



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Abbreviated Analysis

HEARING DATE: JANUARY 24, 2013

Date: January 17, 2013
Case No.: **2012.1301D**
Project Address: **740 BAY STREET**
Permit Application: 2012.0514.0388
Zoning: RH-3 (Residential House, Three-Family District)
40-X Height and Bulk District
Block/Lot: 0027/008
Project Sponsor: Pat Doherty
156 Southwood Drive
San Francisco, CA 94109
Staff Contact: Glenn Cabreros – (415) 588-6169
glenn.cabreros@sfgov.org
Recommendation: **Do not take Discretionary Review and approve as proposed**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project proposes construction of a three-story rear addition which includes a two-story extension along the rear façade, a partial infill of a side notch at the southeast corner of the existing building and a vertical addition to create additional habitable space at the attic level of the existing two-story-over-garage, single-family residence. The project would result in a three-story-over-garage, single-family residence.

SITE DESCRIPTION AND PRESENT USE

The subject property is a rectangular lot measuring 25 feet wide by 137.5 feet deep with an area of approximately 3,400 square feet. The subject lot contains a two-story-over-garage, single-family residence. The subject building is a known historical resource constructed circa 1889 and listed in *Here Today* (page 251).

SURROUNDING PROPERTIES AND NEIGHBORHOOD

Directly adjacent and east of the subject building are two residential buildings, each on their own lots. The lot closest to the street contains a three-story, two-unit residence, while the lot at the rear, directly adjacent and east of the rear yard of the subject property contains a detached two-story, two-unit building located within the mid-block open space. Directly adjacent and west of the subject building is a detached, three-unit, three-story-over-garage building. The neighborhood character of the subject blockface and across the street from the blockface is comprised of multi-unit residential buildings, three- and four-stories tall of varied architectural styles. The siting of the residential buildings on both sides of the street does not create a uniform street wall as some buildings, particularly mid-block, step up with the sloped topography. On both sides of the street, several of the existing buildings have been developed with wide garage doors and/or retaining walls at their front property lines.

BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	September 14, 2012 – October 13, 2012	October 10, 2012	January 24, 2013	106 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	January 14, 2013	January 14, 2013	10 days
Mailed Notice	10 days	January 14, 2013	January 11, 2013	13 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)		1 (DR requestor)	
Other neighbors on the block or directly across the street			
Neighborhood groups			

DR REQUESTOR

Robert S. Thorpe, owner/occupant of **750 Bay Street**, a three-story-over-garage, three-unit building west and directly adjacent to the subject building.

DR REQUESTOR’S CONCERNS AND PROPOSED ALTERNATIVES

See attached *Discretionary Review Application*, dated October 10, 2012.

PROJECT SPONSOR’S RESPONSE TO DR APPLICATION

See attached letter from Matthew A. Brennan, dated January 14, 2013, on behalf of the project sponsor.

ENVIRONMENTAL REVIEW

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

RESIDENTIAL DESIGN TEAM (RDT) REVIEW

The RDT did not find the project or the DR request to demonstrate exceptional or extraordinary circumstances.

With regard to the potential loss of light and air access to the adjacent property at 750 Bay Street (Requestor Thorpe’s property), the RDT found that light and air access will not be impeded by the project, as the eastern side façade of 750 Bay Street is set back over 10 feet from the side property line shared with the project site. Additionally, 750 Bay Street is located uphill and to the west of the project; therefore 750 Bay Street would cast shade onto the subject property, particularly in afternoon and early evening hours.

The RDT also found that the project does not cause an exceptional or extraordinary loss of privacy. The project’s windows and decks face onto the rear yard of the subject lot and not directly onto adjacent properties. Decks located at the rear of buildings are a common features associated with residential buildings. The proposed size and location of the decks are within reasonable tolerances for privacy to be expected when living in a dense urban environment such as San Francisco.

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

RECOMMENDATION:	Do not take Discretionary Review and approve project as proposed
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Attachments:

- Parcel Map
- Sanborn Map
- Aerial Photographs
- Zoning Map
- Site Photo
- Section 311 Notice
- DR Application
- Project Sponsor Submittal w/ Reduced Plans

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Aerial Photo 1

DR REQUESTOR'S
PROPERTY



SUBJECT PROPERTY



Aerial Photo 2

SUBJECT PROPERTY



DR REQUESTOR'S
PROPERTY



Aerial Photo 3

DR REQUESTOR'S
PROPERTY



SUBJECT PROPERTY

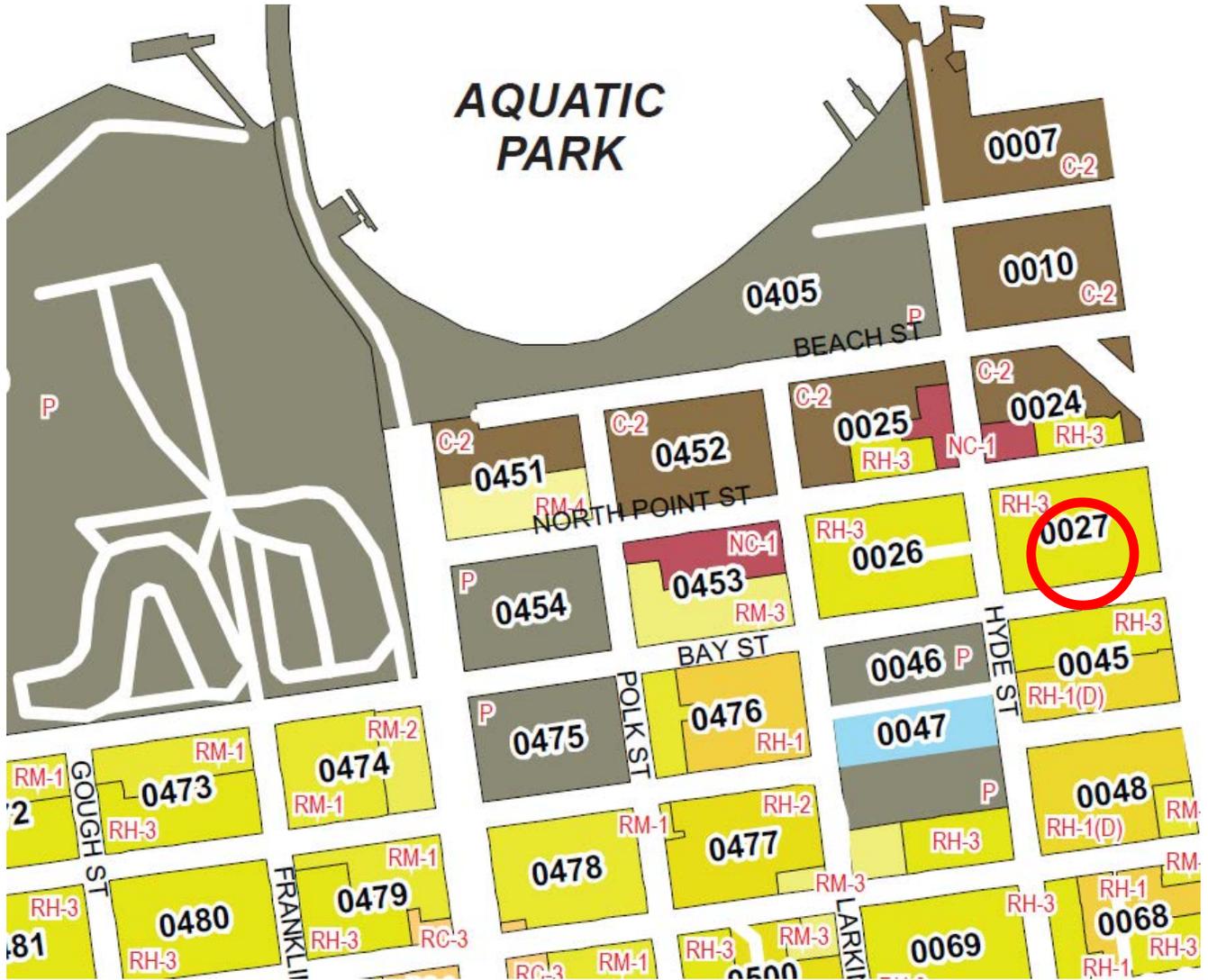
Discretionary Review Hearing
Case Number 2012.1301D
740 Bay Street
January 24, 2013 – Hearing Date



Aerial Photo 4



Zoning Map



Discretionary Review Hearing
Case Number 2012.1301D
740 Bay Street
January 24, 2013 – Hearing Date

Site Photo

SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2012.1301D
740 Bay Street
January 24, 2013 – Hearing Date



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On May 14, 2012, the Applicant named below filed Building Permit Application No. 2012.05.14.0388 (Alteration) with the City and County of San Francisco.

CONTACT INFORMATION		PROJECT SITE INFORMATION	
Applicant:	Pat Doherty	Project Address:	740 Bay Street
Address:	156 Southwood Drive	Cross Streets:	Hyde / Leavenworth Streets
City, State:	San Francisco, CA 94112	Assessor's Block /Lot No.:	0027/008
Telephone:	(415) 370-3711	Zoning Districts:	RH-3 /40-X

Under San Francisco Planning Code Section 311, you, as a property owner or resident within 150 feet of this proposed project, are being notified of this Building Permit Application. You are not obligated to take any action. For more information regarding the proposed work, or to express concerns about the project, please contact the Applicant above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

PROJECT SCOPE		
<input type="checkbox"/> DEMOLITION	and/or	<input type="checkbox"/> NEW CONSTRUCTION or <input checked="" type="checkbox"/> ALTERATION
<input checked="" type="checkbox"/> VERTICAL EXTENSION		<input type="checkbox"/> CHANGE # OF DWELLING UNITS <input checked="" type="checkbox"/> FACADE ALTERATION(S)
<input type="checkbox"/> HORIZ. EXTENSION (FRONT)		<input checked="" type="checkbox"/> HORIZ. EXTENSION (SIDE) <input checked="" type="checkbox"/> HORIZ. EXTENSION (REAR)
PROJECT FEATURES	EXISTING CONDITION	PROPOSED CONDITION
BUILDING USE	Single-Family Dwelling	Two-Family Dwelling
FRONT SETBACK	none (@ garage)	No Change
SIDE SETBACKS	none	No Change
BUILDING DEPTH	76 feet	89 feet
REAR YARD	63 feet	50 feet
HEIGHT OF BUILDING	29 ft (@ main façade to ridge).....	31 feet (@ addition)
NUMBER OF STORIES	2 over basement/garage	3 over basement/garage
NUMBER OF DWELLING UNITS	1	No Change
NUMBER OF OFF-STREET PARKING SPACES	2	No Change
PROJECT DESCRIPTION		

The proposal is to construct a three-story rear addition (including a two-story rear addition at the rear facade), a partial infill of a side setback/notch along the southeast corner of the existing building and a vertical addition to insert a floor at the attic level (proposed third floor). See attached plans.

PLANNER'S NAME: Glenn Cabreros

PHONE NUMBER: (415) 558-6169

DATE OF THIS NOTICE: 09/14/2012

EMAIL: glenn.cabreros@sfgov.org

EXPIRATION DATE: 10/13/2012

APPLICATION FOR Discretionary Review

RECEIVED

OCT 10 2012

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
P I C

1. Owner/Applicant Information

DR APPLICANT'S NAME: **ROBERT S. THORPE**

DR APPLICANT'S ADDRESS: **750 BAY ST. #3 SAN FRANCISCO, CA.** ZIP CODE: **94109** TELEPHONE: **(415) 563-0466**

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: **PATRICK DOHERTY ; JERRY O'LEARY**

ADDRESS: **158 SOUTHWOOD DRIVE SAN FRANCISCO, CA.** ZIP CODE: **94112** TELEPHONE: **(415) 370-3711**

CONTACT FOR DR APPLICATION:
Same as Above

ADDRESS: _____ ZIP CODE: _____ TELEPHONE: () _____

E-MAIL ADDRESS: **CAREERGENI@AOL.COM**

2. Location and Classification

STREET ADDRESS OF PROJECT: **740 BAY ST. SAN FRANCISCO, CA.** ZIP CODE: **94109**

CROSS STREETS: **HYDE & LEAVENWORTH**

ASSESSORS BLOCK/LOT: 00271008	LOT DIMENSIONS: 25X137	LOT AREA (SQ FT): 3425	ZONING DISTRICT: RH-3	HEIGHT/BULK DISTRICT: 40-X
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3. Project Description

Please check all that apply

Change of Use Change of Hours New Construction Alterations Demolition Other

Additions to Building: Rear Front Height Side Yard

Present or Previous Use: **SINGLE FAMILY DWELLING (2 BR 1 BA)**

Proposed Use: **SINGLE FAMILY DWELLING (4 BR 4 1/2 BA)**

Building Permit Application No. **2012.05.14.0388**

Date Filed: **9/14/12**

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

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

NONE

Discretionary Review Request

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

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

750 Bay Street is a 3 unit building. Adding a 3rd floor with straight walls and a flat roof to 740 Bay Street would significantly cut off the current natural light coming into Unit #1 from the east side of 750 Bay by a factor of 50%. This would create a much darker environment in the unit., as well as major privacy issues from both proposed roof decks and proposed west facing window. For Unit #2, the addition of a 3rd floor with straight walls and a flat roof, with a large window on the west wall, and a roof deck would infringe on the privacy the unit currently has, as well as impact the natural light of the unit. (SF General Plan-Recreation and Open Space Element -Policy 4.5)
The proposed rear extension also infringes on the symmetry of the current block back yard's open space and detracts from the current neighborhood character, which has been viewed and valued by all the neighbors who have lived there for 20+ years.

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

For Robert Thorpe (owner who occupies Unit #3) the current tenants have asked for rent reductions because their quality of existing life relating to reduced natural light and privacy will be severely impacted by the exceptional and extraordinary effects of adding a 3rd floor with straight walls and a flat roof, a roof deck, and an additional 13 foot rear 2 story extension with an additional roof deck. This significantly affects Robert Thorpe's future rental income and therefore his ability to pay the mortgage and property taxes, thereby affecting his own economic quality of life.
Also in his latter years, Robert Thorpe may have to reside in Unit #1 due to age related physical impairment. He would not want to be subject to the decrease in natural light and privacy issues that would be experienced by his current tenant in Unit #1 if the project was currently built as is.

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

1. Eliminating 8 feet at the rear of the proposed 3rd floor extension. This would mitigate the loss of natural light to units #1 and #2, as well as the privacy issues with both units.
2. Eliminating 8 feet at the rear of the new extension construction of the 1st and 2nd floor and roof deck, This would mitigate the privacy issues with units #1 and #2.
3. The 3rd floor roof west of center should either be a peaked or barreled/rounded to the base of the new 3rd floor. This would mitigate the loss of natural light to units #1 and #2.
4. Eliminate the roof deck on proposed 3rd floor roof. This would also mitigate privacy issues with units #1 and #2.

12.130101

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

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

Signature: 

Date: 10/8/12

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

ROBERT S. THORPE, OWNER

Owner / Authorized Agent (circle one)

January 14, 2013

Mr Rodney Fong
San Francisco Planning Department
1650 Mission Street Suite 400
San Francisco, Ca. 94103

Re: Building Permit Application No 2012.05.14.0388 (Alteration).
Subsequent Design Meetings and Shadow Study

Dear Rodney,

Between my Discretionary Review submission on September 12, 2012 and today, I have met with the property developers and their architect a few times to discuss plan alterations and also to have them do and subsequently review a light/shadow study for light impact on my property from their proposed alterations.

The DEVELOPERS did propose to adjust the back half of the west facing roof line (2.8 feet x 2 feet) to create a slight slant to the back half of the west facing side of the roof. A shadow study was then done using Sketchup8 software program. The results were as follows:

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.

Light:

From what can be observed from the shadow model, during the winter solstice, the sun rises around 7:30am and is directly over the buildings at around 11:30am. This results in approximately 4 hours of "morning sun light"

Under current revised roof design of 740 Bay St, Unit #2 east facing windows in the living room of 750 Bay St are shadowed by the proposed new alterations from 7:30am to 8:30 am, or about 1 hour.

Unit #1 east facing windows in the living room are shadowed from the proposed new alterations from 7:30am to 9:50am, or about 2.25 hours.

So the amount of currently existing morning sunlight that the east facing window of unit #2 is deprived by the current new roof design of 740 is **25%** (1hr/4hr), and the east facing window of unit #1 is **56%** (2.25hr/4hr).

During the summer equinox, sunrise is 5am and the sun is directly over the buildings at 12 noon. This results in 7 hours of "morning sun light".

Unit #2 east facing window is shaded until 6:00am. So unit #2 is deprived of 14% (1hr/7hr) of currently existing morning sunlight.

Unit #1 east facing windows are shaded until 8:30am. So unit #1 is deprived of 36% (2.5hr/7hr) of currently existing morning sunlight.

So if you take an average on the solstice/equinox percentages, Unit #2 is deprived of 20% of currently existing light, and Unit #2 is deprived of 45% of currently existing light under the revised roof line current design. This is close to my original claim of 50% in the DR application of September 12th concerning light deprivation in Unit #1 I submitted without the current roof slanting changes made.

Obviously the deprivation of light is more pronounced during the winter months as would be expected given the low angle of the sun.

The owners of 740 Bay may suggest that the shadowing of the windows is partially caused by the currently existing staircase of 750 Bay Street. Attached is a photo taken on December 24, 2012 (the first sunny day after December 21st solstice) at 9:26am showing the shadowing effect of the staircase and the direct sunlight on the windows that would be present if the 3rd floor alterations to 740 Bay Street were not made.

Planning Code 101 -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. Some of these measures might conflict with the "light" measures above, so it will be necessary to prioritize relevant issues.

The addition of the 3rd floor with the large bay window facing west, coupled with the proposed roof deck on top of the 3rd floor would result in a loss of privacy that Unit #1 and Unit #2 currently enjoy. The addition of another roof deck on top of the 2nd floor on the addition into the rear yard also would result in loss of privacy that Unit #1 and Unit #2 currently enjoys.

In the 37 years I have lived on this block and in this property, the only time that such a deck on the 3rd floor roof may be used is for the Blue Angles Fleet Week and the July 4th fireworks display. Any other time during the year it is too cold, too windy, or both for such a deck to be used or useful. However barbeques, propane heaters, fire pits, and other furniture can be left scattered on this roof deck, basically almost allowing a 4th floor to exist. Also since I do not know who will be buying this building, the opportunity exists for loud parties to be conducted on this 3rd floor roof deck by the new owners. We have had numerous loud "frat beer bong " parties coming from an adjacent property at 736-738 Bay Street for years, and recently from another new property with a large roof deck at 2640 Leavenworth disrupting the tranquil environment of the neighborhood, and necessitating us to call the police to stop the noise.

I already have to deal with a proposed large deck addition to the 2 story rear yard extension, which is a lot more practical for "use" purposes, except for Privacy and Noise issues.

Suggested design solutions to rectify light/privacy issues.

1. Cut back rear 3rd floor addition six feet to current roof line and add the space to new 2nd floor roof deck. This would allow significant light to the east facing living room windows of 750 Bay St. by sacrificing only 150 sq ft (6'x25') from the entire project.
2. Use a Gambrel designed roof for the western part of the 3rd floor roof rather than a straight flat roof or slightly slanted roof currently being proposed. Again this would allow more light onto the east facing rear windows of 750 Bay without sacrificing any usable square feet from the project.
3. Eliminate the 3rd floor roof deck since it is impractical based on weather conditions (wind and cool temperatures) that have historically existed on the block, and because of noise, potential excessive partying, or potential furniture/space heaters/fire pits left on the deck that can further block light, or invade privacy, or just appear as a cluttered mess that I and my tenants have to look at. Plus the project already has a large deck proposed on the roof of the 2 story rear addition.

Thank you,



Robert Thorpe
750 Bay Street #3
San Francisco, Ca. 94109
415-563-0466
careergeni@aol.com

I already have to deal with a proposed large deck addition to the 2 story rear yard extension, which is a lot more practical for "use" purposes, except for Privacy and Noise issues.

Suggested design solutions to rectify light/privacy issues.

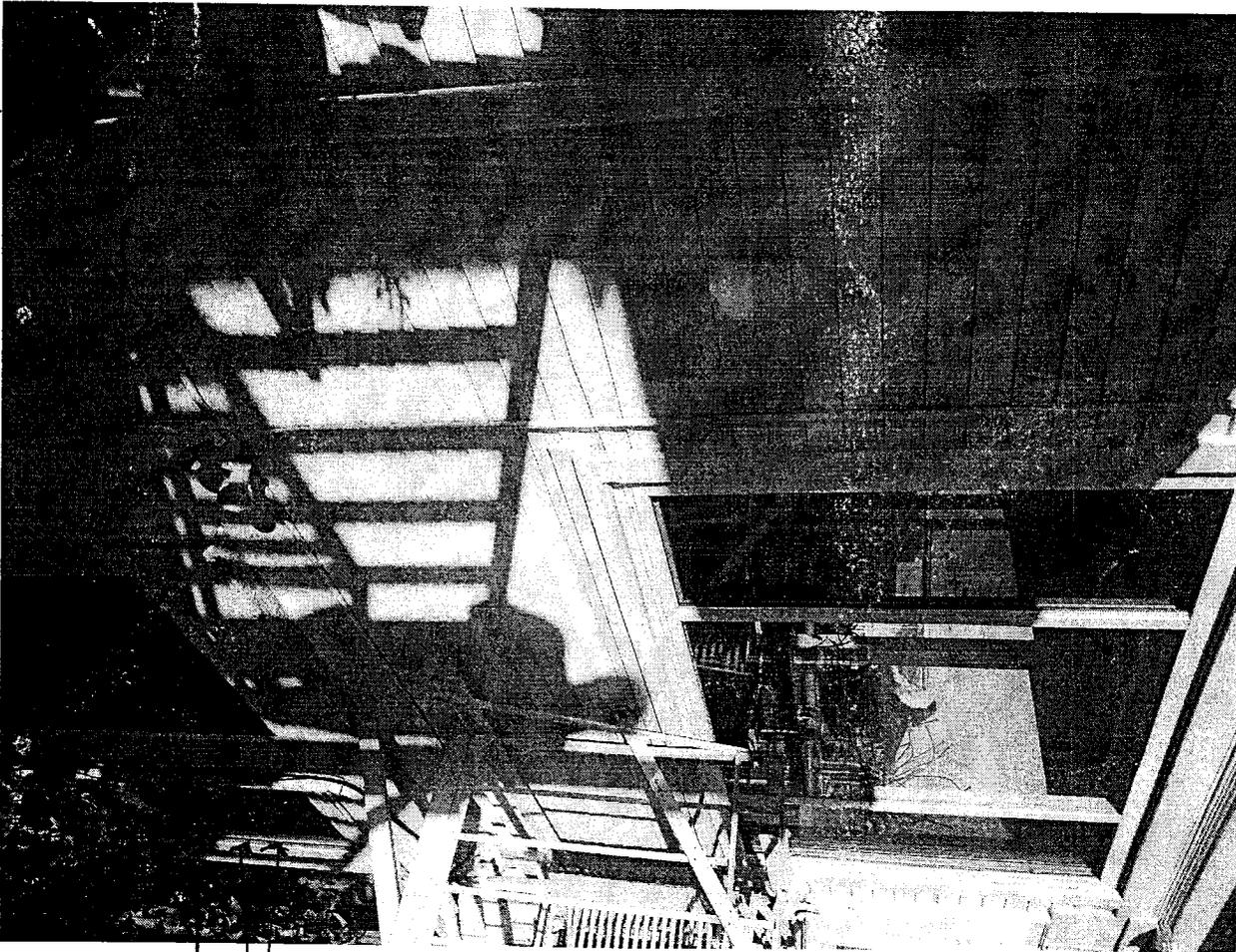
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2. Use a Gambrel designed roof for the western part of the 3rd floor roof rather than a straight flat roof or slightly slanted roof currently being proposed. Again this would allow more light onto the east facing rear windows of 750 Bay without sacrificing any usable square feet from the project.
3. Eliminate the 3rd floor roof deck since it is impractical based on weather conditions (wind and cool temperatures) that have historically existed on the block, and because of noise, potential excessive partying, or potential furniture/space heaters/fire pits left on the deck that can further block light, or invade privacy, or just appear as a cluttered mess that I and my tenants have to look at. Plus the project already has a large deck proposed on the roof of the 2 story rear addition.

Thank you,



Robert Thorpe
750 Bay Street #3
San Francisco, Ca. 94109
415-563-0466
careergeni@aol.com

12/24 @ 9:26 AM



RIGHT THAT WOULD BE
BLOCKED BY 3RD FLOOR
STAIR
FLOOR
SHADOW

Matthew A. Brennan

Attorney at Law
425 Divisadero Street, Suite 302
San Francisco, CA 94117
(415) 596-1914
(415) 333-4834 facsimile
matthew@mablawoffices.com

RECEIVED

JAN 14 2013

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
RECEPTION DESK

January 14, 2013

San Francisco Planning Commission
1650 Mission Street
Suite 400
San Francisco, CA 94103-2414

Re: 740 Bay Street
Block 0027 Lot 008
Case No. 2012.1301DD

Dear President Fong and Honorable Commissioners:

I am contacting you today on behalf of the project sponsor regarding the above referenced project, which is to be heard by you on January 24, 2013. While this project is considered to be as of right as it seeks no Conditional Use, nor a Variance and falls within all applicable sections of the San Francisco Planning Code, it is before you as two Discretionary Review Requests have been filed by neighbors located on either side of the property. One of said Requests has since been withdrawn with no alterations to the project. I am writing to state my support for the above referenced project as it stands, and to urge you to approve said project. The project proposes to construct an addition to the rear of the existing structure and add an additional third floor with roof deck to the existing two-story dwelling. This project will be attractive in design and will be in scale with the neighborhood and the goals of the City and County of San Francisco. This new building will not have an adverse impact on its surrounding neighbors.

As stated above, you are scheduled to hear a Discretionary Review Request for this project on January 24, 2013. The proposed project entails the following actions:

1) A rear addition to the existing single-family home. The rear addition will be beneath a proposed upper level deck and will be setback five feet from the side property lines, thereby reducing any potential effect on the surrounding neighbors. This is in conformity of the Residential Guidelines, which calls for "providing setbacks on the

upper floors of the building.”¹ This project will provide the setbacks on all floors of the rear addition. In addition, the neighbor located directly to the rear of the project has not expressed any objections to the proposed additions

2) A new third floor with roof deck addition to the existing single-family home. The new third floor addition, as is the case with all floors of the project, shall be setback 29 feet 2 inches from the property line.

Proposed Project Alterations Timeline

There were two Discretionary Review Requestors in this matter, a Mr. Robert Thorpe (hereinafter referred to as "Mr. Thorpe") and a Ms. Tanya Yurovsky (hereinafter referred to as "Ms. Yurovsky"). Prior to the filing of the two Discretionary Reviews, my client met with both Mr. Thorpe and Ms. Yurovsky to discuss any possible concerns and objections they may have to the project. In response to this meeting my client proposed two significant alterations; to reduce the extension into the rear yard of the property, and to slope a portion of the western most section of the roof to allow more direct sunlight onto Mr. Thorpe's property. The project architect, contractor and myself met with Mr. Thorpe on October 17th to discuss the proposed changes to which Mr. Thorpe did not express satisfaction. We agreed to commission a shadow study even though it is not required by the Planning Department for matters such as this, and to meet in the future to again discuss the proposed alterations. On the same day with met with Ms. Yurovsky's attorney, a Mr. Alex Volkov, to discuss the proposed alterations. Mr. Volkov stated he would take the proposals to his client for their consideration. On November 17th I contacted My. Volkov via email to gauge his client's reaction. I was told that they were out of town and would consider the proposed alterations upon their return in December. On December 17th I met with Mr. Volkov to demonstrate the shadow study and the minimal impact on his clients' direct sunlight. As a result of sufficiently demonstrating the minimal impact the project will have, Ms. Yurovsky agree to withdraw her Discretionary Review Request with no alterations made to the project. Later that same day the project architect, contractor and myself met with Mr. Thorpe and one of his tenants to demonstrate the shadow study. We forwarded the shadow study to Mr. Thorpe and his tenant for their review. I contacted Mr. Thorpe several days later to discuss his reactions. He relayed that he wished for more revisions which was rejected as my client has no desire for endless revisions to the project. On January 9th 2013, my clients offer to Mr. Thorpe of altering the project expired.

Project Issues

In his application, the Requestor raises several issues. None of the issues that arose in the application dealt with Planning Code or any requested Variance, but instead some lay within the Residential Design Guidelines, the General Plan, or other areas, all of which do not rise to the level of exception or extraordinary circumstances, the standard by which this application must be judged. In any event, I would like to briefly address the

¹ San Francisco Residential Design Guidelines pg 16.

Residential Guidelines and General Plan concerns as well as the other non-protected issues.

1) The main concern that was addressed in the application under these categories would be that of loss of direct sunlight. This of course is not protected under the Planning Code as it would be impossible to protect in a City built on seven hills. Such an attempt would simply benefit one property to the detriment of another. The shadow study commissioned by the project sponsor showed that the loss of light to requestor's property would be approximately two hours in the morning on December 21st, the shortest day of the year. It also showed that Mr. Thorpe's property, which is larger than the proposed project, casts more shadow on my client's property and on Ms. Yurovsky's property than will be cast on his property by the proposed project. While the amount of time the shadow will be cast on the Requestors' properties will be slightly larger under the original proposal as the alterations were rejected, it will not significantly be so, nor can it be considered exceptional and extraordinary.

In arguing for a requirement of light and open air, Mr. Thorpe cites San Francisco General Plan Recreation and Open Space Element Policy 4.5. This is however misleading as this Policy deals with, "Require(ing) private usable outdoor open space in new residential development."² This Policy states that, "In lower density districts this open space can generally be provided in the form of a required ground level rear yard, or front and side yard setbacks", which is what my client is providing, a fifty foot deep rear yard from the pop out. Citing this Policy is seemingly an attempt to mislead the Commission as the Policy deals with alternative ways to provide open space in developments, not with developments themselves. The Policy states; "In some cases, factors such as topography, wind or sun access may make open space in the form of decks or solaria or atriums open to the sun and air more useful than ground level back yards. These open space alternatives should be encouraged only where they will not diminish light and air to adjacent properties or views."³ Again, that policy speaks to alternatives to open space, not to developments. Outside of this policy, which does not apply here, the Requestor found no Code section, no Policy and no Guideline in support of his position.

Finally, in dealing with the issues of light and privacy, the San Francisco Design Guidelines states that, " In areas with a dense building pattern, some reduction of light to neighboring buildings can be expected with a building expansion."⁴ The Guidelines continue and state that, " As with light, some loss of privacy to existing neighboring buildings can be expected with a building expansion."⁵

2) Mr. Thorpe also stated concerns with the rear addition. As stated above, this rear addition pop out is in conformity with both the Planning Code and the

² San Francisco General Plan, Recreation and Open Space Element, Policy 4.5.

³ San Francisco General Plan, Recreation and Open Space Element, Policy 4.5.

⁴ San Francisco Design Guidelines, pg. 16.

⁵ Id. at pg. 17.

Residential Guidelines.⁶ It will be contained completely underneath a proposed deck, with a height of twenty feet.

3) There was a concern stated by Mr. Thorpe regarding the general conformity of the proposed rear extension to the existing neighborhood. This again is misleading in that the sample size of the “general conformity” provided by the Requestor was not both sides of the entire block, but was instead a vague mention of the current neighborhood character.⁷ The Residential Guidelines are concerned with conformity when there is a Defined Visual Character.⁸ That is not the case here. This particular block has what the Design Guidelines would classify as a Mixed Visual Character, and when that is the case, “when no clear pattern is evident on a blank face, a designer has a greater opportunity and responsibility to help define, unify, and contribute positively to the existing visual context.”⁹ There is no clear conformity in this block with houses varying in sizes, styles, setbacks and other architectural features. Some buildings are three stories; some like Ms. Yurovsky exist in the rear yard.

4) In his application Mr. Thorpe also stated a concern regarding economic hardship, that if the amount of direct sunlight his tenants receive is decreased, they have indicated they will petition the San Francisco Rent Board for a decrease in their monthly rent payments. Never withstanding the fact that this is beyond the protection or purview of the Planning Code and Planning Commission, and that such a petition to the Rent Board would fail as the loss of direct sunlight was not caused by Mr. Thorpe, the landlord, but was caused by an outside third party, I find Mr. Thorpe's claim of economic hardship to be an exaggeration as he is a self stated developer himself.¹⁰ Mr. Thorpe states that, "For the record, the owner(s) of 740 Bay Street are NOT neighbors... However they do fit the definition of DEVELOPERS. That is caring about making the most profit on a project, trying to push and ram issues through in a compacted time limit, and really not caring what the rest of the neighbors value. I know because I am a Developer in Oakland and Berkeley, and know what the other side is thinking and feeling about this deal".¹¹ This was received prior to the beginning of negotiations, showing that Mr. Thorpe had no intention of negotiating in good faith.

Community Outreach

I would like to note that my client's met with the surrounding neighbors, including the Discretionary Review requestors or their representatives on several occasions. As a result of this outreach and explanation of the proposed project, Ms. Yurovsky has withdrawn her Request for Discretionary Review with no alterations of the project sought.

⁶ San Francisco Planning Code §136(25)(B)(ii).

⁷ Mr. Thorpe's Application Requesting Discretionary Review paragraph 1.

⁸ San Francisco Residential Design Guidelines pg 9.

⁹ Id. at pg.10.

¹⁰ Email of October 25, 2012, from Robert Thorpe to Matthew A. Brennan.

¹¹ Id., no emphasis added.

There are no community organizations that have objected to this project, and only two individuals that did, with one withdrawing her objection. In an area such as this, that is very sophisticated in land use matters and dogged in their pursuit of those that are considered unreasonable or undesirable, that speaks volumes to the reasonableness of this project. In addition, as of the date of this brief, the project has received five letters from surrounding neighbors that have stated their support, including one from the property owner located directly to the east of the project.

Conclusion

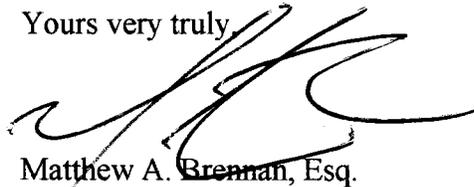
This project seeks to take an undersized property and increase it to a size compatible with the surrounding neighborhood. In fact, the proposed property would still be smaller in size than Mr. Thorpe's and have a smaller frontage than Mr. Thorpe's, a fifteen foot smaller frontage. This project will have smaller impact on the surrounding neighborhood as even though the property is zoned RH-3, the project sponsor is maintaining the property as a single family home. This is in contradiction to Mr. Thorpe who maintains three units on his property. As stated by supporting neighbors, this design of a single family home as opposed to three condominium units is more likely to bring a family into the area, something that San Francisco desperately needs more of.

The project sponsor has met with the surrounding neighborhood and has the overwhelming support of the community, which includes the property owner directly to the rear of the property and both property owners to the east. My client has met with Mr. Thorpe on several occasions and proposed alterations that would address his concerns. These were rejected. My client has met with Ms. Yurovsky's representative on several occasions. To that end she removed her Request for Discretionary Review with no alterations to the project. Finally, unlike Mr. Thorpe, this is only my client's second development as he attempts to expand with a reasonable project.

This project does not seek to increase the footprint of the existing property, it will be in line size wise with the surrounding neighborhood, and the issues raised by the lone Discretionary Review Request do not rise to the level of exceptional and extraordinary. One of the purposes of the San Francisco Planning Code is to provide "adequate light, air.", which is what all properties involved here will have.¹² The purpose of the Code is to not provide all day direct sunlight to one property to the detriment of another. I would therefore urge you to then approve this project as it stands.

If you have any questions or comments, or if you need any further information, please feel free to contact me.

Yours very truly,



Matthew A. Brennan, Esq.

¹² San Francisco Planning Code §101(c).

CC: Jerry O'Leary

Inclusions;

Letter of Support from Thomas F. Brown III

Letter of Support from Peter Fenton

Letter of Support from Joe Harney

Letter of Support from Tony Petruzzella

Photographs from Mr. Thorpe's property showing height of proposed project

January 10, 2013

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, Fourth Floor
San Francisco, CA 94103

Dear President Fong and Commissioners,

With my father Corrado Petruzzella, I own the property at 736 Bay Street, situated exactly next door to the proposed building rehabilitation at 740 Bay Street. I fully support the project and do not understand why there would be any opposition to enhancing an older home in our neighborhood. Many of us will need to make similar changes to our properties as families grow and structures age.

Jerry O'Leary has shared the project plans with me and I think they look great and completely work with the street in both design and scale. This block of Bay Street is a great residential area. That said, my family acknowledges that we live in a city that must grow and change over time. I think that most of my neighbors understand this as well.

Please approve the project at 740 Bay Street on January 24, and let Mr. O'Leary get to work without delay.

Sincerely,

Tony Petruzzella

1/11/2013



Thomas F. Brown III
737 North Point Street
San Francisco, CA 94109

December 30, 2012

President Rodney Fong and Commissioners
San Francisco Planning Commission
1650 Mission Street, 4th floor
San Francisco, CA 94103

Dear Planning Commissioners,

My name is Tom Brown and I live at 737 North Point Street, directly behind 740 Bay Street. I fully support the remodel and enhancement of the single family home that is proposed, and will be considered by the Commission on the 24th of next month.

Please know that I have been in communication with Jerry O'Leary and his project architect. The design and size of the renovation are unobtrusive. I think it represents a significant upgrade for both the property, and for our venerable San Francisco neighborhood, where older buildings require a facelift from time to time.

I hope to attend your public hearing in person. If I am unable, I urge you to approve the project so that construction can begin as soon the rainy season ends.

Sincerely,



Thomas F. Brown III

December 20, 2012

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103-2414

Dear President Fong,

I fully support the proposed project at 740 Bay Street.

I own a home at 1221 Union Street, and Jerry O'Leary and his project team shared with me his plans for renovation and improvement of his building. I work in real estate and I think that this will be an elegant and useful infill project, on a currently underutilized lot, in a great neighborhood. City's change and evolve and are continuously upgraded over time, and I believe that should be encouraged to ensure the health and viability of our unique structures and neighborhoods.

It is my understanding that the project meets all city codes and guidelines, and I ask that the Commission decline discretionary review when it comes before it on January 24, 2013.

Respectfully,



Joe Harney
1221 Union Street
San Francisco, CA 94109

December 19, 2012

The Honorable Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, 4th floor
San Francisco, CA 94103

Dear President Fong and Commissioners,

I live at 2705 Larkin Street, which is just up a small hill from the project proposed by Jerry O'Leary at 740 Bay Street. As you may recall, I was before the Commission and successfully defended my own home remodel during a discretionary review hearing earlier this year. As such, and I know firsthand that this can be a stressful, expensive and time consuming the process. I have been briefed on the addition put forth for 740 Bay, and it appears well designed and fully in keeping with the character and scale of its surroundings. Also, as the modified building will remain a single family home, it is likely to bring a new family to the neighborhood.

I will not be able to attend the January 24 public hearing to endorse the project in person, so please accept this letter as an indication of my full support of the project.

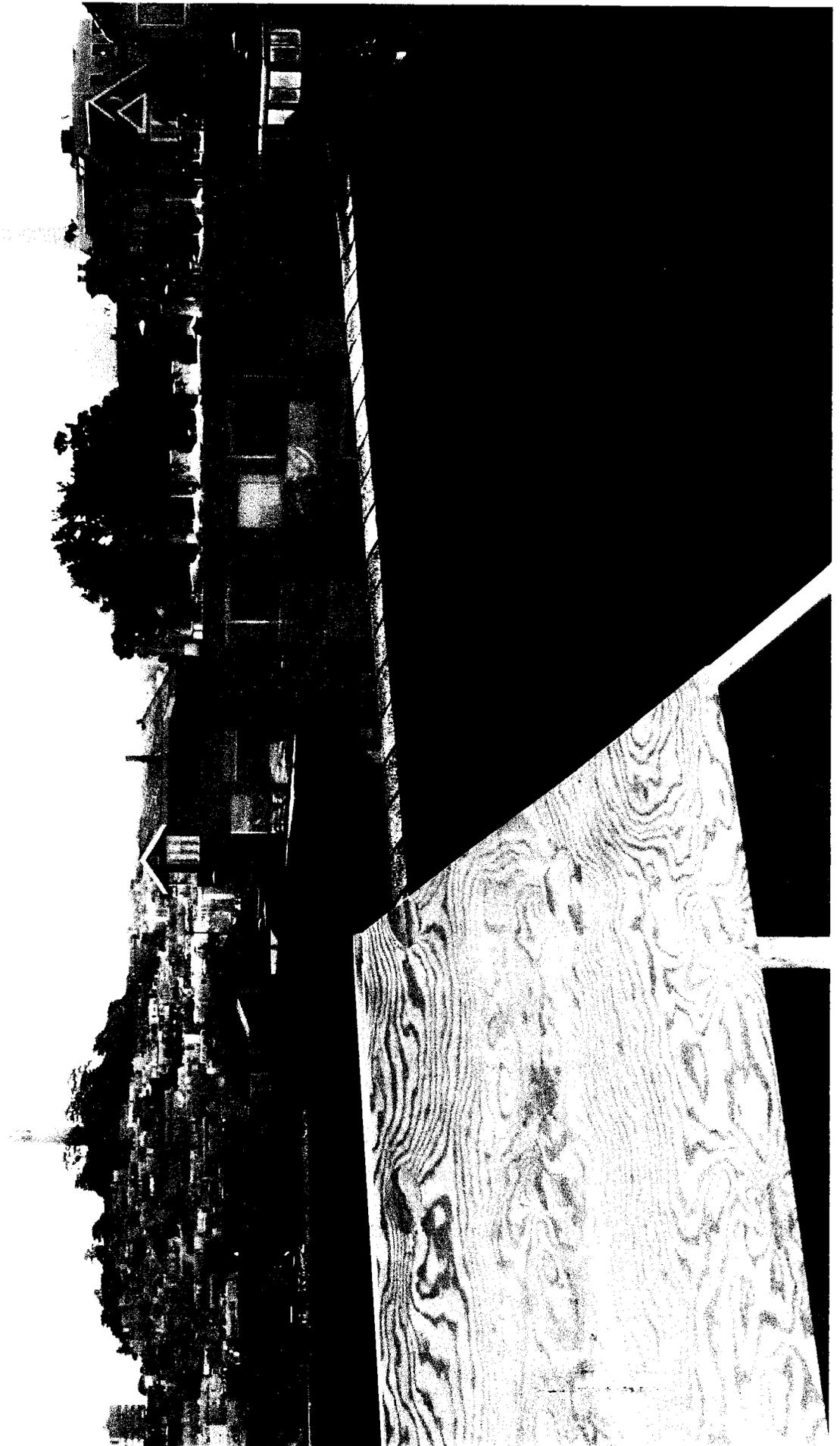
Sincerely,

A handwritten signature in black ink, appearing to read "Peter Fenton", with a horizontal line drawn through it.

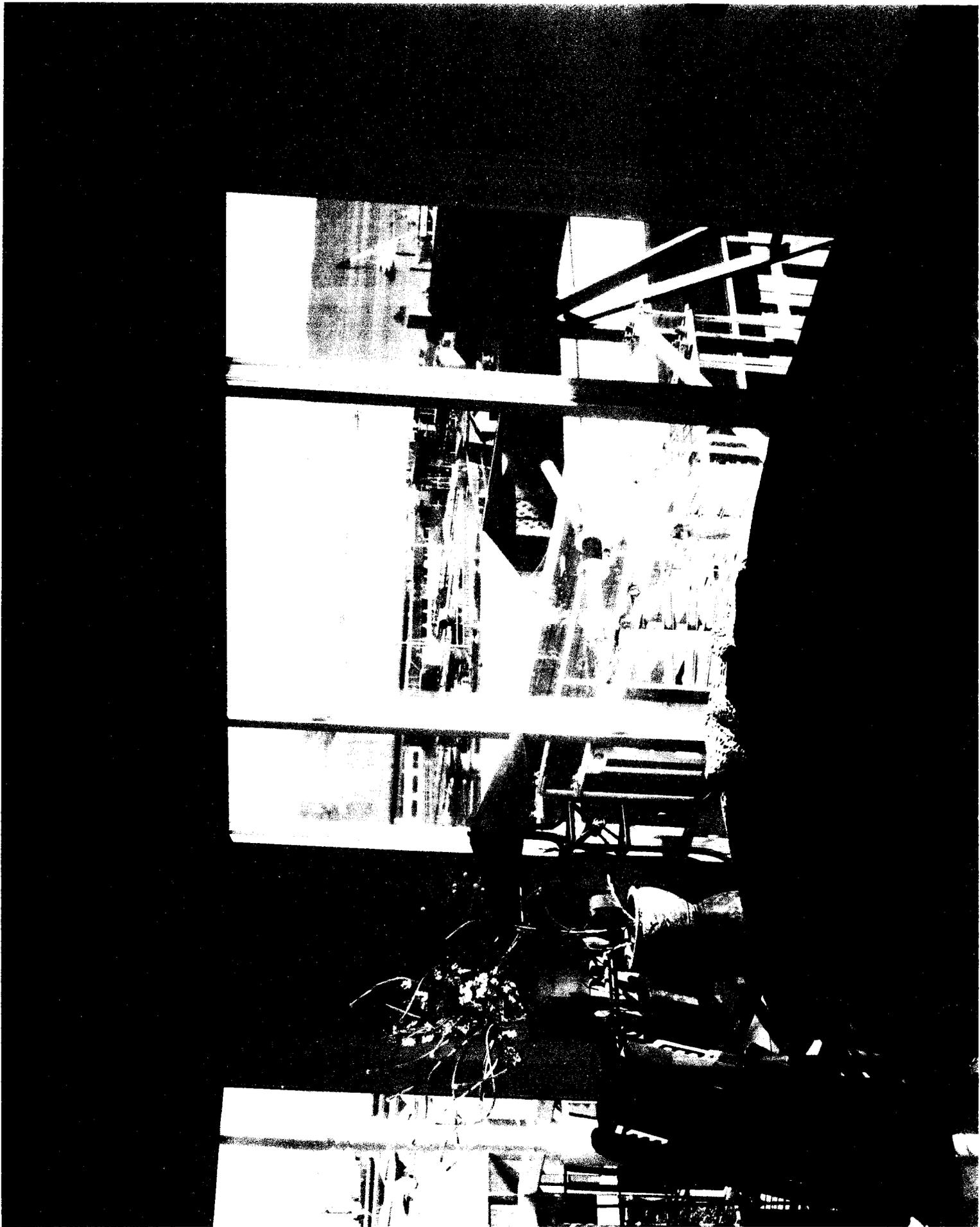
Peter Fenton
2705 Larkin Street
San Francisco, CA 94109

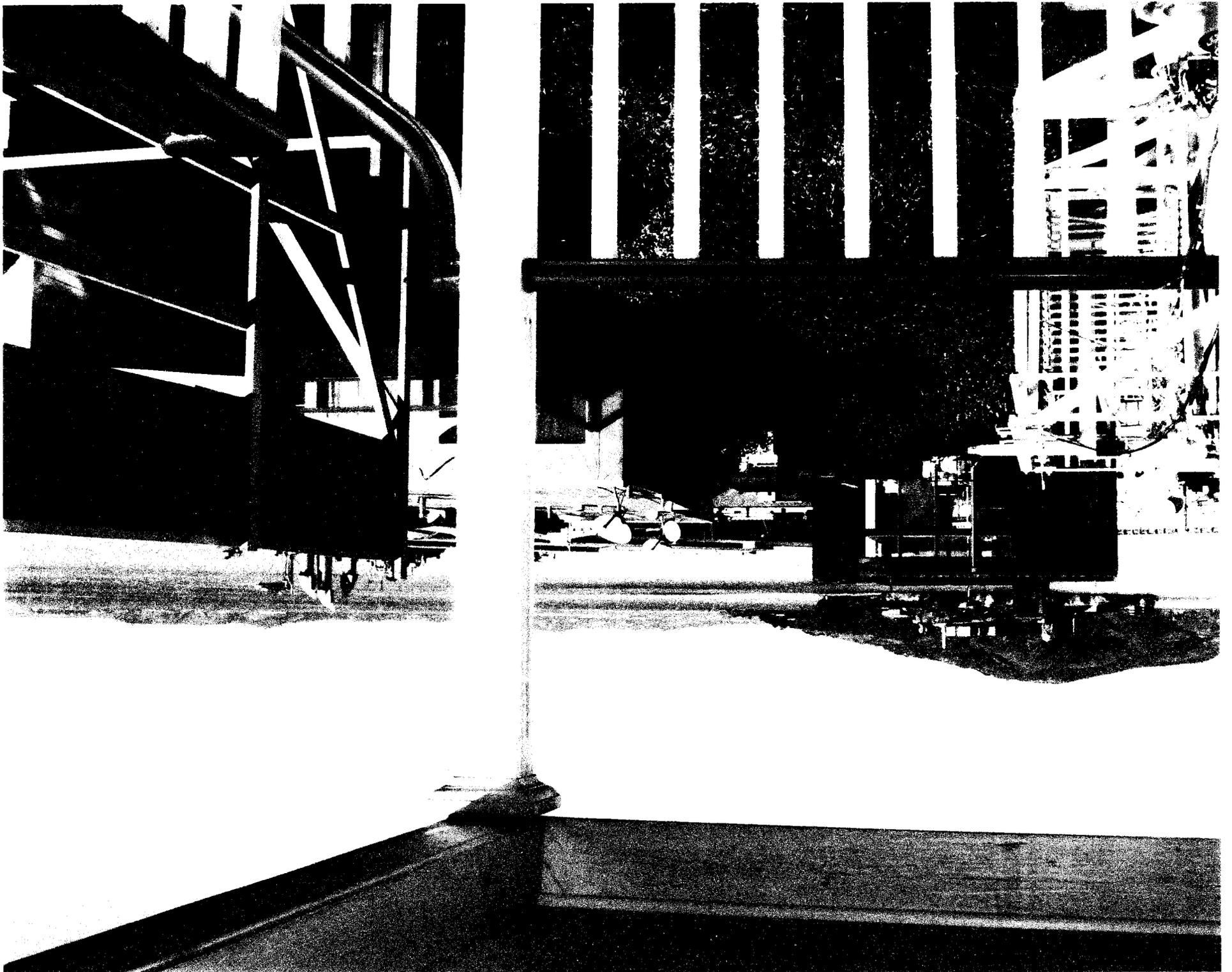
Photographs Taken From Mr. Thorpe's Property.

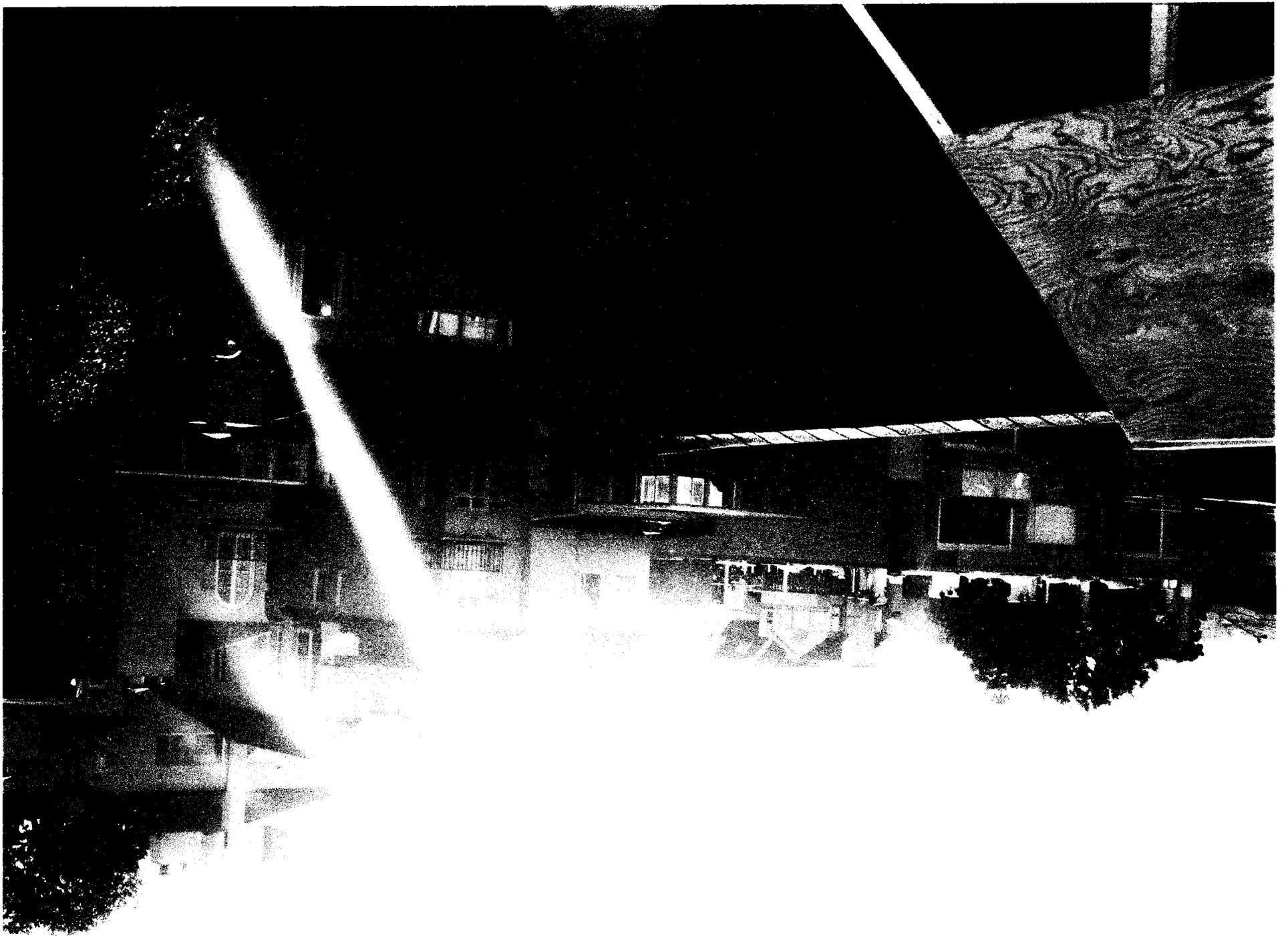
Please note the plywood structure to the east on
to of the existing represents the height of the
proposed project.

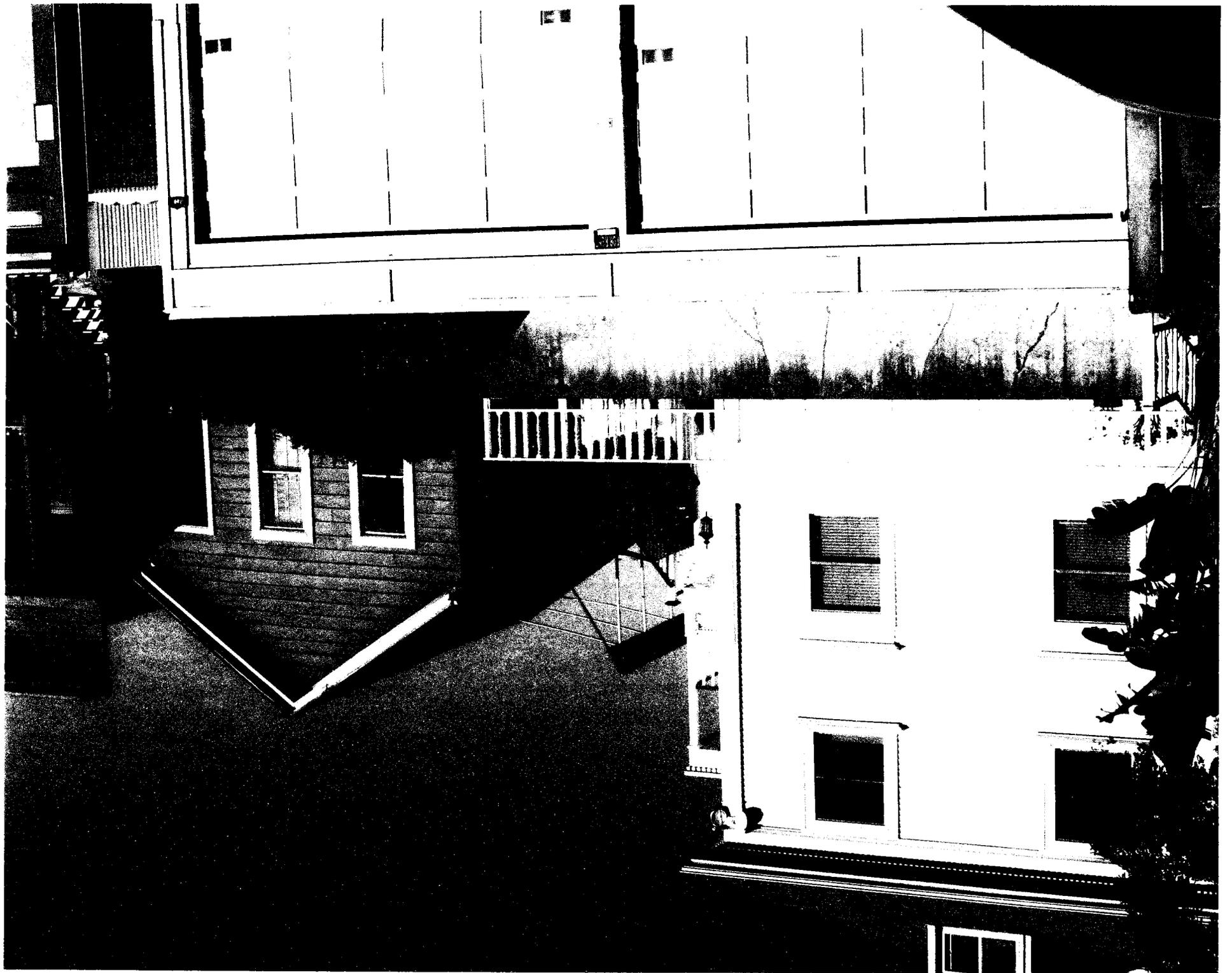




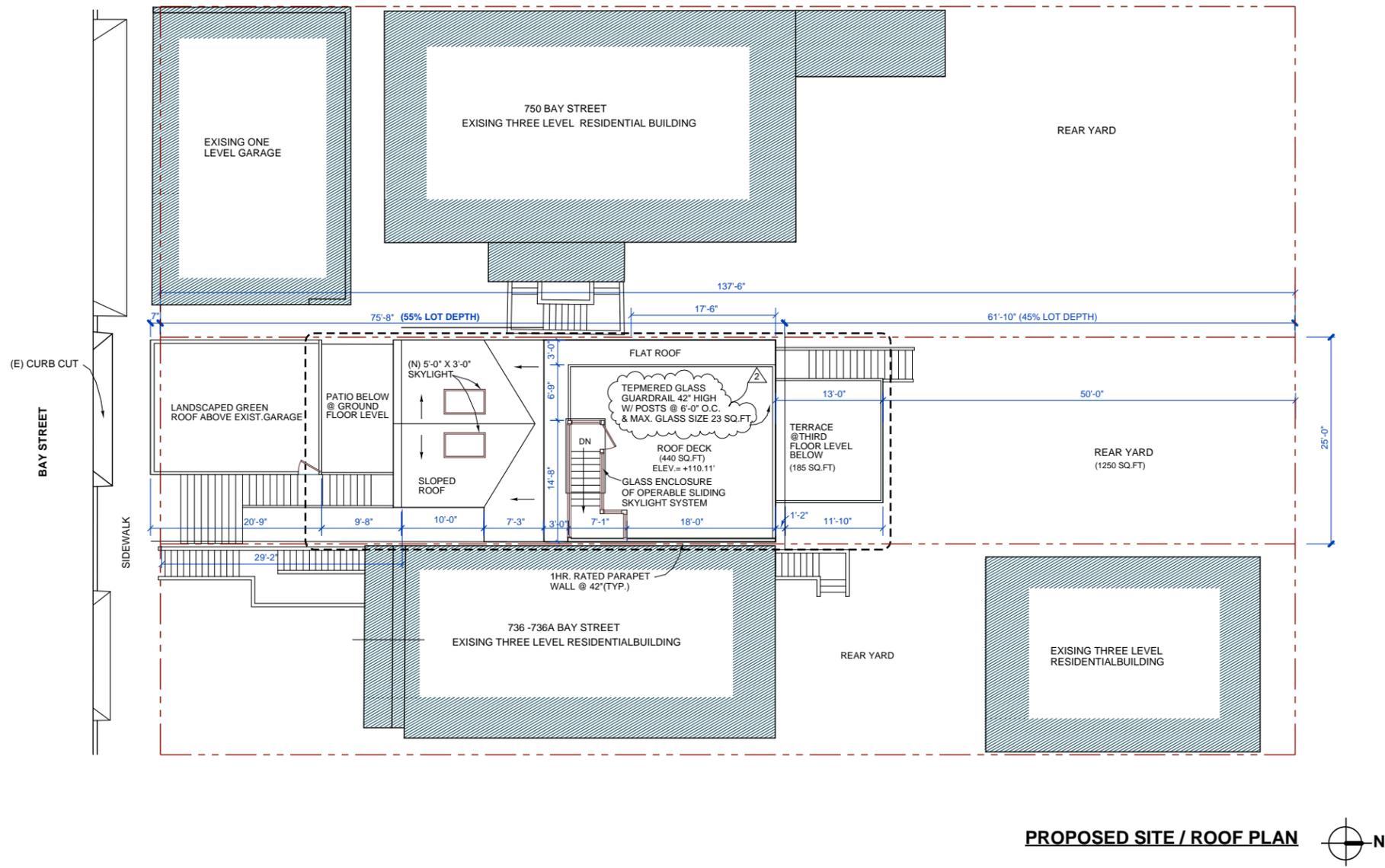








KEY:
 - - - - - PROPERTY LINE
 - - - - - SCOPE OF WORK



DRAWING INDEX

Revisions	By
1	8/1/12 ML
2	9/18/12 ML
4	11/26/12 ML

- A1 COVER SHEET / PROPOSED SITE / ROOF PLAN
- A2 EXISTING SITE / ROOF PLAN
- A3 EXISTING BASEMENT/ GROUND AND SECOND FLOOR PLANS
- A4 EXISTING FRONT ELEVATION
- A5 EXISTING REAR ELEVATION
- A6 EXISTING WEST SIDE ELEVATION
- A7 EXISTING EAST SIDE ELEVATION
- A8 PROPOSED BASEMENT / GROUND FLOOR PLANS
- A9 PROPOSED SECOND AND THIRD FLOOR PLANS
- A10 PROPOSED FRONT ELEVATION
- A11 PROPOSED REAR ELEVATION
- A12 PROPOSED WEST SIDE ELEVATION
- A13 PROPOSED EAST SIDE ELEVATION
- A14 PROPOSED SECTION A-A

SCOPE OF WORK

RENOVATION OF EXISTING TWO STORY BUILDING. ADDITION OF A 3RD STORY ABOVE THE EXISTING 2ND STORY. CREATION OF A FLAT ROOF AREA 1'-9" ABOVE THE EXISTING RIDGE LINE TOWARD THE REAR OF THE BUILDING. ADDITION OF A 2 STORY, 13 FOOT BY 15 FOOT ATTACHED STRUCTURE AT THE REAR OF THE BUILDING, EXTENDING 12'-0" BEYOND THE 55% LOT COVERAGE SETBACK LINE PER PLANNING CODE SECTION 136.

PLANNING DEPARTMENT NOTES

PROJECT LOCATION:
 NORTH SIDE OF BAY STREET, BETWEEN HYDE STREET AND LEAVENWORTH STREET. ASSESSOR'S BLOCK 0027, LOT 008

ZONING DISTRICT:
 RH-3

ALLOWABLE UNIT DENSITY:
 THREE RESIDENTIAL UNITS PER LOT

PROPOSED BUILDING USE:
 SINGLE FAMILY DWELLING UNIT W/ TWO CAR PARKING GARAGE

BUILDING HEIGHT LIMIT:
 40-X

FRONT SETBACK:
 NONE

REAR SETBACK:
 45% OF LOT AREA LESS A 12' X 15' ENCROACHMENT PER PLANNING CODE SECTION 136 (25)(B)(ii).

USABLE OPEN SPACE:
 100 S.F. PRIVATE USABLE OPEN SPACE REQUIRED. PRIVATE REAR YARD @ 1250 SQ.FT., DECK OF 185 SQ.FT. @ THIRD FLOOR LEVEL AND ROOF DECK OF 440 SQ.FT. PROVIDED, THEREFORE, BUILDING COMPLIES.

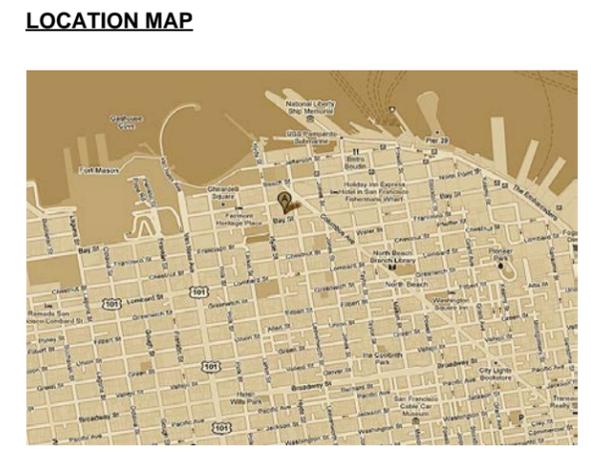
PARKING ALLOWANCE:
 ONE SPACE REQUIRED. EXISTING GARAGE ACCOMMODATES 2 PARKING SPACES, THEREFORE BUILDING COMPLIES.

NET BUILDING AREA CALCULATIONS: (EXISTING)

TOTAL RESIDENTIAL AREA	=	845 N.S.F.
GARAGE	=	285 N.S.F.
CIRCULATION/ STORAGE	=	909 N.S.F.
TOTAL NET BUILDING AREA	=	2,039 N.S.F.

NET BUILDING AREA CALCULATIONS: (PROPOSED)

TOTAL RESIDENTIAL AREA	=	3,175 N.S.F.
GARAGE	=	285 N.S.F.
CIRCULATION /STORAGE	=	50 N.S.F.
TOTAL NET BUILDING AREA	=	3,510 N.S.F.



Revisions By

1 8/1/12 ML

2 9/18/12 ML

4 11/26/12 ML

LEAVITT
 architecture

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

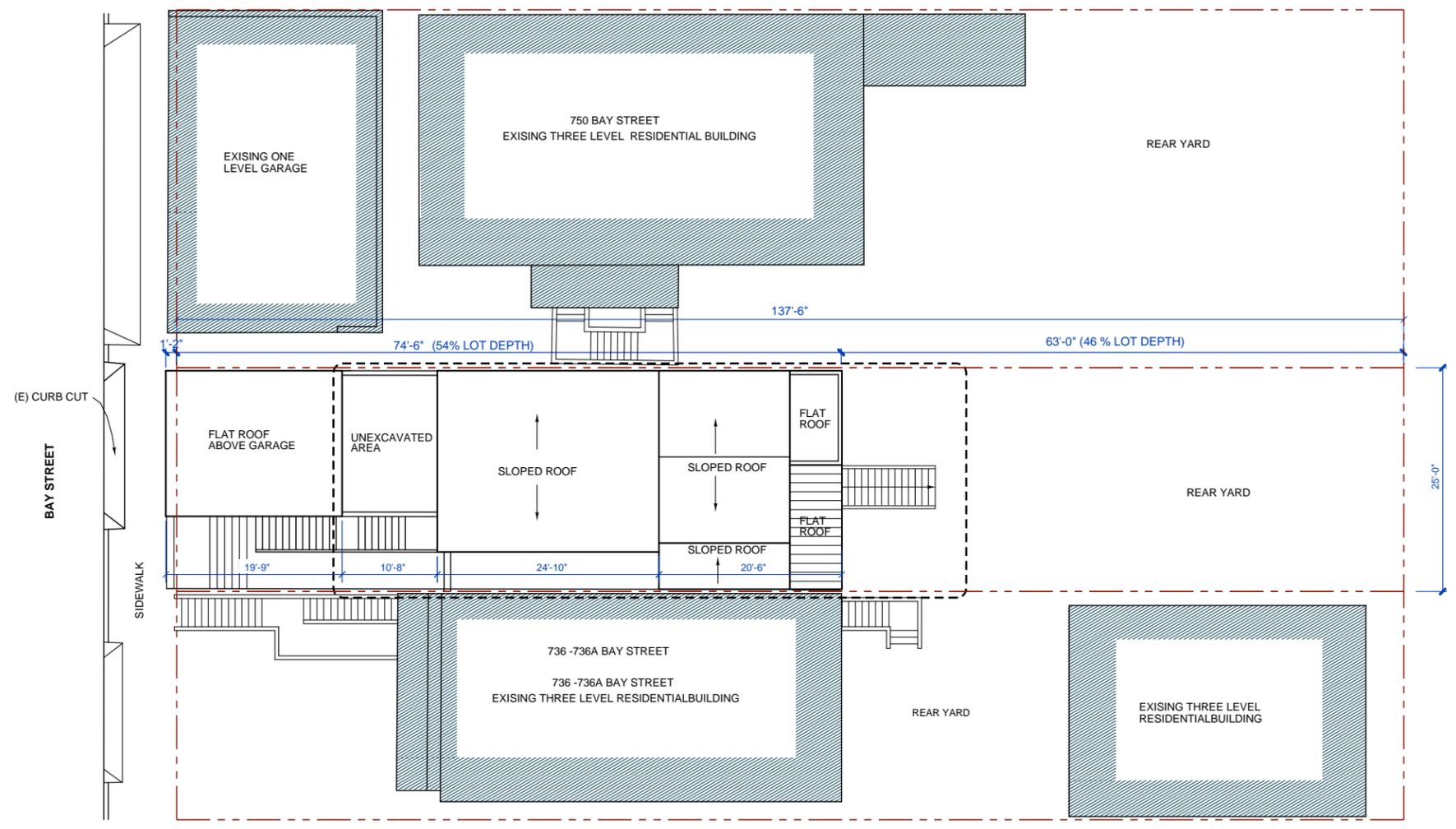
COVER SHEET / PROPOSED SITE / ROOF PLAN

740 BAY STREET RESIDENCE
 SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB. 2010
 SCALE: 1/8"=1'-0"
 DRAWN: ML
 SHEET:
A1

Revisions	By
1	8/1/12 ML
2	9/18/12 ML
4	11/26/12 ML

KEY:
 - - - - - PROPERTY LINE
 - - - - - SCOPE OF WORK



EXISTING SITE / ROOF PLAN 

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 architecture

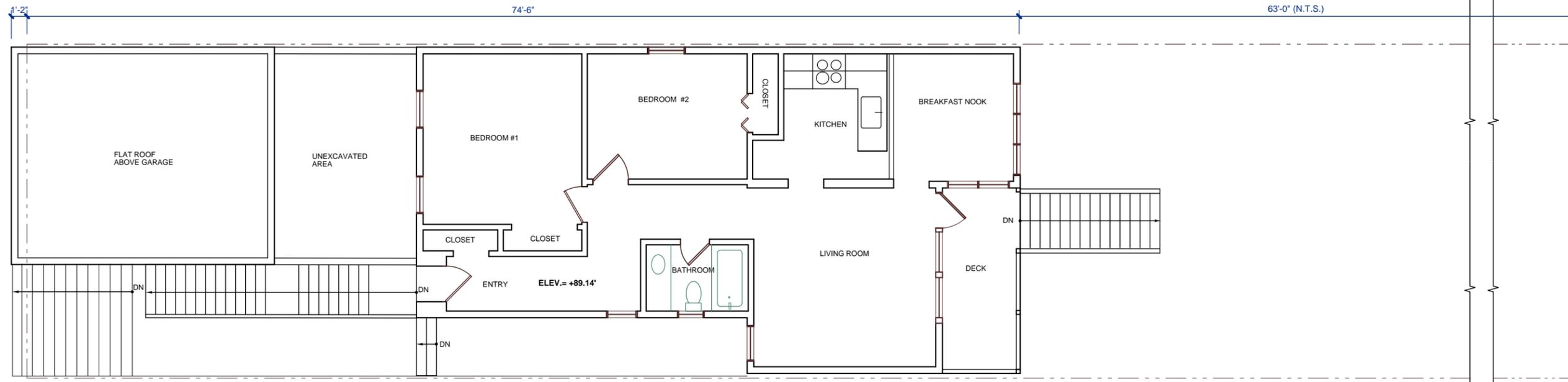
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 san francisco
 california 94133
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EXISTING SITE / ROOF PLAN

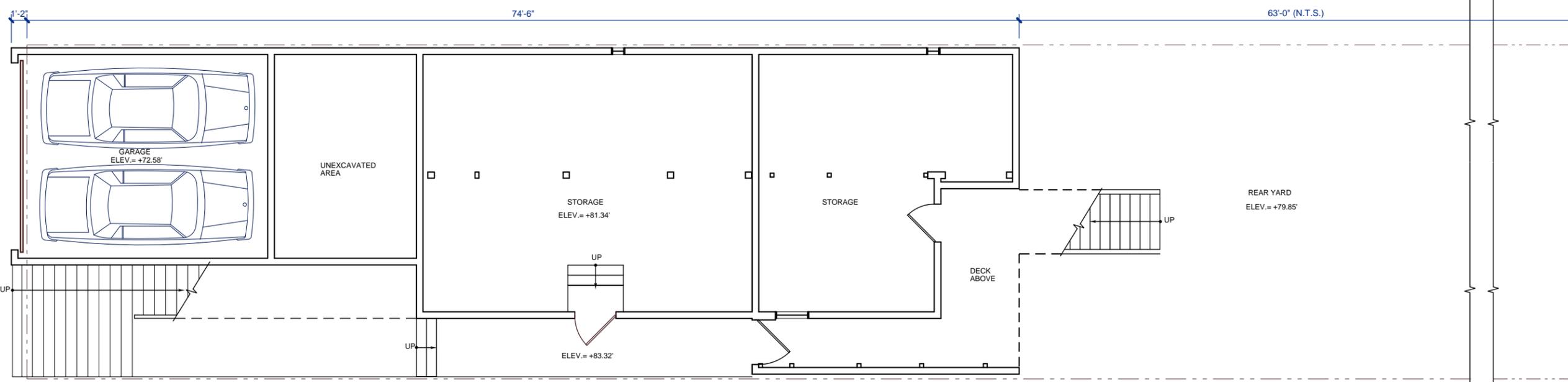
740 BAY STREET RESIDENCE
 SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB. 2010
 SCALE: 1/8"=1'-0"
 DRAWN: ML
 SHEET:

A2



EXISTING SECOND FLOOR PLAN



EXISTING BASEMENT / GROUND FLOOR PLAN



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 t 415 674 9100
 f 415 674 9101

EXISTING BASEMENT/ GROUND
 AND SECOND FLOOR PLANS

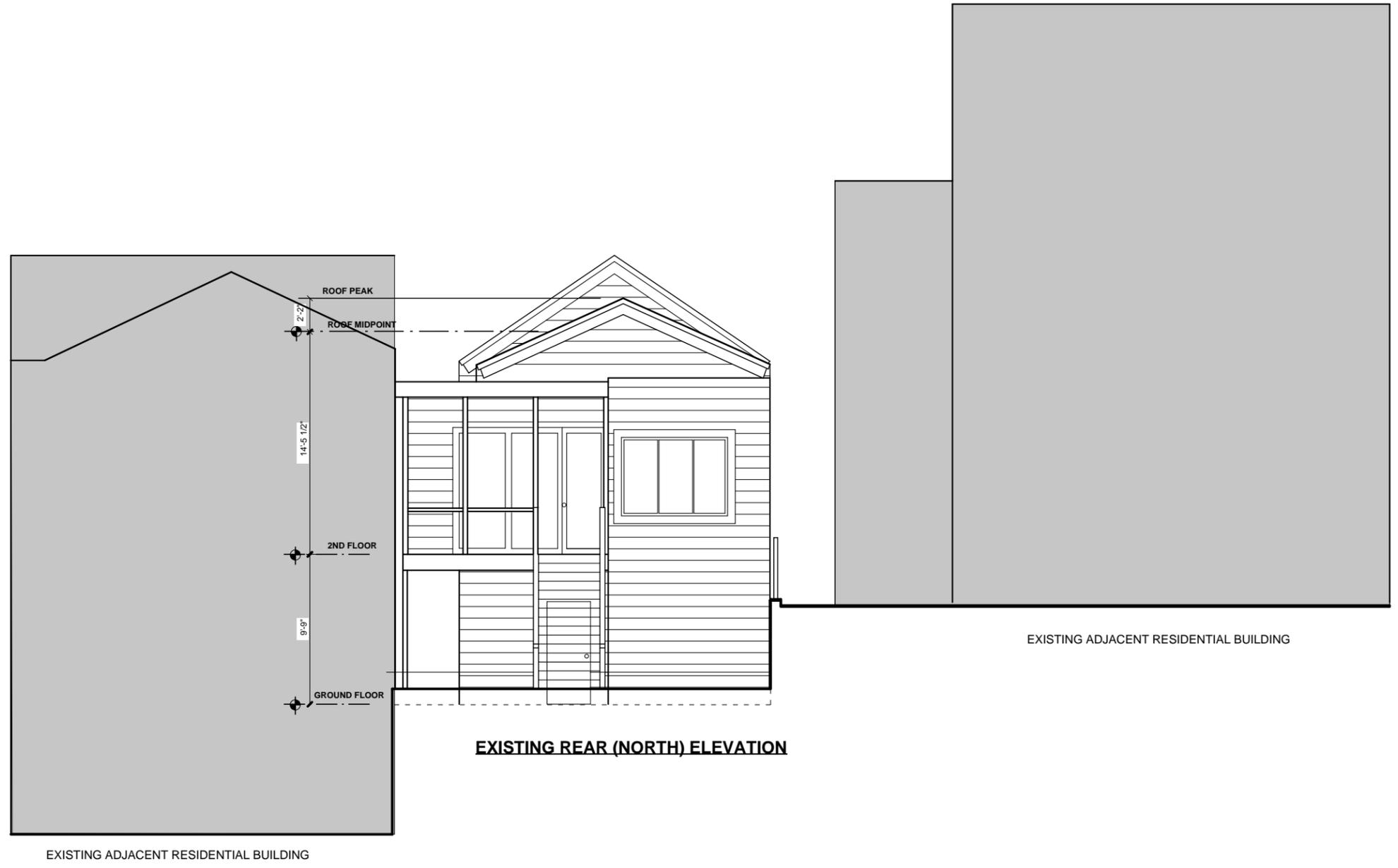
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 SAN FRANCISCO, CALIFORNIA BLOCK 6502, LOT 22

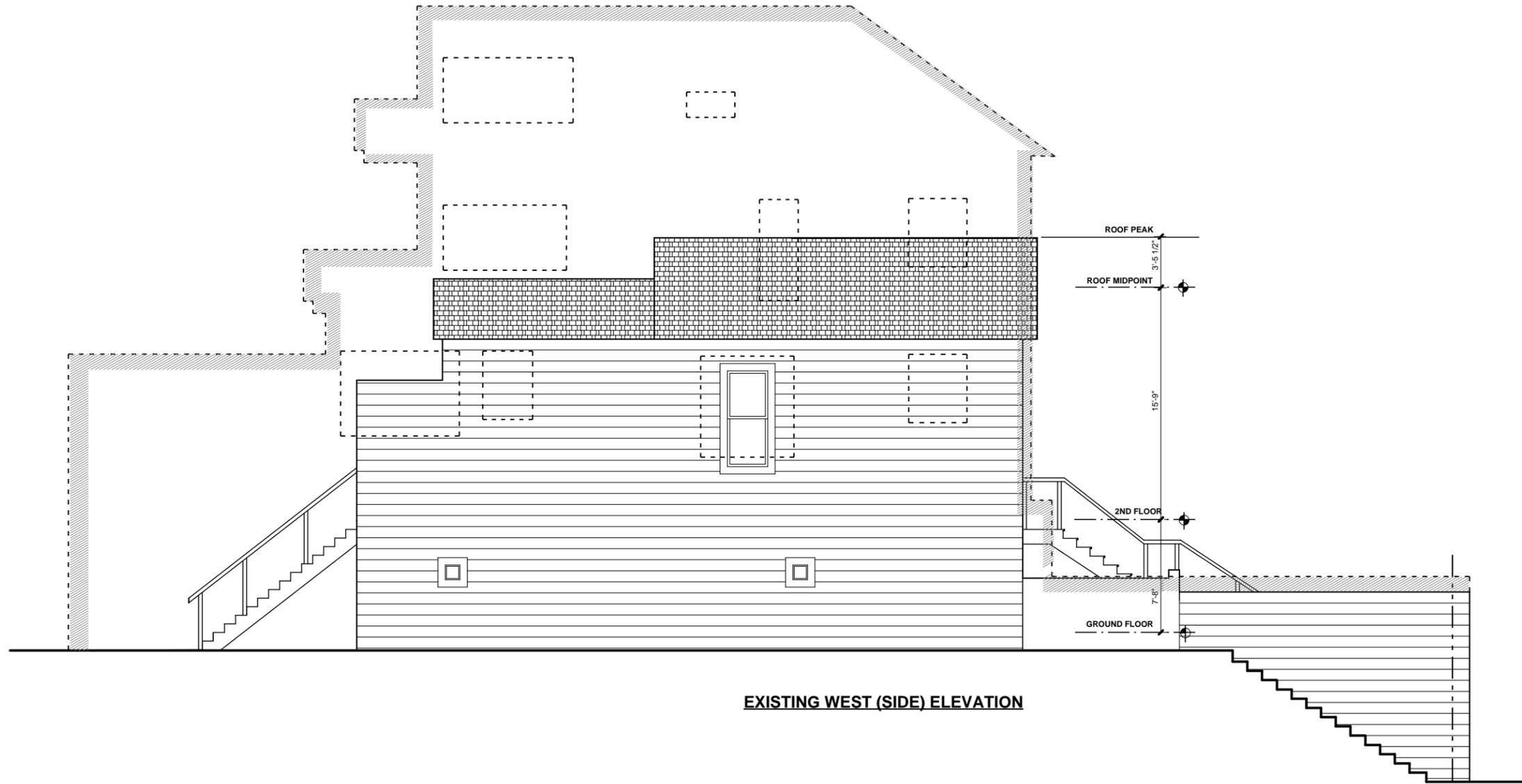
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 DRAWN: ML
 SHEET:

A3



EXISTING FRONT (SOUTH) ELEVATION





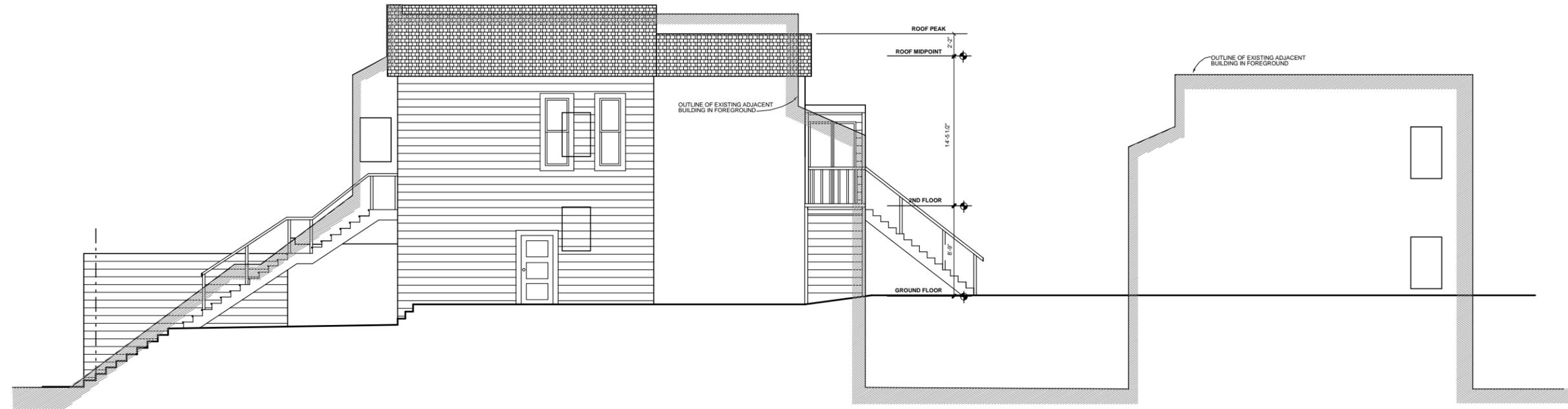
EXISTING WEST (SIDE) ELEVATION

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san francisco
california 94133
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f 415 674 9101

EXISTING WEST SIDE
ELEVATION

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008



EXISTING EAST (SIDE) ELEVATION

Revisions	By
▲ 8/1/12	ML

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architecture

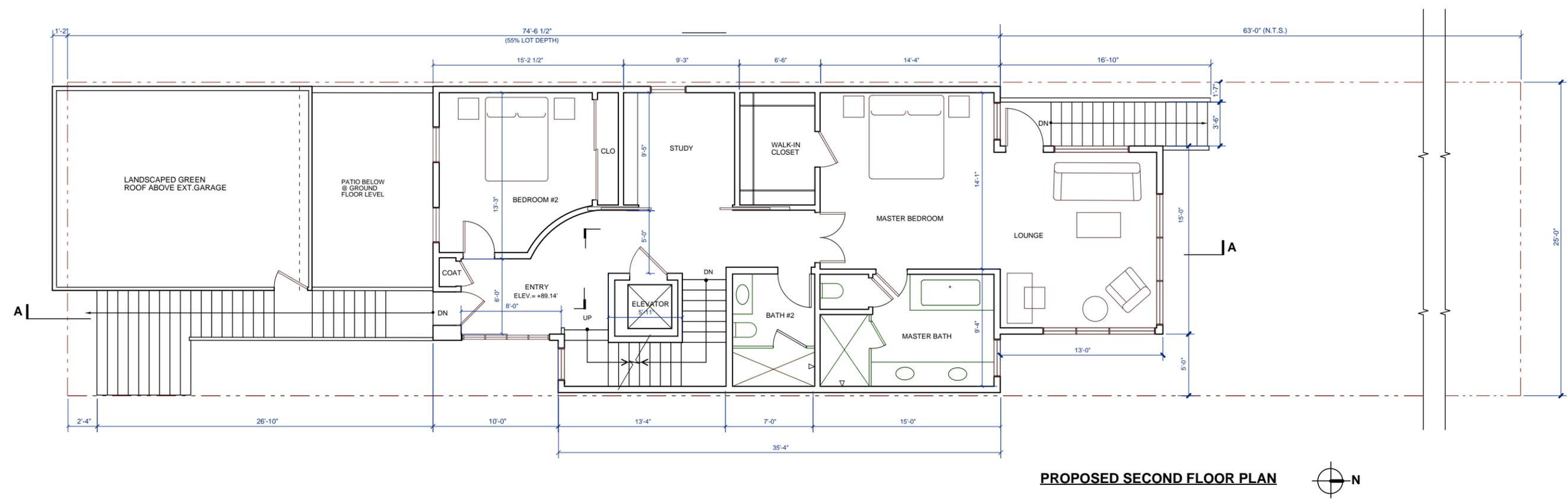
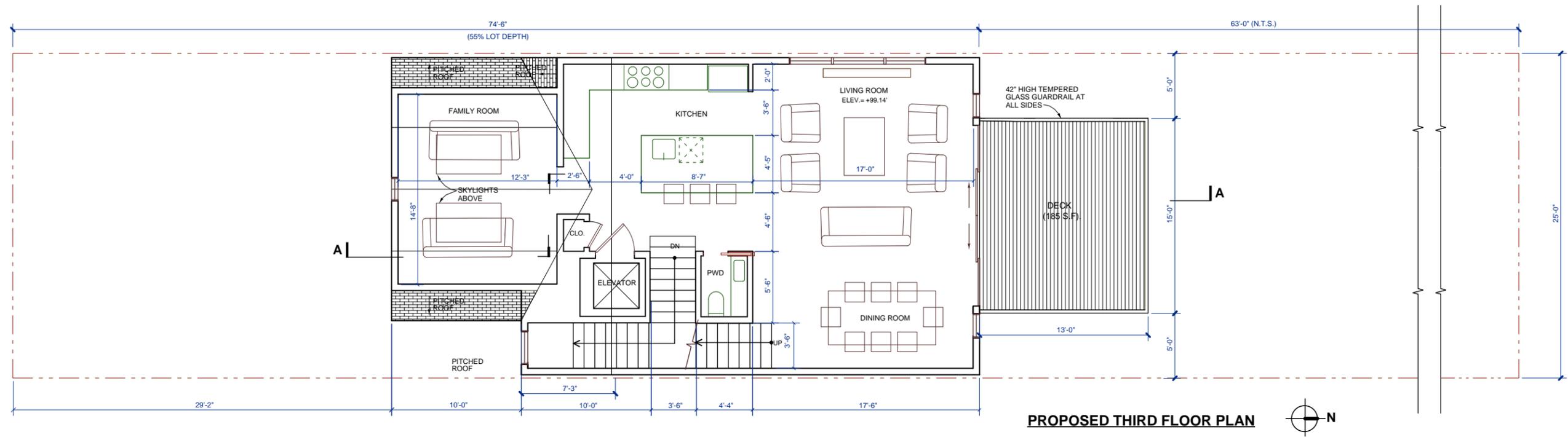
1327 mason st.
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california 94133
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f 415 674 9101

**PROPOSED SECOND AND
THIRD FLOOR PLANS**

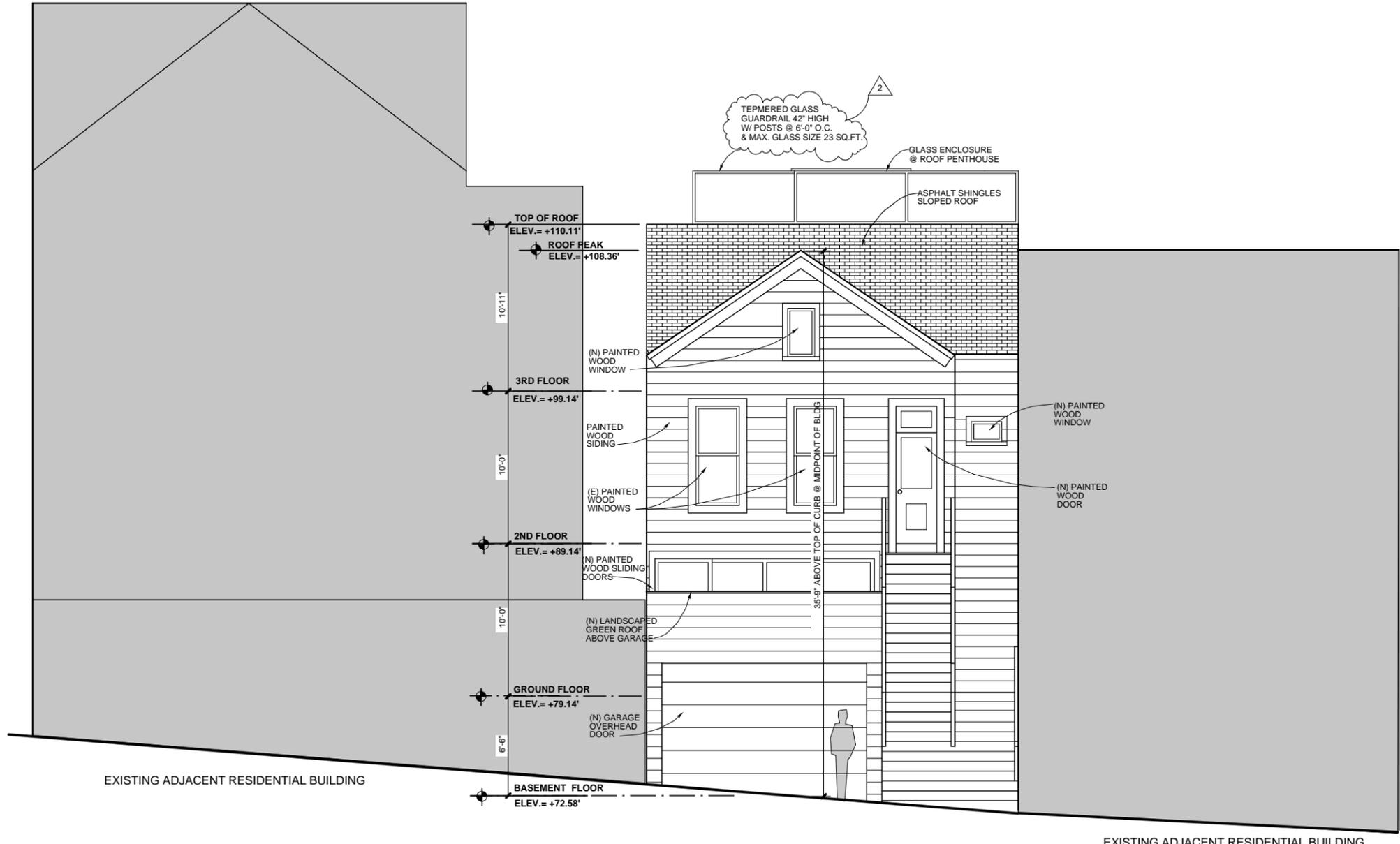
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SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB 2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A9



Revisions	By
1	8/1/12 ML
2	9/18/12 ML



PROPOSED FRONT (SOUTH) ELEVATION

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f 415 674 9101

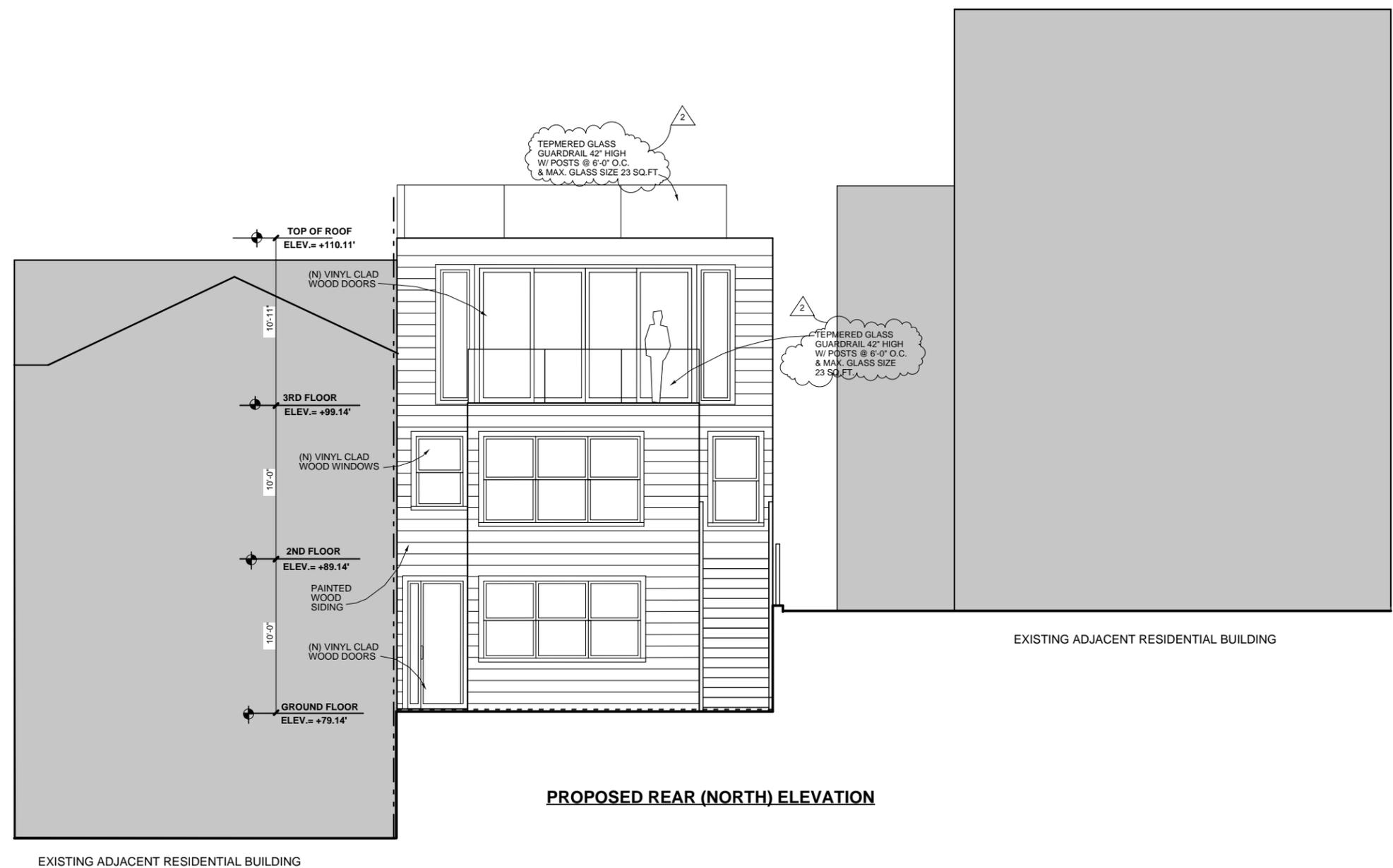
PROPOSED FRONT ELEVATION

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 6502, LOT 22

DATE: 22 FEB.2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A10

Revisions	By
1	8/1/12 ML
2	9/18/12 ML



PROPOSED REAR (NORTH) ELEVATION

EXISTING ADJACENT RESIDENTIAL BUILDING

EXISTING ADJACENT RESIDENTIAL BUILDING

LEAVITT
architecture

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

PROPOSED REAR ELEVATION

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 6502, LOT 22

DATE: 22 FEB. 2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A11

Revisions	By
1	8/1/12 ML
2	9/18/12 ML
4	11/26/12 ML

LEAVITT
architecture

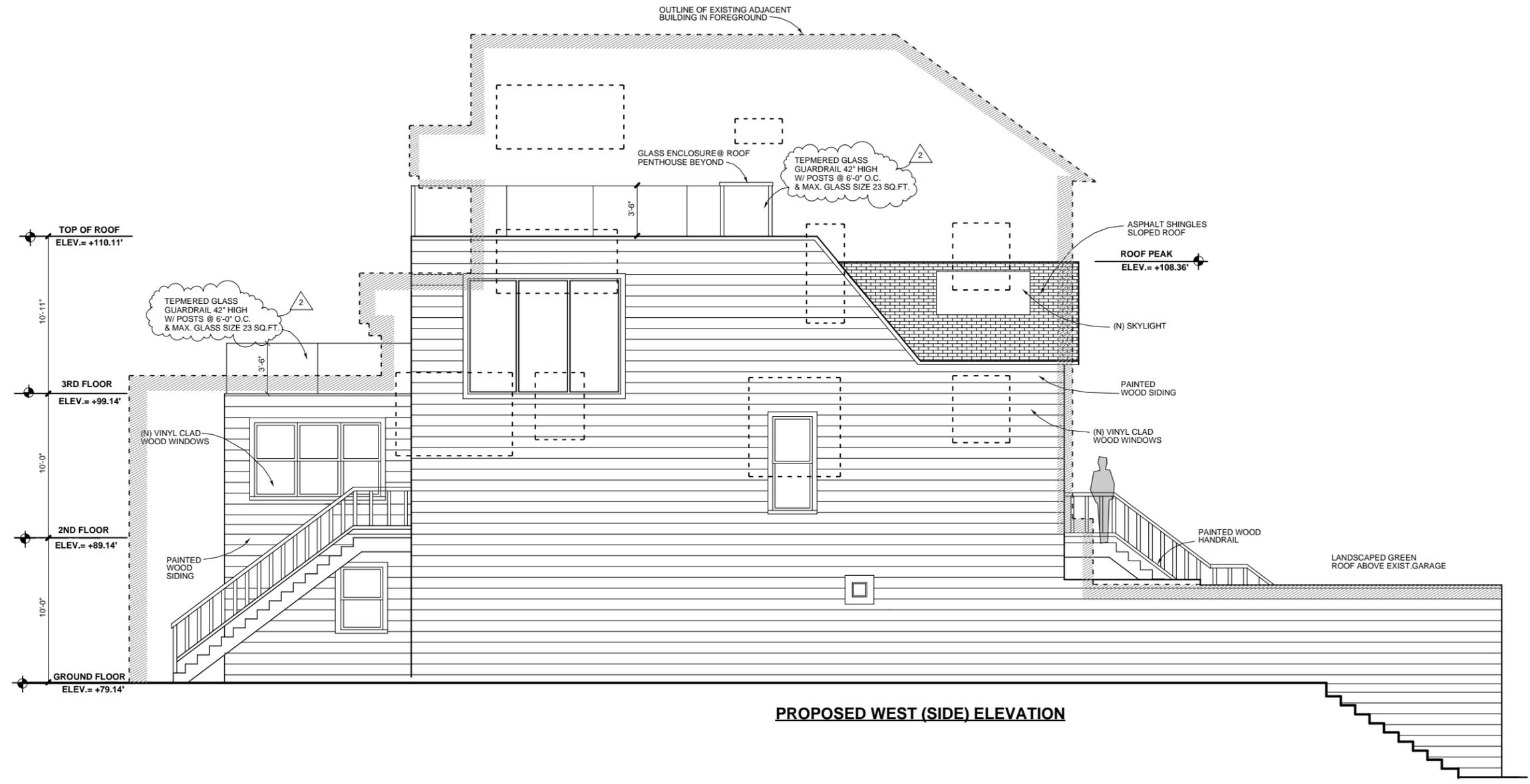
1327 mason st.
san francisco
california 94133
t 415 674 9100
f 415 674 9101

**PROPOSED
WEST ELEVATION**

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB. 2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A12



PROPOSED WEST (SIDE) ELEVATION

Revisions	By
8/1/12	ML
9/18/12	ML
11/26/12	ML

LEAVITT
architecture

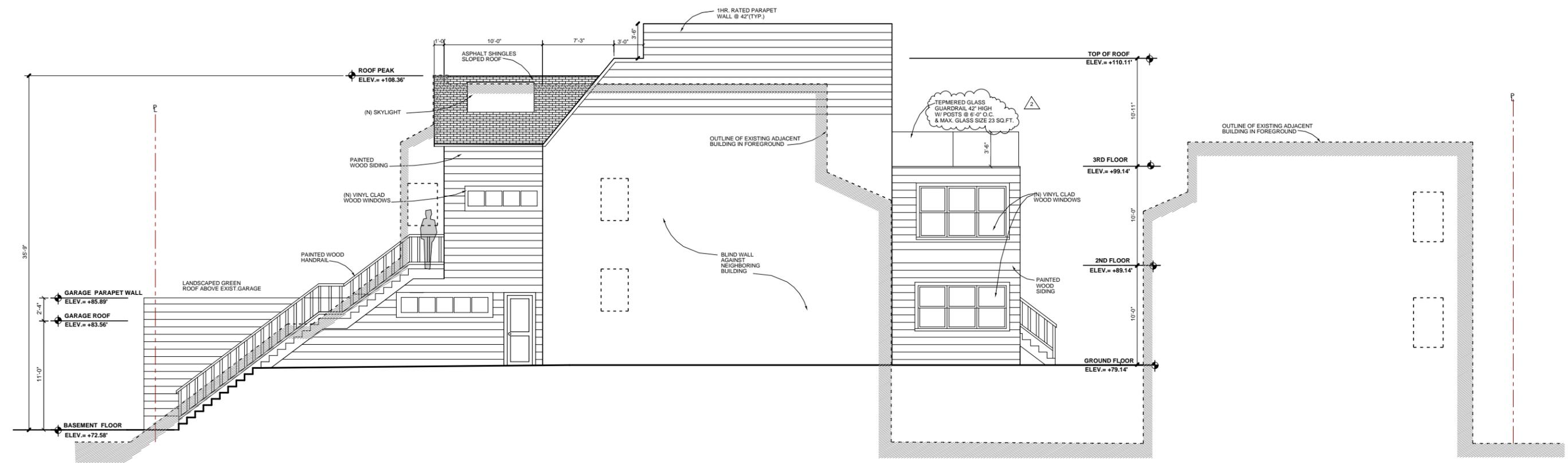
1327 mason st.
san francisco california 94133
1 415 674 9100
1 415 674 9101

**PROPOSED EAST
ELEVATION**

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB. 2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A13



PROPOSED EAST (SIDE) ELEVATION

Revisions	By
1	8/1/12 ML
2	9/18/12 ML



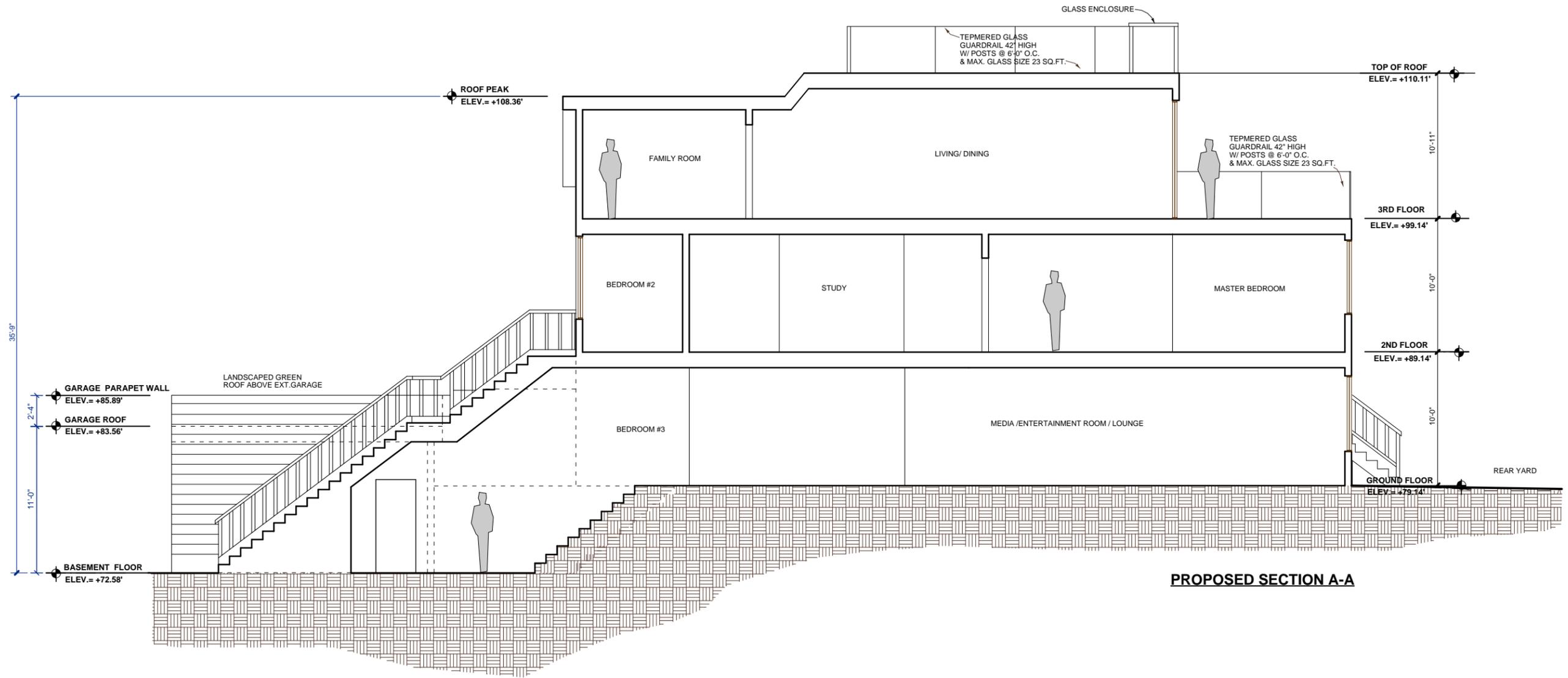
1327 mason st.
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california 94133
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f 415 674 9101

PROPOSED SECTION A-A

740 BAY STREET RESIDENCE
SAN FRANCISCO, CALIFORNIA BLOCK 0027, LOT 008

DATE: 22 FEB. 2010
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A14



PROPOSED SECTION A-A



740 BAY STREET RENOVATION ■ SAN FRANCISCO, CA

PROPOSED VIEW LOOKING NORTHWEST

