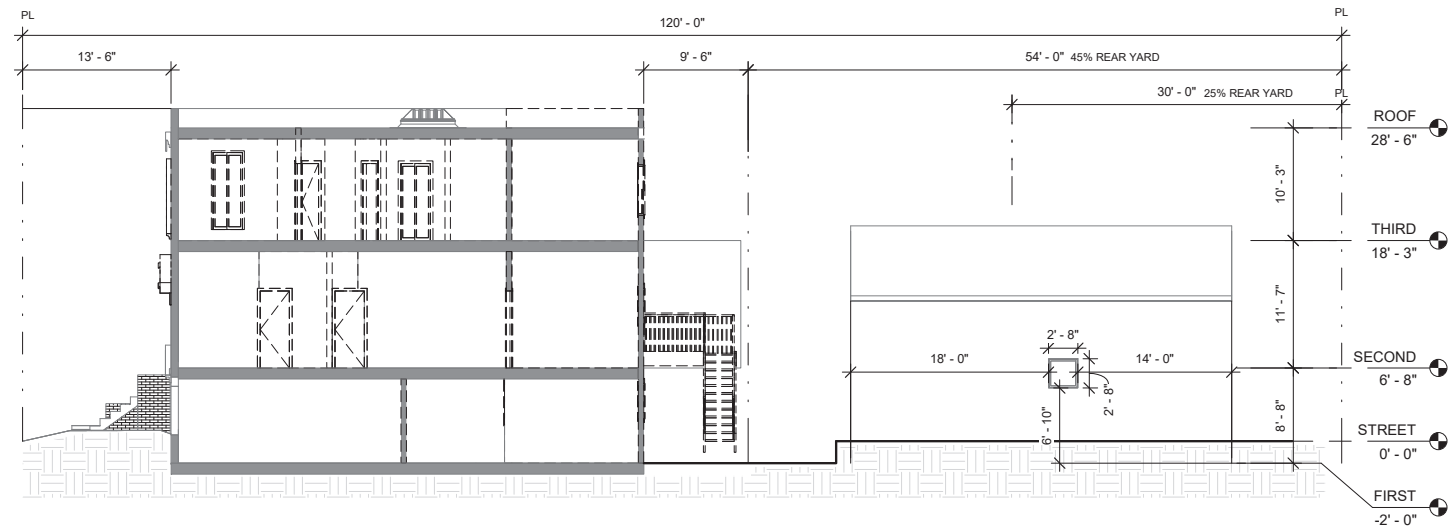
SHORT SECTIONS



PROPOSED
SCALE : 1/8" = 1'-0"
SECTION



AS-BUILT WITH UNAUTHORIZED ADDITION
SCALE : 1/8" = 1'-0"
SECTION



ORIGINAL / PRE-EXISTING
SCALE : 1/8" = 1'-0"
SECTION

Submittals	
Pricing	Date
PERMIT SET	3/13/2023

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Job Number: 1701

IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

LONG SECTIONS



1228 FUNSTON AVENUE
SAN FRANCISCO,
CALIFORNIA

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IF THE ABOVE LINE IS 1" THEN THE SHEET IS TO SCALE

MID BLOCK
OPEN SPACE
ANALYSIS



FUNSTON AVE

1228 FUNSTON AVE



12TH AVE

MID BLOCK OPEN SPACE PLAN

NTS



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EXHIBIT B

I. Introduction

WHY DO WE HAVE RESIDENTIAL DESIGN GUIDELINES?

San Francisco is known for its neighborhoods and the visual quality of its buildings. From the Victorians of the Western Addition to the stucco-clad Mediterranean-style homes in the Sunset neighborhood and contemporary infill homes found throughout the City, the architecture is diverse, yet many neighborhoods are made up of buildings with common rhythms and cohesive elements of architectural expression. These neighborhoods are in large part what make San Francisco an attractive place to live, work, and visit. In order to maintain the visual interest of a neighborhood, it is important that the design of new buildings and renovations to existing buildings be compatible with nearby buildings. A single building out of context with its surroundings can be disruptive to the neighborhood character and, if repeated often enough, to the image of the City as a whole.

The Residential Design Guidelines (Guidelines) articulate expectations regarding the character of the built environment and are intended to promote design that will protect neighborhood character, enhancing the attractiveness and quality of life in the City. The Guidelines address basic principles of urban design that will result in residential development that maintains cohesive neighborhood identity, preserve historic resources, and enhances the unique setting and character of the City and its residential neighborhoods. The Guidelines also suggest opportunities for residential designs to further San Francisco's goal of environmental sustainability.

LEGAL BASIS

Section 311(c)(1) of the Planning Code provides that Residential Design Guidelines shall be used to review plans for all new construction and alterations. Specifically, it states:

“The construction of new residential buildings and alteration of existing residential buildings in R districts shall be consistent with the design polices and guidelines of the General Plan and with the “Residential Design Guidelines” as adopted and periodically amended for specific areas or conditions by the City Planning Commission. The Director of Planning may require modifications to the exterior of a proposed new residential building or proposed alteration of

an existing residential building in order to bring it in to conformity with the “Residential Design Guidelines” and with the General Plan. These modifications may include, but are not limited to, changes in siting, building envelope, scale, texture and detailing, and landscaping.”

The Planning Commission adopted the first Guidelines on November 2, 1989. This version of the Guidelines was adopted by the Planning Commission on December 4, 2003.

In developing these Residential Design Guidelines, the Department referred to the General Plan, and to the Planning Code.

The General Plan is San Francisco’s adopted guide for coordinated and harmonious development in accordance with its present and future needs. The Residence and Urban Design Elements of the General Plan include objectives and policies that guide housing supply and residential development, and encourage a quality living environment. The Residential Design Guidelines support and implement these objectives and policies.

The Planning Code establishes standards for the maximum and minimum dimensional requirements for a building. The standards include height, the size of rear and side yards, and front setbacks, as well restrictions on the size and location of certain building components.

Section 101.1 of the Planning Code establishes priority policies to conserve and protect existing neighborhood character. This section of the Code is the result of a November 1986 voter initiative (known as “Prop. M”) that arose out of a concern for the visual quality of the neighborhoods. The Residential Design Guidelines implement these policies.

HOW ARE THE GUIDELINES USED?

Applicability

The Residential Design Guidelines apply to all residential projects in RH (Residential House) and RM (Residential Mixed) zoning districts. They do not apply to NC (Neighborhood Commercial) Districts or to commercial or institutional buildings within residential districts. Application of the Guidelines is a mandatory step in the permit review process and all residential permit applications must comply with both the Planning Code and the Residential Design Guidelines.

The new Housing Element is being considered for adoption by the Planning Commission. The Housing Element will replace the current Residence Element.

Urban Design Guidelines for Neighborhood Commercial Districts can be found in the Commerce and Industry Element of the General Plan (Pages I.2.34-I.2.36).

Organization

The Residential Design Guidelines are organized in a hierarchy, from large-scale neighborhood character issues to small-scale building details. Special guidelines that apply only to historic buildings are also included. Each topic begins with a Design Principle, which is a discussion of the ideas and goals regarding a specific subject. It is followed by a “guideline”, which further explains the design principle.

Because some of the guidelines may conflict, and certain guidelines may not apply to a project, it is necessary to identify the particular issues related to a project to use this document effectively.

Thoughtful application of the Guidelines and a sensitive design that is well detailed, using quality materials, will assist in creating a project that is compatible with neighborhood character and reduces the potential for conflict and delay.

The illustrations typically show existing buildings on 25-foot wide lots in low-density neighborhoods. However, the illustrations also apply to alterations and new construction on wider lots and in higher density settings, such as those found in RM (Residential Mixed) Districts.

Design Principles

The Residential Design Guidelines focus on whether a building’s design contributes to the architectural and visual qualities of the neighborhood. The Design Principles found in this document indicate the aspects of a project that will be evaluated in making a determination of compliance with the Guidelines.

Following is an overview of the Design Principles:

- Ensure that the building’s scale is compatible with surrounding buildings.
- Ensure that the building respects the mid-block open space.
- Maintain light to adjacent properties by providing adequate setbacks.
- Provide architectural features that enhance the neighborhood’s character.
- Choose building materials that provide visual interest and texture to a building.
- Ensure that the character-defining features of an historic building are maintained.

Projects must comply with the design principles as stated in the Guidelines. However the design solutions and schematic drawings included in the document are intended to illustrate the text and are not design examples to be copied or imitated. **There may be other design solutions not shown in the Guidelines that will also result in a successful project.** The Guidelines do not mandate specific architectural styles, nor do they encourage direct imitation of the past.

FURTHER INFORMATION AND ASSISTANCE

Applicants are encouraged to discuss projects with Planning Department staff and adjacent neighbors early in the design process to identify specific issues that may affect the design. Applicants may also request a Project Review meeting to discuss a proposed project with Department staff in detail. A fee is charged for this meeting.

Planning Department staff is available to provide information to applicants, neighborhood residents, property owners, and concerned members of the public. For questions about a specific building proposal, contact the staff planner assigned to that project.

For additional information, contact the Planning Information Counter at:

1660 Mission Street, Ground Floor Lobby
415-558-6377
www.sfgov.org/planning



Although features such as bays and chimneys project into the side yards, the overall side yard pattern is consistent, creating a defining characteristic of the block face.

REAR YARD

GUIDELINE: Articulate the building to minimize impacts on light and privacy to adjacent properties.

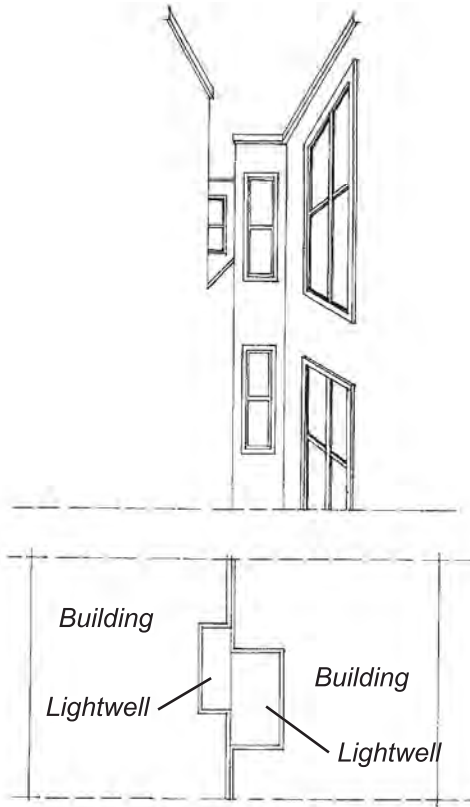
Rear yards are the open areas of land between the back of the building and the rear property line. When expanding a building into the rear yard, the impact of that expansion on light and privacy for abutting structures must be considered. This can be challenging given San Francisco's dense pattern of development, however, modifications to the building's design can help reduce these impacts and make a building compatible with the surrounding context.

Light

In areas with a dense building pattern, some reduction of light to neighboring buildings can be expected with a building expansion. However, there may be situations where a proposed project will have a greater impact on neighboring buildings. In these situations, the following design modifications can minimize impacts on light; other modifications may also be appropriate depending on the circumstances of a particular project:

- Provide setbacks on the upper floors of the building.
- Include a sloped roof form in the design.
- Provide shared light wells to provide more light to both properties.
- Incorporate open railings on decks and stairs.
- Eliminate the need for parapet walls by using a fire-rated roof.

Planning Code Section 101 states that one of the purposes of the Planning Code is to provide adequate light, air, privacy and convenience of access to property in San Francisco.



Provide shared light wells to maximize light to both properties.

Privacy

As with light, some loss of privacy to existing neighboring buildings can be expected with a building expansion. However, there may be special situations where a proposed project will have an unusual impact on privacy to neighboring interior living spaces. In these situations, the following design modifications can minimize impacts on privacy; other modifications may also be appropriate depending on the circumstances of a particular project. Some of these measures might conflict with the “light” measures above, so it will be necessary to prioritize relevant issues:

- Incorporate landscaping and privacy screens into the proposal.
- Use solid railings on decks.
- Develop window configurations that break the line of sight between houses.
- Use translucent glazing such as glass block or frosted glass on windows and doors facing openings on abutting structures.

A fourth story setback and facade articulations make the building more compatible with the scale of surrounding buildings.



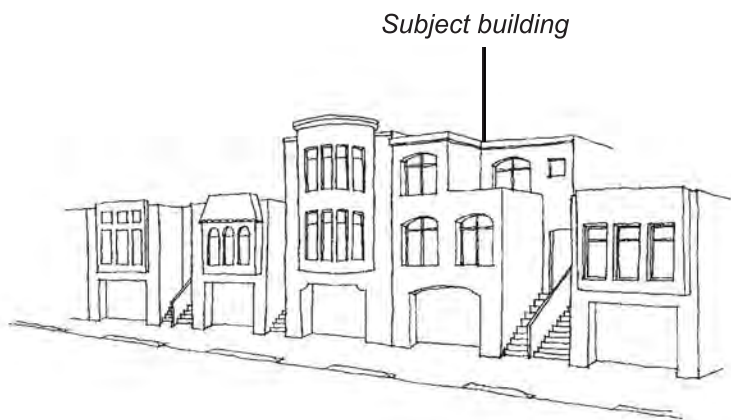
Building Scale at the Street

GUIDELINE: Design the height and depth of the building to be compatible with the existing building scale at the street.

If a proposed building is taller than surrounding buildings, or a new floor is being added to an existing building, it may be necessary to modify the building height or depth to maintain the existing scale at the street. By making these modifications, the visibility of the upper floor is limited from the street, and the upper floor appears subordinate to the primary facade. The key is to design a building that complements other buildings on the block and does not stand out, even while displaying an individual design.

Refer to Planning Code Section 130, 136 and 250 for setbacks, permitted obstructions and height limits.

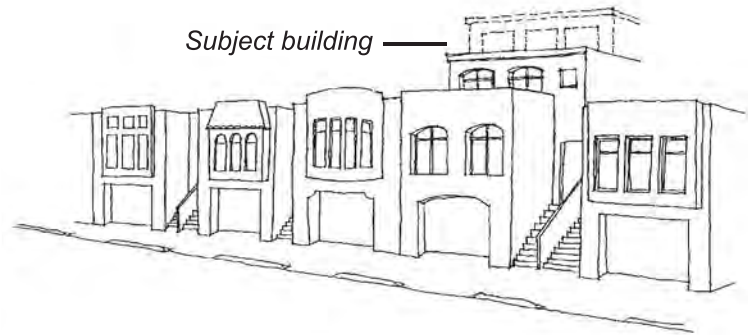
A partial third-story setback provides a transitional height to the adjacent two-story building and maintains the scale of the buildings at the street level.



In modifying the height and depth of the building, consider the following measures; other measures may also be appropriate depending on the circumstances of a particular project:

- Set back the upper story. The recommended setback for additions is 15 feet from the front building wall.
- Eliminate the building parapet by using a fire-rated roof with a 6-inch curb.
- Provide a sloping roofline whenever appropriate.
- Eliminate the upper story.

On this block face of two-story buildings, it is possible to preserve the building scale at the street by setting back the third floor. However, an additional setback for a proposed fourth floor is not sufficient. The fourth floor must be eliminated to respect the neighborhood scale.



The three-story scale of the block face is maintained by setting the fourth floor back so it is subordinate to the primary facade.

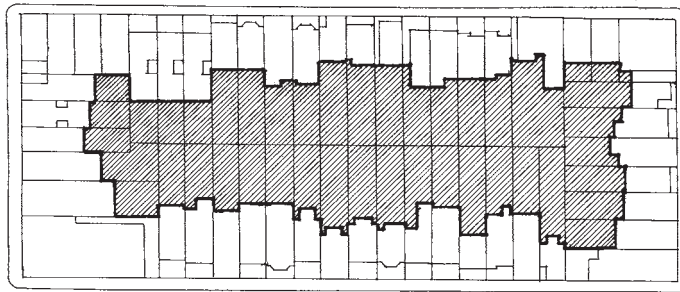


Building Scale at the Mid-Block Open Space

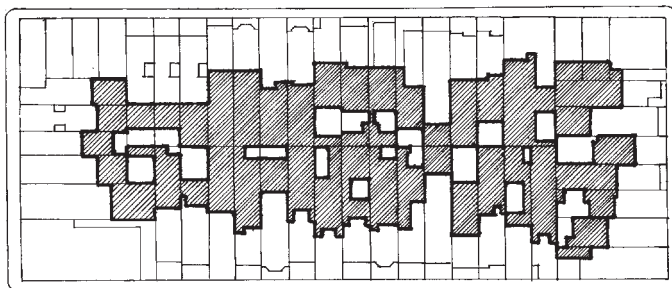
GUIDELINE: Design the height and depth of the building to be compatible with the existing building scale at the mid-block open space.

Rear yards provide open space for the residences to which they are attached, and they collectively contribute to the mid-block open space that is visible to most residents of the block. This visual open space can be a significant community amenity.

Block with a strong mid-block open space pattern.



Block with an irregular mid-block open space pattern. The rear yards of many of the parcels are developed with structures.



The height and depth of a building expansion into the rear yard can impact the mid-block open space. Even when permitted by the Planning Code, building expansions into the rear yard may not be appropriate if they are uncharacteristically deep or tall, depending on the context of the other buildings that define the mid-block open space. An out-of-scale rear yard addition can leave surrounding residents feeling “boxed-in” and cut-off from the mid-block open space.

The following design modifications may reduce the impacts of rear yard expansions; other modifications may also be appropriate depending on the circumstances of a particular project:

- Set back upper floors to provide larger rear yard setbacks.
- Notch the building at the rear or provide setbacks from side property lines.
- Reduce the footprint of the proposed building or addition.

Planning Code Section 134 establishes minimum depths for required rear yards in all residential districts. Planning Code Section 136 summarizes permitted rear yard projections.



Although the Planning Code allows a three-story addition extending into the rear yard, the addition is substantially out of scale with surrounding buildings and impacts the rear yard open space.



A two-story addition with a pitched roof lessens the impacts of the addition and is more in scale with the rear of the adjacent buildings.



This addition has been scaled back to two stories and is set in from the side property lines to minimize its impact.



This addition extends the full width of the lot but is set back at the second floor so the building steps down to the rear yard.



The rear stairs are setback from the side property line and their projection into the rear yard is minimized, in order to maintain the mid-block open space.

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EXHIBIT C

Excerpts from Planning Commission Hearing

March 30, 2023

Available at:

https://sanfrancisco.granicus.com/player/clip/43288?view_id=20&meta_id=993362&redirect=true&h=0f7d428f7563ea5b9b51b7f46c5481e9

3:13:36

Commissioner Braun: . . .I've listened very carefully to the additional points that have been made especially by Commissioners Moore, President Tanner, and Koppel. I really respect the point being made that ultimately one shouldn't get rewarded for ignoring this Commission and its decision. I also really respect that the Commissioners who were on the Commission at the time that the 2017 plan was approved at that discretionary review. I want to defer to that decision that was made at that time and that that's never actually been followed through on. I'm sold. I have changed my mind on this. I actually would prefer that we continue with the 2017 plans and that sort of resets the circumstances a little bit and if the applicant really wants to build two more housing units in the future then that's something they can do through a completely independent process after the current issue has been abated.

President Tanner: That will make three of us whose minds have been changed. Thank you Commissioners Koppell and Moore for speaking to us and helping us to make a good decision. I do want to ask Mr. Winslow, if we do uphold the 2017 decision, is it possible still to have a notice of abatement recorded on the deed of the property just noting that it is not code-compliant right now? Obviously that would be removed once the DR is complied with and the construction is reverted back. Do you know if we can do that?

3:15:25

. . . .

3:16:41

President Tanner: Can you clarify that Mr. Winslow.

Mr. David Winslow: This project is a permit, one of many, seeking to abate a violation. The history that I recited, which included the previous 2017 DR action memo, had conditions. So basically you are saying here's another DR for this permit, that is proposing two units, keeping something existing, and you're saying no we are going to take DR and propose conditions, you can recite those conditions, that are similar to or identical with the previous DR. In addition, I would recommend those conditions include the step-by-step standard conditions of compliance that I recited as well.

President Tanner: I think that was Commissioner Koppel's motion.

3:17:34

. . . .

3:18:46

Mr. Jonas Lonin: I'm going to try to reiterate what the motion is but I believe it is to take DR and approve this project, reverting back to the conditions of approval of 2017 for option 1, including the standard conditions of compliance that were stated by Mr. Winslow including the recordation of a notice of abatement.

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EXHIBIT D

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BAY AREA

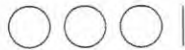
S.F. corruption scandal: City audits thousands of properties connected to indicted former officials



St. John BARNED-SMITH

Updated: April 11, 2023 12:17 p.m.

Gift this article



Rodrigo Santos, former president of the commission that oversees the San Francisco Department of Building Inspections, has pleaded guilty to fraud and other crimes. The department is reviewing cases handled by Santos and former inspector Bernie Curran.

Leah Millis/The Chronicle 2014

San Francisco auditors are reviewing work on more than 5,400 buildings to determine if corruption uncovered in a federal probe led to safety issues, records obtained by The Chronicle show.

The audit is one of numerous actions the city has taken to deal with a yearslong corruption scandal within its Department of Building Inspection.

Amid an agency overhaul, the department began the audit in May 2021 after the arrests of former inspector Bernard Curran, and Rodrigo Santos, former president of the commission that oversees the department.

Both pleaded guilty in federal court to wrongdoing.

Records obtained by The Chronicle show that the department identified 5,445 properties the two men had worked on during their careers. The probe was meant to “identify potential issues resulting from public integrity breaches,” department spokesperson Patrick Hannan said, on projects handled by Santos or Curran, especially focused on potential safety issues.

This San Francisco property was listed in court documents in the case of former building inspector Bernard Curran, who has pleaded guilty to accepting illegal payments. The San Francisco Department of Building Inspections is reviewing cases handled by Curran and Rodrigo Santos, former president of the commission that oversees the department.

[Google Street View](#)

Auditors divided the properties into three categories, or tiers.

The first group of 119 properties included those associated with both Curran and Santos.

A second group of 158 properties included those associated with either Curran or Santos and were also in a “slope protection zone,” meaning the property was within a landslide zone or on a steep slope, or construction work on the property could impact slope stability.

And auditors also considered a third group of 5,168 properties that did not lie in a slope protection zone but were associated with either of the corrupt former officials.

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Hannan, the DBI spokesperson, said auditors have reviewed just over 1,000 of the properties, including all of the properties in the first two groups and about 800 in the third group.

The department has sent letters to owners of 31 properties from the first tier seeking additional information, Hannan said, and inspectors have issued nine notices of violation for problems associated with the various properties.

“We have not, at any of the properties we’ve reviewed, found any imminent life-safety hazards,” Hannan said, in an emailed statement. “We’ve cleared most of the properties but have also found some issues that need to be addressed — incomplete trade permits, a missing job card or special inspection, expired permits needing to be renewed, plan reviews that need a little more review, and a couple with outstanding complaints.”

That leaves more than 4,000 properties still to be reviewed, however. And it’s unclear when that task might be finished. The audit comes as the federal corruption probe continues to rack up guilty pleas and convictions.

But even as the department has taken steps to try to win back confidence in its operations, others have questioned whether a department accused of gross corruption can police itself.

In October, for example, the department replaced the man leading the agency’s review after reporters discovered he had previously hired Santos as the engineer on the home he owned.

Aaron Peskin, president of the Board of Supervisors, questioned DBI’s methodology, noting that the department’s internal probe has thus far only yielded nine notices of violation — less than 0.8% of the more than 1,000 properties it’s already reviewed.

“That’s the tip of the iceberg,” he said, calling for an independent review of the department’s auditing methodology. “A more thorough independent investigation would have revealed a lot more skullduggery.”

The corruption scandal first surfaced in early 2020 when federal prosecutors brought charges against former Public Works boss Mohammed Nuru, who was later sentenced to seven years in federal prison. More than a dozen other city employees and contractors were also charged with crimes.

Among them was Curran, who pleaded guilty in December to accepting illegal payments connected with his official duties during his 16-year tenure with DBI.

In court, Curran admitted to accepting \$260,000 from a developer in order to pay off a residential mortgage, ultimately paying off \$230,000 of the loan. In December, he acknowledged in court that the debt forgiveness he received was an “improper” reward for conducting inspections on the developer’s building projects.

A month later, Santos pleaded guilty in federal court to defrauding clients out of \$775,000, arranging donations to bribe a city building inspector, and other crimes.

Also swept up in the scandal was former DBI Director Tom Hui, who resigned in March 2020 after an investigation by the City Attorney’s Office led to accusations that he gave permit expediter Walter Wong preferential treatment.

Reach St. John Barned-Smith: stjohn.smith@sfchronicle.com

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Written By

St. John Barned-Smith

Reach St. John on

St. John “Sinjin” Barned-Smith joined The San Francisco Chronicle in 2022 and covers City Hall. He previously worked at The Houston Chronicle, where he covered law enforcement.

Barned-Smith started his career at the Philadelphia Daily News, served in the Peace Corps, in Paraguay, and worked at the Montgomery Gazette, in Maryland, before joining Hearst Newspapers in 2014. His coverage of floods, mass shootings and police misconduct and other topics has been honored with several state and national awards.

Barned-Smith lives in San Francisco, with his newshound, Scoop.

[VIEW COMMENTS](#)

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LAURA F. STRAZZO (SBN 312593)
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ryan@pattersononeill.com
laura@pattersononeill.com

Attorneys for Appellants
Elena Asturias and Eduardo Paniagua

SAN FRANCISCO BOARD OF APPEALS

ELENA ASTURIAS, and EDUARDO
PANIAGUA,

Appellants and Permit Holders,

vs.

SAN FRANCISCO DEPARTMENT OF
BUILDING INSPECTION, SAN
FRANCISCO PLANNING DEPARTMENT,

Respondents.

APPEAL NO: 23-042

**DECLARATION OF ELENA ASTURIAS
IN SUPPORT OF PERMIT HOLDERS'
BRIEF**

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I, Elena Asturias, declare as follows:

1. I am an Appellant in this matter. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently here to.

2. Along with my husband, Appellant Eduardo Paniagua, I own 1228 Funston Avenue in San Francisco.

3. Attached as Exhibit 1 is a true and correct copy of a statement my husband and I prepared and submitted to the Planning Commission on March 16, 2023 concerning 2021-001219PRJ.

4. Attached as Exhibit 2 is a true and correct copy of a letter I received from the US Department of Justice identifying my husband and I as victims of Rodrigo Santos.

I declare under the penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed this date in San Francisco, CA.

Dated: October 3, 2023



Elena Asturias

EXHIBIT 1

Owners' Statement

History of the Family Home

1228 Funston Avenue has been in our family for three generations. My grandmother, Luz Delia Conde Escobar, purchased it in 1969 when she moved to San Francisco to be closer to her daughters. She secured a job as a lab technician at UCSF to support herself, and she rented rooms to women to supplement her income.

Our grandmother was a character, well-liked by her neighbors and local merchants. She used to joke when leaving the house for work early in the morning in her white lab coat that no one could tell if she was a doctor or just a technician in her uniform. Mama Delia passed away 17 years ago, leaving her home to her daughters -- my mother Carlota del Portillo and my aunt Catherine Echevarria (who tragically just passed away a few months ago). My mother and my aunt entrusted us to upgrade the property to help with family expenses, including my aunt's cancer treatment.

Hiring Engineer Rodrigo Santos to Manage the Project

To that end, we hired an engineer named Rodrigo Santos, and he committed to develop architectural and structural plans and to secure permits for the project.

We met with neighbors to discuss the proposed project, which included a rear extension within the buildable envelope. The project was well received, and all adjacent neighbors gave their full support, signing the plans and providing letters of support. Mr. Santos proceeded to submit the application and plans for approval.

In December 2015, Mr. Santos told us the site permit was approved and encouraged us to commence construction. Only after construction was nearly complete did we realize the permit had never actually been issued; it had been re-routed back to Planning.

At staff's direction, we filed a new application with as-built plans to legalize the completed construction. A staff-initiated DR hearing was scheduled for June 15, 2017, and Rodrigo Santos told us he would take care of it. To our dismay, Mr. Santos attended but did not speak – instead he had an unlicensed architect present the project – and the Planning Commission was furious. As a result, the permit was eventually disapproved in 2019.

Lawsuit Against Rodrigo Santos, and Aftermath

We filed a lawsuit against Rodrigo Santos and settled before trial.

We have cooperated with the Department of Justice in their charging of Mr. Santos with various federal offences. We are listed on the FBI's list of Rodrigo Santos' victims and have been assigned a Victims Witness Specialist to assist us in the process.

Since then, we have struggled to find a way to make the project work. Fortunately, we have brought in a new team of professionals to guide us in the Planning process. We are trying to make the situation right – for the property, for the neighbors, and for the City. In that spirit, we are proposing the addition of two extra units to help with the housing shortage. This contribution is made possible by keeping the as-built structure in place; the new units are not structurally or financially feasible otherwise, and, given the cost of construction and the loss of value it would cause, we certainly cannot afford to create the new units if we are required to remove any of the as-built structure. Fortunately, it is entirely within the lot's buildable area and is allowed by Code and supported by the neighbors.

The home at 1228 Funston Avenue has solar panels, green finishes, and an electric car charging station in the garage. It is within the required setbacks and within the comparable size and depth of the adjacent homes. As mentioned, it will have one unit upstairs, a garden apartment on the first floor, and an ADU in the rear. We feel good about this proposal as a fair compromise and a contribution to the City.

We sincerely thank you for your consideration.

Elena Asturias & Eduardo Paniagua

EXHIBIT 2



*United States Attorney
Northern District of California*

*11th Floor, Federal Building
450 Golden Gate Ave., Box 36055
San Francisco, CA 94102-3495*

*(415)436-7200
FAX: (415)436-7234*

September 8, 2022

San Francisco Planning Department
49 Van Ness Ave., Ste 1400
San Francisco, CA 94103

Re: *United States v. Rodrigo Santos*, 21-CR-00268 SI (N.D. Ca.)

To Whom It May Concern,

This letter is to inform you that Ms. Elena Asturias and Mr. Eduardo Paniagua have been identified as victims in the above referenced criminal fraud case in their capacity as owners of Paniagua Construction. The defendant, Rodrigo Santos, was charged on July 1, 2021 via Indictment with Bank Fraud, Destruction, Alteration or Falsification of Records in a Federal Investigation, and Aggravated Identity Theft related to his operation as the principal and co-founder of Santos & Urrutia Structural engineers, Inc. and his conduct from approximately November 2012 through at least March 2019 which included the depositing of checks made by his clients to DBI, DPW, and other municipal departments/agencies, private companies and individuals for his personal use.

The case is currently being prosecuted by Assistant United States Attorney (AUSA) Casey Boome and we are currently working to resolve this criminal matter.

If you have any questions or concerns regarding this letter and/or this case, please feel free to contact me at (415) 436-6993.

Respectfully,

A handwritten signature in cursive script that reads "Janice Pagsanjan".

JANICE PAGSANJAN
Victim Witness Specialist
United States Attorney's Office
Northern District of California

PUBLIC COMMENT

From: [William Isetta](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Letter of support for Eduardo Paniaqua's Residence 1228 Funston Avenue
Date: Thursday, October 19, 2023 6:25:14 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Bill Isetta and my wife, Marilyn and I own and have lived in the home next door to 1228 Funston Avenue since 1975; 48 years! We were very close friends to Delia del Rosario (Elena's grandmother, who became like family to us) and have known Eduardo for many years. To say Eduardo and Elena are wonderful people would be an understatement! They are the "salt of the earth!!"

Elena and Eduardo have shared with me the concerns the Board is dealing with as it relates to the improvements made at their 1228 Residence. From my wife Marilyn's and my perspective, the improvements make 1228 one of the crown jewels of the neighborhood. Everything that was done was completed first class and held to the highest construction standards; that's the way Eduardo and Elena are. I would also like to add that the whole construction process was done with the utmost consideration for their neighbors; constantly asking if we had any concerns or if they could help in any way.

In conclusion we lend our total support for the approval of this project and respectfully ask that you approve it as well.

With appreciation for the service you provide to our wonderful city, I remain,

Respectfully Yours,

Bill Isetta

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Paying the way forward