

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
SUSY CHEN,

Appeal No. **25-053**

Appellant(s)

VS.

DEPARTMENT OF BUILDING INSPECTION,

PLANNING DEPARTMENT APPROVAL Respondent

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on November 24, 2025, 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 ISSUANCE on November 10, 2025 to Steve and Courtney Martisauskas, of a Site Permit (altered site permit (ref # 2018-1009-2526) to allow for the expansion of the basement, add a sky light, and change windows sizes; this set is still in conformance with the Board of Appeals' decision (Appeal No. 22-013) and the subsequent Board of Appeals' Permit No. 2022-0527-2182) at 436 Eureka Street.

APPLICATION NO. 2025/08/14/3077

FOR HEARING ON February 18, 2026

Address of Appellant(s):

Address of Other Parties:

Susy Chen, Appellant(s)
c/o Christine Kelly, Attorney for Appellant(s)
Kelly Consulting SF
454 Las Gallinas Avenue # 106
San Rafael, CA 94903

Steve & Courtney Martisauskas, Permit Holder(s)
c/o Nick Thomas, Agent for Permit Holder(s)
Thomas Works Architecture and Design



Date Filed: November 24, 2025

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

PRELIMINARY STATEMENT FOR APPEAL NO. 25-053

I / We, **Susy Chen**, hereby appeal the following departmental action: **ISSUANCE of Site Permit No. 2025/08/14/3077** by the **Department of Building Inspection** which was issued or became effective on: **November 10, 2025**, to: **Steve and Courtney Martisauskas**, for the property located at: **436 Eureka Street**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **December 31, 2025, (this is one day earlier than the Board's regular briefing schedule due to the New Year holiday)**. 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.lamarre@sfgov.org, corey.teague@sfgov.org, joseph.ospital@sfgov.org andrew.perry@sfgov.org martisauskas@gmail.com nick@thomas-works.com

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **January 15, 2026, (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.lamarre@sfgov.org, corey.teague@sfgov.org joseph.ospital@sfgov.org andrew.perry@sfgov.org susychen@gmail.com

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

Hearing Date: **Wednesday, January 21, 2026, 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:

See attachment to the preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Susy Chen, appellant

APPEAL
of
Permit 202508143077
436 Eureka Street

This statement appeals Permit No. 202508143077 for the property at 436 Eureka Street. The permit violates the Board of Appeals decision in Appeal No. 22-013 by adding a parapet that effectively increases the building's height beyond what the Board allowed. The original permit has expired, and the current amendment functions as an improper extension rather than a new permit subject to current standards.

The amended plans also fail to meet current setback requirements needed to protect the light and air of the adjacent building's lightwell. The plan would result in a single-family home of more than 4,000 square feet without providing an additional dwelling unit, which is inconsistent with current planning goals. Both the agency's extension of the permit and its approval of the amended plans are discretionary actions and apply subjective criteria. Thus, the building permit amendment involves discretionary decisions and applies subjective criteria and requires CEQA review. For these reasons, the permit should not be approved.

Permit Details Report**Report Date:** 11/24/2025 12:06:18 PM

Application Number: 202508143077

Form Number: 3

Address(es): 2767 / 002A / 0 436 EUREKA ST

Description: ALTERED SITE PERMIT (REF 2018-10009-2526) TO ALLOW FOR THE EXPANSION OF THE BASEMENT, ADD A SKY LIGHT, AND CHANGE WINDOWS SIZES.THIS SET IS STILL IN CONFORMANCE WITH THE BOARD OF APPEALS DECISION (APPEAL #22-013) AND THE SUBSEQUENT BOA PERMIT #2022-0527-2182.

Cost: \$1.00

Occupancy Code: R-3

Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
8/14/2025	TRIAGE	
8/21/2025	FILING	
8/21/2025	FILED	
11/7/2025	APPROVED	
11/10/2025	ISSUED	

Contact Details:**Contractor Details:**

License Number: OWN

Name: OWNER OWNER

Company Name: OWNER

Address: OWNER * OWNER CA 00000-0000

Phone:

Addenda Details:**Description:**

SITE.

Station	Rev#	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Review Result	Hold Description
PERMIT-CTR		8/7/25	8/14/25			8/19/25	YAMAMURA WENDY	Approved	Interagency Completeness Review
CPB		8/21/25	8/21/25			8/21/25	NANCY GUTIERREZ	Administrative	Submitted to PPC for review.ng
CP-ZOC		8/21/25	8/27/25			8/27/25	HORN JEFFREY	Approved	8/27/25. Approved altered site permit. Jeff Horn
BLDG		8/21/25	9/23/25			9/23/25	QUAN SUE	Issued Comments	
CP-ZOC		10/31/25	10/31/25			10/31/25	HORN JEFFREY	Approved	10/31/25. Restamp. Jeff Horn
BLDG	1	10/17/25	10/17/25			10/17/25	QUAN SUE	Issued Comments	
BLDG	2	10/27/25	10/27/25			10/27/25	QUAN SUE	Approved	
BLDG	2	10/31/25	11/5/25			11/5/25	QUAN SUE	Approved	
PAD-STR		8/21/25	9/24/25			9/24/25	QUAN SUE	Issued Comments	
PAD-STR	1	10/17/25	10/17/25			10/17/25	QUAN SUE	Issued Comments	
PAD-STR	2	10/27/25	10/27/25			10/27/25	QUAN SUE	Not Applicable	Combined BLDG and PAD-STR stations into one consolidated BLDG review
DPW-BSM		8/21/25	8/26/25			9/17/25	DENNIS RASSENDYLL	Approved	No alteration or reconstruction of City Right-of-Way under this permit.
DPW-BSM	2	10/31/25	11/5/25			11/5/25	DENNIS RASSENDYLL	Approved	No alteration or reconstruction of City Right-of-Way under this permit
DPW-BUF		8/21/25	10/7/25			10/7/25	SULLIVAN CADHAN	Issued Comments	PWBUF: No room for tree with edge of existing utilities.
DPW-BUF	1	10/28/25	10/28/25			10/28/25	SULLIVAN CADHAN	Issued Comments	Please remove new tree from proposed site plans. There is no space for the tree with existing utilities and neighboring tree

DPW-BUF	2	10/30/25	10/30/25			10/30/25	SULLIVAN CADHAN	Approved-Stipulated	Protect existing neighboring street tree.
DPW-BUF	2	10/31/25	11/5/25			11/5/25	SULLIVAN CADHAN	Approved-Stipulated	Needs tree protection for neighboring tree
SFPUC		8/21/25	8/28/25			8/28/25	CHUNG DIANA	Issued Comments	Issued Comments. Please refer to the comments made in Bluebeam and sent via email to Architect/Designer. - 08/28/25.
SFPUC	1	9/8/25	9/19/25			9/19/25	CHUNG DIANA	Approved	EPR - Capacity Charge not applicable. Not enough additional fixture. Previously assessed Capacity Charges per PA#201810092526. - 09/19/25.
SFPUC		10/31/25	11/4/25			11/4/25	CHUNG DIANA	Approved	RESTAMP. EPR - Capacity Charge not applicable. Not enough additional fixture. Previously assessed Capacity Charges per PA#201810092526. - 11/04/25.
PPC		8/21/25	8/21/25			11/6/25	PHAM ANH HAI	Administrative	11/06/25 02:53 PM Invite sent to CPB to start issuance process; HP 11/6/25: Pending BLDG stamp on slope protection checklist for REV5 drawing; HP 11/5/25: Applicant need to correct duplicate sheet A1.04 & A1.40 on REV5 drawing. Please update in Bluebeam session and contact PPC at dbi.pprequest@sfgov.org. Email sent to BLDG to fill out revised cost in PTS and stamp slope protection checklist on sheet A-0.03; HP 10/31/2025: Invite sent to plan reviewers to review and stamp REV5 for 10/28/25 drawing. TW 8/21/25: Bluebeam session created; invite sent to all stations to start electronic plan review; TW 8/21/25: Invite sent to applicant to join BB session; TW
CPB		11/6/25	11/7/25			11/10/25	CHAN AMARIS	Administrative	11/10/25: Payment & Final Declaration Form receive. Site permit Issue. BB Link & Site permit email to customer. Amaris. 11/07/25: Upload documents. Additional Extension fees will apply if the permit is not issued by 08/16/2026. Application Status Report, Final Declaration Form & invoice sent to: MARTISAUSKAS@GMAIL.COM. Amaris. 11/07/25: 25 pages. Approve. Additional Extension fee will apply if permit is not issue by 08/16/2026. Docs & payor's info request. Amaris.

This permit has been issued. For information pertaining to this permit, please call 628-652-3450.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
------------------	-------------------	------------------	------------------	-------------	------------

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
---------------	-----------	------------------------	-------------------

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
-------------	----------------	--------------	-----------------	-------------	---------

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](#).

BRIEF(S) SUBMITTED BY APPELLANT(S)

Christine Kelly (209701)
454 Las Gallinas Avenue #106
San Rafael, CA 94903
Tele. 415-297-3109
Fax. 415-324-8086
kellyconsultingsf@gmail.com

Attorneys for Appellant,
SUSY CHEN

**SAN FRANCISCO BOARD OF APPEALS
ADMINISTRATIVE HEARING**

SUSY CHEN,

Appellant,

v.

DEPARTMENT OF BUILDING
INSPECTION,

Respondent.

STEVE MARTISAUSKAS,

Determination Holder.

APPELLANT'S BRIEF

Date: April 13, 2022

Time: 5:00 p.m.

Appeal No.: 25-053

BPA No.: 202508143077

Address: 436 Eureka Street

I. SUMMARY

The Appellant requests the Board overturn DBI's decision to grant this Permit and overturn DBI's decision, if any, to extend the Principal Permit. The Board should grant this appeal because:

- A. The Principal Permit is expired.
- B. Any permit extension was arbitrary and without any reasoned exercise of discretion.
- C. The 2025 permit is an attempt to improperly extend an expired permit.
- D. The permitted plans violate Single Dwelling Unit size limitations.
- E. This permit violates CEQA

II. INTRODUCTION

My office represents Susy Chen, owner and resident of the home at 430-432 Eureka Street, which is directly adjacent to the project site. Ms. Chen has lived in the building for 21 years.

1 She lives in the second floor unit, and tenants rent the first-floor unit. On March 11, 2022, the
2 Department of Building Inspection issued BPA No. 201810092526 for a three-story rear addition to
3 an existing single-family home, as well as other alterations and interior remodeling expanding the
4 property to a single Dwelling Unit of approximately 4,300 square feet (the “Principal Permit”).
5 On April 13, 2022, Ms. Chen appealed the subject permit on the grounds that it blocked the only
6 source of light to the bedrooms of her property, there was no 311 notice declaration of mailing, the
7 project plans omitted Appellant’s lightwell and adjacent windows hiding its impacts from Planning
8 Staff, the project failed to include side setback violating the Residential Design Guidelines, the
9 project builds a second story atop an unpermitted rear addition that was never reviewed for
10 consistency with the planning code. (Exhibit A – Appellant Brief)
11

12 The BOA granted the appeal by approving a modified plan presented by the Permit
13 Holder. The modified plan was approved on June 6, 2022 as BPA 202205275182 (the “BOA
14 Approved Plan”). Ms. Chen appealed the decision and filed a state writ of mandamus regarding the
15 BOA decision because the BOA Approved Plan did not cure the issues with the plan.
16

17 More than three years has passed since the BOA Approved Plan permit was issued. The
18 DBI Permit Tracking System shows that the Principal Permit expired on January 26, 2025 and was
19 extended to April 28, 2027. (Exhibit B). DBI granted this permit extension after the Principal Permit
20 had expired.
21

22 The subject of this appeal is BPA 202508143077 (the “2025 Permit”, Exhibit C) which is a
23 modification of the BOA Approved Plans. As of the time of this appeal, the Permit Holder has not
24 commenced work on the project.
25

Description	Permit	Expiration
Principal Permit	201810092526	January 26, 2025

BOA Approved Plan	202205275182	May 29, 2023
2025 Permit	202508143077	November 5, 2026

III. ARGUMENT

A. The Principal Permit Expired.

According to the DBI Permit Tracking System, the Principal Permit (201810092526) expired on January 26, 2025. (Exhibit B). Permit Holders seeking extensions are required to do so while the permit is still active. The Permit Holder did not seek extension of the permit before January 26, 2025, thus the permit expired. The system shows the permit was extended to April 2027, however, without special written findings, DBI lacks the authority to revive an expired permit.

1. Legal Framework Governing Administrative Agency Authority

Administrative agencies in California operate under strict limitations regarding their delegated powers. Courts have established that administrative agencies have only such powers as have been conferred on them, expressly or by implication, by constitution or statute Ferdig v. State Pers. Bd., 71 Cal. 2d 96, 77 Cal. Rptr. 224, 453 P.2d 728 (1969). An administrative agency must act within the powers conferred upon it by law and may not validly act in excess of such powers Id. When an administrative agency acts in excess of, or in violation of, the powers conferred upon it, its action is void. Id.

This principle of limited administrative authority is particularly relevant when agencies attempt to take actions that exceed their statutory mandate. The California courts have consistently held that where an administrative board's order is not based upon a determination of fact, but upon an erroneous conclusion of law, and is without the board's authority, the order is clearly void and subject to collateral attack. Id.

2. The Purpose and Legal Significance of Permit Expiration Dates

1 California law recognizes specific purposes behind permit expiration requirements. Courts have
2 held that the purpose of a statute or ordinance providing an expiration date for a construction permit
3 when work has not commenced or a use established is to prevent one from reserving land for future
4 purposes when that person has no good faith intent to make an immediate start upon the proposed
5 use Morgan v. Cty. of San Diego, 19 Cal. App. 3d 636, 97 Cal. Rptr. 180 (1971).
6

7
8 The legal framework governing permit expiration serves important policy objectives by ensuring
9 that permits are not used merely to reserve development rights without genuine intent to proceed.
10 This principle underscores the importance of strict adherence to expiration deadlines and proper
11 extension procedures.
12

13 **3. DBI's Lack of Authority to Revive Expired Permits Without Proper** 14 **Findings**

15 The record establishes that the Principal Permit expired on January 26, 2025, yet the system
16 shows an extension to April 2027. This post-expiration extension violates fundamental principles of
17 administrative law.
18

19 Administrative agencies must provide adequate findings to support their decisions. Courts have
20 established that an administrative agency which renders a challenged decision is required to set forth
21 findings, and the findings must expose the agency's mode of analysis so as to enable a reviewing
22 court to trace this analysis Bakman v. Dep't of Transp., 99 Cal. App. 3d 665, 160 Cal. Rptr. 583
23 (1979). Administrative findings are adequate where they apprise interested parties and the courts of
24 the bases for the administrative action.
25
26

27 The absence of special written findings supporting DBI's authority to revive the expired permit
28 renders the extension invalid. § 39.200 Application for Permit to Construct Mobilehome Park.
Without such findings, DBI has exceeded its statutory authority in attempting to extend an expired
permit.

1 **4. The Extension Violates Procedural Requirements**

2 The procedural violation is clear from the record. Permit holders are required to seek extensions
3 while the permit is still active, and the Permit Holder failed to seek extension before the January 26,
4 2025 expiration date. Cal Health & Saf Code § 17920.

5
6 This procedural failure cannot be remedied by post-expiration administrative action without
7 proper legal authority. The principle that administrative agencies must act within their conferred
8 powers applies with particular force when agencies attempt to circumvent established procedural
9 requirements Ferdig v. State Pers. Bd., 71 Cal. 2d 96, 77 Cal. Rptr. 224, 453 P.2d 728 (1969).

10
11
12 **B. Any permit extension was arbitrary and without any reasoned exercise of discretion.**

13 As of this appeal no work has commenced on the Principal Permit. Arguing in the alternative, if
14 the extension was sought while the permit was still active, the extension granted by DBI is arbitrary
15 and capricious and has no rational basis. The permit at issue is the subject of a pending state case for
16 its numerous legal violations and the plans themselves use 2016 building code standards.

17
18 This is a specific case in which discretionary extension should have been denied when: (1) no
19 work has started on the permit; (2) the plan never received review or comment by neighbors or the
20 public because there was no 311 notice and no 311 declaration of mailing; (3) the plan was never
21 subjected to Residential Design Review because the plans misrepresented the impact on the adjacent
22 property; (4) the plan does not meet the building code's size limitations for Single Dwelling Units; (5)
23 the plan would result in a construction that would be based on 10 year old standards. This is the exact
24 unused permit that should be denied extension, leaving the Permit Holder to re-apply so that the plan
25 can be reviewed under current standards to ensure that it meets the City's current planning goals.

26
27 The discretionary extension of a permit by an administrative agency, such as the Department of
28 Building Inspection (DBI), can be challenged as arbitrary and capricious under California law if the

1 agency fails to exercise its discretion in a reasoned and lawful manner. California courts have
2 consistently held that administrative actions must not be arbitrary, capricious, or entirely lacking in
3 evidentiary support, and they must conform to the procedures required by law. For example, in CV
4 Amalgamated LLC v. City of Chula Vista, 82 Cal. App. 5th 265 the court emphasized that mandamus
5 may issue to correct an abuse of discretion when an agency's action is palpably unreasonable or
6 arbitrary.
7

8
9 Similarly, in ", Airport Business Center v. City of Santa Rosa, 116 Cal. App. 5th 501. " the court
10 reiterated that judicial review ensures the agency has adequately considered all relevant factors and
11 demonstrated a rational connection between those factors and the decision made .
12

13 Regarding the specific circumstances outlined in the question, California law provides guidance
14 on several points. First, when no work has commenced on a permit, courts have recognized that
15 ordinances often include expiration provisions to prevent land from being reserved for future
16 purposes without a good faith intent to commence the proposed use. In " Cmty. Dev. Com v. City of
17 Fort Bragg, 204 Cal. App. 3d 1124. " the court noted that such provisions aim to ensure timely use of
18 permits and prevent dilatoriness, and the agency's discretion in granting extensions must be exercised
19 reasonably and in good faith. Additionally, "Morgan v. County of San Diego" held that an agency's
20 decision to deny a permit extension based solely on the lack of construction was unreasonable, as it
21 failed to consider other relevant factors such as preparatory work .
22

23
24 Second, the lack of required public notice and design review due to misrepresentation could
25 render the agency's decision procedurally unfair. In ", Court House Plaza Co. v. City of Palo Alto, 117
26 Cal. App. 3d 871. " the court held that actions failing to follow required procedures or provide proper
27 notice could be deemed arbitrary and capricious .
28

1 Similarly, "" California Assn. of Psychology Providers v. Rank, 51 Cal. 3d 1. emphasized that
2 administrative actions inconsistent with statutory requirements or procedural fairness could be
3 invalidated..
4

5 Third, if the plan does not meet current building code size limitations or would allow
6 construction under outdated standards, the agency's decision could be challenged as contrary to public
7 policy. California law requires agencies to ensure that their decisions align with current standards and
8 public welfare. For instance, " Cal Health & Saf Code § 18930. mandates that building standards
9 must not be arbitrary or capricious and must serve the public interest, including health and safety .
10
11

12 Furthermore, "Cal Health & Saf Code § 19870" provides that permits may be deemed expired if
13 work is not commenced within a specified period, reinforcing the importance of compliance with
14 current standards .
15

16 Finally, the policy rationale for requiring re-application under current standards when a permit
17 has not been used is supported by the principle that administrative agencies must act in a manner
18 consistent with legislative intent and public welfare. In ", California Water Impact Network v.
19 Newhall County Water Dist., 161 Cal. App. 4th 1464. " the court highlighted that agencies must
20 demonstrate a rational connection between their decisions and the purposes of the enabling statute,
21 ensuring that outdated standards do not undermine public policy goals .
22
23

24 **C. The 2025 Permit improperly extends an expired permit.**

25 The 2025 Permit (Exhibit C) is an alterations permit seeking to alter the Principal Plan. It was filed
26 on August 21, 2025, after both the Principal Permit and the BOA Approved Permit (Exhibit D) had
27 expired. The Principal Permit had expired and thus the 2025 alterations permit is invalid or attempts
28 to extend an expired permit.

D. The permitted plans violate single Dwelling Unit size limitations.

1 The 2025 Plan extends the Principal Plans resulting in a single Dwelling Unit size greater than 3,000
2 square feet. These plans violate Ordinance 253-25 because the plans increase the Gross Floor Area
3 by more than 15% resulting in a Single Dwelling Unit exceeding 3,000 square feet. No work has
4 commenced on this project, the plans rely on decade old standards that no longer meet the City and
5 State's planning goals, therefore the extension of the permits should be reversed.
6
7

8 Permitted plans that violate single dwelling unit size limitations, particularly when they exceed
9 3,000 square feet or increase the Gross Floor Area by more than 15% as prohibited by Ordinance
10 253-25, may constitute grounds for reversing a permit extension. This is especially relevant when no
11 work has commenced, and the plans rely on outdated standards, as California law and case law
12 emphasize compliance with current zoning ordinances and planning codes. Courts have consistently
13 held that permits must align with applicable regulations at the time of approval, and failure to do so
14 can invalidate the permit.
15
16

17 In , Russian Hill Improv. Asso. v. Board of Permit Appeals, 66 Cal. 2d 34. the California
18 Supreme Court held that a permit was not lawfully granted in time to confer immunity under San
19 Francisco City Planning Code § 150(d) because the application was still pending when a new height
20 limitation became effective. The court emphasized that § 150 did not protect mere expectancies of
21 approval and upheld the revocation of the permit for a structure exceeding the new height limit.
22
23

24 In , Bldg. Indus. Legal Def. Found. v. Superior Court, 72 Cal. App. 4th 1410. the court
25 invalidated a city's interim ordinance that suspended the processing of development applications,
26 finding it inconsistent with . Cal Gov Code § 65858. The court issued a writ of mandate prohibiting
27 enforcement of the ordinance and requiring compliance with state law, underscoring the importance
28 of adhering to statutory requirements in zoning and development processes .

1 In , San Francisco v. Pacello, 85 Cal. App. 3d 637. the court upheld the jurisdiction of the San
2 Francisco Board of Permit Appeals to rule on a building permit dispute and found that the city's
3 delay in challenging the board's decision was barred by laches. The case highlights the necessity of
4 timely action and adherence to procedural rules in permit disputes .
5

6 In West Adams Heritage Assn. v. City of Los Angeles, 106 Cal. App. 5th 395 the court addressed
7 the interplay between zoning ordinances and redevelopment plans, holding that a project must
8 comply with both to qualify for exemptions under the California Environmental Quality Act. The
9 court also discussed density bonuses and the application of the most permissive land use provisions,
10 emphasizing the need for consistency with applicable plans and ordinances.
11

12 Cal Gov Code § 66321 prohibits local agencies from imposing zoning requirements that prevent
13 the construction of accessory dwelling units with at least 800 square feet of interior livable space. It
14 also sets minimum standards for height and setbacks, ensuring that local ordinances do not unduly
15 restrict development.
16

17 Cal Gov Code § 66314 allows local agencies to designate areas for accessory dwelling units and
18 impose objective standards, such as height and setback requirements, while prohibiting minimum lot
19 size requirements. It ensures that accessory dwelling units are consistent with general plans and
20 zoning designations .
21

22 Cal Gov Code § 66300. restricts local agencies from enacting policies that reduce the intensity of
23 land use or residential development capacity below what was allowed as of January 1, 2018. This
24 includes limitations on height, density, and floor area ratio, ensuring that zoning changes do not
25 diminish development potential .
26

27 5 CCR 14030 outlines standards for the design and construction of school facilities, including
28 space requirements for various functions. While not directly related to residential zoning, it provides

1 an example of regulatory standards for development. See, § 14030. Standards for Development of
2 Plans for the Design and Construction of School Facilities.

3
4 5 CCR 20426 provides guidelines for public use spaces in building projects, including standards
5 for square footage and special purpose units. It emphasizes the importance of adhering to specified
6 standards in development projects. See, § 20426. Changes in Projects and Withdrawal of a Grant.

7
8 27 CCR 23014 addresses requirements for solid waste facilities, including facility size, traffic
9 volume, and operational parameters. It highlights the necessity of compliance with design and
10 operating standards in facility development. See, Appendix 1 Joint Permit Application Form.

11 12 **E. CEQA's Environmental Review Requirements Apply to Discretionary Permit** 13 **Decisions**

14 CEQA's environmental review requirements apply to discretionary projects proposed to be
15 carried out or approved by public agencies, including the issuance of conditional use permits and
16 similar approvals, unless the project is exempt from CEQA. Guerrero v. City of L.A., 98 Cal. App.
17 5th 1087, 317 Cal. Rptr. 3d 347 (2024). Rather than distinguishing between different types of agency
18 actions granting project approval, CEQA focuses on the discretionary nature of such approval. Id.
19 The permit at issue here constitutes a discretionary agency action subject to CEQA's environmental
20 review requirements. Cal Pub Resources Code § 21080. DBI's failure to conduct proper
21 environmental review before issuing the permit violates CEQA's mandatory requirements.

22 23 **1. The Permit Extension Was Arbitrary and Capricious Agency Action**

24 25 **a. Standard of Review for Agency Actions**

26
27 In mandamus actions challenging agency decisions, judicial review examines whether the
28 agency's actions have been arbitrary or capricious, entirely lacking in evidentiary support, or
whether the agency failed to follow proper procedures or failed to give notice as required by law.
Taylor Bus Serv. v. San Diego Bd. of Educ., 195 Cal. App. 3d 1331, 241 Cal. Rptr. 379 (1987).

1 Courts apply the substantial evidence test to determine whether evidentiary support exists for the
2 agency's decision.

3
4 **b. DBI's Extension Decision Lacks Proper Foundation**

5 Any permit extension by DBI was arbitrary and without reasoned exercise of discretion. The
6 agency failed to follow proper procedures required by law when extending an expired permit. ",
7 "jurisdiction": "California"}]. This arbitrary action lacks the evidentiary support required under
8 the substantial evidence standard. Id.

9
10
11 **2. The 2025 Permit Improperly Attempts to Extend an Expired Permit**

12 The Principal Permit has expired, rendering any subsequent permit extension legally invalid. The
13 2025 permit represents an improper attempt to revive an expired permit without following proper
14 procedures. Agencies must follow prescribed procedures and cannot arbitrarily extend expired
15 permits without proper legal authority. DBI's action in issuing the 2025 permit constitutes agency
16 action that is entirely lacking in evidentiary support and fails to follow required procedures. Id.

17
18
19 **3. Violation of Single Dwelling Unit Size Limitations**

20 The permitted plans violate Single Dwelling Unit size limitations, demonstrating DBI's failure to
21 ensure compliance with applicable building regulations. ", "jurisdiction": "California"}]. This
22 violation further demonstrates the arbitrary nature of DBI's permit approval.

23
24 **4. CEQA's Enforcement Mechanisms Support Overturning DBI's Decision**

25 CEQA provides powerful remedies to ensure the review process is completed appropriately before
26 projects proceed. Friends of the Eel River v. N. Coast R.R. Auth., 3 Cal. 5th 677, 220 Cal. Rptr. 3d
27 812, 399 P.3d 37 (2017). Litigants, including members of the public, may apply to courts to order
28 agencies to void determinations made without CEQA compliance. Id. CEQA affords enforcement

1 mechanisms that may prevent or impede progress on projects pending compliance with CEQA
2 requirements.
3

4 IV. CONCLUSION

5 The permit at issue should be invalidated because it is based upon altering an expired
6 Principal Permit. In the alternative, if the Principal Permit was extended while the permit was still
7 active -- there is no rational exercise of discretion in extending a permit when no work has
8 commenced, the plan never received review or comment by the neighbors or public, the plan was not
9 subjected to Residential Design Review, the plan does not meet Building Code size limitations for
10 single Dwelling Units, and would result in construction based on 10 year old building code.
11 Issuance of the 2025 permit effectively extends the Principal Permit that should be expired. For the
12 foregoing reasons, Appellant requests that the Board overturn the DBI's decision to issue the 2025
13 Permit and overturn any decision to grant an extension to the Principal Permit.
14
15
16

17 Additionally, the Board should grant this appeal and overturn DBI's permit decisions.
18 DBI's actions violate CEQA's mandatory environmental review requirements, constitute arbitrary
19 and capricious agency action lacking evidentiary support, and fail to follow proper legal procedures.
20 The permit extension of an expired permit and approval of plans violating size limitations further
21 demonstrate the improper nature of DBI's decisions. CEQA's enforcement mechanisms specifically
22 authorize courts to void such non-compliant agency determinations.
23
24

25 Dated: January 20, 2026 Respectfully Submitted,
26
27
28



Christine Kelly, Attorney for Appellant Susy Chen

RYAN J. PATTERSON (SBN 277971)
BRIAN J. O'NEILL (SBN 298108)
ZACKS, FREEDMAN & PATTERSON, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Tel: (415) 956-8100
Fax: (415) 288-9755
ryan@zfplaw.com
brian@zfplaw.com

Attorneys for Appellant,
SUSY CHEN

SAN FRANCISCO BOARD OF APPEALS

SUSY CHEN,

Appellant,

v.

CITY AND COUNTY OF SAN
FRANCISCO, SAN FRANCISCO
DEPARTMENT OF BUILDING
INSPECTION,

Respondents.

STEVE MARTISAUSKAS,

Determination Holder.

APPELLANT'S BRIEF

Date: April 13, 2022
Time: 5:00 p.m.
Appeal No.: 22-013
BPA No.: 201810092526
Address: 436 Eureka Street

I. SUMMARY

The Appellant requests a minor project modifications to preserve the sole windows for multiple bedrooms at her property. The Board should grant this appeal because:

1. **There is no evidence that 311 Notice was given.**
2. **The project plans omitted the Appellant's lightwell and windows – in clear violation of Section 311 – which hid the project's impacts from Planning staff.**
3. **The project fails to include a side setback and blocks the only windows for two adjacent bedrooms, in violation of the Residential Design Guidelines.**
4. **The project builds a second story atop an unpermitted rear addition that was never reviewed for consistency with the Planning Code.**
5. **Simple design modifications, such as a matching lightwell, can solve the problem and preserve light for both properties.**

II. INTRODUCTION

Our office represents Susy Chen, owner and resident of the home at 430-432 Eureka Street, which is directly adjacent to the project site. Ms. Chen has lived in the building for 18 years. She lives in the second floor unit, and tenants rent the first-floor unit. Despite several friendly exchanges with the Permit Holder, including emails regarding repainting the lightwell on Ms. Chen's property in August 2020, at no time did the Permit Holder disclose to Ms. Chen that there was a pending permit application for a project that would block that same lightwell. Ms. Chen never received Section 311 notice – and neither did her neighbors. The first time Ms. Chen was informed about the project was in February 2022, when she received a notice of permit issuance.

On March 11, 2022, the Department of Building Inspection issued BPA No. 201810092526 for a three-story rear addition to an existing single-family home, as well as other alterations and interior remodeling. The project will block the only source of natural light for the bedrooms on Ms. Chen's first floor – her tenants' unit. To wit, the project fails to provide a matching lightwell or side setback in that area, severely impacting six windows and four bedrooms.

As a threshold matter, there is no evidence that a 311 Notice was mailed to adjacent property owners as required by the Planning Code. Six different neighbors have submitted declarations

1 confirming that they did not receive a 311 Notice for the project, and the project file contains no
2 record of a 311 Notice being sent. At a minimum, this permit should be withheld until proper 311
3 Notice is mailed and adjacent property owners are provided an opportunity to review the project.
4 Even if notice had been given, the project plans failed to identify several of Ms. Chen's adjacent
5 windows that will be impacted by the project. The plans obscured the potential impacts, which
6 prevented the Planning Department from conducting an adequate analysis of the project. As a result,
7 the project was never reviewed by the Residential Design Advisory Team for consistency with the
8 Residential Design Guidelines.

9 Moreover, a historical review of the property demonstrates that a rear addition was built to
10 the property line and partially blocked the Appellant's lightwell without proper permits. The current
11 project only exacerbates the impacts of the prior unpermitted expansion by constructing another
12 story atop the illegal addition. At a minimum, the unpermitted development should be included as
13 part of this project proposal and evaluated for consistency with the Planning Code, as would be
14 required in any abatement proceeding.

15 The project is entirely inconsistent with the Residential Design Guidelines, which require
16 projects to consider the immediate context of a project and minimize impacts to the light of adjacent
17 properties. The project fails to incorporate any of the Residential Design Guidelines'
18 recommendations to minimize impacts to light, such as providing shared lightwells or eliminating
19 parapet walls. Rather than provide a shared lightwell to preserve light to both properties, the
20 proposed project includes a skylight adjacent to the Ms. Chen's lightwell with a 30-inch tall parapet,
21 providing light to the Permit Holder's stairwell while choking out all of the natural light available to
22 the bedrooms next door.

23 The Board should grant this appeal and require proper 311 Notice, with accurate plans that
24 account for the unpermitted addition, before the Permit is issued, to allow neighbors the opportunity
25 to voice their concerns and reach a mutually beneficial solution with the Permit Holder.
26 Alternatively, the Board should grant this appeal and direct the Permit Holder to make
27 modifications to the project to protect the light of both properties, as required by the Planning Code
28 and Residential Design Guidelines.

III. ARGUMENT

1 **A. Neighborhood Notification for the Project was Not Given**

2 Planning Code Section 311(d) requires written notice of proposed projects to be mailed to
3 all properties within 150 feet of the subject lot. The Planning Code requires that building permit
4 applications “be held for a period of 30 calendar days from the date of the mailed notice to allow
5 review by residents and owners of neighboring properties and by neighborhood groups.”

6 Here, there is no evidence in the record that a 311 Notice was mailed to neighboring
7 properties as required by the Planning Code. A Sunshine Request was submitted by the Appellant
8 on March 4, 2022 to request all records related to the project, including a specific request for all
9 Neighborhood Notification documents. (Declaration of Susy Chen, “Chen Decl.,” at **Exhibit J.**)
10 The Sunshine Request response included a request by the Planning Department for payment of
11 postage fees, but no evidence that the payment was received or that the 311 Notice was actually
12 mailed. (Chen Decl. at **Exhibit K.**) No proof of payment, declaration of mailing, or any other
13 confirmation of mailing was included in the Sunshine Request response. This is unusual. Six
14 neighbors have submitted declarations confirming that they did not receive a 311 Notice for this
15 project. (Chen Decl. at **Exhibit B.**)

16 The 311 Notice deficiencies violated the Appellant’s right to have her concerns heard under
17 discretionary review. Had the Appellant received notice two years ago, there was a higher
18 probability that her modifications would be readily accepted. Despite the current appeal, the permit
19 has already been issued which prejudiced her ability to discuss her concerns with the Permit Holder,
20 the Planning Department, and the Planning Commission. Because proper notice was not provided,
21 at a minimum the Board should grant the appeal and require that a 311 Notice be mailed, to allow
22 review by neighbors and other members of the public as required by law.

23 **B. The Project Plans Omit Adjacent Bedroom Windows, in Violation of § 311**

24 Even if the 311 Notice had been mailed, the drawings for the project materially violate
25 Planning Code requirements. Planning Code Section 311(d)(7) states that the 311 Notice must
26 include drawings that show “the full profiles of the adjacent structures including the adjacent
27 structures’ doors, windows and general massing” and “include the full profile of the adjacent
28

1 building in the foreground of the project, and the adjacent windows, lightwells and general
2 massing.”

3 The purported 311 Notification plans failed to identify the six adjacent windows and four
4 adjacent bedrooms that will be impacted by the project. (Declaration of Mike Garavaglia
5 (“Garavaglia Decl.”, at ¶ 4.) The site plans did not identify the existing lightwell or windows at all,
6 obscuring the potential impacts. The side elevations completely omitted two windows for bedrooms
7 that have no other source of light. The lack of information and inaccurate plans prevented the
8 Planning Department and neighbors from understanding and evaluating the true impact of the
9 project. The absence of information regarding the adjacent properties that is *specifically required*
10 by the Planning Code prevented any meaningful review, even if 311 Notice had been provided.

11 **C. Significant Unpermitted Development Occurred at the Property**

12 The property underwent a historical review as part of the project evaluation, which included
13 a review of all the prior building permits for the project. The original 1922 construction permit was
14 for a two-story over basement, 25-foot-wide, 32-foot-deep building. (Chen Decl. at **Exhibit G.**)
15 The 1950 Sanborn Map shows that the subject property had a rear porch that was set back from the
16 lightwell (*id.* at **Exhibit H**), which is confirmed by a 1954 building permit to “dig out under
17 projecting backporch to depth of about 2 feet for headroom under porch.” (*Id.* at **Exhibit I.**)

18 Despite the building permit history showing that the permitted structure was a 32-foot deep
19 building, the 311 Notice describes the existing building as **46** feet deep. It appears at some point a
20 prior property owner illegally installed a rear addition, expanding and converting the “back porch”
21 into residential living space without a permit. The Planning Department’s historical review of the
22 property did not uncover any building permits that approved a rear addition or conversion of the
23 back porch. As a result, the Planning Department reviewed the project with an inaccurate baseline
24 and failed to account for the impact of the unpermitted development on the neighboring property.

25 Significantly, the unpermitted rear addition was built to the property line and partially
26 blocked the Appellant’s lightwell. This project only exacerbates the issue by constructing another
27 story atop the unpermitted expansion, compounding the adverse impacts of the unpermitted
28 addition. At a minimum, the unpermitted development should be included as part of this project

1 proposal and evaluated by the Planning Department for consistency with the Planning Code, as
2 would be required in the violation enforcement procedures in Planning Code Section 176.

3 **D. The Project Does Not Comply With the Residential Design Guidelines**

4 Planning Code Section 101 states that a principal purpose of the code is to “provide
5 adequate light, air, privacy and convenience of access to property, and to secure safety from fire and
6 other dangers.” In addition, the Residential Design Guidelines go beyond mere numerical
7 requirements and are intended to ensure that the specific, unique context of adjacent properties are
8 taken into consideration. The guidelines articulate design expectations meant to avoid unnecessary
9 impacts to adjacent properties. The proposed project is entirely inconsistent with the Guidelines
10 protecting side-spacing, the light and air of adjacent properties, and overall neighborhood context.
11 These Guidelines include:

- 12 • **Guideline: When considering the immediate context of a project, the concern is**
13 **how the proposed project relates to the adjacent buildings.**
- 14 • **Guideline: Respect the existing pattern of side spacing. . . Side spacing helps**
15 **establish the individual character of each building while creating a rhythm to the**
16 **composition of a proposed project.**
- 17 • **Guideline: Articulate the building to minimize impacts on light and privacy to**
18 **adjacent properties**

19 The proposed project ignores the specific context of the adjacent properties and will have
20 significant impacts to light and air to multiple single-window bedrooms. The third-floor addition
21 will extend four feet to the south, directly adjacent to the Appellant’s lightwell, without providing a
22 matching lightwell or any side setback at all. The extension will block the only source of light to
23 four bedrooms, including two rooms with only one window. While the Appellant does not object to
24 the project generally, this four-foot expansion without a setback or matching lightwell would have a
25 significant adverse impact on her tenants’ home. (“Garavaglia Decl.”, at ¶ 4.) Although providing a
26 matching lightwell or side setback would not entirely eliminate the light and air impacts, this
27 solution would greatly minimize the impacts and allow at least some light to reach these existing
28 bedrooms.

1 The Residential Design Guidelines specifically address situations such as this where
2 proposed projects would have a disproportionate impact to light and air due to dense building
3 patterns. In this specific situation, the expansion has a uniquely greater impact on the neighboring
4 building because it is south of the lightwell, blocks the only source of light to six windows and four
5 bedrooms, and further encloses an existing lightwell by building further along the property line.
6 Rather than taking the particular context of adjacent properties into consideration and designing the
7 project to reduce potential impacts, this project ignores that context.

8 The guidelines describe several design modifications that must be considered in order to
9 minimize impacts to neighboring properties, including: 1) Provide setbacks on the upper floors of
10 the building; 2) Include a sloped roof form in the design; 3) Provide shared lightwells to provide
11 more light to both properties; 4) Eliminate the need for parapet walls by using a fire-rated roof.

12 This project fails to incorporate any of the specific design modifications that are required to
13 be considered. The project does not provide a side setback adjacent to the Appellant's bedroom
14 windows and does not provide a shared lightwell to preserve light to both properties. Rather than
15 provide a shared lightwell to preserve light to both properties, the proposed project includes a
16 skylight adjacent to the Appellant's lightwell to provide light for the Permit Holder's stairwell while
17 blocking the natural light that reaches multiple single-window bedrooms of the Appellant's
18 property. This design is entirely inconsistent with the Residential Design Guidelines and shows no
19 consideration for the immediate context of the project, the project's relationship to adjacent
20 buildings, or the impacts to neighbor's light and air.

21 The inclusion of a skylight adjacent to the Appellant's lightwell exacerbates, rather than
22 minimize the project impacts as required by the Residential Design Guidelines. California Building
23 Code Section 705.11 requires a 30-inch-tall parapet when a skylight is located within five feet of a
24 roof edge. Here, the proposed skylight is within five feet of the roof edge and therefore requires a
25 30-inch-tall parapet directly adjacent to the lightwell, further reducing any potential light from
26 reaching the bedrooms next door. The second floor also includes a new skylight just west of the
27 lightwell along the property line, which also requires a new 30-inch-tall parapet that will further
28 reduce any potential light from reaching the lightwell. The project completely ignores the

1 Residential Design Guidelines’ directive to eliminate the need for parapets, and instead designed a
2 project that requires them in the areas that will be most detrimental to the adjacent property.

3 As explained above, the plans for this project omitted the six windows and four bedrooms
4 that will be impacted by the project, which obscured the project’s impacts. As a result of these
5 omissions, the project was never referred to the Residential Design Advisory Team for review for
6 consistency with the Residential Design Guidelines. The lack of 311 Notice prevented neighbors
7 from raising these issues with Planning staff or the Planning Commission. In fact, the Planning
8 Department did request that project be set back five feet from the *south* side property line to bring
9 the project into conformity with the Residential Design Guidelines, yet it did not identify the lack of
10 any side set backs on *north* side property line directly adjacent to the bedroom windows in the
11 Appellant’s home. Had the location of the windows been properly identified and the plans
12 accurately drawn, or had 311 Notice been provided, these issues could have been resolved long ago.

13 **D. Proposed Compromise Solution**

14 The Appellant has discussed proposed solutions with the Permit Holder to resolve this issue,
15 including meeting with the Permit Holder and his architect at the project site. (Chen Decl. at ¶ 19.)
16 The Permit Holder rejected a proposal to shift the rear addition north to provide a three-foot
17 setback, which could easily be accommodated as there is seven feet of open space to the north.
18 However, the Permit Holder rejected this idea because the northern open space would enable him to
19 capture as much southern light as possible, while at the same time blocking the southern light that
20 reaches Ms. Chen’s property. The Permit Holder also rejected a proposal to provide a matching
21 lightwell because this would not fit with his grand staircase design. While the Permit Holder did
22 offer to set back the third-floor master bedroom by one foot, this set-back area is adjacent to a blank
23 wall and would not solve the light impacts to the Appellant’s bedroom windows.

24 Due to the lack of flexibility shown by the Permit Holder and his architect, the Appellant has
25 consulted with her own architect to design a potential solution. As shown below, the proposed
26 project can easily be modified to maintain the integrity of the existing lightwell while still providing
27 virtually the same new square footage by making three minor design changes. First, the Appellant’s
28 lightwell is located adjacent to the proposed large staircase. The ceiling and roof above the staircase

1 are currently designed as a flat roof, making the ceiling above the second-floor landing almost 20
2 feet tall. The ceiling and roof above the staircase could instead include a notch set back from the
3 lightwell, which would still maintain a 9-foot ceiling clearance. (Garavaglia Decl., at **Exhibit B.**)

4 Second, the ceiling of third-floor master bedroom could be shifted 1-foot to the south, as the
5 Permit Holder has already proposed, and the ceiling could be reduced from ten feet to nine feet.
6 This would greatly reduce the shadow impacts to the lightwell from the rear addition. (*Id.*) Third,
7 the second-floor skylight over the kitchen could be shifted west approximately three feet, which
8 would eliminate the need for a 30-inch-tall parapet adjacent to the lightwell. (*Id.*)

9 The design changes would have minimal impact on the project, merely requiring ceiling
10 heights to be reduced and skylights to be shifted. On the other hand, the design changes would
11 significantly increase the only natural light that reaches the Appellant's lightwell and bedrooms.
12 These design modifications are exactly the type of small concessions that the Residential Design
13 Guidelines require.

14 IV. CONCLUSION

15 The proposed project would block the Appellant's lightwell and substantially impact her
16 tenants' only source of natural light for multiple single-window bedrooms. The Board should grant
17 this appeal and require proper 311 Notice, with accurate plans that disclose the adjacent bedroom
18 windows and account for the property's unpermitted addition.

19 Alternatively, the Appellant requests minor project modifications – a notched roof above the
20 staircase, a 1-foot shift south and 1-foot ceiling reduction for the master bedroom, and a slightly
21 shifted skylight – which are necessary to bring the project into compliance with the Planning Code
22 and Residential Design Guidelines.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: March 24, 2022

Respectfully submitted,

ZACKS, FREEDMAN & PATTERSON, PC



Brian O'Neill
Attorneys for Appellant
SUSY CHEN

Projects Location Stage Characteristics Routing/Addenda Fees Payments Owner/Contractor/Agents Planning Dev Impact Fee

STAGE

2767 / 002A / 0 436 EUREKA ST

ALTERATIONS PERMIT

Stage

Created By

SITE PERMIT

201810092526

Form

3

Proj

REINSTATED

NGUTIERR

REAR YARD.REMODEL KITCHEN

Desc History

Processing Stage History:

Date	Processing Stage	Comments	Created By
10/09/2018	TRIAGE		NGUTIERR
10/09/2018	FILING		NGUTIERR
10/09/2018	FILED		NGUTIERR
02/09/2022	APPROVED		SSONG
02/11/2022	ISSUED		SSONG
02/25/2022	SUSPEND	Per BOA Appeal #22-013	CHASBUN
06/09/2022	REINSTATED	conditions permit issued	GSAMARAS

Add Stage

Delete Stage

Expiration Date : 01/26/2025

Extension Date : 04/28/2027

New Expiration Date :



Projects

Location

Stage

Characteristics

Routing/Addenda

Fee\$

Payments

Owner/Contractor/Agents

Planning

Dev Impact Fee

STAGE

2767 / 002A / 0 436 EUREKA ST

ALTERATIONS PERMIT

Stage

Created By

SITE PERMIT

202508143077

Form

3

Proj

SUSPEND

NGUTIERR

ALTERED SITE PERMIT (REF 2018-

Desc History

Processing Stage History:

Date	Processing Stage	Comments	Created By
08/14/2025	TRIAGE		NGUTIERR
08/21/2025	FILING		ONLINEPROD
08/21/2025	FILED		ONLINEPROD
11/07/2025	APPROVED		ACHAN
11/10/2025	ISSUED		ACHAN
11/24/2025	SUSPEND	Per BOA Appeal No.25-053	CBLACKSH

Add Stage

Delete Stage

Expiration Date : 11/05/2026

Extension Date :

New Expiration Date :

Projects Location Stage Characteristics Routing/Addenda Fees Payments Owner/Contractor/Agents Planning Dev Impact Fee

STAGE

2767 / 002A / 0 436 EUREKA ST

ALTERATIONS PERMIT

Stage

Created By

202205275182

Form

8

Proj

ISSUED

SBROWN

PER BOARD OF APPEALS

Desc History

Processing Stage History:

Date	Processing Stage	Comments	Created By
05/27/2022	TRIAGE		SBROWN
05/27/2022	FILING		SBROWN
05/27/2022	FILED		SBROWN
06/03/2022	APPROVED		ALEI
06/03/2022	ISSUED		ALEI

Add Stage

Delete Stage

Expiration Date : 05/29/2023

Extension Date :

New Expiration Date :

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

NEW YORK
LONDON
SINGAPORE
PHILADELPHIA
CHICAGO
WASHINGTON, DC
SAN FRANCISCO
SILICON VALLEY
SAN DIEGO
LOS ANGELES
BOSTON
HOUSTON
DALLAS
FORT WORTH
AUSTIN

DuaneMorris®

FIRM and AFFILIATE OFFICES

DENIS F. SHANAGHER
DIRECT DIAL: 415.957.3318
E-MAIL: dfshanagher@duanemorris.com

www.duanemorris.com

HANOI
HO CHI MINH CITY
SHANGHAI
ATLANTA
BALTIMORE
WILMINGTON
MIAMI
BOCA RATON
PITTSBURGH
NORTH JERSEY
LAS VEGAS
CHERRY HILL
LAKE TAHOE
MYANMAR

ALLIANCES IN MEXICO

February 11, 2026

By Email & U.S. Mail

Commissioner John Trasvina
President, Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Re: Appeal No. 25-053
Alteration Permit No. 202508143077
436 Eureka Street

Dear Commissioner Trasvina:

This firm represents Steven and Courtney Martisaukas (collectively "Martisaukas"), the owners of the single-family home located at 436 Eureka Street (herein "Building" or "Project Site"). This appeal is the latest of a long-running effort by the Appellant to interfere with the Martisaukas efforts to horizontally renovate their Building ("Project"). That effort has included a 2022 appeal of a Building Permit (Appeal No. 22-013), an unsuccessful Request for Rehearing, a now-dormant Petition for Writ of Administrative of Mandamus (S.F. Superior Court No. CPF-22-517839), and now this latest appeal. As discussed below, as with the prior efforts, there is no merit to this Appeal and Martisaukas request that it be denied and they be allowed to proceed with their Project.

DUANE MORRIS LLP

SPEAR TOWER, ONE MARKET PLAZA, SUITE 2200
SAN FRANCISCO, CA 94105-1127
DM2/301454918.1

PHONE: +1 415 957 3000 FAX: +1 415 957 3001

MARTISAUSKAS

Martisauskas purchased their home at 436 Eureka Street in March 2017 and began planning how to meet the needs of their growing family. Courtney was 7 months pregnant when the first neighborhood pre-application meeting was held in *September 2018*. Martisauskas now have two children. Steven works from home in hardware development for a consumer electronics company that involves working with design development teams in Asia and in Europe. The time zone difference mandates a home office where he can work without interruption throughout the day, including early morning and late evening.

Steven's parents are 83 and 78. Courtney's parents are 82 and 74. Steven's father has mobility issues and walks with a cane. Steven's parents are expected to live with Martisauskas after completion of the Project. Currently, Martisauskas rent an AirBnB six (6) doors from their home when the parents visit because the Building is not handicap accessible.

The Project is designed to meet the family's growing needs by adding a fourth bedroom when the Martisauskas parents can no longer live alone without assistance. Steven's home office would serve as a fifth bedroom when both their parents stay with them at the same time. The plans before the Board will meet the Martisauskas need with space for children, aging parents, and a home office.

PROJECT SITE AND PROJECT VICINITY

The 25' x 134'-3" rectangular Project Site is an up-sloping lot in a RH-2 zoning district on Eureka Street between 21st and 22nd Streets. The Project Site is improved with a 37'-11" high, 2,562 square foot single-family home ("Building") with a 13'-11" front set back constructed. The

Building is three-story over a partial one-car basement garage with no interior connection to the upper levels.

The depth of the Building is 46'-3" deep at the first and second levels and 32'-1" deep at the third level. The second floor has a 12' side setback beyond the rear facade of the adjacent 444 Eureka Building and no side set back adjacent to Appellant's building. The third level has no side setback from either adjacent building. The Building's first level does not meet the required 7'-6" ceiling height or ventilation requirements for habitable space under the 2019 San Francisco Housing Code Sections 503 and 504. Except for one room at the northeast of the first level with 7' ceiling, the ceiling height of the remainder first level is less than the 7'.

Appellant's three-story building is 65'-11 1/2" deep at all levels (or 14' longer than Martisaukas home) and approximately the same height as the Building. The other adjacent building at 444 Eureka is three-story high with no front set back and is 60'-1" deep and its rear facade align with the Building's rear facade. The surrounding buildings in the immediate neighborhood range from two to four stories in height with various roof forms and have various architectural vocabulary.

APPROVED PROJECT BEFORE THE BOARD

The Project approved by the Department and contained in Site Permit No. 201810092526 involves the renovation and rear extensions of all three levels of the Building. The depth of Project's first level rear addition will be 10'-10", which is an increase from 46'-3" to 57'-1". When completed, the first level will still be 3' shorter than Appellant's building without adding the depth of the Bay windows facing the rear yard. The depth of the Project's second and third level rear

addition will be 6'-8" from 46'-3" to 52'-11" with a 4' side setback from the common property line with Appellant at the rear of the Building. The existing 12' rear side setback at the second and third level from the 444 Eureka building will be reduced to 7'-2".

Upon completion, the garage level will be expanded to house two tandem parking spaces, a storage room and a staircase accessing the rear yard. The ceiling height of the first level will be increased to meet the Housing Code requirement by excavation; this level will have a recessed entrance entry, two bedrooms with a shared bath and the family room. The second level will be the public space with a living room, kitchen, dining room, half-bath, staircase and the third level will have two bedrooms, a shared bath and a ensuite primary bedroom.

The Alteration Permit (202508143077) at issue here proposes only expansion of the basement, the addition of a skylight and a change in window sizes.

PROJECT DESIGN EVOLUTION

As can be further explained at the hearing, the architect for this Project, Nicholas Thomas, has worked diligently with the Planning Department staff over the years to address any of the Department's design concerns. Changes to the design were made following the original neighborhood pre-application meeting. The original Site Permit (No. 201810092526) was finally issued on February 11, 2022, and was then appealed by the Appellant herein. At the hearing on April 13, 2022, in a series of concessions to Appellant, Martisauskas agreed to further reduce the Project to avoid further disputes, making changes to exterior massing on the first, and second levels, and to remove a roof parapet and install a fire-rated roof. Those revisions were reflected in the Notice of Decision issued by this Board on May 12, 2022 (following the denial of a rehearing request), a copy of which is attached as **Exhibit A**.

Despite the concessions, the Appellant then filed a Petition for Writ of Mandate against the Board, the City and its agencies (*Susy Chen v. San Francisco Board of Appeals, San Francisco Planning Department etc.*, S.F. Superior Court No. CPF-22-517839) on May 8, 2022, raising a variety of spurious arguments relating to Notice, asserted Board Findings Not Supported by the Evidence, and purported violations of the Planning Code. A Verified Supplement to First Amended Petition for Writ of Administrative Mandate was later filed by Appellant against the City on April 27, 2023. *Appellant has taken no further action with respect to the Writ since the filing of the Verified Supplement to Petition on April 27, 2023.*

In the meantime, the City had issued Permit No. 202206287312 on October 14, 2022, to allow the Project to proceed, as amended. But, as might be expected, Martisauskas were reluctant to proceed given the Petition for Writ of Mandate.

When it became clear that the Appellant was not going to prosecute the Writ of Mandate, on August 21, 2025, Martisauskas applied for a minor alteration of the original Site Permit No. 201810092526 so as to allow for an expansion of the basement, the addition of a skylight and a change in window sizes (Alteration Permit Application No. 202508143077). Otherwise, the Project proposes no changes to the Project approved in connection with Site Permit nos. 201810092526 and 202206287312 and approved by this Board in 2022. Note that the Alteration Permit Application no. 202508143077 had the effect of now obviating Permit no. 202206287312.

///

///

Following a thorough review, the Alteration Site Permit application no. 202508143077 was issued by the Department on November 10, 2025. Nonetheless, the Appellant is proceeding with this Appeal.

RESPONSES TO ISSUES RAISED BY THE APPELLANT

In its brief, the Appellant has apparently abandoned any opposition to the specifics of the Project, particularly the subject Alteration Permit, but is instead raising several related ministerial issues in support of the Appeal surrounding the alleged expiration of the operative Site Permit(s). As discussed below, these arguments are without merit.

A. *The Principal Permit Has Not Expired.*

The Appellant argues that according to the DBI Permit Tracking System, the Principal Permit (201810092526) expired on January 26, 2025, and Martisauskas failed to request an extension while the permit was still active.

In fact, the operative Site Permit (201810092526) was issued on February 11, 2022, then suspended due to the original appeal, and subsequently reinstated on June 9, 2022, following the conclusion of that appeal.

From there, the Site Permit (201810092526) was indeed originally scheduled to expire on January 26, 2025, but pursuant to an extension, was extended to May 8, 2025.

///

///

///

On May 7, 2025, pursuant to a letter from the Martisauskas architect, Nicholas Thomas, Martisauskas applied for a second extension in a letter of the same date to the Department of Building Inspection. See the approved Service Request Application attached as **Exhibit B**. As noted thereon, the subject Site Permit was then extended to April 28, 2027. As a result, the Principal Permit has not expired.

It should be noted that the several permit screenshots attached to the Appellant's Brief prove nothing to the contrary, as all they establish are permits having being issued or reinstated, and not one entry showing that any of the permits have expired. The original Site Permit 201810092526 is properly shown as extended to April 28, 2027. The subject Alteration Site Permit no. 202508143077 is shown as suspended pending this appeal. The Site Permit 202206287312 is no longer relevant.

B. *Any Permit Extension Was Arbitrary And Without Reasoned Exercise of Discretion*

Appellant argues that as the so-called Principal Permit has expired, any subsequent permit extension is legally invalid. However, since Permit No. 201810092526 was properly extended, there is no basis for this argument.

C. *The 2025 Permit Improperly Extends an Expired Permit.*

The Appellant next argues that the 2025 Permit is an alteration permit seeking to alter the so-called Principal Permit. According to the Appellant, as that new Permit application was filed on August 21, 2025, after both the so-called Principal Permit and the BOA Approved Permit had expired, the 2025 alteration permit is invalid or attempts to extend an expired permit.

Again, since Site Permit No. 201810092526 was properly extended, there is no basis for this argument.

D. *The Permitted Plans Do Not Violate Single Dwelling Unit Size Limitations.*

The Appellant incorrectly argues that the 2025 Permit results in a single Dwelling Unit size greater than 3,000 square feet, and the plans allegedly violate Ordinance 253-25 because the plans increase the Gross Floor Area by more than 15%, resulting in a Single Dwelling Unit exceeding 3,000 square feet.

On its face, Ordinance 253-25 was passed on December 9, 2025, well after this Alteration Site Permit Application was filed. Moreover, on its face Ordinance 253-25 does not apply to any applications for an expansion of an existing Residential Building on lots that as of June 24, 2024, were not subject to the Corona Heights Residence Special Use District. The subject Building was not subject to the Corona Heights Special Use District as of June 4, 2024. The subject Alteration Permit Application No. 202508143077, filed on August 11, 2025, simply alters the original Site Permit No. 201810092526, submitted some six years before the passage of Ordinance 253-25.

Simply stated, Ordinance 253-25 does not apply.

E. *CEQA's Environmental Review Requirements Do Not Apply.*

Finally, Appellant asserts that CEQA's environmental review requirements apply to discretionary projects proposed to be carried out or approved by public agencies, including the issuance of conditional use permits and similar approvals, unless the Project is exempt. Appellant argues the permit at issue here constitutes a discretionary agency action subject to CEQA's environmental review requirements.

///

///

But this Project, as a single-family residence, is categorically exempt from any CEQA review. The Alteration Site Permit at issue here was filed solely to reflect subterranean scope adjustments, a skylight and window size. The building envelope, massing, height, setbacks, light impacts, and all elements addressed by the Board in Appeal No. 22-013 remain unchanged and fully compliant with this Board's prior decision.

Under established DBI and BOA practice, an alteration that remains consistent with an existing Board-approved permit does not reopen discretionary review or entitlement issues, nor does it provide a vehicle to relitigate matters previously decided.

CONCLUSION

This is the latest in Appellant's extended effort of more than four years to interfere with the Martisauskas efforts to remodel their Building. Martisauskas are now in their seventh year of attempting to obtain approval and remodel their Building. It is time to bring this process to an end. The operative Site Permit remains valid and there is no merit to this appeal.

Very truly yours,

Denis F. Shanagher

Denis F. Shanagher
Partner

DFS
Encls.

cc: Clients
Corey Teague, Zoning Administrator
Jeff Horn – SF Planning
Christine Kelly, Esq.

EXHIBIT

A

EXHIBIT A



AFFIDAVIT OF SERVICE

Susy Chen, Appellant(s)
c/o Ryan Patterson, Attorney for Appellant(s)
Zacks Freedman & Patterson, P.C.
601 Montgomery Street, Suite 400
San Francisco, CA 94111

I, Alec Longaway, Legal Assistant for the Board of Appeals, hereby certify that on this **12th** day of **May 2022**, I served the attached **Notice of Decision** for **Appeal No. 22-013, Chen vs. Department of Building Inspection**, subject property at **436 Eureka Street**, on the appellant(s) via email to: ryan@zfplaw.com and susychen@gmail.com.

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

May 12, 2022

Date

Alec Longaway

Alec Longaway

cc: Matthew Greene, Senior Building Inspector
Department of Building Inspection
matthew.greene@sfgov.org

OTHER PARTIES
OR CONCERNED CITIZENS:

Steve and Courtney Martisaukas, Permit Holder(s)
c/o Alice Barkley, Attorney for Permit Holder(s)
Duane Morris LLP
Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105
asbarkley@duanemorris.com



BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
SUSY CHEN,

Appeal No. **22-013**

Appellant(s)

vs.

DEPARTMENT OF BUILDING INSPECTION.

PLANNING DEPARTMENT APPROVAL

Respondent

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on February 25, 2022, 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 ISSUANCE on February 11, 2022 to Steve Martisauskas, of a Site Permit (Horizontal expansion at rear of all levels; new interior stairs to connect all levels; remodel and reconfigure interior walls throughout per plans; excavate and expand existing garage; new doors and windows per elevations, two new bedrooms and two new bathrooms; in ground hot tub location in rear yard; remodel kitchen) at 436 Eureka Street.

APPLICATION NO. 2018/10/09/2526

FOR HEARING ON April 13, 2022

Address of Appellant(s):

Susy Chen, Appellant(s)
c/o Ryan Patterson, Attorney for Appellant(s)
Zacks Freedman & Patterson, P.C.
601 Montgomery Street, Suite 400
San Francisco, CA 94111

Address of Other Parties:

Steve and Courtney Martisauskas, Permit Holder(s)
c/o Alice Barkley, Attorney for Permit Holder(s)
Duane Morris LLP
Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105

NOTICE OF DECISION & ORDER

The hearing on the aforementioned matter came before the Board of Appeals of the City & County of San Francisco on April 13, 2022. The appeal was granted on the condition that the permit be revised to require the adoption of the revised plans found in Exhibit 9 of the permit holders' brief. The appellant timely filed a Rehearing Request. On May 11, 2022, the Board denied the Rehearing Request.

PURSUANT TO § 4.106 of the Charter of the City & County of San Francisco and Article 1, §14 of the Business & Tax Regulations Code of the said City & County, and the action above stated, the Board of Appeals hereby **GRANTS THE APPEAL AND ORDERS** that the ISSUANCE of the subject permit by the Department of Building Inspection is **UPHELD** on the **CONDITION** that it be revised to require the adoption of the revised plans which are in Exhibit 9 of the permit holders' brief (attached). This motion was made on the basis that the revised plans are code compliant and address some of the appellant's concerns.

THE SUSPENSION MAY NOT BE LIFTED UNTIL REVISED PLANS ARE ACCEPTED BY BOARD STAFF, THEN APPROVED BY THE DBI AND PLANNING DEPARTMENT, AND UNTIL THE DBI ISSUES A SPECIAL CONDITIONS PERMIT WHICH EXECUTES THE AFOREMENTIONED CONDITIONS IMPOSED BY THE BOARD.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO

Last Day to Request Rehearing: April 25, 2022

Rehearing Request: May 11, 2022 (denied)

Rehearing: None.

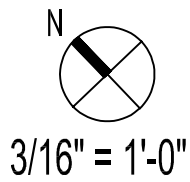
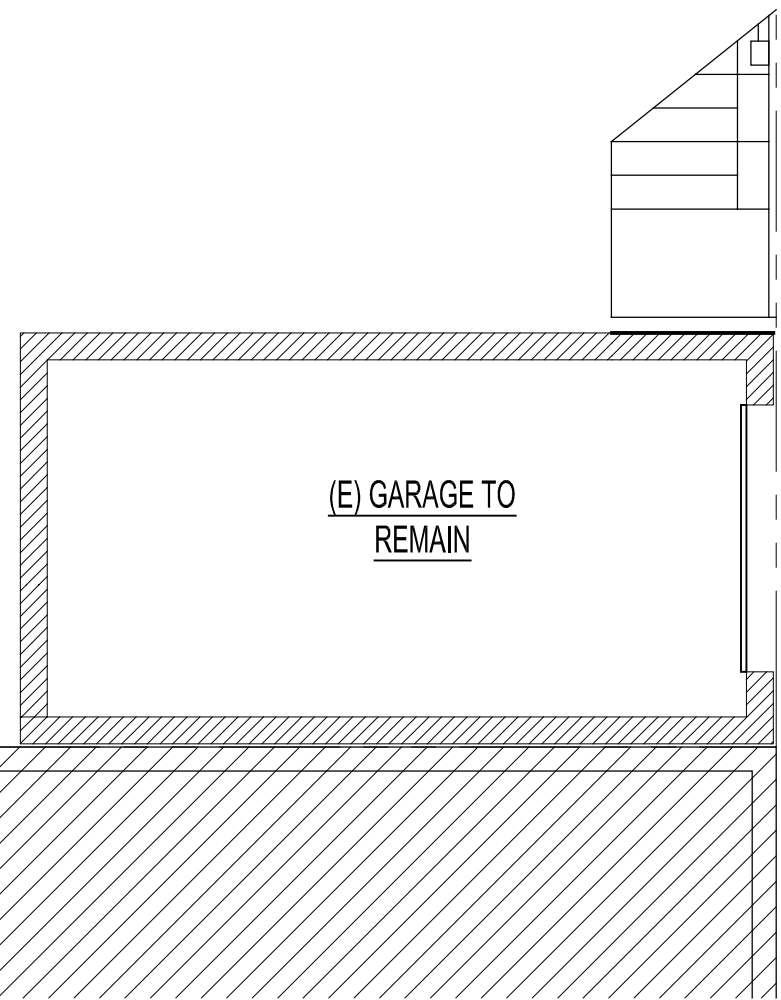
Notice Released: May 12, 2022

Rick Swig, President

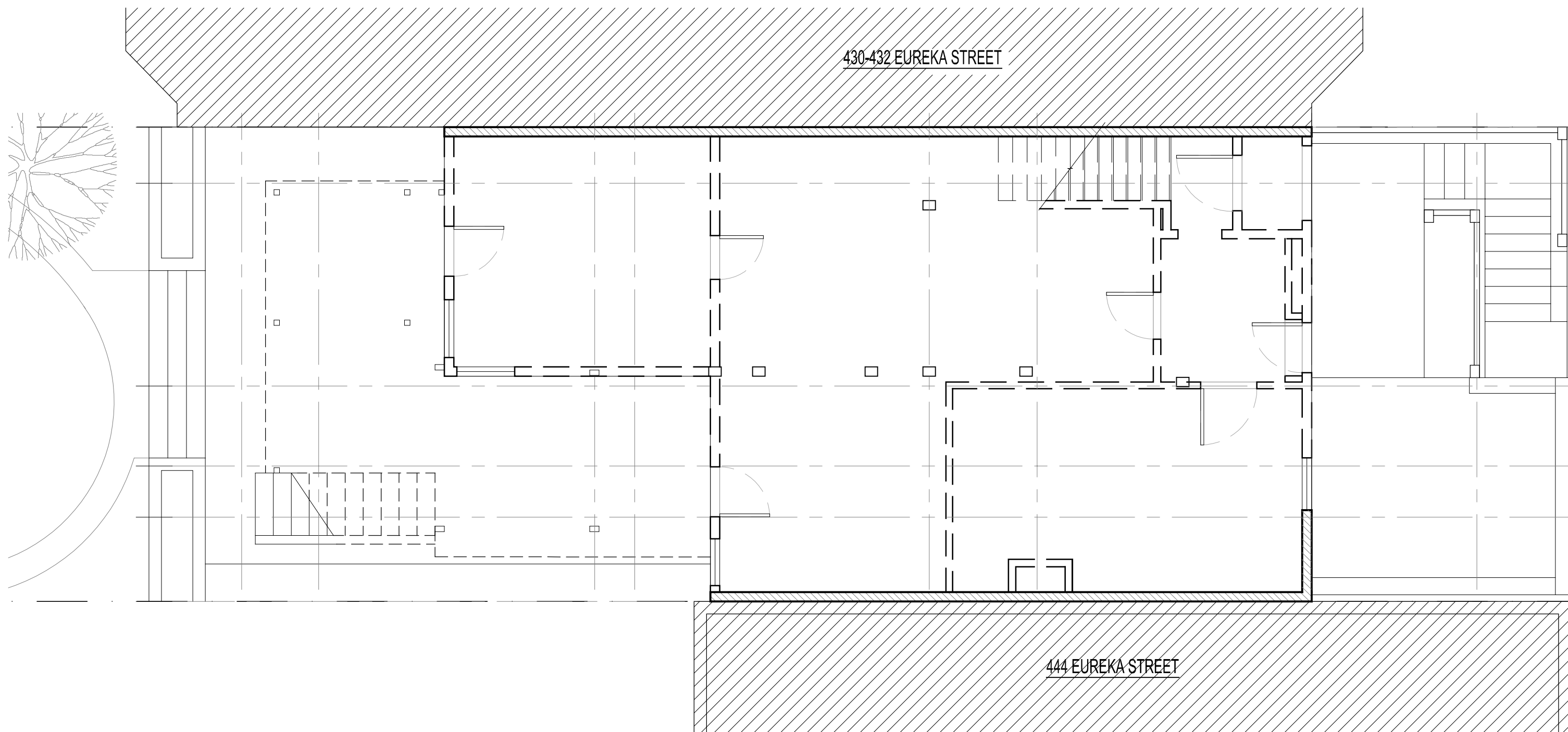
Julie Rosenberg, Executive Director

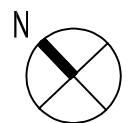
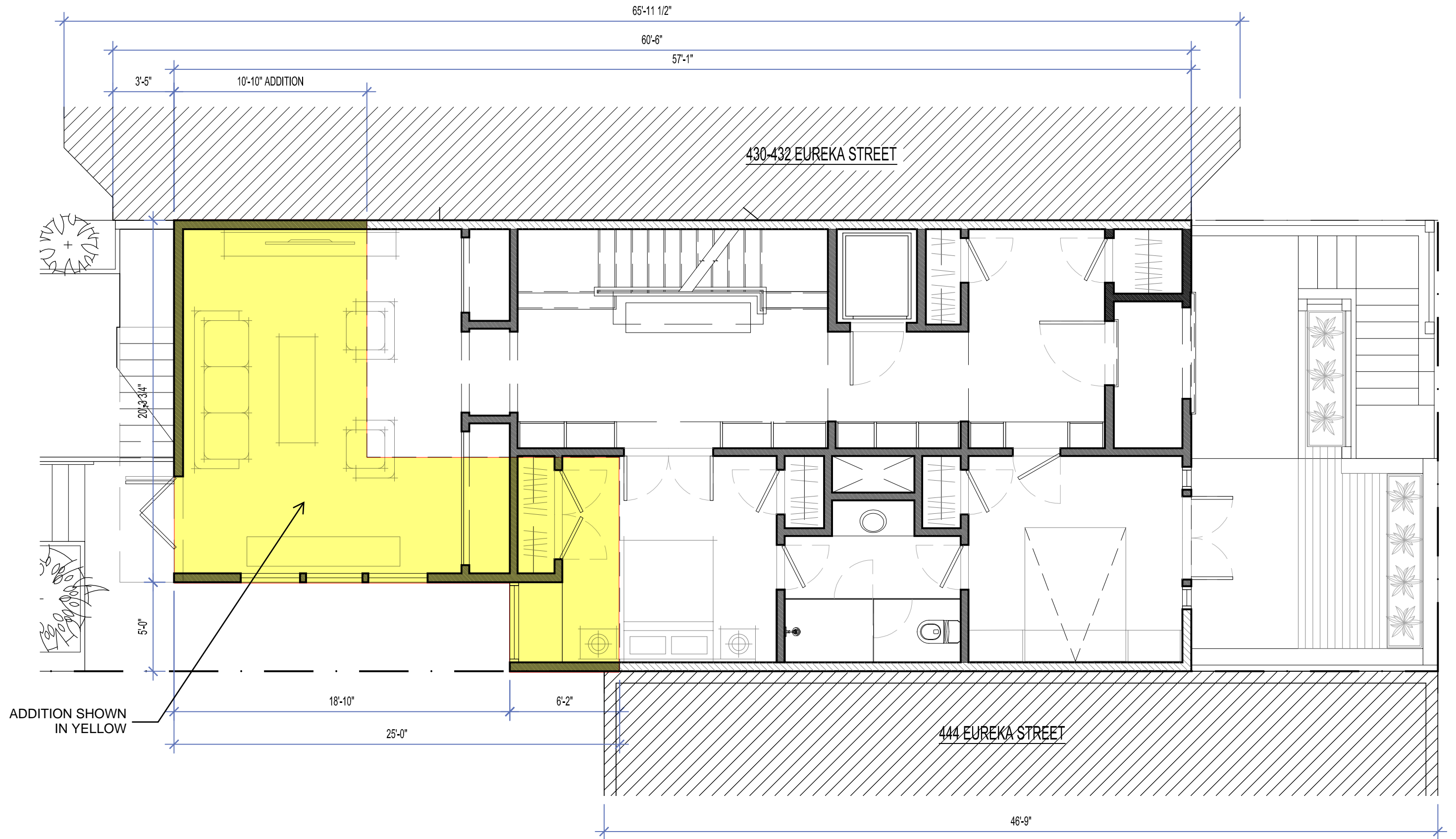
If this decision is subject to review under Code of Civil Procedure § 1094.5, then the time within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.

NOTE: A 703 S.F. EXPANSION OF
THIS LEVEL WAS APPROVED, BUT
HAS SINCE BEEN DISCARDED. THE
EXISTING GARAGE SHALL REMAIN
AS-IS.



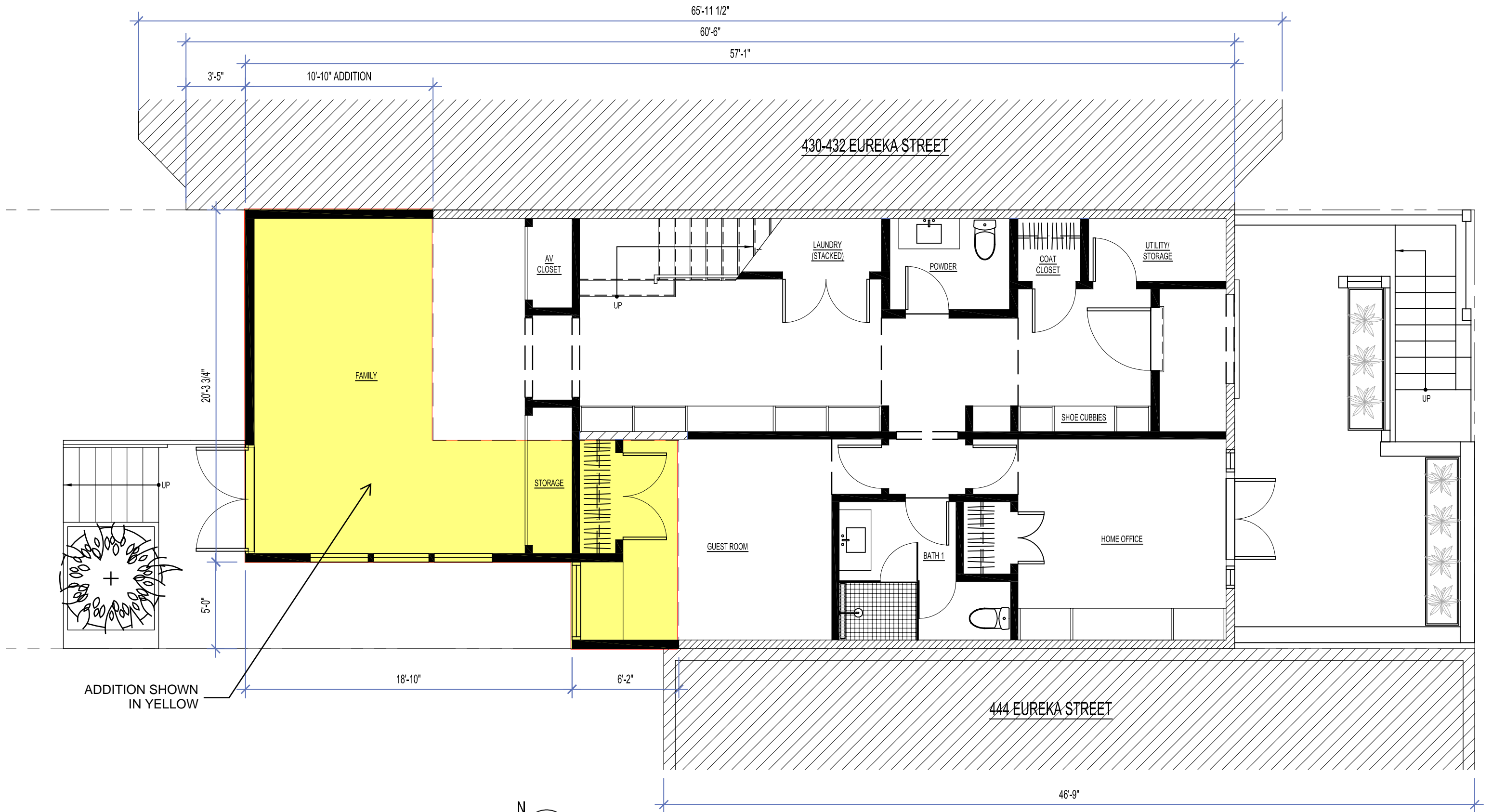
EXISTING GARAGE FLOOR PLAN
(STREET LEVEL)

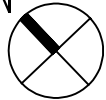




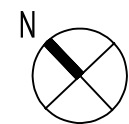
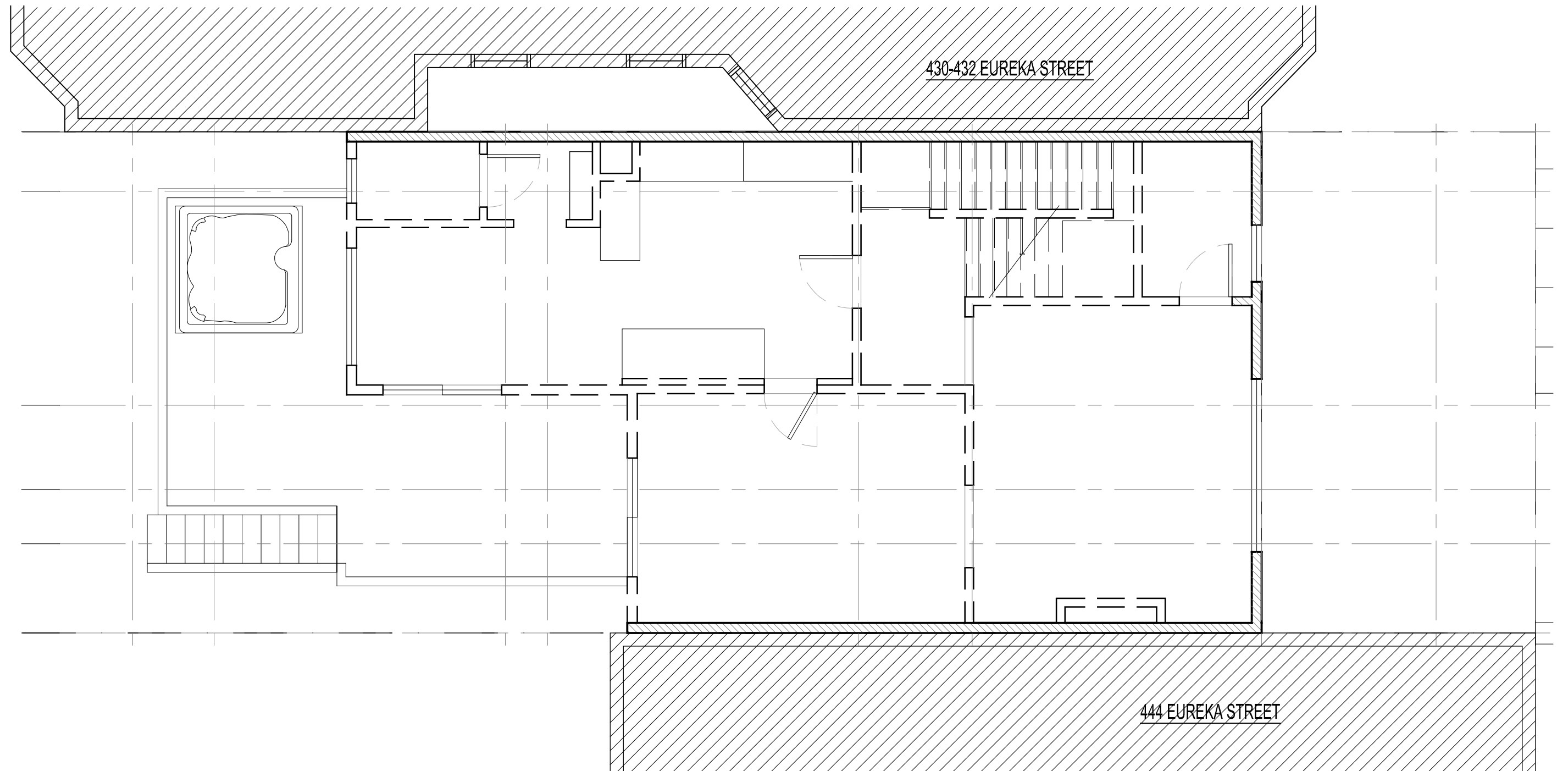
3/16" = 1'-0"

APPROVED FIRST LEVEL PLAN



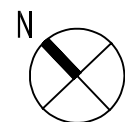
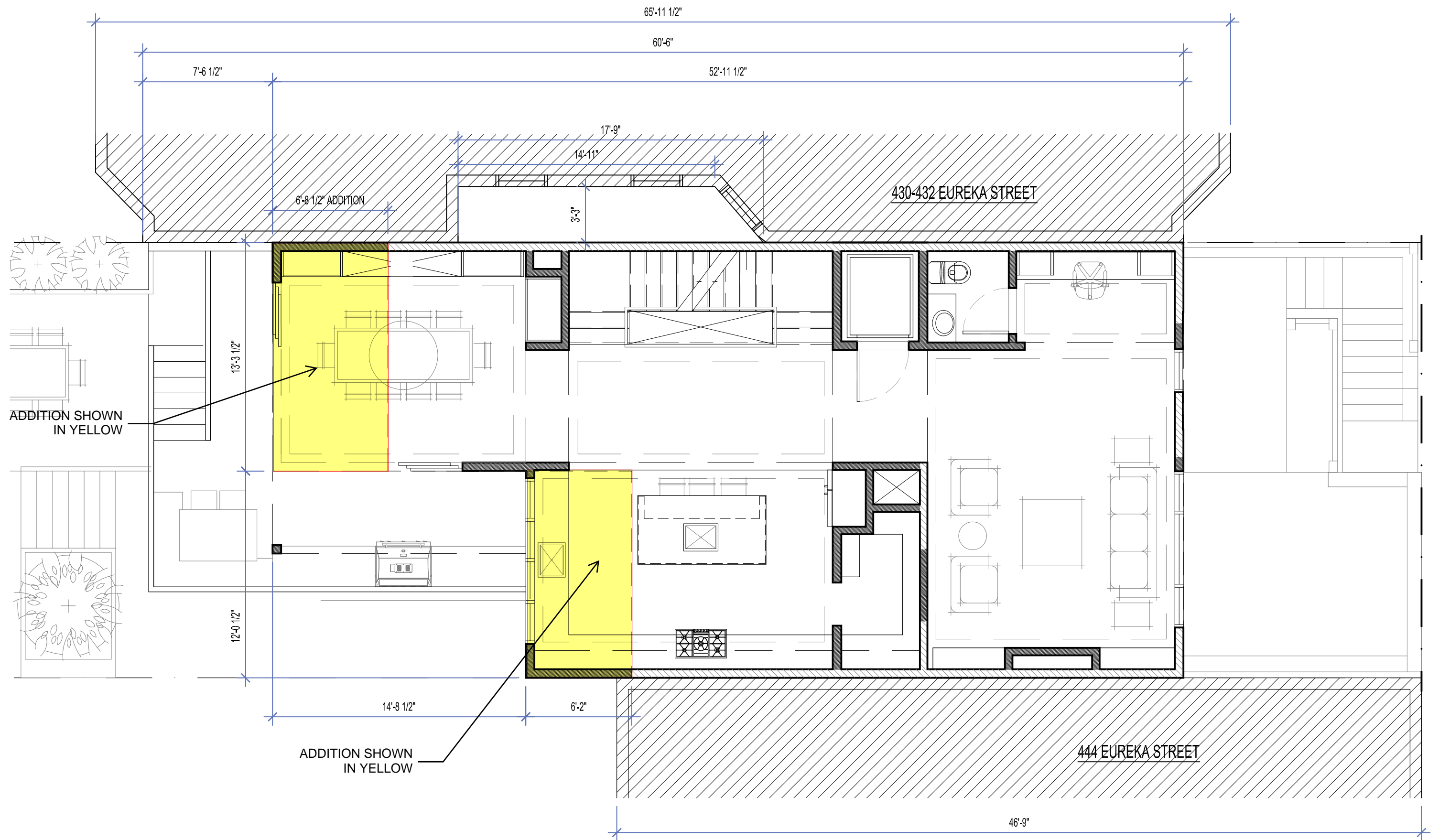
N

3/16" = 1'-0"

MODIFIED FIRST LEVEL PLAN
(NO CHANGES TO EXTERIOR
MASSING)



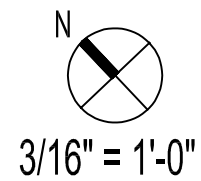
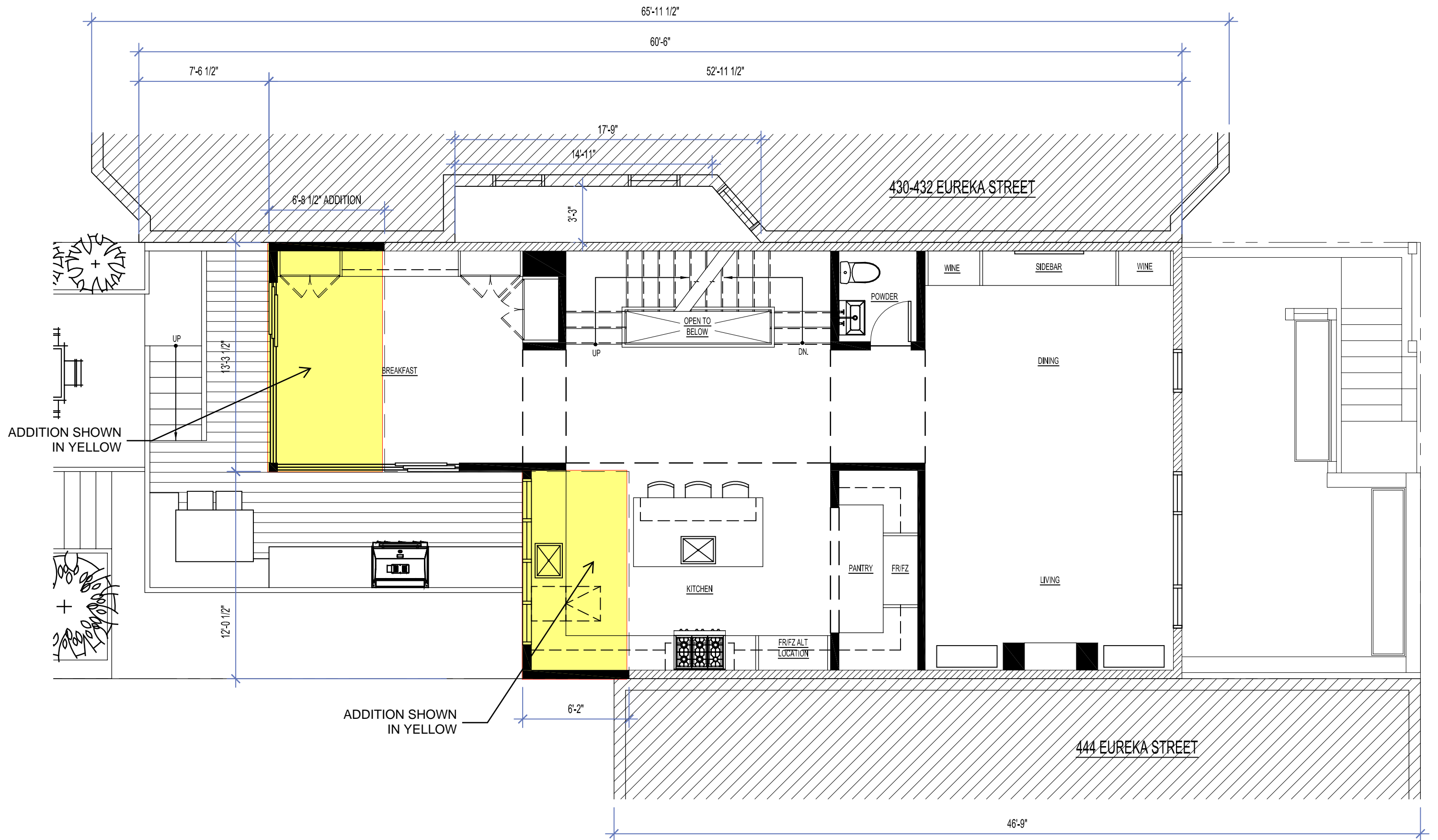
3/16" = 1'-0"

EXISTING SECOND LEVEL PLAN

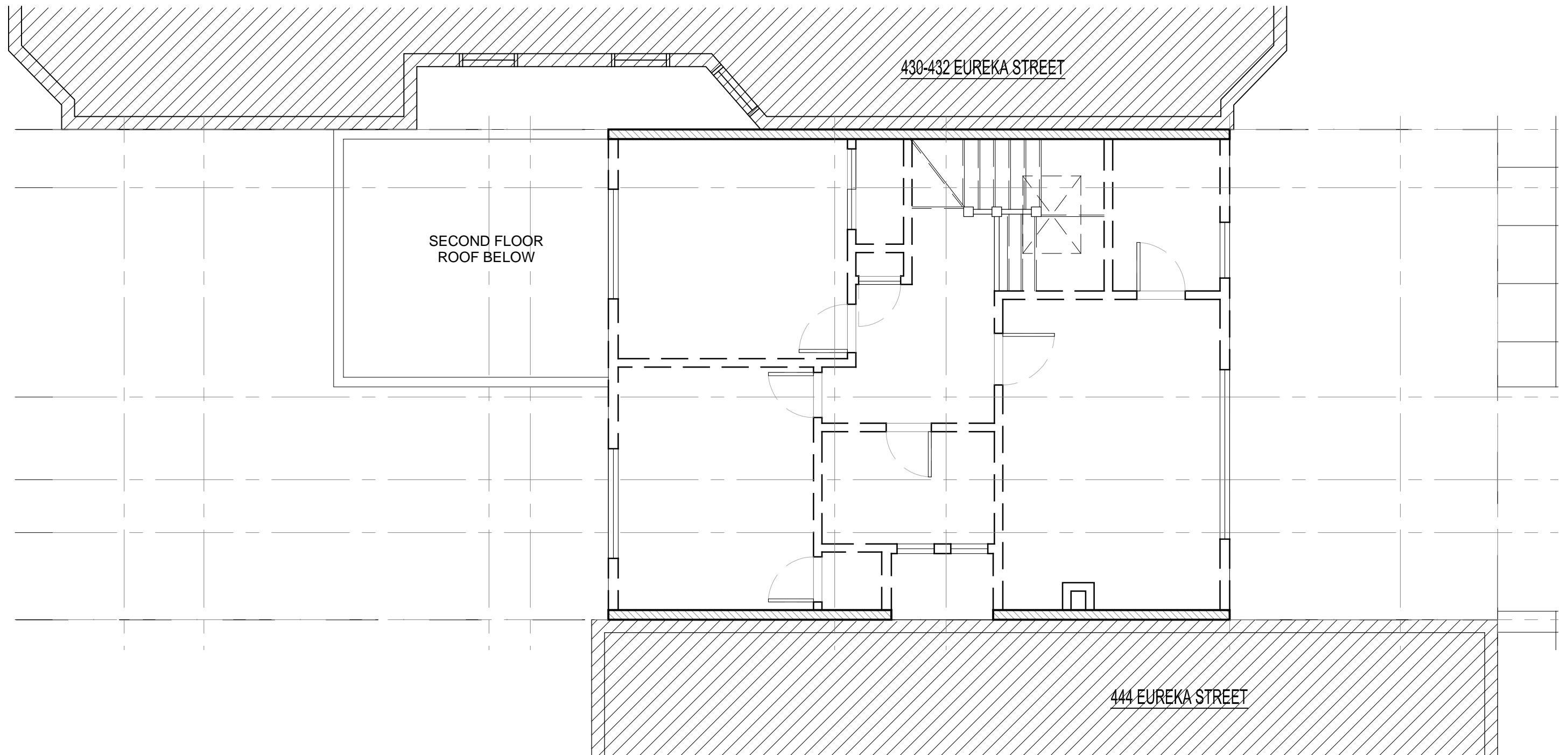


3/16" = 1'-0"

APPROVED SECOND LEVEL PLAN

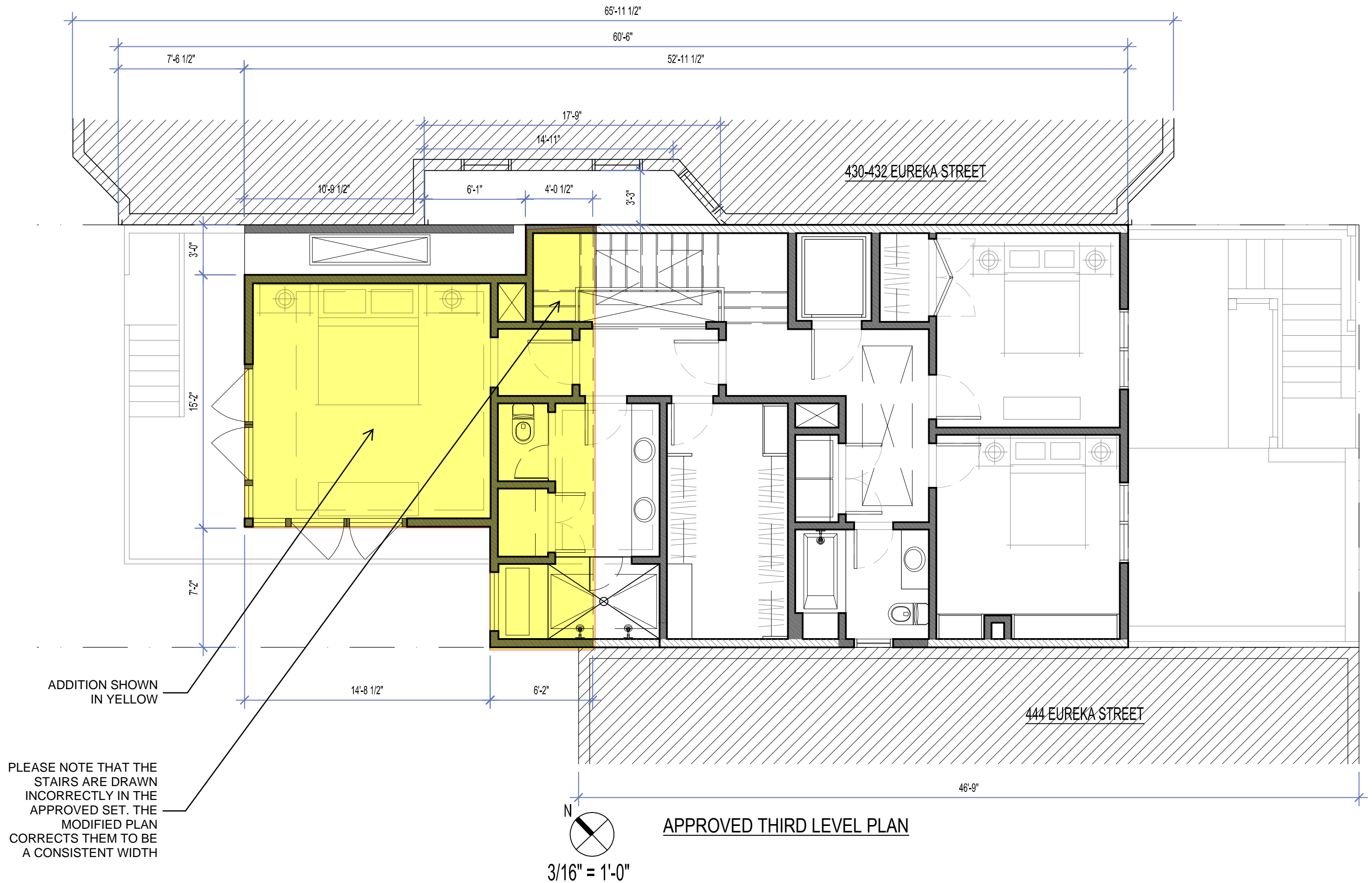


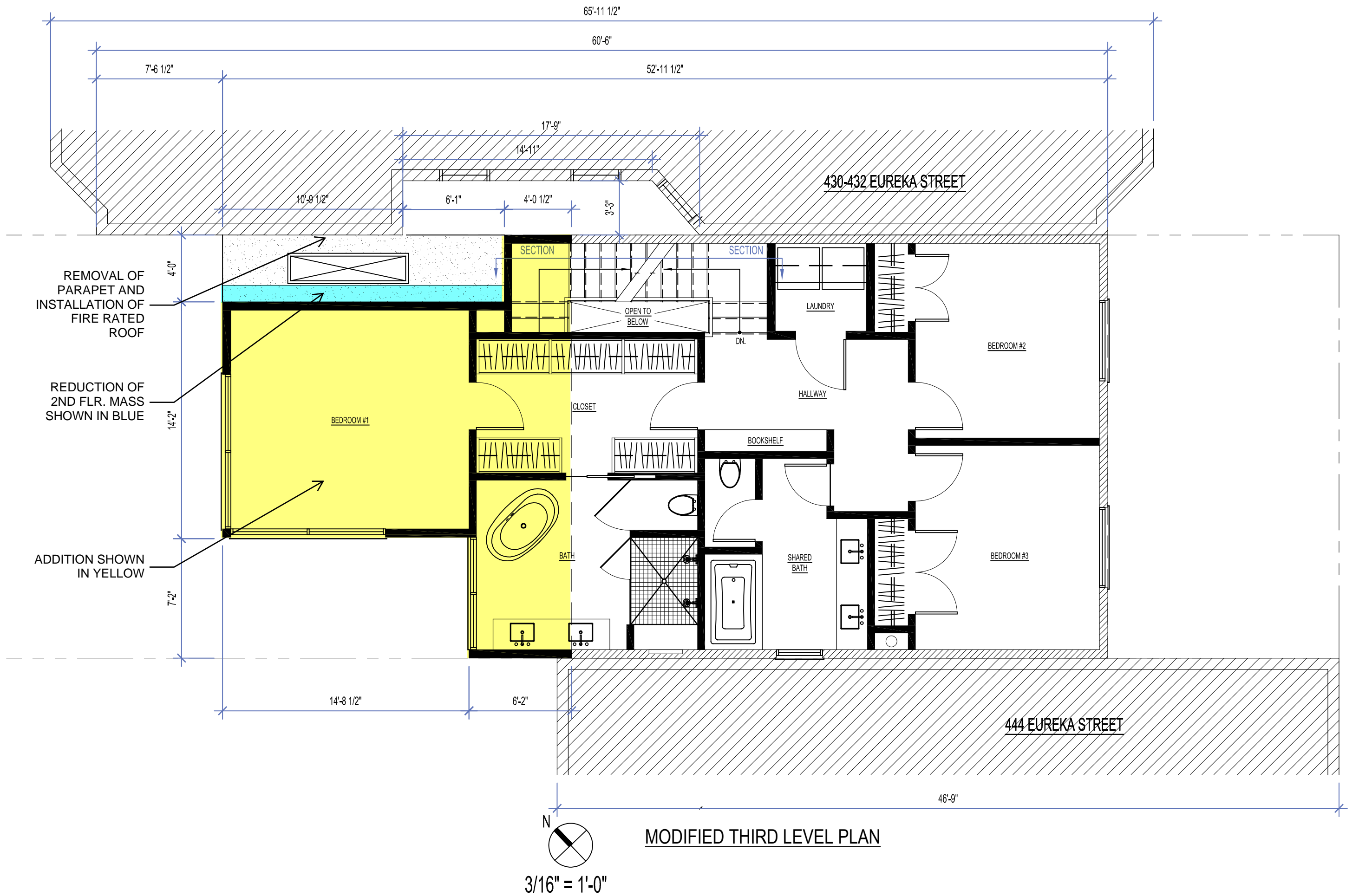
MODIFIED SECOND LEVEL PLAN
(NO CHANGE TO EXTERIOR
MASSING)

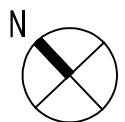
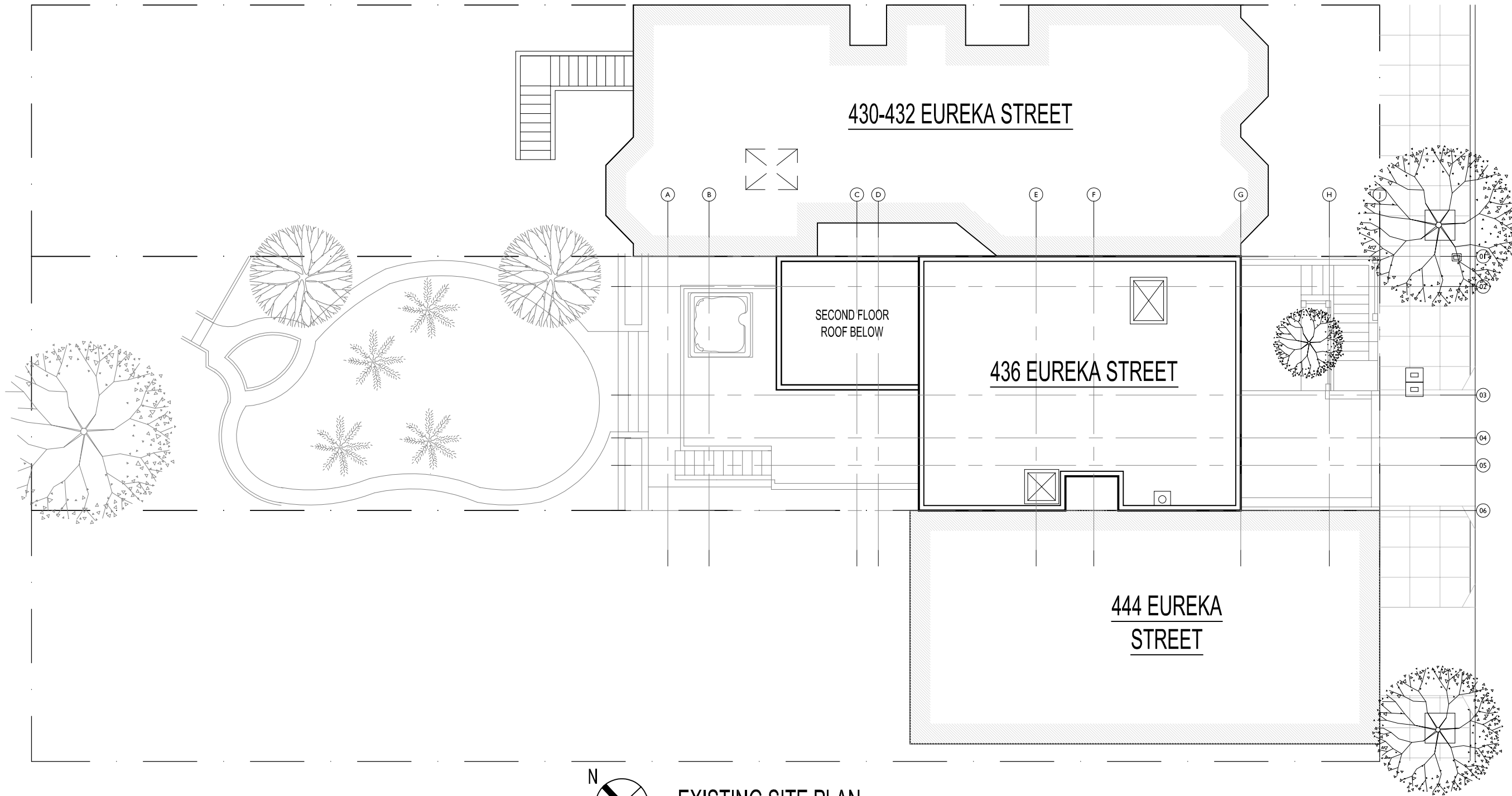


N
3/16" = 1'-0"

EXISTING THIRD LEVEL PLAN

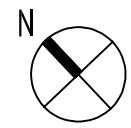
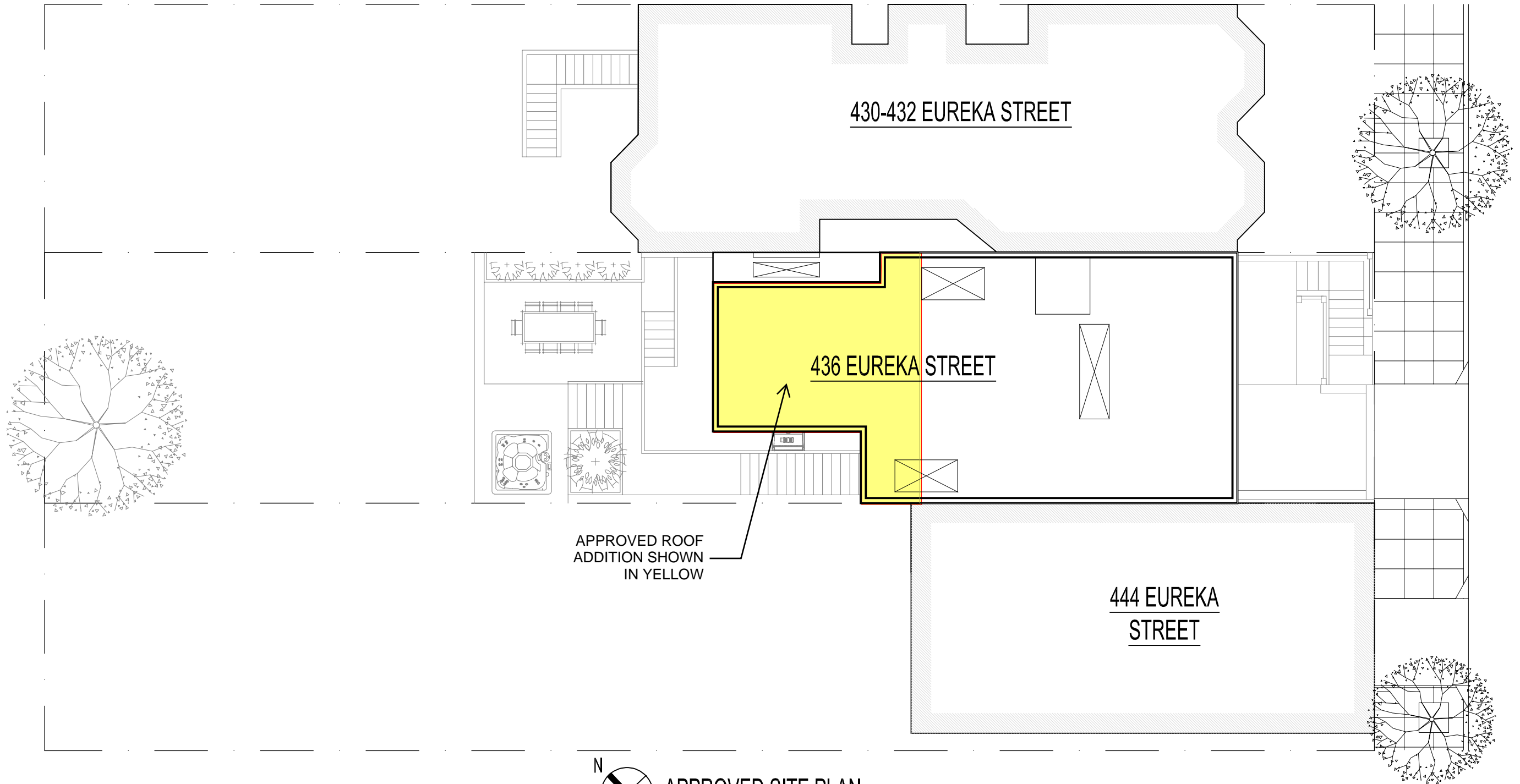






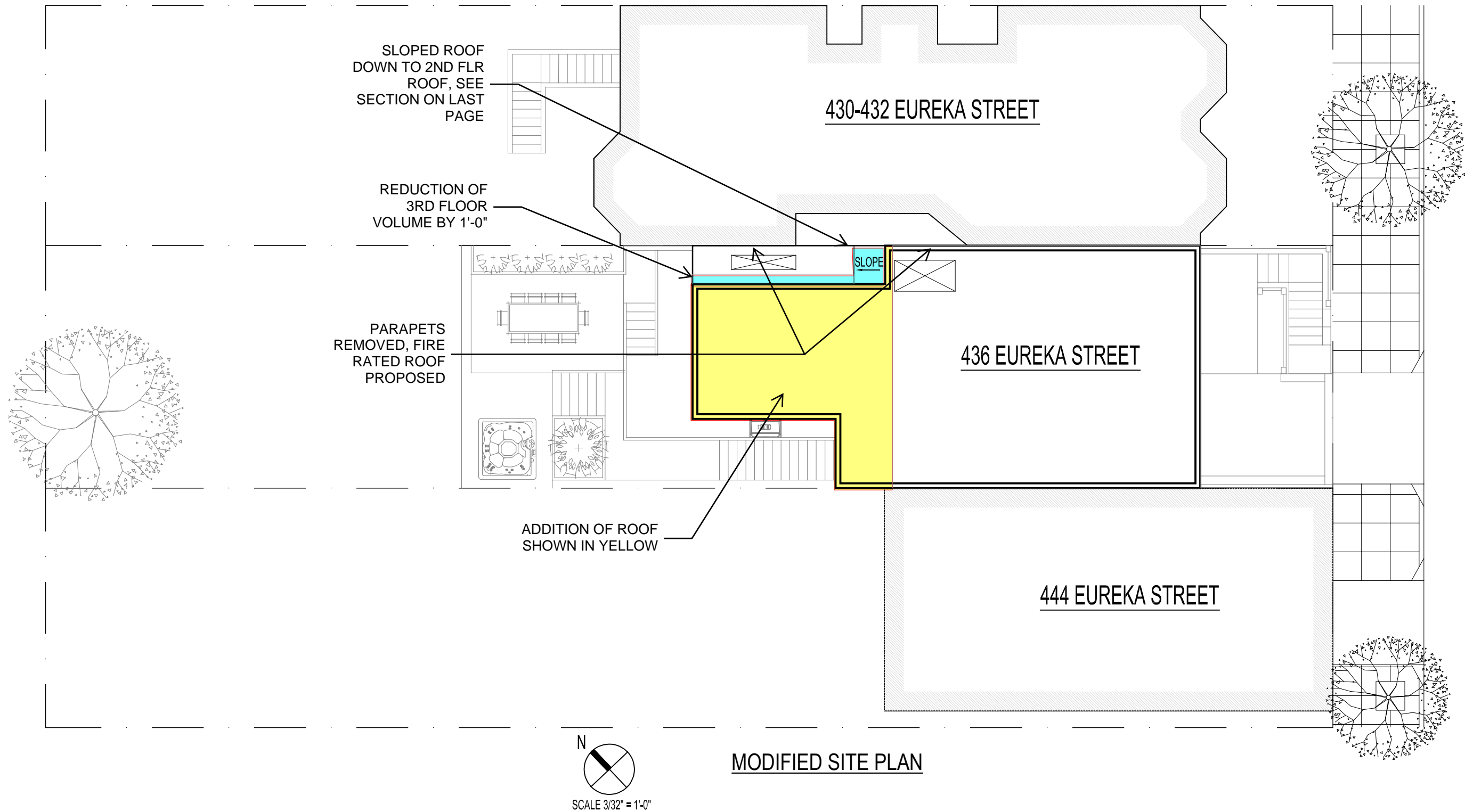
SCALE 3/32" = 1'-0"

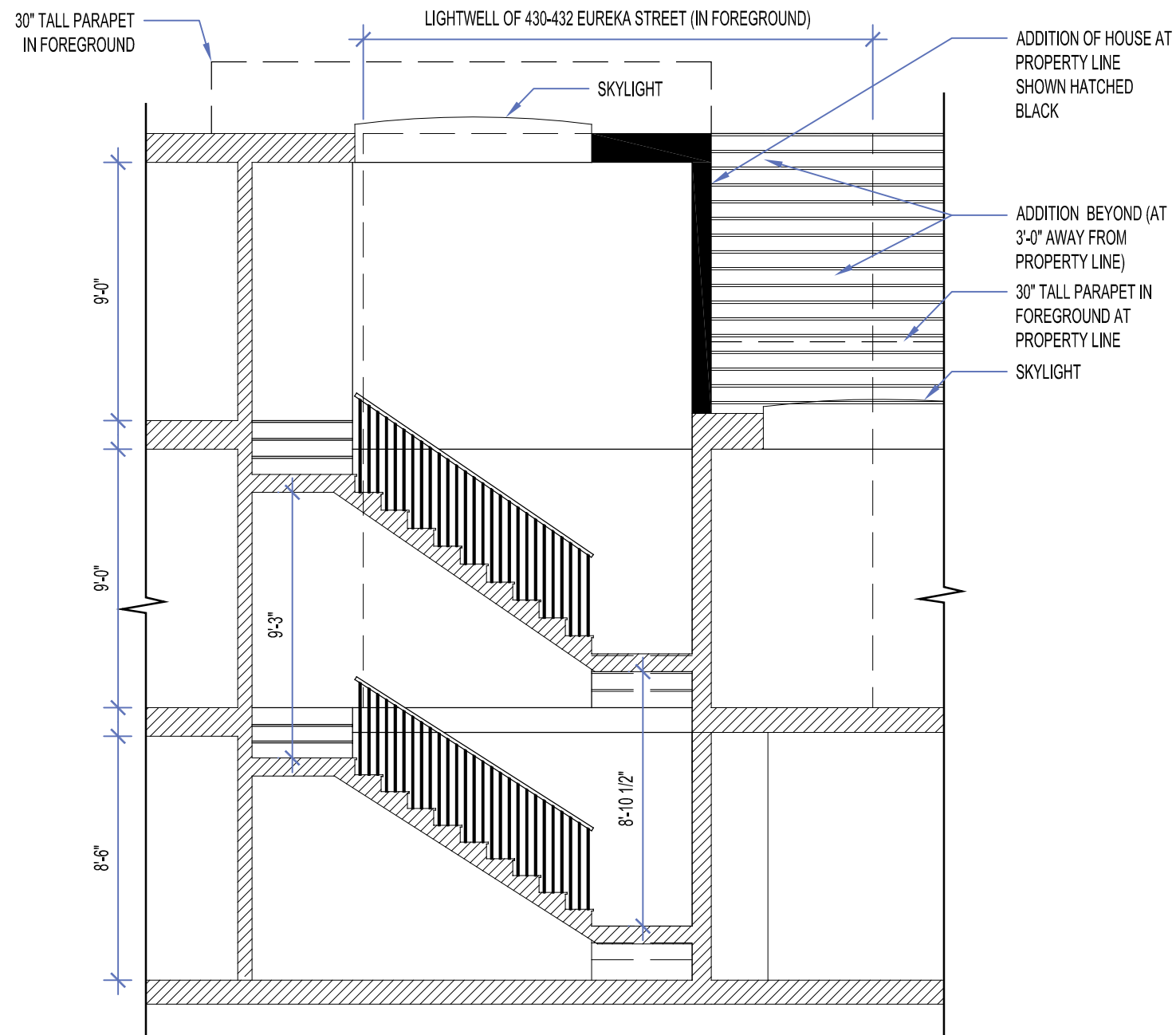
EXISTING SITE PLAN



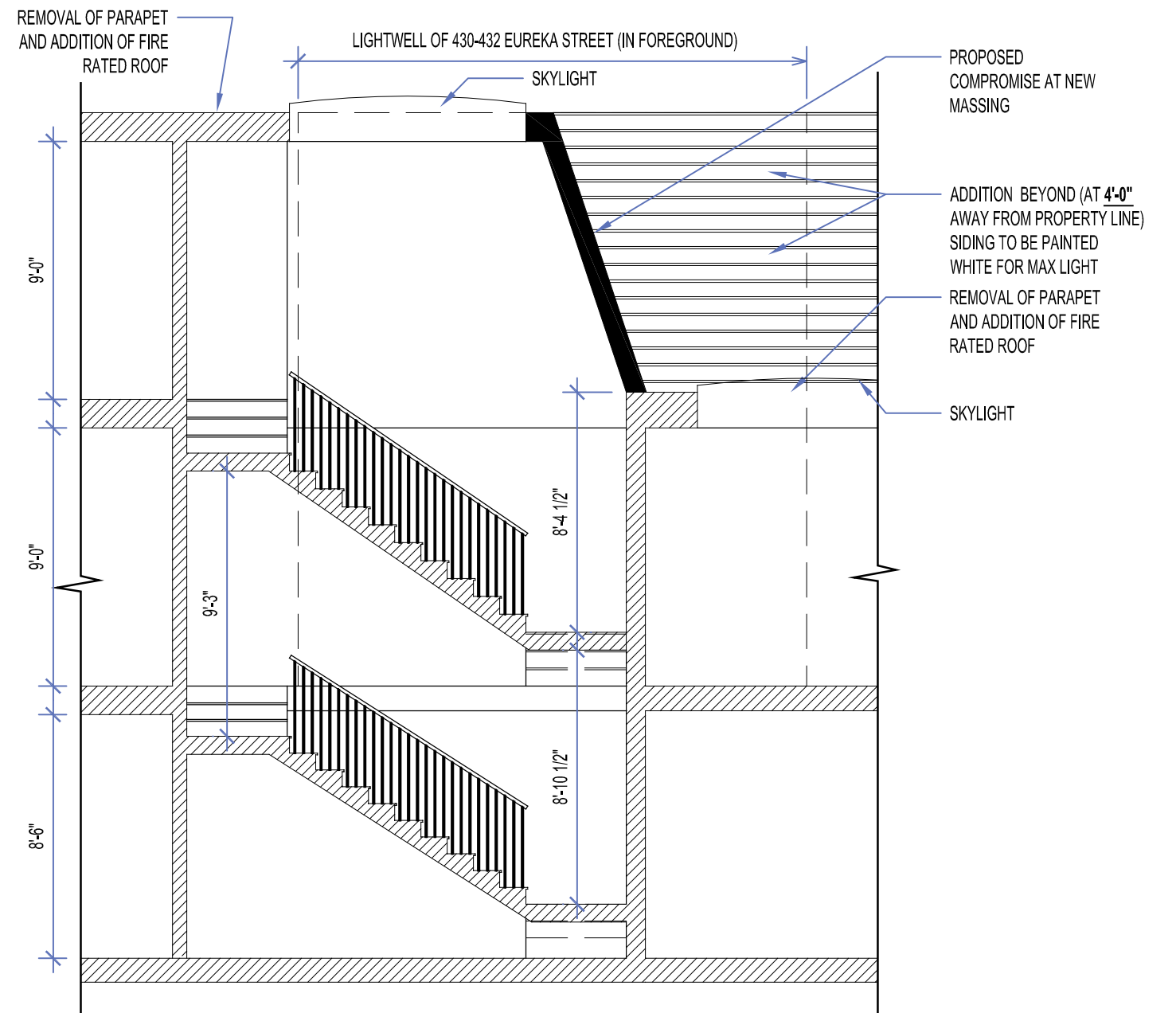
APPROVED SITE PLAN

SCALE 3/32" = 1'-0"





SECTION AT STAIRS
APPROVED BY PLANNING DEPARTMENT IN REVISION 3



SECTION AT STAIRS
PROPOSED COMPROMISES TO NEIGHBOR

EXHIBIT

B

EXHIBIT B

City and County of San Francisco
Department of Building Inspection



Daniel Lurie, Mayor
Patrick O'Riordan, C.B.O., Director

SERVICE REQUEST APPLICATION

JOB ADDRESS: 436 Eureka Street BLOCK: 2767 LOT: 022a
 PERMIT NO(S) – BID/EID/PID: PA 201810092526
 OWNER/CONTRACTOR/AGENT: Nicholas Thomas PHONE NO: 415-602-0802
 MAILING ADDRESS: 436 Eureka Street
 EMAIL (Write Clearly): nick@thomas-works.com

Circle the Service Requested item(s); mark the Division and the Fee shown for a Single Division. A separate Service Request Form must be filled out for each service item.

	Service Requested	Building	Electrical	Plumbing	Minimum			Total Fee	Total with Added Hours
					Hrs	At	Min fee		
1	Temporary Certificate of Occupancy (TCO) and TCO Extension				1	\$545.46	\$545.46	\$545.46	
2	Place of Entertainment				1	\$280.00	\$280.00	\$280.00	
3	Massage Establishment/DPH				1	\$280.00	\$280.00	\$280.00	
4	Police Permit/Second Hand Dealer				1	\$280.00	\$280.00	\$280.00	
5	Fire Permit Inspection				1	\$280.00	\$280.00	\$280.00	
6	Off-Hour Inspections – See Reverse 6 BID/PID: Each additional hour \$181.82				2	\$300.00	\$600.00	\$600.00	
7	Re-Inspection (BID)				1	\$280.00	\$280.00	\$280.00	
8	Pre-Application/Survey Inspection (BID)				2	\$280.00	\$560.00	\$560.00	
9	Subpoena Service				1	\$275.00	\$275.00	\$275.00	
10	Permit Extension (BID) – See Reverse 10				\$298.38 + 10% of the building permit inspection fee				X

\$549.85

INSPECTION SERVICES
 49 South Van Ness Avenue, Suite 400 – San Francisco CA 94103
 (628) 652-3450 – dbi.inspectionservices@sfgov.org
www.sfdbi.org

Received by:

6: OFF HOUR INSPECTIONS

Date of requested inspection: _____	Time of requested inspection: _____
Contact person: _____	Phone: _____
Reason for request: _____	
Scope for inspection: _____	
Floor/area of inspection: _____	
Senior/chief approval: _____	

Off-Hour inspections require Chief Inspector approval with a **two-day lead time**. Same day inspections may be offered at the sole discretion of the Chief Inspector of the division involved. Additional inspection hours, including travel time, will be charged unless other arrangements are made in advance. Fees must be paid in advance.

10: BUILDING PERMIT EXTENSION

2nd Extension must be approved by the Chief or Senior inspector. Please submit a letter addressed to the Chief Inspector.

Service Requested	Fee Amount	Total Fee
Permit Extension	\$298.38 + 10% of Building Permit Inspection Fee	\$ 599.85
Reason for request: Please see letter _____ _____ _____ _____		

FOR OFFICE USE ONLY

DATE PERMIT ISSUED 02/11/2022 ORIGINAL EXPIRATION DATE 01/26/2025
NEW EXPIRATION DATE 1st extension 05/08/2025 APPROVING INSPECTOR F. CLANCY
2nd extension 04/28/2027 MAY 07 2025

SIGNATURE (REQUIRED)

By signing below, I certify the information provided is accurate.	
Applicant Signature: <u>NICHOLAS THOMAS</u> <small>Digitally signed by NICHOLAS THOMAS DN: cn=NICHOLAS THOMAS, o=SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION, email=NICHOLAS.THOMAS@SFGOV.GOV, c=US</small>	Date: <u>5.7.2025</u>

FOR OFFICE USE ONLY

RECEIPT NUMBER: <u>BID23929</u>	DATE OF RECEIPT: <u>05/07/2025</u>	RECEIVED BY: <u>ay</u>
---------------------------------	------------------------------------	------------------------

INSPECTION SERVICES
49 South Van Ness Avenue, Suite 400 – San Francisco CA 94103
(628) 652-3450 – dbi.inspectionservices@sfgov.org
www.sfdbi.org

May 7, 2025

San Francisco Department of Building Inspection
49 South Van Ness Floors 1-10
San Francisco, CA 94103

**RE: 436 Eureka Street
San Francisco, CA
PA 2018-1009-2526
PA 2022-0628-7312**

To whom it may concern,

We are requesting a second extension for PA 2018-1009-2526. The reason for the second extension is that there was a Board of Appeals process that lasted a very long time and caused serious delays in the permitting process. Subsequently, PA 2022-0628-7312 was created and issued to conform to the Board of Appeals Decision.

Please let us know if you need any further information.

Kind Regards,

A handwritten signature in black ink, appearing to read "Nick Thomas", with a stylized, flowing script.

Nicholas Thomas, R.A.
415-602-0802
c-38546



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
49 South Van Ness Ave, Suite 400
San Francisco, CA 94103-1226

PAYMENT RECEIPT

Printed on: 05/07/2025 03:42:13 PM

Building Inspection Division

Phone: (628) 652-3450

Payment Date: 05/07/2025

Job Address:

436 EUREKA ST -

Receipt Number: BID23929

Issued By: WEBSITE

Payment received from:

NICHOLAS THOMAS

NICHOLAS THOMAS

1358 16th Avenue

San Francisco CA 94122

Application Number: 201810092526

202206287312

202206287312

Payment received for the items indicated:

Fee Description	Payment Amount	Complaint# (if applicable)
BID Extension	\$304.59	
BID Extension	\$304.59	
BID Extension	\$599.85	

TOTAL

\$1,209.03

BY _____

DBI COPY

BRIEF SUBMIT BY THE PLANNING DEPARTMENT



BOARD OF APPEALS BRIEF

HEARING DATE: February 18, 2026

February 12, 2026

Appeal No.: 25-053
Project Address: 436 Eureka Street
Block/Lot: 2767/002A
Zoning District: RH-2 (Residential-House, Two Family)
Central Neighborhoods Large Residence SUD
Family and Senior Housing Opportunity SUD
Height District: 40-X
Staff Contact: Corey A. Teague, AICP, Zoning Administrator – (628) 652-7328
corey.teague@sfgov.org

Background & Analysis

In the interest of brevity, the Planning Department takes the position that the Permit Holder's brief is an accurate description of the subject project's history and the specifics of the altered site permit under appeal. While the square footage measurements between the original permit (201810092526) and the more recent permit (202508143077) are different, the discrepancy is due to changing calculation methodology and not any actual change in the actual square footage proposed, except for a slight reduction of the 3rd Floor and a small expansion of the basement level garage, as demonstrated in the Permit Holder's brief.

While the 2018 permit included a garage expansion larger than the currently proposed garage, that expansion was voluntarily removed from the project prior to the 2022 Board of Appeals hearing. Therefore, while the Appellant did not raise concerns about the original garage expansion, and the Board

did not require its removal, the final project approved by the Board did not include a garage expansion. However, the Permit Holder worked with the Planning Department on these minor proposed changes to ensure they were Code-complying and consistent with the Residential Design Guidelines.

Conclusion

The subject permit represents minor changes to the previously approved project that are Code-compliant, consistent with the Residential Design Guidelines, and will not otherwise impact surrounding properties. As such, the Department respectfully requests that the Board deny the appeal and uphold the permit.

cc: Nick Thomas (Agent for Permit Holder)
Susu Chen (Appellant)
Joe Ospital (Department of Building Inspection)

BRIEF SUBMITTED BY DBI



Board of Appeals Brief

Hearing Date: February 18, 2026

February 18, 2026

Appeal #: 25-053
Permit: Alteration Permit #2025-0814-3077
Project Address: 436 Eureka Street
Block/Lot: 2767/002A
DBI contact: Joseph Ospital, Senior Building Inspector. 628-652-3546
Joseph.ospital@sfgov.org

Permit description:

The project before the Board this evening is for the residential renovation of an existing 3 story single family home. The renovation consists of the following:

- (N) 4 level horizontal addition at rear.
- (N) Interior ceiling height at 1st living level (level 2).
- (N) Interior stairs to connect levels 1, 2 and 3.
- (N) Fenestration pattern at street facing façade.
- (N) Bedrooms and bathrooms per plan.
- (N) Kitchen location per plans.
- (N) Windows and doors throughout, to include 1 new sky light.
- (N) Garage door.
- (N) Fixtures and finishes throughout(N) Deck and exterior stairs to yard at rear.
- (N) In ground hot tub location in rear yard.
- (N) Landscaping TBD.

Note: The revisions in the set also conform to the compromises approved by the Board of Appeals on 4/13/2022. Those compromises are as follows:

- Sloping the roof above the stair landing on the side property line
- Removal of parapet walls on the second and third floor roofs adjacent to the lightwell on the north side property line.
- Installation of a fire rated roof on both the second and third floor roofs.
- Decrease of the primary bedroom volume from the side yard setback to 4'- 0".

This permit application and plans were submitted for in house review, and reviewed by an SFDBI Structural Engineer, and all other required agencies.



Conclusion: The Department of Building Inspection believes that this project complies with all applicable Building Code requirements, and therefore the appeal denied.

Joseph Ospital, Senior Building Inspector.

**City and County of San Francisco
Department of Building Inspection**



**Daniel Lurie, Mayor
Patrick O'Riordan, C.B.O., Director**

**Building Inspection Division
49 South Van Ness Avenue, Suite 400– San Francisco CA 94103
(628) 652-3450 – sfdbi.org**