

MEMO

DATE: September 10, 2014

TO: Historic Preservation Commission

FROM: Rich Sucré, Historic Preservation Technical Specialist, (415) 575-9108

REVIEWED BY: Tim Frye, Preservation Coordinator, (415) 575-6822

RE: Preservation Incentives in the San Francisco Planning Code

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BACKGROUND

At its July 16, 2014 hearing, the Historic Preservation Commission (HPC) requested information on existing preservation incentives within the Planning Code. Specifically, the HPC inquired about the Department's review of projects seeking to apply Code provisions that allow for flexible use controls for historic resources. This memorandum addresses the preservation incentives within the San Francisco Planning Code that are available to qualified historic resources.

For ease of reading, this memorandum provides an abbreviated summary of the incentives and categorized them as follows: Land Use Incentives, Other Code Requirements, Financial Incentives, and Miscellaneous.

LAND USE INCENTIVES

These sections of the Planning Code provide for flexibility in permitted uses, thus encouraging the adaptive reuse of local landmarks and landmark district. Zoning flexibility is a common historic preservation strategy used in other local jurisdictions to encourage reuse of local landmarks.

Non-Residential Use in Residential Districts (Planning Code Section 209.9(e))

For Article 10 Landmarks in Residential Districts, the Planning Code permits any ground floor use listed in the NC-1 District with Conditional Use Authorization from the Planning Commission. Residential Districts include: RH-1, RH-1(D), RH-2, RH-3, RM-1, RM-2, RM-3, RM-4, RTO and RTO-M. The Planning Commission must adopt findings that the proposed use would enhance the feasibility of preserving the landmark.

Example: Typically, retail or restaurant use is not permitted within a Residential District. With Conditional Use Authorization, retail or restaurant use would be permitted within an Article 10 Landmark. Any proposed work to character-defining features or the installation of business signage would require review and approval by the HPC, or delegated to planning staff by the HPC, prior to the hearing before the Planning Commission.

Office Use in PDR-1-G and PDR-1-D (Planning Code Section 219)

Within the PDR-1-G and PDR-1-D Zoning Districts, the Planning Code principally permits office use in Article 10 Landmarks. Per Resolution No. 267-14 passed on July 25, 2014 by the Board of Supervisors, interim controls have been adopted that require Conditional Use Authorization from the Planning Commission for any conversion of an Article 10 Landmark to office use within the PDR-1-D and PDR-1-G Zoning Districts. These interim controls outline additional findings for office conversions including:

- The economic and fiscal impact of the proposed commercial office use in the area. To this
 end, the applicant is required to provide the Planning Department as part of its
 conditional use application a complete economic impact analysis of the proposed use,
 prepared by an independent licensed professional;
- The availability of space for PDR uses in the surrounding neighborhood;
- The compatibility of the proposed commercial office use with PDR uses; and
- The land use and planning effects of displacement of any existing tenants from the building. To this end, the applicant shall provide the Planning Department as part of its conditional use application a tenant relocation plan.

Jackson Square Special Use District (Planning Code Section 249.25)

The Jackson Square Special Use District is intended to protect and enhance the unique retail character of this area. The Jackson Square Special Use District is coterminous with the Jackson Square Landmark District. Within the Landmark District, the provisions of the C-2 Zoning District apply, except for office use or institutional use, which require Conditional Use Authorization from the Planning Commission.

Office Use in Folsom St NCT and RCD Zoning Districts (Planning Code Section 703.9)

Adopted as part of the recently approved Western SoMa Area Plan, this Code section provides land use incentive flexibility for qualified historic properties. Within the Folsom St NCT and RCD Zoning Districts, the Planning Code permits office use in Article 10 Landmarks, Article 11 Category I, II, III and IV-designated properties, and buildings listed in or determined individually eligible for the National Register of Historic Places or California Register of Historical Resources. This use is authorized by the Zoning Administrator with the advice of the Historic Preservation Commission, who must determine if the proposed use will enhance the feasibility of preserving the historic property. Currently, the Department has not had any applications, which have utilized this Code section.

Example: Typically, office use is not permitted within the Folsom St NCT and RCD Zoning Districts. With the advice of the Department, a Project Sponsor would prepare a Historic Preservation Maintenance Plan (HBMP) for review by the HPC, who would provide a recommendation to the Zoning Administrator to determine if the proposed office use would enhance the feasibility of preserving the historic building. With HPC and Zoning Administrator approval, office use would be permitted within a qualified historic property.

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Commercial Uses in Certain Mixed-Use Districts (Planning Code Section 803.9(a), 803.9(b)(1), 803.9(b)(2), 803.9(b)(3), and 803.9(c))

Within Certain Mixed-Use Districts, the Planning Code principally or conditionally permits various commercial uses that otherwise are not be permitted. The approval path for these commercial uses varies depending on the: (1) zoning district, (2) historic status, and (3) proposed use. Below is a table that illustrates Planning Code Section 803.9. Depending on the proposed use, approval may be received from either the Zoning Administrator (ZA) or with Conditional Use Authorization from the Planning Commission. Depending on the zoning district, the historic status may either be: Article 10 Landmark (A10), Contributing Resources to Article 10 Landmark Districts (A10D), Article 11 Category I, II, III and IV (A11), Listed in or determined eligible for National Register (NR), or Listed in or determined eligible for California Register (CR).

Planning Code Section	Zoning District	Historic Status (A10, A10D, A11, NR or CR)	Proposed Use	Approval Authority (ZA or Planning Commission)
803.9(a)	SoMa Mixed Use Districts	A10, A10D or A11	Principal Uses in SSO District <25,000 sf	ZA
803.9(a)	SoMa Mixed Use Districts	A10, A10D or A11	Principal Uses in SSO District >25,000 sf	Planning Commission
803.9(b)(1)	SPD, MUG, MUO, and MUR	A10, A10D or CR	All Uses	ZA
803.9(b)(2)	RED and RED-MX	A10, A10D, A11 and Extended Preservation District, NR (Individual Only) or CR (Individual Only)	Office or Retail Use	ZA
803.9(b)(3)	WMUG	A10, A10D, A11 and Extended Preservation District, NR (Individual Only) or CR (Individual Only)	Office Use	ZA
803.9(b)(c)	UMU	A10, A10D or CR	All Uses	ZA

For use of this Planning Code section, the HPC must provide a recommendation on whether the proposed use would enhance the feasibility of preserving the historic property. Economic feasibility is not a factor in determining application of the code provision. The incentive

acknowledges that older buildings generally require more upkeep due to their age, antiquated building systems, and require intervention to adapt to contemporary uses. The property owner commits to preserving and maintaining the building, restoring deteriorated or missing features, providing educational opportunities for the public regarding the history of the building and the district, etc. As a result the owner is granted flexibility in the use of the property.

Department staff, along with advice from the Historic Preservation Commission, considers the overall historic preservation public benefit in preserving the subject property. Whether the rehabilitation and maintenance plan will enhance the feasibility of preserving the building is determined on a case-by-case basis. Typically, the Historic Preservation Maintenance Plan (HPMP) from the Project Sponsor will outline a short- and long-term maintenance and repair program. These plans vary in content based on the character-defining features of the property and its overall condition. Maintenance and repair programs may include elements, like a window rehabilitation program, sign program, interpretative exhibit, among others.

Example: Attached is a sample resolution and Historic Building Maintenance Plan previously reviewed by the HPC that illustrates the use of Planning Code Section 803.9(a) (See Case No. 2012.0041BC).

OTHER CODE REQUIREMENTS

These sections of the Planning Code provide for a modification or waiver from requirements that may have the potential to negatively affect a historic property. Since many historic properties were constructed prior to the requirements of the Planning Code, literal enforcement of these code requirements could result in the alteration or removal og important character-defining features. Relief from these code requirements provides a much-needed incentive for the reuse and preservation of historic properties.

Relief from Exposure Requirements in Eastern Neighborhoods Mixed-Use Districts (Planning Code Sections 140(b), 307(h) and 329(d)(9))

Since many historic properties were constructed prior to the requirements for exposures, the Planning Code provides a mechanism for seeking a modification or waiver from exposure requirements for dwelling units. Qualified historic properties may seek a modification or waiver from the Zoning Administrator or Planning Commission for dwelling units in Landmarks and contributing resources to Landmark Districts designated in Article 10.

Example: At 178 Townsend Street (a contributing resource to the South End Landmark District), the conversion of the historic power plant into residential units required a modification to the exposure requirements, in order to preserve portions of characterdefining brick exterior and allow for the construction of residential units (See Case No. 2009.0476C).

Standards for Bird-Safe Buildings (Planning Code Section 139(c)(3)(B))

The Planning Code exempts qualified historic properties from the standards for bird-safe buildings. Reversible treatment methods such as netting, glass films, grates, and screens are

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Example: At One Bush Street/523 Market Street (Crown Zellerbach Building; Landmark No. 183), restoration or repair of the curtain wall would be exempt from the Standards for Bird-Safe Buildings, since the curtain design and large expanses of glass were essential elements to the original design.

Street Frontage in NC, C, R-C, and Mixed Use Districts (Planning Code Section 145.1(d))

In order to promote the retention of historic fabric while acknowledging the fact that many historic buildings were constructed prior to current code requirements, the Planning Commission or Zoning Administrator can waive street frontage requirements for qualified historic properties. The Historic Preservation Commission shall provide a recommendation that the modification or waiver would enhance the feasibility of preserving the historic property. The waivers include: Above-Grade Parking Setback; Parking and Loading Entrances; Active Use Required; Ground Floor Ceiling Height; Street-Facing Ground-Level Spaces; Transparency and Fenestration; and Gates, Railings and Grillwork.

Example: At 111 Townsend Street (a contributing resource to the South End Landmark District), the change of use from manufacturing to office use required a waiver of the certain aspects of the street frontage requirements (such as transparency and fenestration) to allow for the rehabilitation (See Case No. 2011.0135A).

No Required Off-Street Parking or Freight Loading (Planning Code Section 161(k))

Since many historic properties were constructed without garages or parking areas, the Planning Code provides relief from the off-street parking and loading requirements of Planning Code Sections 150, 151, 151.1, and 152. The Planning Code specifies that a qualified historic property shall have no required off-street parking or loading requirements. Qualified historic properties include: 1) an Article 10 Landmark; 2) a contributing resources to an Article 10 Landmark District; 3) an Article 11 Category I, II, III or IV; or 4) a building listed in National Register of Historic Places and/or California Register of Historical Resources.

Example: At 1401 Howard Street (Landmark No. 120), the conversion of the historic church into office space did not require the creation of new off-street parking and freight loading (See Case No. 2011.0929AC).

Noncomplying Structures in C-3 Zoning District (Planning Code Section 188(d)(1))

The Planning Code has provisions to facilitate the adaptive reuse or rehabilitation of a Landmark or contributory resources in a Landmark District in Article 10 or properties designated as Category I, II, III or IV in Article 11 in the C-3 Zoning District. Since many historic properties were constructed prior to the provisions of the Planning Code, enlargement or reconstruction of noncomplying structures would not typically be permitted without approval from the Zoning

Administrator through a variance. Planning Code Section 188(d)(1) allows the enlargement or reconstruction of noncomplying structures through a Certificate of Appropriateness granted by the Historic Preservation Commission, thus consolidating the approval of certain projects.

Historic Signs Exempt from Height Limit (Planning Code Section 260(b)(1)(Q))

To promote the retention of important character-defining elements, the Planning Code exempts historic signs within a historic sign district from the height limit requirements.

Example: At 2055 Union Street (Metro Theater; Landmark No. 261), the historic marquee projects slightly above the 40-ft height limit, which would be permitted per Planning Code Section 260(b)(1)(Q).

FINANCIAL INCENTIVES

Transfer of Development Rights in C-3 Districts (Planning Code Sections 127 and 128)

Transferable Development Rights ("TDR") allow for the transfer of unused development potential from one parcel to another. In order to maintain development potential, while protecting buildings of merit by incentivizing the upkeep of historic buildings, buildings of merit - 1) an Article 10 landmark; 2) an Article 10 contributor; 3) an Article 11 Category I-IV; or 4) a building listed in the National Register and/or California Register - are solely entitled to sell TDR. A portion of the sale's proceeds must be used to finance the maintenance, rehabilitation and restoration of the building of merit. TDR is a benefit used by many jurisdictions to incentivize the preservation of historic properties.

Example: At 124 2nd Street (designated as Category IV in Article 11, and part of hte New Montgomery-Mission-2nd Street Conservation District), the Property Owners transferred the unused development potential, in order to protect and maintain the existing historic building (See Case No. 2013.0755N).

Mills Act Property Tax Reduction

(Planning Code Section 1002(a)(10); Chapter 71 of the Administrative Code)

The Mills Act is perhaps the best preservation incentive available to private property owners in San Francisco. Enacted by the State of California in 1976, the Mills Act authorizes local governments to enter into contracts with owners of privately owned historical property to insure its rehabilitation, restoration, preservation and long-term maintenance. In return, the property owner enjoys a reduction in property taxes for a given period. Mills Act contracts have the net effect of freezing the base value of the property, thereby keeping property taxes low. The City's Mills Act enabling legislation was adopted in 1996. Owners of buildings of merit - 1) an Article 10 landmark; 2) an Article 10 contributor; 3) an Article 11 Category I-IV; or 4) National Register and/or California Register - are eligible to apply for a Mills Act contract.

Example: At 201 Buchanan Street (Nightingale House; Landmark No. 47), the HPC and Board of Supervisors approved a Mills Act Contract for the restoration of the exterior (See Case No. 2011.0310U).

MISCELLANEOUS

Vintage Sign

(Planning Code Section 608.14)

The Planning Code outlines provisions for restoring and maintaining vintage signs, which are defined as text or graphics of a particular residential, business, cultural, economic, recreational, or other valued resource, which is deemed by the Planning Commission to be a cultural artifact that contributes to the visual identity and historic character of a City neighborhood or the City. Vintage signs are not considered to be historic resources. With Conditional Use Authorization from the Planning Commission, these vintage signs may be restored or maintained provided that:

- The vintage sign to be restored, reconstructed or technologically improved depicts a use, person, place, thing, cultural icon or other valued character or characteristics of the City or a City neighborhood that, at the time of the vintage sign authorization, is at least 40 years old;
- At least 50 percent of the area of the sign remains legible,
- The sign does not visually obstruct or significantly impair or detract from, by glare or any other means, a City landmark or public vista;
- The sign is not larger than the sign that existed prior to the vintage sign authorization and
 does not appear to be more visually prominent than the sign that existed prior to the
 vintage sign authorization; and
- The sign is maintained in good condition, repair and working order. Designation as a vintage sign under this Section does not by itself protect the sign from being obscured or removed by future development projects.

Example: In Bernal Heights at 601 Tompkins Avenue, a vintage coca cola sign was allowed to be restored by the Planning Commission (See Case No. 2011.1145C).

Alterations and Reconstruction of Historic Signs/Marquees. (Planning Code Section 188(e))

To assist in the restoration and reconstruction of historic signs and marquees, the Planning Code has provisions to allow for the restoration and/or reconstruction of historic signs and marquees associated with Qualified Movie Theaters. The Planning Department, with consultation from the Zoning Administrator and the HPC, may grant Conditional Use approval to allow the restoration and reconstruction of historic signs and marquees which tend to be larger than currently complying signs.

Example: At the New Mission Theater at 2550 Mission Street (Landmark No. 245), the HPC permitted the restoration of the historic theater marquee under Planning Code Section 188(e). Since the existing marquee exceeds the allowable height limits and sidewalk projections, the HPC and Zoning Administrator required review and approval to allow the restoration of the historic marquee (See Case No. 2006.0494A).

ATTACHMENTS

- Sample Resolution for Planning Code Section 803.9(a)
- Sample Historic Preservation Maintenance Plan (HBMP)

Historic Preservation Commission Resolution No. 0683

HEARING DATE: June 20, 2012

Date: June 20, 2012 Case No.: **2012.0041B**

Project Address: 444 De Haro Street

Zoning: UMU (Urban Mixed Use) Zoning District

48-X Height and Bulk District

Block/Lot: 3979/001

Project Sponsor: Jeffrey Needs, Winthrop Management BPCC

Staff Contact: Richard Sucré – (415) 575-9108

richard.sucre@sfgov.org

Reviewed By: Tim Frye, Preservation Coordinator

tim.frye@sfgov.org

ADOPTING FINDINGS FOR THE PROPOSED PROJECT AT 444 DE HARO STREET (ASSESSOR'S BLOCK 3979, LOT 001), LOCATED WITHIN UMU (URBAN MIXED USE) ZONING DISTRICT AND 48-X HEIGHT AND BULK DISTRICT.

PREAMBLE

- 1. WHEREAS, on February 2, 2012, Jeffrey Needs of Winthrop Management BPCC (Project Sponsor) on behalf of 444 De Haro VEF VI, LLC (Property Owner) filed an Office Allocation Application with the San Francisco Planning Department for 444 De Haro Street (Block 3979, Lot 001).
- 2. WHEREAS, the proposed project intends to utilize Planning Code Section 803.9(c) to allow office use on the ground floor of 444 De Haro Street. Pursuant to Planning Code Section 803.9(c), the following provision is intended to support the economic viability of buildings of historic importance within the UMU District:
 - (1) This subsection applies only to buildings that are a designated landmark building, or a building listed on or determined eligible for the California Register of Historical Resources by the State Office of Historic Preservation.
 - (2) All uses are permitted as of right, provided that:
 - (A) The project does not contain nighttime entertainment.
 - (B) Prior to the issuance of any necessary permits, the Zoning Administrator, with the advice of the Landmarks Preservation Advisory Board, determines that allowing the use will enhance the feasibility of preserving the building.

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CASE NO. 2012.0041B 444 De Haro Street

Resolution No. XXXX Hearing Date: June 20, 2012

- (C) Residential uses meet the affordability requirements of the Residential Inclusionary Affordable Housing Program set forth in Section 315.1 through 315.9.
- (3) The Landmarks Preservation Advisory Board shall review the proposed project for compliance with the Secretary of the Interior's Standards, (36 C.F.R. § 67.7 (2001)) and any applicable provisions of the Planning Code.
- 3. WHEREAS, City Charter 4.135 established the Historic Preservation Commission. All duties and responsibilities of the Landmarks Preservation Advisory Board ("LPAB") are under the purview and responsibility of the Historic Preservation Commission.
- 4. WHEREAS, on June 20, 2012, the Department presented the proposed project to the Historic Preservation Commission. The Commission's comments on the compliance of the proposed project with the Secretary of the Interior's Standards for Rehabilitation and the ability of the proposed project to enhance the feasibility of the historic resource would be forwarded to the Zoning Administrator for consideration under Planning Code Section 803.9(c).

THEREFORE BE IT RESOLVED that the Historic Preservation Commission has reviewed the proposed project at 444 De Haro Street, on Lot 001 in Assessor's Block 3979, and this Commission has provided the following comments:

- The proposed project complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- The proposed project enhances the feasibility of preserving the building by providing for a
 compatible new use and a cyclical maintenance program. The Historic Building Maintenance
 Plan would improve the viability of preserving the historic building, and would not impact the
 building's historic integrity or historic status.

BE IT FURTHER RESOLVED that the Historic Preservation Commission hereby directs its Recording Secretary to transmit this Resolution, and other pertinent materials in the Case File No. 2012.0041B to the Zoning Administrator.

I hereby certify that the foregoing Resolution was ADOPTED by the Historic Preservation Commission at its regularly scheduled meeting on June 20, 2012.

Linda D. Avery Commission Secretary

PRESENT: Chase, Damkroger, Hasz, Johns, Martinez, Matsuda and Wolfram

ABSENT:

ADOPTED: June 20, 2012

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2 of 2



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444 De Haro Street San Francisco, CA

Historic Building Maintenance Plan

This plan provides a cycle of maintenance to be performed on an annual basis as well as long term basis for maintaining the historic building located at 444 De Haro Street. Annual inspections will be performed to assess the needs for maintenance as well as planning for larger capital needs.

ROOF

Inspected and repaired annually to preserve seals and prevent water intrusion. Replacement scheduled every 15 -20 years.

SKYLIGHTS

Inspected and sealed, caulked, cleaned annually to prevent water intrusion. Replacement or repair of cracked or broken panes due to weather and or vandalism are on an as need basis.

WINDOWS

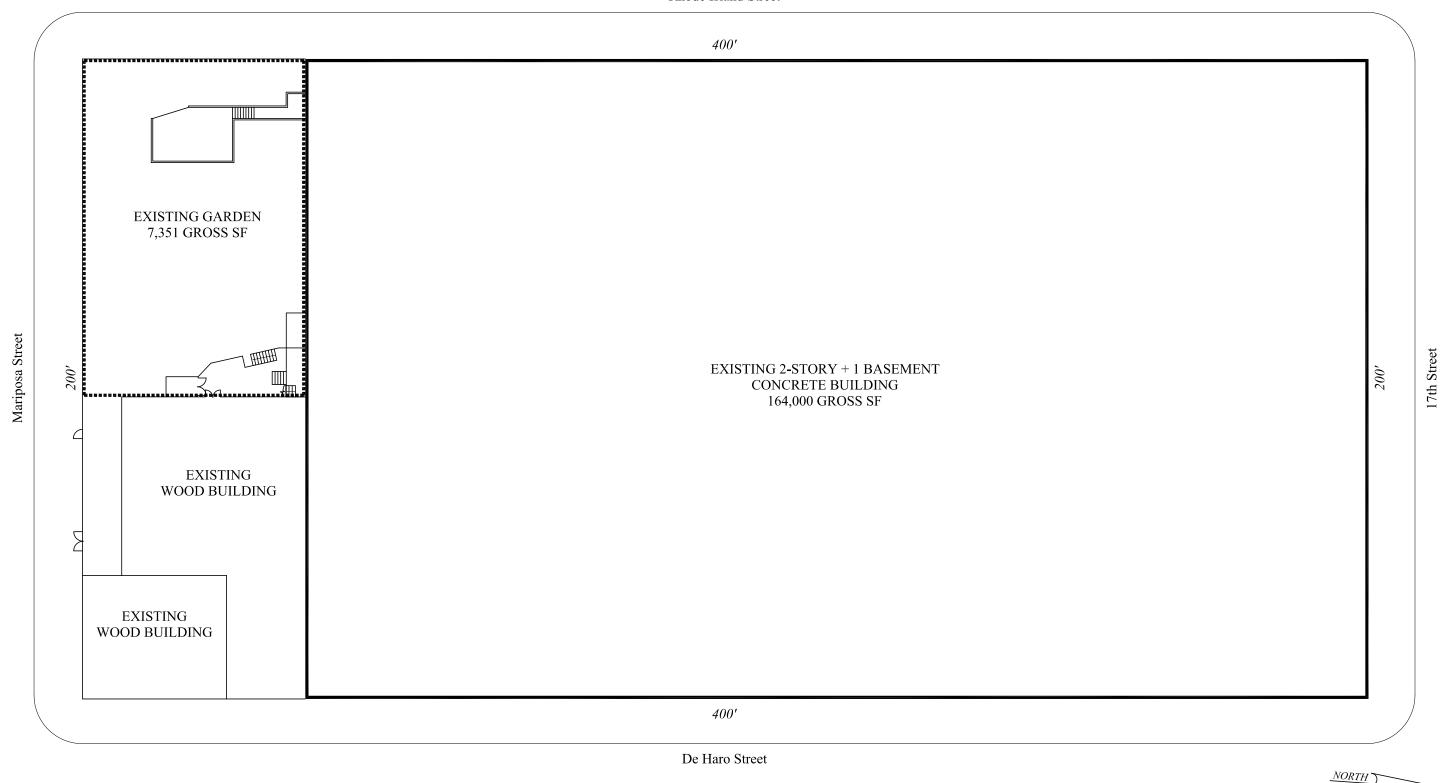
Replacement of cracked or broken panes due to weather, age, and/or vandalism is completed as it occurs. Within seven years of the Project's approval date, the ground floor windows along the building's 17th Street and De Haro Street façades will be replaced with steel sash windows, consistent with the Building's upper-story windows.

STUCCO EXTERIOR

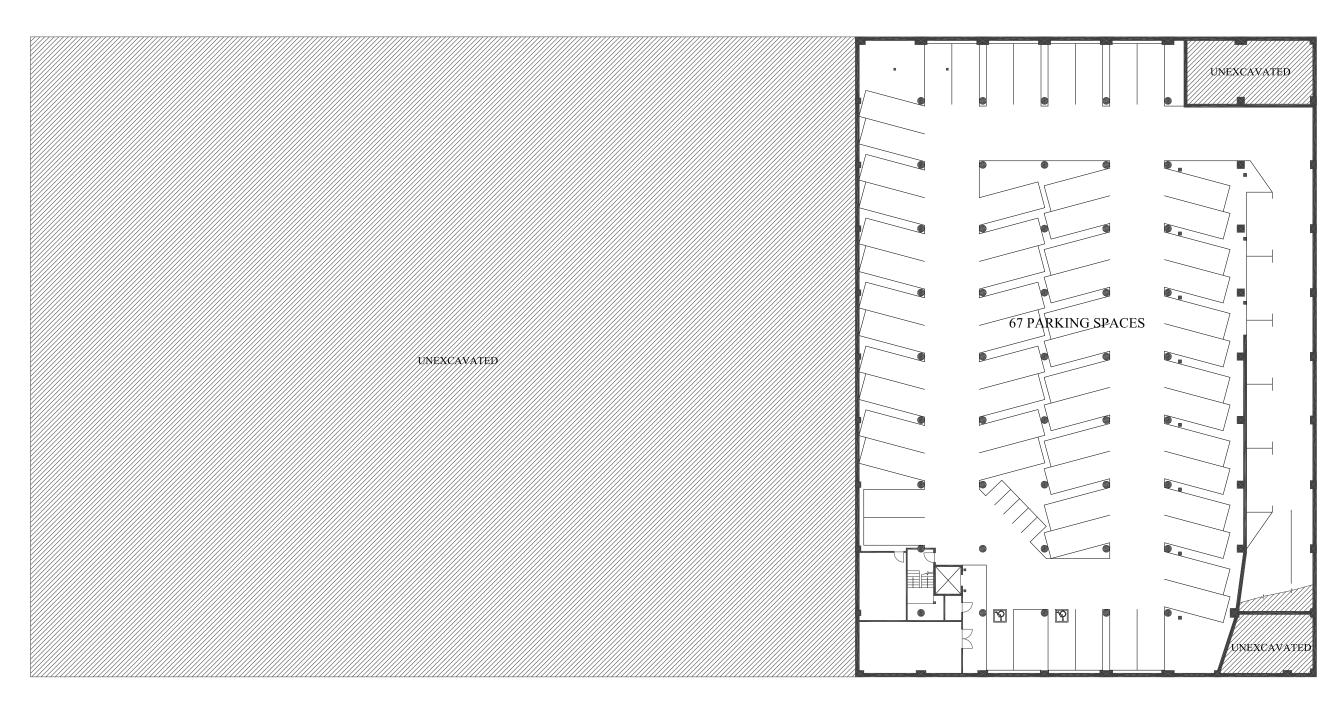
Vandalism is cleaned and mitigated as it occurs. Should cracks occur in the stucco exterior, we implement industry standard repair work to fill the cracks and paint to match existing exterior colors.

<u>488 DE HARO STREET – WOOD BUILDING</u>

Up and until the wooden building, located at 488 De Haro Street, is determined an historic resource or not, it will be painted and primed every five years. Windows will be inspected on a biannual basis, and replaced or repaired as needed.



3/12/12



De Haro Street

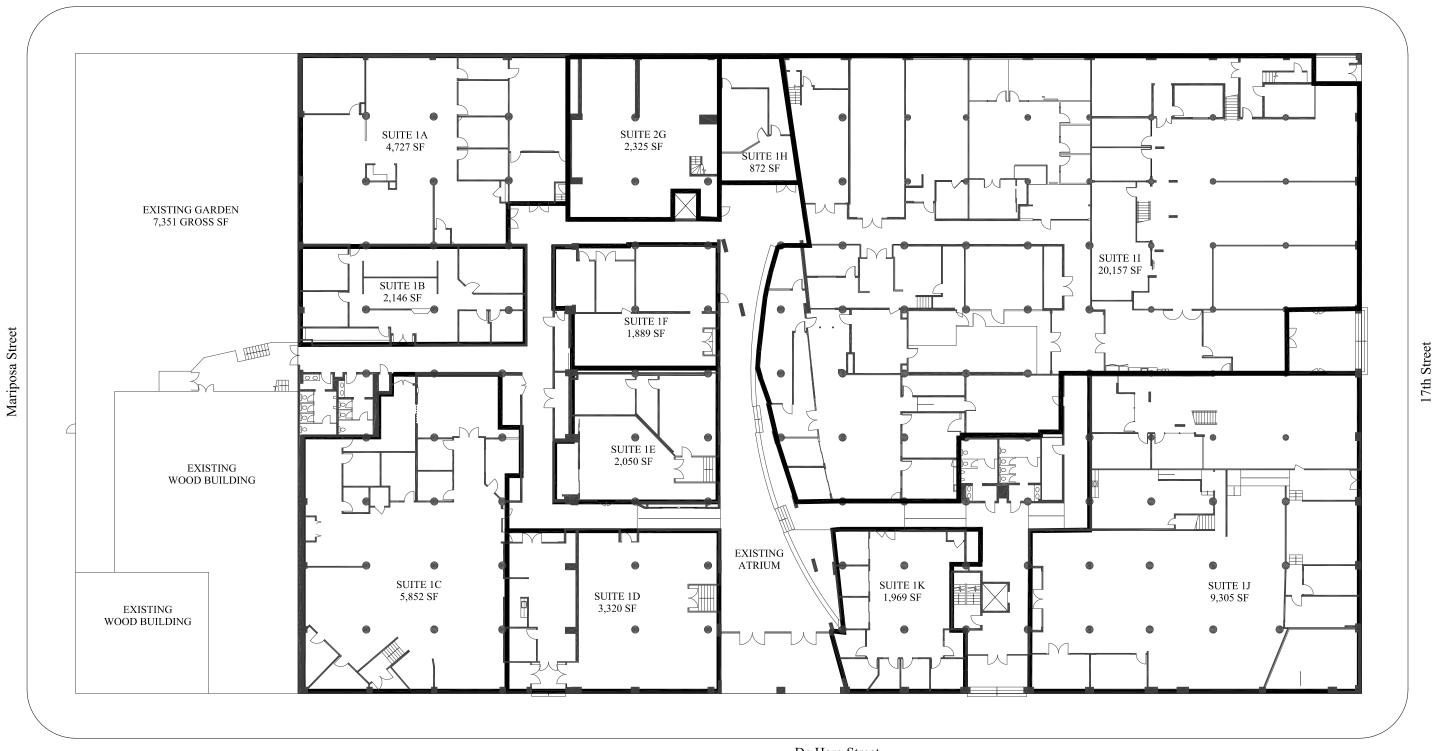
TOTAL BASEMENT GARAGE

24,000 SF

NORTH \

E 1A 4,727 SF BUILDING COMMON/ E 1B 2,146 SF UTILITY/CIRCULATION E 1C 5,852 SF E 1D 3,320 SF E 1E 2,050 SF TOTAL GROUND FLOOR E 1F 1,889 SF E 1G 2,325 SF
E 1C 5,852 SF E 1D 3,320 SF E 1E 2,050 SF TOTAL GROUND FLOOR E 1F 1,889 SF E 1G 2,325 SF
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E 111
E 1H 872 SF
E 1I 20,157 SF
E 1J 9,305 SF
E 1K 1,969 SF
TOTAL 54,612 SF

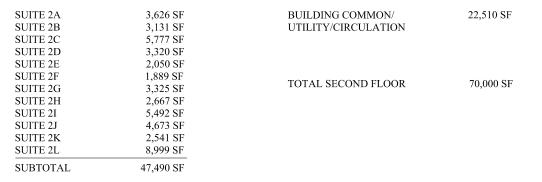
Rhode Island Street



De Haro Street

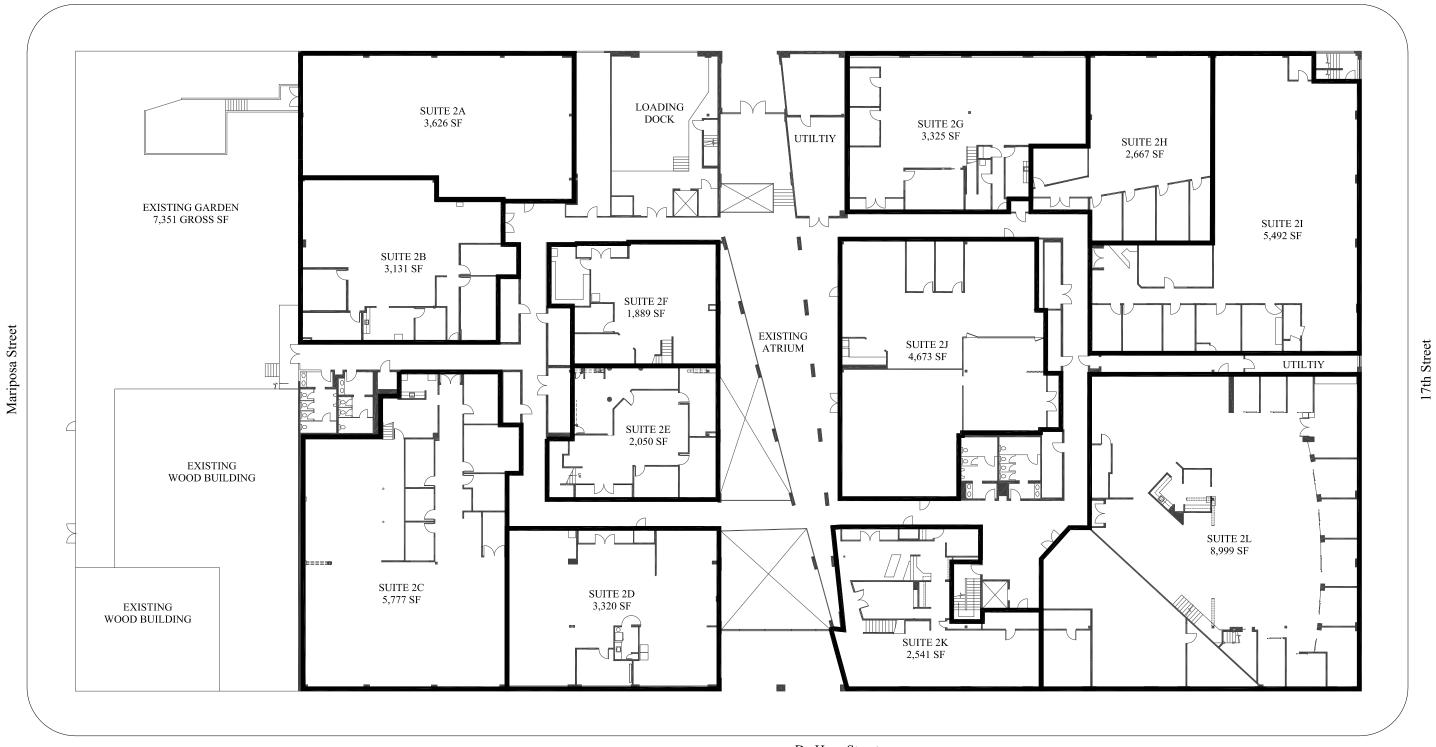
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Rhode Island Street



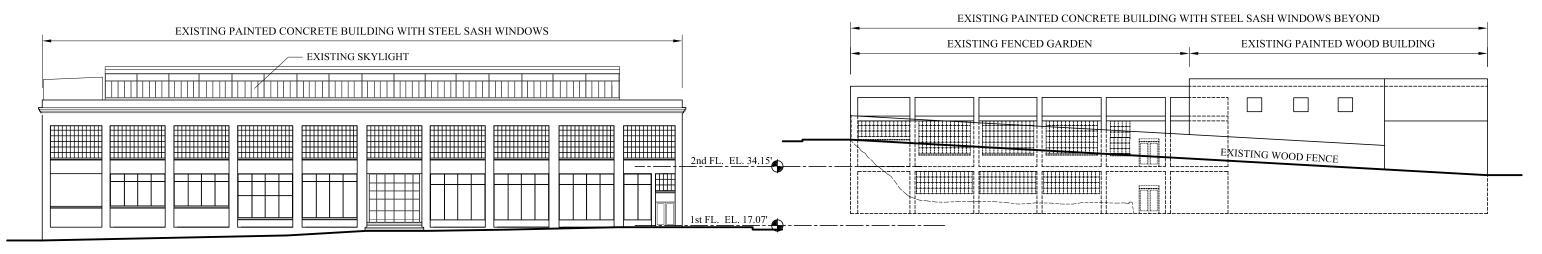
De Haro Street

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RHODE ISLAND STREET ELEVATION

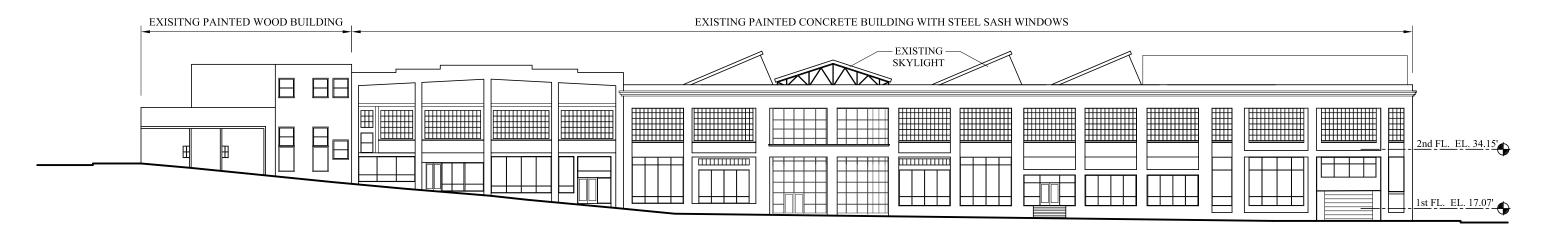
1" = 30'-0" 3/12/12



17TH STREET ELEVATION

3/12/12







RHODE ISLAND STREET ELEVATION

"=30'-0" 3/12/12

