

# BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of  
JOHN GILLIGAN and AUDREY F NEUMAN, )  
Appellant(s) )  
vs. )  
ZONING ADMINISTRATOR, )  
Respondent )

Appeal No. **25-048**

## **NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on November 13, 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, of a Variance Decision (the proposal is to construct a rear exterior stair connecting the existing second floor roof deck to the rear yard; Planning Code Section 134 requires the subject lot to maintain a rear yard equal to 30% of the total lot depth; the rear portion of the existing building extends six feet four inches into the required rear yard and the proposed rear exterior stair would be located entirely within the required rear yard, therefore, a variance is requiredhe Zoning Administrator DENIED the rear yard variance) at 3929 17th Street.

**APPLICATION NO. Case No. 2025-000304VAR**

**FOR HEARING ON December 17, 2025**

Address of Appellant(s):

Address of Other Parties:

John Gilligan and Audrey F Neuman, Appellant(s) c/o Farley Neuman, Attorney for Appellant(s) Goodman Neuman Hamilton LLP 100 Bush Street, Suite 1800 San Francisco, CA 94104	N/A
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Date Filed: November 13, 2025

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

**PRELIMINARY STATEMENT FOR APPEAL NO. 25-048**

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I / We, John Patrick Gilligan and Audrey F. Neuman, hereby appeal the following departmental action: **ISSUANCE of a Variance Decision (Case No. 2025-000304VAR) (Denial of a Rear Yard Variance)** by the **Zoning Administrator** which was issued or became effective on: **November 10, 2025**, for the property located at: **3929 17th Street**.

**BRIEFING SCHEDULE:**

Appellants' Brief is due on or before: 4:30 p.m. on **November 26, 2025**, (**note this is one day earlier than the Board's regular briefing calendar due to the Thanksgiving 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](mailto:boardofappeals@sfgov.org), [julie.lamarre@sfgov.org](mailto:julie.lamarre@sfgov.org), [corey.teague@sfgov.org](mailto:corey.teague@sfgov.org), and [Natalia.fossi@sfgov.org](mailto:Natalia.fossi@sfgov.org)

The Respondent Department's Brief is due on or before: 4:30 p.m. on **December 11, 2025**, (**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](mailto:boardofappeals@sfgov.org), [julie.lamarre@sfgov.org](mailto:julie.lamarre@sfgov.org), [corey.teague@sfgov.org](mailto:corey.teague@sfgov.org), [Natalia.fossi@sfgov.org](mailto:Natalia.fossi@sfgov.org), and [fneuman@gnhllp.com](mailto:fneuman@gnhllp.com)

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

**Hearing Date: Wednesday, December 17, 2025, 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](mailto: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](http://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.

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**The reasons for this appeal are as follows:** See attachment to the Preliminary Statement of Appeal.

**Appellant or Agent:**

Signature: Via Email

Print Name: Farley Neuman, attorney for appellants

**NOTICE OF APPEAL TO BOARD OF APPEALS**

Case No.: 2025-000304VAR

Project Address: 3929 17<sup>th</sup> Street, San Francisco

This Notice of Appeal is submitted on behalf of John Patrick Gilligan and Audrey F. Neuman, the owners of the above-referenced property (the “Property”), to appeal the Variance Decision Letter (“VDL”) denying a variance for stairs from the second story of the duplex to the backyard. As summarized below, the variance meets the requirements of Planning Code (“PC”) section 305(c).

**PC Section 305(c)(1).** The “exceptional or extraordinary circumstances” applying to the Property which “generally do not apply to other properties or uses in the same class of district” (PC §305(c)(1)) are that the Property does not have a safe second means of egress from the upper unit (on the second and third floors), as required by the Housing Code and the Building Code, whereas other properties generally have a safe second means of egress via rear stairs. It is exceptional and extraordinary for the upper unit to lack a safe second means of egress and for the occupants not to have the convenience and enjoyment of direct access to the backyard.

**PC Sections 305(c)(2)-(4).** The above facts also support these additional four requirements. The addition of the rear stairs is necessary for life safety (as recognized by the Housing Code and Building Code) and to avoid the practical difficulty of accessing the backyard via a long and convoluted path through the basement and the common area of the duplex. Such safety and convenience are generally enjoyed by occupants of other properties in the same class of district. Moreover, the neighbors supported the variance in writing and no member of the public objected to it. The variance would not be detrimental to the public and is consistent with the general purpose and intent of the Planning Code, including to provide “convenience of access to property, and to secure safety from fire and other dangers.” (PC §101(c).)

Date: November 13, 2025

  
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FARLEY J. NEUMAN  
Goodman Neuman Hamilton LLP  
Tel. 415-705-0404 Email [fneuman@gnhllp.com](mailto:fneuman@gnhllp.com)



## REISSUED VARIANCE DECISION

*Date:* November 10, 2025  
*Case No.:* **2025-000304VAR**  
*Project Address:* **3929 17TH STREET**  
*Block/Lots:* 3582 / 081  
*Zoning:* RH-3 (RESIDENTIAL- HOUSE, THREE FAMILY)  
Central Neighborhoods Large Residence Special Use District  
*Height/Bulk:* 40-X Height and Bulk District  
*Applicant:* Mark Topetcher, Architect  
828 Divisadero Street  
San Francisco CA 94117  
*Owner:* Audrey Neuman and John Gilligan  
3929 17<sup>th</sup> Street  
San Francisco, CA 94114  
*Staff Contact:* Kat Yi, Assistant Planner  
[Kathryn.Yi@sfgov.org](mailto:Kathryn.Yi@sfgov.org) | 628-652-7367

### Description of Variance – Rear Yard Variance Sought:

The proposal is to construct a rear exterior stair connecting the existing second floor roof deck to the rear yard.

**Planning Code Section 134** requires the subject lot to maintain a rear yard equal to 30% of the total lot depth. The rear portion of the existing building extends 6 feet 4 inches into the required rear yard and the proposed rear exterior stair would be located entirely within the required rear yard. Therefore, a variance is required.

### Procedural Background:

1. The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2025-000304VAR on July 23, 2025.**
3. The Variance Decision Letter was issued on October 15, 2025, and emailed to the applicant and property owners. The applicant had informed the Planning Department of an intent to appeal the denial. However, on October 29, 2025, the applicant notified the Planning Department that neither

they nor the property owners received the issued Variance Decision Letter via email, and therefore had missed the appeal deadline. Given the circumstances, it was determined that the Variance Decision Letter would be reissued.

## **Decision:**

**DENIED**, as proposed in the plans on file with this application, shown as EXHIBIT A, to construct a rear exterior stair connecting the existing second floor roof deck to the rear yard.

## **Findings:**

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

### **FINDING 1.**

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

#### **Requirement Not Met.**

- A. There are no exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district. The subject property, developed circa 1900, is a flat, rectangular lot with an average lot depth of approximately 87 feet. The existing two-unit building currently extends approximately 6 feet 4 inches into the required rear yard, the rear portion of which is both wider and deeper than the adjacent buildings. The upper unit has a private roof deck at the rear of substantial size, as well as access to the rear yard through an internal stair.
- B. The subject block is typical in shape, size, orientation, and development pattern. It is configured in such a way that there is a substantial and consistent mid-block open space.

### **FINDING 2.**

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

#### **Requirement Not Met.**

- A. As stated above, there are no exceptional or extraordinary circumstances applicable to the current property as the top unit currently has private useable open space and direct access to the yard through a covered passageway on the west side of the property. While the convenience of the proposal's more direct access to the rear yard is understandable, the literal enforcement of the rear yard controls would not result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

### **FINDING 3.**

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

#### **Requirement Not Met.**

- A. Granting this variance is not necessary to meet the open space requirements of this Code because the top unit currently has access to private open space through its second-floor roof deck and the rear yard. However, granting this variance will impact the mid-block open space and the quality of the lower unit. As such, granting this variance is not necessary for preservation and enjoyment of a substantial property right possessed by other properties in the same class of district.

### **FINDING 4.**

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

#### **Requirement Not Met.**

- A. Granting the variance will be materially injurious to the lower unit on the property (currently vacant) by making the lower unit's exposure to light and air less compliant, as the lower unit only has windows fronting the noncomplying rear yard. The proposed stair design would reduce the available open space in the rear yard, block a ground floor window of the lower unit, and create an overhang for a second lower unit window.

### **FINDING 5.**

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

#### **Requirement Not Met.**

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining

housing stock.

1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
2. The proposed project will not be in keeping with the existing housing and neighborhood character. While the proposal will preserve the two existing dwelling units on the property, it would reduce an already small rear yard and reduce the quality of the lower unit.
3. The proposed project will have no effect on the City's supply of affordable housing.
4. The proposed project does not adversely affect neighborhood parking or public transit.
5. The project will have no effect on the City's industrial and service sectors.
6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
7. The project will have no effect on the City's landmarks or historic buildings.
8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

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

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

**APPEAL:** Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit [www.sfgov.org/bdappeal](http://www.sfgov.org/bdappeal).

Very truly yours,



Corey A. Teague, AICP  
*Zoning Administrator*

**This is not a permit to commence any work or change occupancy. Permits from appropriate departments must be secured before work is started or occupancy is changed.**

## **BRIEF SUBMITTED BY THE APPELLANT(S)**

Law offices of

# GOODMAN NEUMAN HAMILTON LLP

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November 22, 2025

Julie Lamarre  
Board of Appeals  
Sent via email: [Julielamarre@sfgov.org](mailto:Julielamarre@sfgov.org); [BoardofAppeals@sfgov.org](mailto:BoardofAppeals@sfgov.org)

Re: Variance Appeal  
Property Address: 3929 17<sup>th</sup> Street, San Francisco  
Block/Lot: 3582/081  
Case No. 2025-000304VAR

Dear Board of Appeals:

## I. INTRODUCTION

This brief is submitted on behalf of Patrick Gilligan and Audrey Neuman, the owners of the above-referenced property (the “Property”), to appeal the Variance Decision Letter (attached as Exhibit A) denying a variance to install stairs from the back of the second story of the Property to the backyard. A variance is necessary because Planning Code (“PC”) section 134 requires the “rear yard shall be equal to 30% of the total depth of the lot on which the building is situated” and the stairs would extend 3 feet from the back of the house.

The VDL incorrectly denied the variance, which meets all the requirements of PC section 305(c). The stairs are necessary to create a safe second means of egress for the unit on the second and third floors (the “Upper Unit”) and to provide occupants of the Upper Unit with the substantial enjoyment and convenience of direct access to their backyard. The requested variance is minor

because the stairs would only extend 3 feet wide into the backyard. Both neighbors sent letters supporting the variance (Exhibits D and E) and no one objected to it. Moreover, the variance would promote safety, convenience and access to the backyard in alignment with the express purpose and intent of the Planning Code to provide “convenience of access to property, and to secure safety from fire and other dangers.” (PC §101(c).)

## **II. PROPOSED STAIRS**

In 2024, the Owners purchased the Property, which has two legal units—a studio apartment on the first/ground floor (the “ADU”) and the Upper Unit which is a 3-bedroom unit on the second and third floors occupied by the Owners.

The Owners, a married couple with a dog and a baby expected to be born around November 20, 2025, would like to continue living in San Francisco and make the Property their family home, but they can only access the backyard from the Upper Unit by descending the basement stairs at the front of the Upper Unit and walking through a meandering common area hallway for the entire length of the house to the rear door which exits to the backyard.

The Owners want direct access to their yard for two reasons, either one of which satisfies the requirements for a variance. First, they want ready access to the backyard for themselves, their children and their dog so they can make frequent use of the yard and integrate it into their daily lives. Second, and perhaps more importantly, they want a safe home for their family, but the current exits from the Upper Unit are dangerous and fail to comply with Building Code or the Housing Code because they are not separated by enough distance. The entry to the stairs to the basement is less than 12 feet away from the front door, the only other exit from the Upper Unit. So, if one exit were blocked by a fire, the other would almost certainly also be blocked by the fire.

The proposed metal stairs from the second floor would extend only 3 feet into the backyard and have a footprint of only 44.25 square feet. (Architectural Plans, attached as Exhibit B.) Metal stairs were selected to have minimal impact on the backyard because they would be open below the treads, have no posts, and have structural elements smaller than would be necessary for wood stairs.

### **III. ERRORS BY THE ZONING ADMINISTRATOR**

At the hearing and in his Variance Decision Letter (“VDL”), the Zoning Administrator (“ZA”) failed to address—much less properly consider—the safety and code issues, even though these issues were addressed in the Owners’ 12-page brief submitted prior to the hearing and in their oral presentation at the hearing. Instead, the ZA focused on irrelevant issues and false conclusions.

For example, after the hearing, the ZA did not ask a single question about the safety and code issues. Instead, he asked, “I do have a quick question if you don’t mind just can you let me know just to confirm is the lower unit at the rear currently occupied.” (See minutes of hearing on July 23, 2025 at <https://sfplanning.org/zoning-variance-hearing-archives>.) His only other question was equally irrelevant: “Do you have any concept of the last time that lower unit had a tenant in there?” (*Id.*) The five requirements for a variance are set forth in PC section 305(c), but the existence or timing of any tenancy is irrelevant to those requirements. While we do not fault the ZA’s curiosity, we do fault his focus on irrelevant issues at the expense of ignoring a life-safety issue and related laws central to the requirements of PC section 305(c).

The ZA also relied upon a false and irrelevant conclusion that the stairs “will be materially injurious to the lower unit on the property.” (VDL, attached as Exhibit A at p. 3.) In reality, the new stairs would only block the smallest window in the ADU, but would not affect the other five

windows, including a large sliding glass door. (Exhibit B at pp. A2.0 and A4.0.) The architectural plans calculate that the unobstructed windows/glazing in the living/sleeping area would meet the window requirements established by PC section 504 (Exhibit B at p. A.4.0) and the ZA did not dispute that. In addition to the required windows/glazing in the living/sleeping area, the ADU would still have three unobstructed windows plus a large sliding glass door in the kitchen/dining area which are not required by the Planning Code. The total window area in the ADU would be a multiple of the minimum area required by the Planning Code.

If the variance is not granted, the alternative design is to build a stairway from the second-floor deck through the ADU, which would not require a variance because the stairs would be internal and not extend into the backyard. But internal stairs would reduce the size of the ADU and disrupt its floor plan, which would be “materially injurious” to the ADU. Furthermore, restricting the Owners’ primary outdoor access to the deck would be detrimental to a tenant living in the ADU, as the roof deck is directly above the ADU and noise from children playing on a deck is far more disruptive than watching children play in a backyard.

The ZA also erred by attempting to interject his opinion regarding what is best for the ADU. He did this under the guise of addressing the fourth requirement for a variance, i.e. that the variance should not be “materially injurious to the property or improvements **in the vicinity.**” (PC 305(c)(4), emphasis added.) By ignoring the words “in the vicinity,” the ZA attempted to create a new requirement that the variance would not be materially injurious to the applicants’ property. But the clause addresses the impact on other properties “in the vicinity,” not the applicants’ own property. If the provision were intended to address the impact of the applicants’ own property, it would read

something similar to the following: “... will not be materially injurious *to the subject property* or to property or improvements in the vicinity.” But the words “*to the subject property*” are not in the provision, so the ZA’s opinion about the benefit/detriment to the Owners’ property is irrelevant, in addition to being wrong and worse for occupants of the ADU.

#### **IV. REASONS FOR VARIANCE**

##### **A. A SECOND MEANS OF EGRESS IS NECESSARY FOR LIFE SAFETY**

Common sense dictates that to save lives in the event of a fire a living unit should have two exits and that they should not be right next to each other. In accordance with common sense, both the Building Code<sup>1</sup> and the Housing Code mandate this. While the two codes overlap, the Building Code is generally focused on construction and alterations, whereas the Housing Code sets minimum standards for the safety and habitability of existing housing, thus a building could be in violation of the Housing Code even if it had been constructed legally with permits.<sup>2</sup>

The Building Code requires two exits for this Property<sup>3</sup> and that access to the two exits must be placed a distance apart equal to at least one-half the diagonal length of the building:

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<sup>1</sup> The Building Code governing San Francisco is composed of the California Building Code and any additional requirements enacted by San Francisco. (See [https://codelibrary.amlegal.com/codes/san\\_francisco/latest/sf\\_building/0-0-0-91586.](https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_building/0-0-0-91586.))

<sup>2</sup> “The purpose of this [Housing] Code is to provide for the maintenance of the minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings in San Francisco.” (Housing Code § 102.)

<sup>3</sup> Building Code section 1006.2.1 says one exit is “NP,” meaning “Not Permitted,” for occupancy R-3. The occupancy category for the Property is R-3. (See Building Code §310.4 [residential dwellings with no more than two units are R-3] and the 3R Report for the Property.)

“1007.1.1 Two exits or exit access doorways.

Where two exits, exit access doorways, exit access stairways or ramps, or any combination thereof, are required from any portion of the exit access, they shall be placed a distance apart equal to **not less than one-half of the length of the maximum overall diagonal dimension of the building or area** to be served measured in a straight line between them. Interlocking or scissor stairways shall be counted as one exit stairway.”

(Building Code §1007.1.1, emphasis added.) Here, the diagonal length of the building is 65 feet 4 inches (Architectural Drawing, attached as Exhibit C), thus the two exits must be at least 37 feet 8 inches apart. But the two exits—the front door and the entry to the stairs descending to the basement—are less than 12 feet apart. (*Id.*) Thus, the exits fail to comply with the Building Code because they are too close together, whereas the proposed new stairs would have ample distance from the front door to comply with the Building Code.

Similarly, the Housing Code requires two exits appropriately separated. Rather than specify a precise distance, Housing Code section 804 requires the two exits “shall be so located that if access to one be denied, the other shall be available.” Here, the existing two entrances are less than 12 feet apart. Moreover, the basement landing for the stairs is directly below the front door, so if the front door were on fire, the landing would also almost certainly be on fire and *vice-a-versa*. Thus, the current exits violate the Housing Code and the new stairs at the back of the Property would comply with the Housing Code.

The VDL failed to address this safety issue, the Housing Code or the Building Code, even though the Owners raised these issues in writing before the hearing and orally at the hearing. Nonetheless, the Planning Department admitted after the hearing that the stairs would “add additional safety.” (Email from Kat Yi, Assistant Planner, dated September 29, 2025, attached as Exhibit I.) But neither the Planning Department nor the ZA explained why “additional safety”

alone—even if it were not required by the Building Code and Housing Code—was insufficient to justify the variance. The VDL’s failure to even address the life-safety issue indicates something severely amiss in the decision.

The life-safety issue is relevant to all 5 of the requirements for a variance. **1)** A life-safety issue is an “exceptional or extraordinary circumstance[s] applying to the property.” (PC 305(c)(1).) What could be more extraordinary than life safety? **2)** The failure to remedy these problems would result in an “unnecessary hardship” (PC 305(c)(2)), i.e. a risk of injury or death. **3)** The correction of these problems is “necessary for the preservation and enjoyment of a substantial property right” (PC 305(c)(3)), i.e. the right to have a safe house that meets the minimum standards established by law. **4)** Granting the variance will not be materially detrimental to the public or other properties. (PC 305(c)(4).) **5)** “[T]he granting of such variance will be in harmony with the general purpose and intent of this Code” (PC 305(c)(5)) because the Planning Code expressly states it is intended to “promote and protect the public health and safety” and “to secure safety from fire and other dangers.” (PC §101.)

**B. OTHER HOUSES AND DUPLEXES GENERALLY HAVE STAIRS FROM THE SECOND FLOOR TO THE BACKYARD**

The absence of stairs from the Upper Unit to the backyard is extraordinary. Attached as Exhibit H are photos taken from the Property showing that all the visible neighboring buildings have stairs from the second floor to the backyard. And those who are familiar with San Francisco properties, such as members of the Board of Appeals, will likely recognize that backyard staircases are extremely common in San Francisco.

**C. THE ABSENCE OF STAIRS TO THE BACKYARD WAS NOT CAUSED BY THE OWNERS**

The Owners purchased the Property in 2024 and were careful to assure the ADU was constructed legally with permits. In the 1980s, the prior owner of the Property added the ADU, which was fully approved by the city. Subsequently, the city adopted minimum backyard requirements. The Owners had no role in failing to construct a proper second means of egress or in causing the backyard not to conform with the requirement of the Planning Code.

**D. THE VARIANCE IS MINOR**

Variance decisions often rely on the minor nature of the variance as a factor in support of granting it. Here, the Owners are not asking, for example, to build an addition to the living space. Rather they only want stairs to access their backyard.

The stairs will be as small and unobtrusive as possible. They will be all metal, thus eliminating the need for posts and allowing for smaller structural members than if wood were used. The stairs will be only 14 feet 9 inches long and will only protrude into the backyard by 3 feet (the minimum required width for stairs). The footprint of stairs will be 44.25 square feet, but approximately half that area will be above head height, effectively only reducing the walkable area in the backyard by about 25 square feet, the equivalent of three 3' x 3' planter boxes. Moreover, the stairs will be barely visible by the neighbors, who all support the variance.

**E. FOUR OF THE NINE 9 LOTS ON THE BLOCK TO THE WEST AND EAST OF THE PROPERTY HAVE BUILDINGS OCCUPYING A LARGER PORTION OF THEIR REAR YARDS**

Attached as Exhibit G is a map showing the lots to the east and west of the Property on the same block. Four of those properties (highlighted on the map) occupy a larger portion of their rear yards than the Property and have smaller rear yards than the Property. Two of the properties appear

to have no rear yard. Even after installation of the new stairs, the backyard for the Property would be larger than any of these four properties.

**F. THERE WILL BE ADEQUATE LIGHT FOR THE LOWER UNIT**

As discussed in more detail in Section III, above, the total window area in the ADU would be a multiple of the minimum area required by the Planning Code.

**V. THE VARIANCE SATISFIES THE FIVE REQUIREMENTS**

Planning Code section 305(c) sets forth five requirements for a variance. The facts set forth above satisfy those requirements, as summarized below.

**1. “That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.” (PC §305(c)(1).)**

- The variance is necessary to create a second means of egress for fire safety and to address violations of the Building Code and Housing Code, as discussed above.
- Except for this Property, every other property on the block appears to have stairs from the second floor to the backyard, and properties in San Francisco generally have such stairs.

Thus, the Owners have an exceptional circumstance depriving them of property benefits generally enjoyed by occupants of other properties in the neighborhood and in San Francisco.

- Presently, the Owners must exit their unit by descending the stairs from the front of the Upper Unit to the ground floor, then walking the entire length of the building through a common areas hallway and exiting to the backyard. This is not a practical or convenient way to access the backyard, particularly for anyone with children who wants to supervise them playing in the yard and have quick and ready access to the children. Similarly, no pet owner

wants to take a meandering journey multiple times a day and in the middle of the night through stairs and the basement of the building simply to let a dog into the yard.

- The Property has a lot that is only 87.33 feet long, significantly shorter than the typical 125-foot lot on the block. (See San Francisco Assessor's Block Map, attached as Exhibit F.)
- Four of the nine lots on the block to the west and east of the Property have buildings that occupy a larger percentage of their lots, resulting in rear yards smaller than that proposed for the Property. (See highlighted lots on map attached as Exhibit G.) Two of the properties have no rear yard. The proposed stairs will extend only 3 feet into the yard, resulting in a rear yard that is still larger than the four nearby lots shown on Exhibit G.

2. **“That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.” (PC §305(c)(2).)**

- Living in a building that does not have a proper second means of escaping a fire is a safety hazard and an unnecessary hardship. It seems like a poor choice to risk the lives of the occupants solely to comply with a rule of aesthetics with which many other properties in the neighborhood do not comply, particularly when the neighbors support the variance.
- In addition to the unnecessary hardship of a fire hazard, there is a “practical difficulty.” (PC section 305(c) requires a “practical difficulty or unnecessary hardship.”) If a parent sitting in the kitchen or the back deck needs to reach a child playing in the backyard, it is practically difficulty to walk to the front of the house, go down the steps to the basement hallway, and then walk the entire length of the building through the hallway to the back of the house, unlock and open the door and exit to the yard. As the building is presently configured, it is

not safe or realistic to allow a child to play in the backyard while the parents are inside the house. Similarly, it is a practical difficult to have a dog in this house. No one wants to walk downstairs and through the basement in the middle of the night to let a dog out. The practical difficulty is perhaps best demonstrated by the fact that the great majority of other houses and duplexes in San Francisco have a stairway from the second floor to the backyard.

- The Owners had no role in creating this situation. They purchased the Property in 2024, being careful to make sure the ADU was built legally with permits. It did not occur to them that the Property failed to include a safe second means of egress from the Upper Unit.
- Please see the reasons set forth above regarding PC section 305(c)(1) which are also relevant to PC section 305(c)(2).

**3. “That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.” (PC §305(c)(3).)**

- Except for this Property, every other visible property on the block has stairs from the second floor to the backyard. And those who are familiar with San Francisco know that properties in San Francisco generally have such stairs. Thus, other properties enjoy the right to directly access their backyards from their living space and the right to a safe second means of egress in the event of a fire. These are substantial rights from the standpoint of quality of life and fire safety.

**4. “That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.” (PC §305(c)(4).)**

- The neighbors submitted letters expressing their support of the variance. (See Exhibits D and E.)
- No one objected to the variance.
- The new stairs will be small and barely visible by neighbors.
- Safety and access to backyards promote public welfare and are detrimental to no one.
- As discussed in Section III, above, the ZA’s conclusion that the variance would be materially injurious to the ADU is both incorrect and irrelevant.

**5. “That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.” (PC Code §305(c)(5).)**

The purposes of the Planning Code, as set forth by PC section 101, include the following:

“(c) To provide adequate light, air, privacy and convenience of access to property, and to secure safety from fire and other dangers....” There can be no question that the variance will promote safety from fire danger, provide access to light and air, and provide convenience of access to the backyard.

Very truly yours,



Farley J. Neuman

cc: John Patrick Gilligan  
Audrey F. Neuman

# EXHIBIT A



# REISSUED VARIANCE DECISION

*Date:* November 10, 2025  
*Case No.:* **2025-000304VAR**  
*Project Address:* **3929 17TH STREET**  
*Block/Lots:* 3582 / 081  
*Zoning:* RH-3 (RESIDENTIAL- HOUSE, THREE FAMILY)  
Central Neighborhoods Large Residence Special Use District  
*Height/Bulk:* 40-X Height and Bulk District  
*Applicant:* Mark Topetcher, Architect  
828 Divisadero Street  
San Francisco CA 94117  
*Owner:* Audrey Neuman and John Gilligan  
3929 17<sup>th</sup> Street  
San Francisco, CA 94114  
*Staff Contact:* Kat Yi, Assistant Planner  
[Kathryn.Yi@sfgov.org](mailto:Kathryn.Yi@sfgov.org) | 628-652-7367

## Description of Variance – Rear Yard Variance Sought:

The proposal is to construct a rear exterior stair connecting the existing second floor roof deck to the rear yard.

**Planning Code Section 134** requires the subject lot to maintain a rear yard equal to 30% of the total lot depth. The rear portion of the existing building extends 6 feet 4 inches into the required rear yard and the proposed rear exterior stair would be located entirely within the required rear yard. Therefore, a variance is required.

## Procedural Background:

1. The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2025-000304VAR on July 23, 2025.**
3. The Variance Decision Letter was issued on October 15, 2025, and emailed to the applicant and property owners. The applicant had informed the Planning Department of an intent to appeal the denial. However, on October 29, 2025, the applicant notified the Planning Department that neither

they nor the property owners received the issued Variance Decision Letter via email, and therefore had missed the appeal deadline. Given the circumstances, it was determined that the Variance Decision Letter would be reissued.

## **Decision:**

**DENIED**, as proposed in the plans on file with this application, shown as EXHIBIT A, to construct a rear exterior stair connecting the existing second floor roof deck to the rear yard.

## **Findings:**

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

### **FINDING 1.**

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

#### **Requirement Not Met.**

- A. There are no exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district. The subject property, developed circa 1900, is a flat, rectangular lot with an average lot depth of approximately 87 feet. The existing two-unit building currently extends approximately 6 feet 4 inches into the required rear yard, the rear portion of which is both wider and deeper than the adjacent buildings. The upper unit has a private roof deck at the rear of substantial size, as well as access to the rear yard through an internal stair.
- B. The subject block is typical in shape, size, orientation, and development pattern. It is configured in such a way that there is a substantial and consistent mid-block open space.

### **FINDING 2.**

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

#### **Requirement Not Met.**

- A. As stated above, there are no exceptional or extraordinary circumstances applicable to the current property as the top unit currently has private useable open space and direct access to the yard through a covered passageway on the west side of the property. While the convenience of the proposal's more direct access to the rear yard is understandable, the literal enforcement of the rear yard controls would not result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

### **FINDING 3.**

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

#### **Requirement Not Met.**

- A. Granting this variance is not necessary to meet the open space requirements of this Code because the top unit currently has access to private open space through its second-floor roof deck and the rear yard. However, granting this variance will impact the mid-block open space and the quality of the lower unit. As such, granting this variance is not necessary for preservation and enjoyment of a substantial property right possessed by other properties in the same class of district.

### **FINDING 4.**

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

#### **Requirement Not Met.**

- A. Granting the variance will be materially injurious to the lower unit on the property (currently vacant) by making the lower unit's exposure to light and air less compliant, as the lower unit only has windows fronting the noncomplying rear yard. The proposed stair design would reduce the available open space in the rear yard, block a ground floor window of the lower unit, and create an overhang for a second lower unit window.

### **FINDING 5.**

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

#### **Requirement Not Met.**

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining

housing stock.

1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
2. The proposed project will not be in keeping with the existing housing and neighborhood character. While the proposal will preserve the two existing dwelling units on the property, it would reduce an already small rear yard and reduce the quality of the lower unit.
3. The proposed project will have no effect on the City's supply of affordable housing.
4. The proposed project does not adversely affect neighborhood parking or public transit.
5. The project will have no effect on the City's industrial and service sectors.
6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
7. The project will have no effect on the City's landmarks or historic buildings.
8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

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

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

**APPEAL:** Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit [www.sfgov.org/bdappeal](http://www.sfgov.org/bdappeal).

Very truly yours,



Corey A. Teague, AICP  
*Zoning Administrator*

**This is not a permit to commence any work or change occupancy. Permits from appropriate departments must be secured before work is started or occupancy is changed.**

# EXHIBIT B

## GENERAL NOTES:

1. CODE COMPLIANCE: All work is to be performed in accordance with all governing Codes, Ordinances and Regulations. The designs herein are based on the 2022 C.B.C., 2022 S.F.B.C., 2022 S.F.M.C., 2022 S.F.E.C., 2022 S.F.P.C., 2022 S.F.F.C., 2022 C. Energy C.

2. JOB COORDINATION & SAFETY: Contractor shall be responsible for the development, coordination and execution of construction methods and procedures. The Contractor shall also be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with his work.

3. JOB CLEANLINESS: Contractor shall on a daily basis leave the construction site "broom clean" at the end of the work day. At substantial completion, the Contractor shall turn to the Owner a spotlessly clean house, including clean mirrors, glass, light bulbs, walls, floors, cabinetry inside and out, bathroom fixtures, tiles and appliances.

4. CONSTRUCTION QUALITY: No guarantee for quality of construction is implied or intended by the architectural documents, and the Contractor shall assume full responsibility for any or all construction deficiencies.

5. CONTRACT DOCUMENT REVIEW: Contractor shall review all Contract Documents. If fifteen days elapse from the time the Contractor receives the plans and signs to perform the work, and the Owners have not been notified of any errors, omissions or objections, the Owners will consider the documents approved by the Contractor for the performance of his/her work.

6. DISCREPANCIES: In case of any discrepancy notify the Owners before proceeding. Contractor shall be responsible for correction of work at his/her own expense for work installed in conflict with the Contract Documents.

7. DIMENSIONS: All dimensions shown on plans are to face of stud, unless otherwise noted. All dimensions shown on interior elevations are finish dimensions. No dimensions shall be taken by measuring from the drawings. Details take precedence over general sections or plans. Written dimensions take precedence over scale. All dimensions shall be verified in the field for coordination with existing and new conditions.

8. SUBSTITUTIONS: The Contractor will be held to furnish under his Proposal all work described herein. All materials and articles of any kind necessary for this work are subject to the approval of the Owners.

9. MANUFACTURED ITEMS: Transport, handle, store, protect and install manufactured items in strict accordance with manufacturer's recommendations. Should conflict exist between construction documents and manufacturer's instructions, consult with Designer.

10. ASBESTOS: Asbestos removal is not intended to be covered by this contract. If Asbestos is suspected, a testing agency must be hired to verify, and special procedures must be used for removal and disposal. Friable asbestos is the dangerous type and was used extensively for pipe insulation, fireproofing and certain building materials up to 1970.

11. CUTTING AND PATCHING: Cut and fit components as required; patch disturbed areas to match adjacent materials and finishes.

12. ATTIC VENTILATION: Ventilating area shall not be less than 1/150th of the net area of the space ventilated. If at least 50% of required ventilation is provided in the upper portion of the space, then ventilating area may be 1/300th of the attic space per section 2022 CBC 1203.2.

13. BLOCKING: Provide solid blocking as necessary for all wall mounted shelves, fixtures and fittings. See interior elevations, where applicable.

14. WATER TIGHTNESS: Contractor shall verify that all work on the exterior of the project is watertight. All joints and surfaces exposed to the elements shall be tested for water tightness prior to substantial completion.

15. WATERPROOF MEMBRANE: Install a waterproof membrane under the Master Shower floor @ the Master Bath. Wrap the membrane up a minimum of 8" on all surrounding surfaces.

16. GLAZING: Tempered glazing is required as per 2022 CBC. Glazing to be tempered includes but is not limited to: glazing that is less than 18" above finish floor; within 24" radius of doors; Glass door and panels of shower and bathtub enclosures and adjacent glazed openings within 60" above a standing surface and drain inlet shall be fully tempered, laminated safety glass as per UBC 2406.3 & .4; skylights; etc...

17. DRYWALL: All drywall to be 5/8" thick. Install metal corner beads at all outside corners. Fasten drywall to framing with drywall screws. All drywall is to be sanded three times to produce a smooth finish for all walls and ceilings. All drywall shall be finished so that it is smooth, with no bumps or crater. All joints to be taped and sanded so that there is no distinguishable transition. Contractor shall deliver all new or repaired walls perfectly even. The owners' and designer's criteria will be the sole measure for approval of the finished work.

18. HANDRAILS AND GUARDRAILS: All handrails at stairs are 34" above tread nosing. All guardrails are 42" minimum to finish floor, U.O.N. See interior elevations or details, as applicable, for guardrail design.

19. SHOWER AND TUB W/ SHOWER: Provide ceramic tile or stone finish at all shower and tub w/ shower areas to a minimum height of 72" above the drain inlet AS PER 2022 CBC 1210.2.2; over a moisture resistant underlayment (typical). Verify with interior elevations, if applicable. All showers & shower/tub combinations to have pressure balance mixing valves as per UPC section 410.7

20. PLUMBING: All work is design/build by the Plumbing contractor and is to meet required codes and Title 24 requirements. Low flow plumbing fixtures & fittings will be used in all bathrooms, etc... Toilets to have a max. allowable flush of 1.28 gal. When there are fixtures @ three levels, cast iron or other approved non-plastic materials for drain, waste, & vents is to be used.

## 21. TITLE 24 RESIDENTIAL LIGHTING REQUIREMENTS

- A) All residential lighting to be high efficacy as per Table 150.0-A
- B) At least one fixture in bathrooms, garages laundry room and utility rooms must be controlled by a vacancy sensor.
- C) Lighting in kitchens, bathrooms, garages, laundry room and utility rooms shall be high efficacy or either controlled by a dimmer switch or vacancy sensor.
- D) Recessed lights in insulated ceilings must be ic and at(air tight) rated. recessed lights within 5'-0" of a common prop. line to have 1hr rated enclosure.
- E) Exterior building mounted lighting must be high efficacy and must include manual on/off switch and one of the following: photocontrol & motion sensor - photocontrol & automatic time switch control - astronomical time switch control or energy management control system.
- F) Common areas of low-rise residential buildings with four or more units must be high efficacy or controlled by a title 24 compliant occupant sensor.
- G) Under cabinet lighting (including kitchen) must be switched separately from other lighting systems.
- H) All nonlocking-type 125 volt, 15- and 20-ampere receptacle outlets shall be listed tamper-resistant receptacles, as per Electrical Code 406.12 (A)
- I) All 120-volt, single phase, 15- and 20-ampere outlets or devices installed in dwelling unit kitchens, family rooms, dining rooms, living rooms, bedrooms, closets, hallways, laundry or similar rooms or areas shall be arc-fault circuit-interrupter protected as per Electrical Code 210.12 (A).

## ARCHITECTURAL SHEETS:

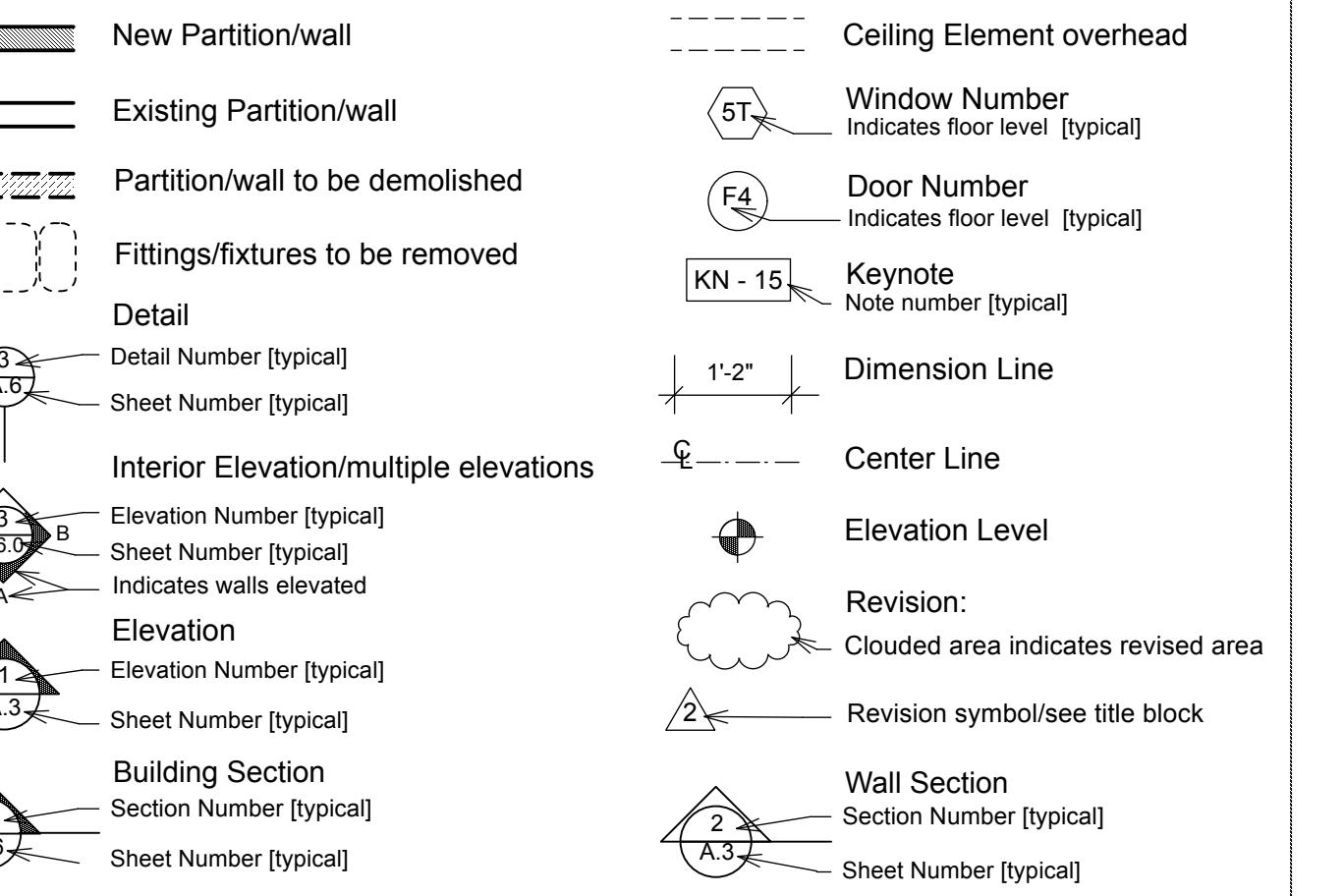
A1.0 PROJECT INFO. & LEGENDS, STREET TREE CONFORMANCE  
A1.1 EXIST. & PROPOSED SITE PLAN, EXIST'G 3RD FLR & SITE PHOTOS  
A2.0 EXIST. & PROPOSED 2ND FLOOR PLANS  
A3.0 EXIST. & PROPOSED BUILDING SECTIONS  
A4.0 EXIST. NORTH ELEVATIONS, EXIST. & PROP. SOUTH ELEVATION, UNIT EXPOSURE DIAGRAM  
A4.1 EXIST. & PROPOSED WEST & EAST ELEVATIONS

TOTAL NO. OF SHEETS: 6

## ABBREVIATIONS

ANGLE	H. HEIGHT or HIGH
AT	H.B. HOSE BIB
CL. CENTERLINE	H.C. HOLLOW CORE
CHANNEL	HDCP. HANDICAPPED
DIAMETER OR ROUND	HWDW. HARDWOOD
EXISTING	HWR. HOLLOW WIRE
# NUMBER OR POUND	H.W.M. HOLLOW METAL
* PLUS OR MINUS	HORIZ. HORIZONTAL
< LEAN	HR. HOUR
> GREATER THAN	JAN. JANITOR
<= LESS THAN OR EQUAL TO	J.B. JUNCTION BOX
ACOUS. ACOUSTICAL	J.W. JAMB OPENING WIDTH
ACC. ACCESSORY	JT. JOINT
A.D. AREA DRAIN	KIT. KITCHEN
ADJ. ADJUSTABLE	LAB. LABORATORY
A.F.F. ABOVE FINISHED FLOOR	LAM. LAMINATE
AL. ALUMINUM	LAV. LAVATORY
APPROX. APPROXIMATE	L.C. LOCKER
ARCH. ARCHITECTURAL	LT. LIGHT
ART. ARTIFICIAL	MAX. MAXIMUM
BD. BOARD	M.C. MEDICINE CABINET
BITUM. BITUMINOUS	M.ECH. MECANICAL
BLDG. BUILDING	MEMB. MEMBRANE
BLOCC. BLOCKING	MET. METAL
BLKG. BLOCKING	MFR. MANUFACTURER
BM. BEAM	MH. MANHOLE
BOT. BOTTOM	MIR. MIRROR
CB. CATCH BASIN	MISC. MISCELLANEOUS
CEM. CEMENT	M.O. MASONRY OPENING
CER. CERAMIC	M.TD. MULLED
CEM. CEMENT	MUL. MULLION
C.I.P. CAST IN PLACE	N. NORTH
C.J. CONTROL JOINT	N.I.C. NOT IN CONTRACT
CLO. CLOSET	NO. or # NUMBER
CLR. CLEAR	NOM. NOMINAL
CMU. CONCRETE MASONRY UNIT	N.T.S. NOT TO SCALE
CNT. COLUMN	O.A. OVERALL
CONC. CONCRETE	O.D. OUTSIDE DIAMETER
CONF. CONFERENCE	OFC. OFFICE
CONJ. CONNECTION	OFF. OFFICE
CONST. CONSTRUCTION	PART. PARTICLE BOARD PC. PRECAST
CONT. CONTINUOUS	PL. PLATE
CORR. CORRIDOR	PLAS. PLASTER
CPT. CARPET	PLYWD. PLYWOOD
CTS.K. COUNTERSINK	POL. POLISHED
D. DEPTH	PR. PAIR
DL. DOOR	P.T. PART
DEPT. DEPARTMENT	P.T.D. PAPER TOWEL DISP.
DET. DETAIL	TOWEL DISP. & RECEPTACLE
D.F. DRINKING FOUNTAIN	P.TN. TON
DIM. DIMENSION	P.T.R. PAPER TOWEL RECEPTACLE
DISP. DISPENSER	Q.T. QUARRY TILE
DN. DOWN	R. RISE
DO. DOOR OPENER	R.D. RADUS
DR. DOOR	R.D. RADUS
DS. DOWNSPOUT	REF. REFERENCE
D.S.P. DRY STANDPIPE	REFR. REFRIGERATOR
DWG. DRAWING	REFIN. REFORCED
DWR. DRAWER	RES. RESILIENT
EA. EACH	RGT.R. REGISTER
E.J. EXPANSION JOINT	R.O. ROUGH OPENING
ELEV. ELEVATION	RWD. REDWOOD
ELEC. ELECTRICAL	R.W.L. RAIN WATER LEADER
ELEVATOR	S.C. SOLID CORE
EMER. EMERGENCY	S.C.D. SEAT COVER DISP.
ENCL. ENCLOSURE	SCHED. SCHEDULE
E.P. ELECTRICAL PANELBOARD	S.D. SOAP DISPENSER
E.Q. EQUAL	SECT. SECTION
E.Q.T. EQUIPMENT	SH. SHELF
E.W.C. ELECTRIC WATER COOLER	SHR. SHOWER
EXP. EXPANSION	SH.T. SHEET
EXST. EXTERIOR	S.M. SHEET METAL
F.A. FIRE ALARM	S.N.D. SANITARY NAPKIN DISPENSER
F.B. FLAT BARM	S.P.C. SANITARY RECEPTACLE
F.D. FLOOR DRAIN	SC. SCAFFOLDING
F.DN. FLOOR DRAIN	S.S.TL. STAINLESS STEEL
F.E. FIRE EXTINGUISHER	S.S.K. SERVICE SINK
F.E.C. FIRE EXIT CAB	STA. STAIR
F.HV. FIRE HOSE VALVE	STD. STANDARD
F.M. FINISH	STL. STEEL
F.L. FLOOR	STOR. STORAGE
FLASH. FLASHING	SUSP. SUSPENDED
FL. FLUORESCENT	SYM. SYMMETRICAL
F.O. FACE OF CONCRETE	T. TREAD
F.O.F. FACE OF FINISH	T.B. TOE BAR
F.O.S. FACE OF STUDS	TEL. TELEPHONE
F.PRF. FULL PAPER	TER. TERRAZZO
F.S. FULL STRETCH	T.G. TONGUE AND GROOVE
F.F. FOOT OR FEET	TH. THRESHOLD
FTG. FOOTING	TOC. TOP OF CURB
FURR. FURRING	TOP. TOP OF PAVEMENT
F.U. FURNITURE	TOS. TOP OF SLAB
GA. GAUGE	T.O. TOP OF WALL
GA. GALVANIZED	T.P. TOILET PAPER DISP.
G.B. GRAB BAR	TV. TELEVISION
G.B.R.C. GRAB BAR REINFORCED CONC.	U.O.N. UNFINISHED
GL. GLASS	UNL. UNLINED
GND. GROUND	UR. URINAL
GR. GRADE	VERT. VERTICAL
GYP. GYPSUM	VEST. VESTIBULE

## DRAWING SYMBOL LEGEND



## PROJECT DESCRIPTION:

THE SCOPE OF WORK IS THE ADDITION OF A NEW REAR EXTERIOR STAIRCASE AT UNIT 1 FROM EXISTING 2ND FLOOR DECK TO 1ST FLOOR LEVEL FOR ACCESS TO THE REAR YARD USEABLE OPEN SPACE. A VARIANCE TO THE PLANNING CODE IS REQUIRED.

## PROJECT DATA

EXISTING: PROPOSED:

ZONING:	RH-3
HEIGHT LIMIT	40'-0"
EXISTING OCCUPANCY:	R-3
CONSTRUCTION:	TYPE V-B W/O SPRINKLER
STORIES:	3
UNITS:	2
SPRINKLERS:	NON SPRINKLERED

NO CHANGE

RESIDENTIAL UNITS	2
GROSS AREA	3,732 SF
COMMON OPEN SPACE	879 SF
STREET TREE	0
UNIT 1 PRIVATE OPEN SPACE	322 SF

322 SF

539 SF

1

## DOCUMENT RECORD

DATE	ACTION
DEC. 9, 2024	REAR STAIR VARIANCE
MAR. 10, 2025	INTAKE REV.
JUNE 17, 2025	PLAN CHECK

All drawings and written material appearing herein constitute the original and unique work of TOPPETCH ARCHITECTURE INC. and the same may not be duplicated, used or disclosed without written consent.

NEUMAN RESIDENCE  
3929 17TH STREET  
SAN FRANCISCO, CA. 94114  
BLOCK # 3582 LOT # 081

SHEET TITLE  
PROJECT INFO,  
GENERAL NOTES  
LEGENDS

SCALE: N/A  
JOB NO. 24.07

DRAWN BY:

MARK J. TOPPETCH, ARCHITECT C. LIC # C 1678, EXP. MAY 2027  
TOPPETCH ARCHITECTURE INC.  
828 DIVISADERO  
SAN FRANCISCO  
CALIFORNIA 94117  
TEL 415 359 9997  
FAX 415 359 9986  
project@toppetch.com

## STREET TREE CONFORMANCE:

CALCULATIONS FOR NUMBER OF NEW REQUIRED STREET TREES

COMBINED LENGTH OF ALL STREET FRONTAGES: 3929 17TH STREET: 25'-0"

TOTAL STREET FRONTAGE: 25'-0"

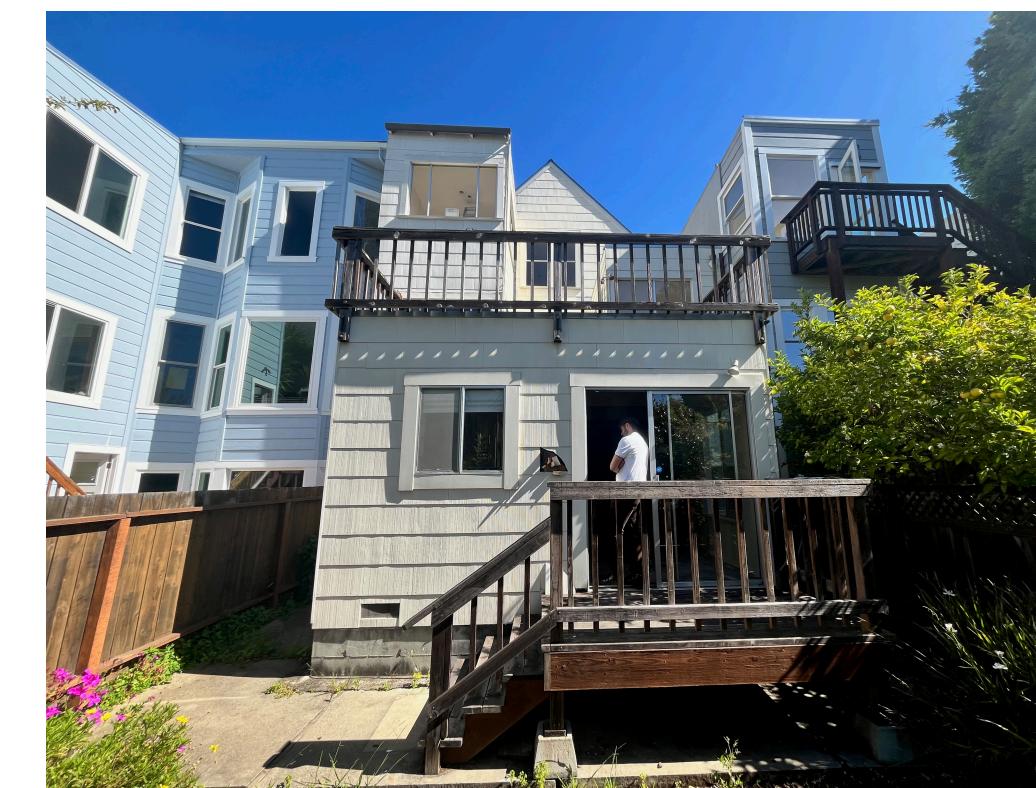
25'-0" ÷ 20'-0" (TREE SPACING REQUIREMENT) = 1 TREE

EXISTING TREES = 0

## SITE PHOTOS



1 - LEFT SIDE OF SUBJECT PROPERTY N.W.



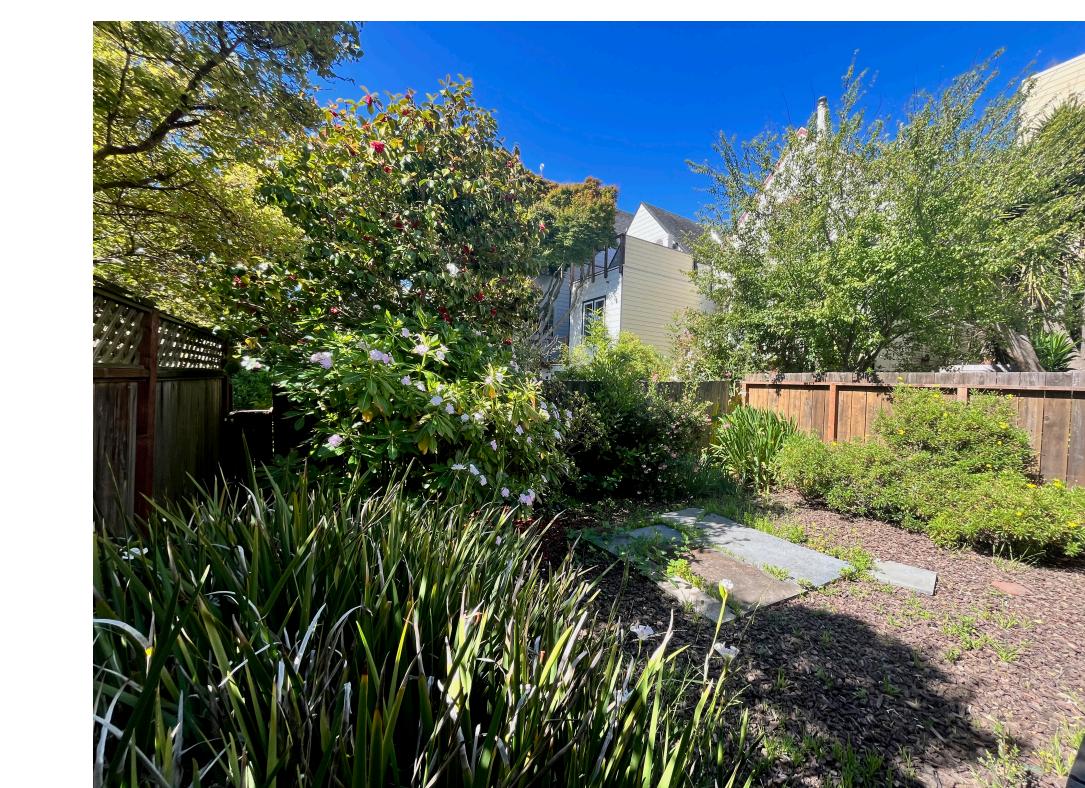
2 - SUBJECT PROPERTY - REAR / NORTH



3 - SUBJECT PROPERTY RIGHT



4 - LEFT NEIGHBOR / N.E. SIDE OF SUBJECT PROPERTY



5 - S.E. REAR OF SUBJECT PROPERTY

TOPETCHER  
ARCHITECTURE INC

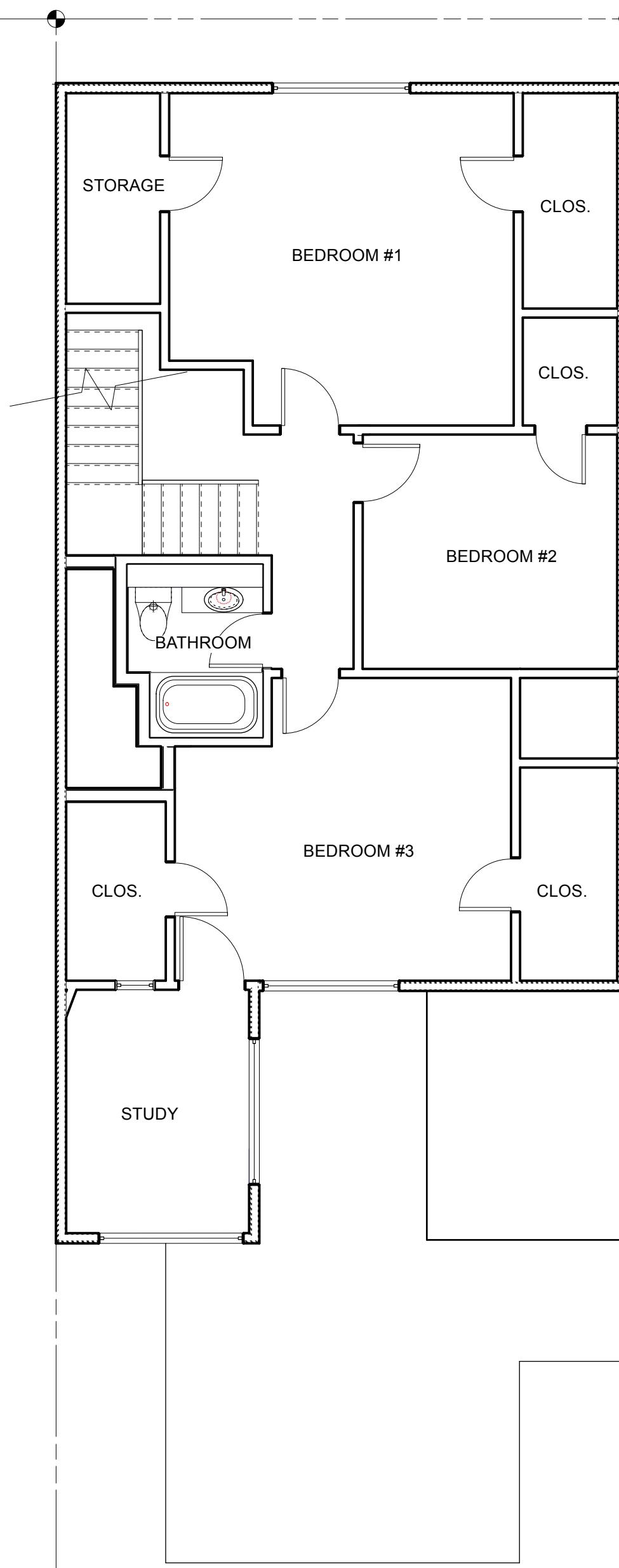
828 DIVISADERO  
SAN FRANCISCO  
CALIFORNIA 94117  
TEL 415 359 9997  
FAX 415 359 9986  
project@toparchitecture.com

## DOCUMENT RECORD

DATE	ACTION
DEC. 9, 2024	REAR STAIR VARIANCE
MAR. 10, 2025	INTAKE REV.
JUNE 17, 2025	PLAN CHECK

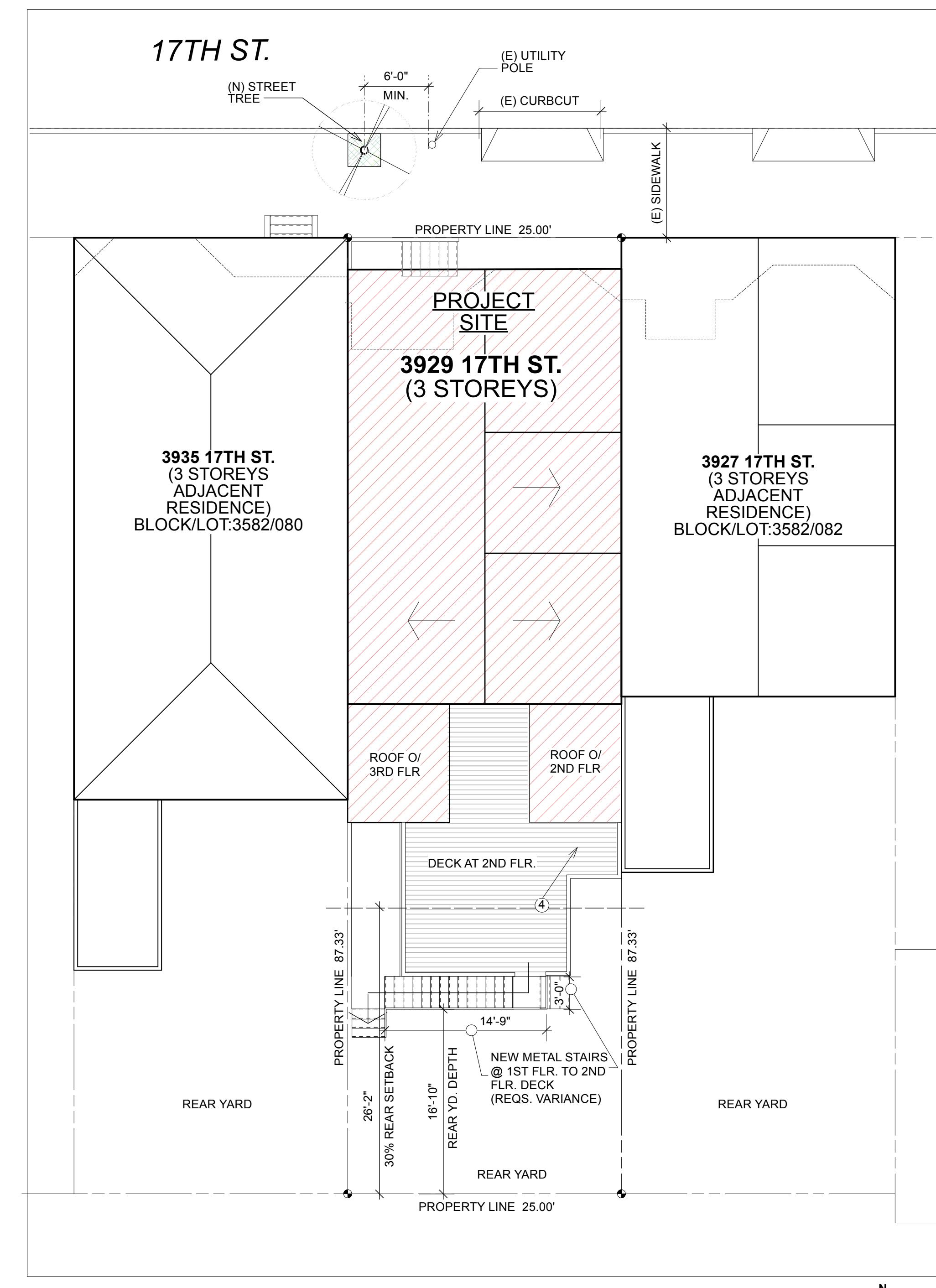
All drawings and written material appearing herein constitute the original and  
unpublished work of TOPETCHER INC. and the same may  
not be duplicated, used or disclosed without written consent.

PERMIT  
APP. NO.



EXISTING THIRD FLOOR

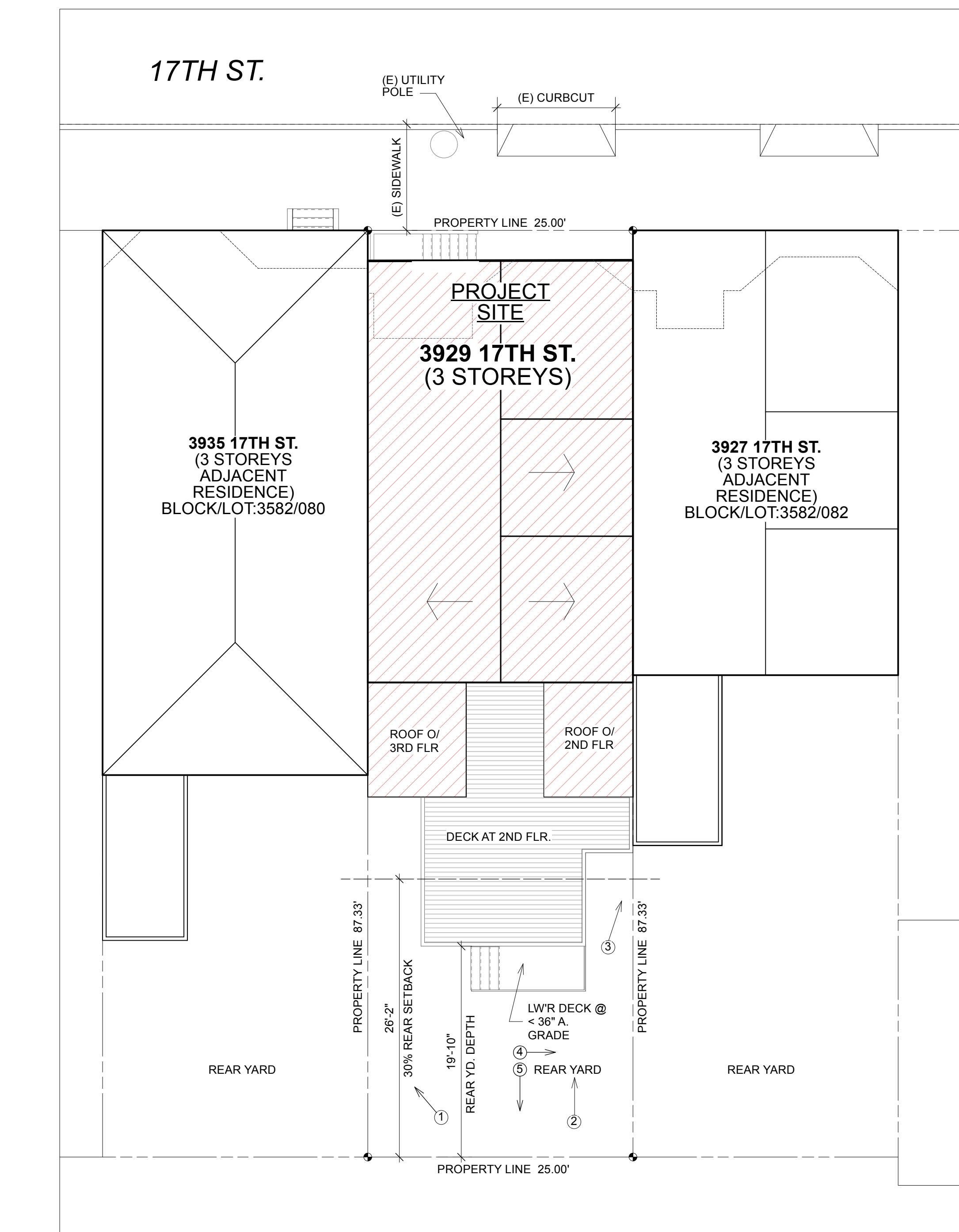
3/16" = 1'-0"



PROPOSED SITE PLAN

1/8" = 1'-0"

0 2 8 FT



EXISTING SITE PLAN

1/8" = 1'-0"

0 2 8 FT

NEUMAN RESIDENCE  
3929 17TH STREET  
SAN FRANCISCO, CA, 94114  
BLOCK # 3582 LOT # 081

SHEET TITLE  
EXIST. & PROP. SITE  
PLAN, SITE PHOTOS  
EXIST. 3RD FLR. PLAN

SCALE:  
AS NOTED

JOB NO.  
24.07

DRAWN BY:

Wang  
MARK L. TOPETCHER, ARCHITECT, CAL. LIC. # C 21678, EXP. MAY 2027

MARK L. TOPETCHER  
C-21678  
5/27  
STATE OF CALIFORNIA  
LIC. NO. C 21678  
EXPIRES MAY 2027

SHEET  
A  
1.1

DOCUMENT RECORD

DATE	ACTION
DEC. 9, 2024	REAR STAIR VARIANCE
MAR. 10, 2025	INTAKE REV.
JUNE 17, 2025	PLAN CHECK

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

PERM APP.

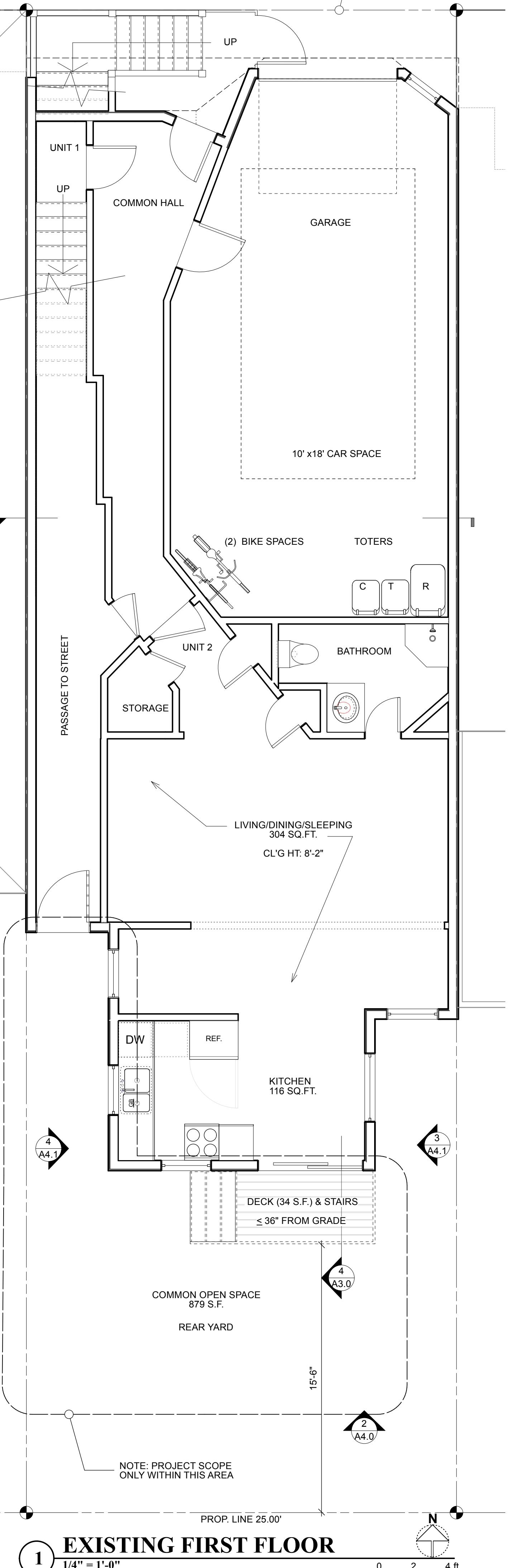
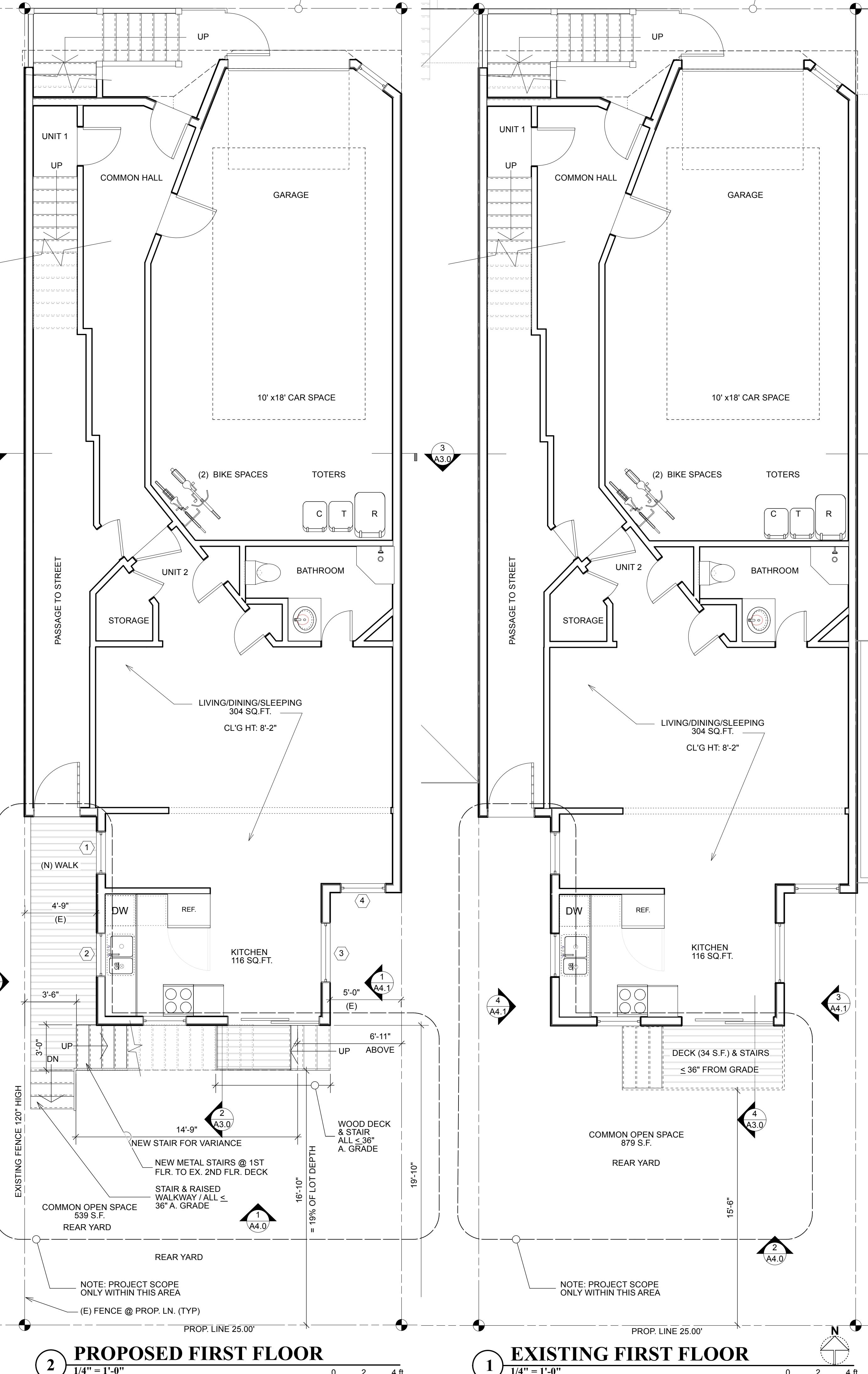
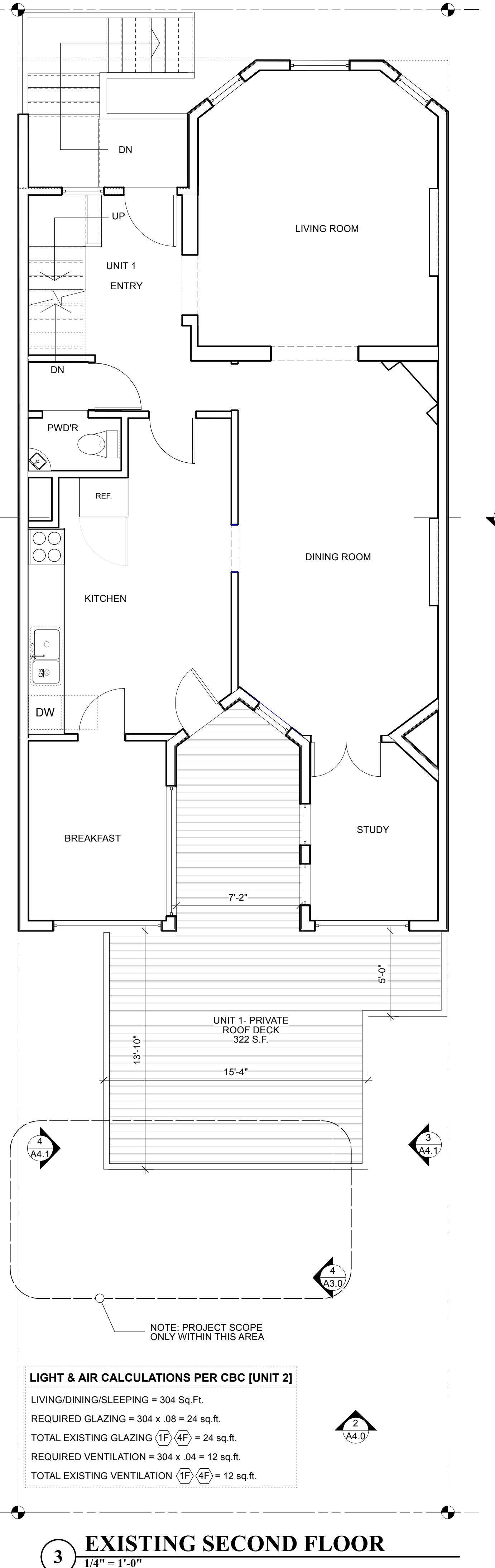
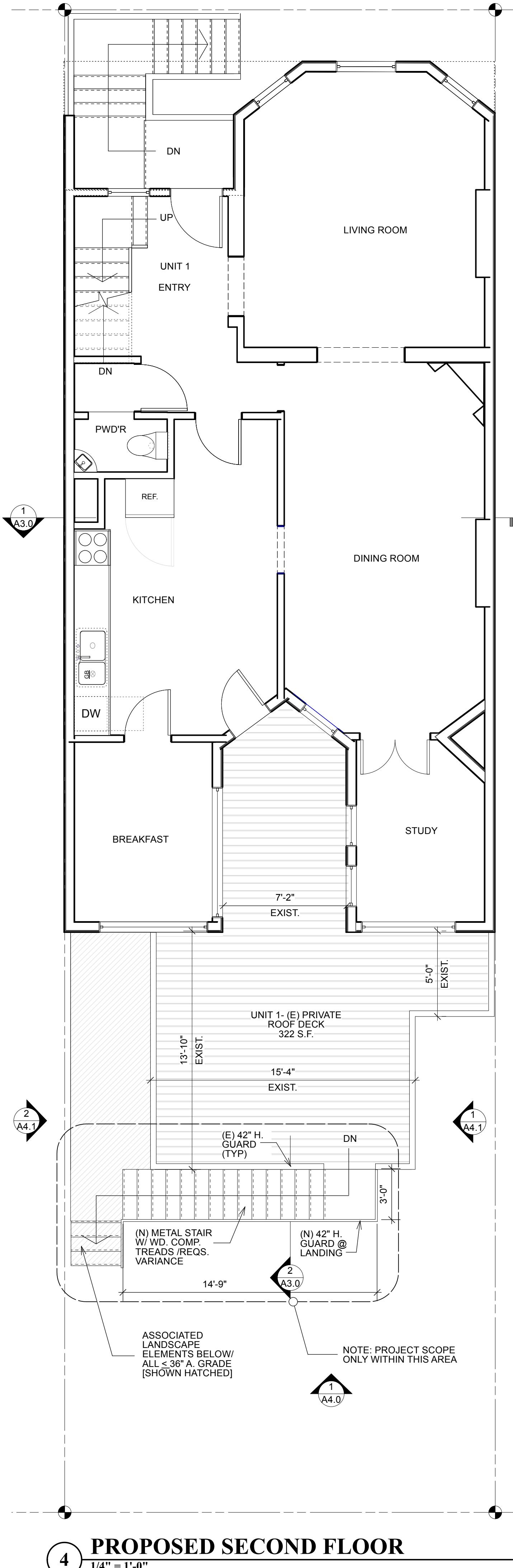
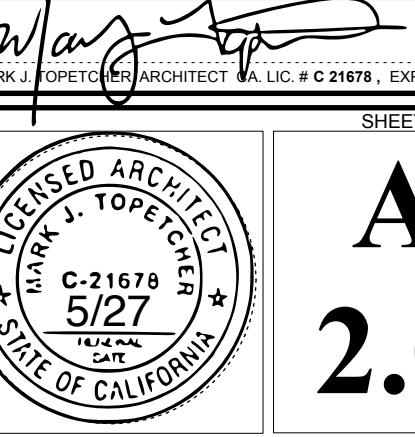
NEUMAN RESIDENCE  
3929 17TH STREET  
SAN FRANCISCO, CA. 94114  
BLOCK # 3582 LOT # 081

SHEET TITLE  
EXIST. & PROP. 2ND  
FLOOR PLANS

SCALE:  
1/4" = 1'-0" JOB NO.  
24.07

DRAWN BY:

Mark J. Toparchitect, AIA, LIC. # C21678  
EXP. MAY  
5/27







# TOPETCHER ARCHITECTURE INC

328 DIVISADERO  
SAN FRANCISCO  
CALIFORNIA 94117  
TEL 415 359 9997  
FAX 415 359 9986

toparchitecture.com

PERMIT  
APPLYING



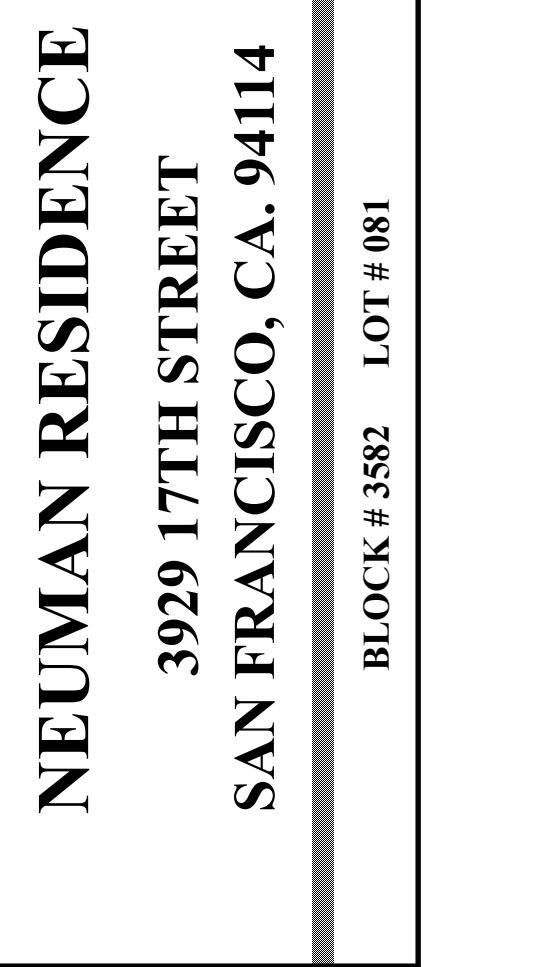
# **SOUTH ELEVATION DIAGRAM**



**3 EXISTING NORTH ELEVATION - [NO WORK]**



**2 EXISTING SOUTH [REAR] ELEVATION**



**TITLE**  
**DP.**  
**UTH ELEV.**  
**TH**  
**AGRAM**

JOB NO.  
**24.07**

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1

10 of 10

SHEET

Figure 1. A schematic diagram of the experimental setup.

A

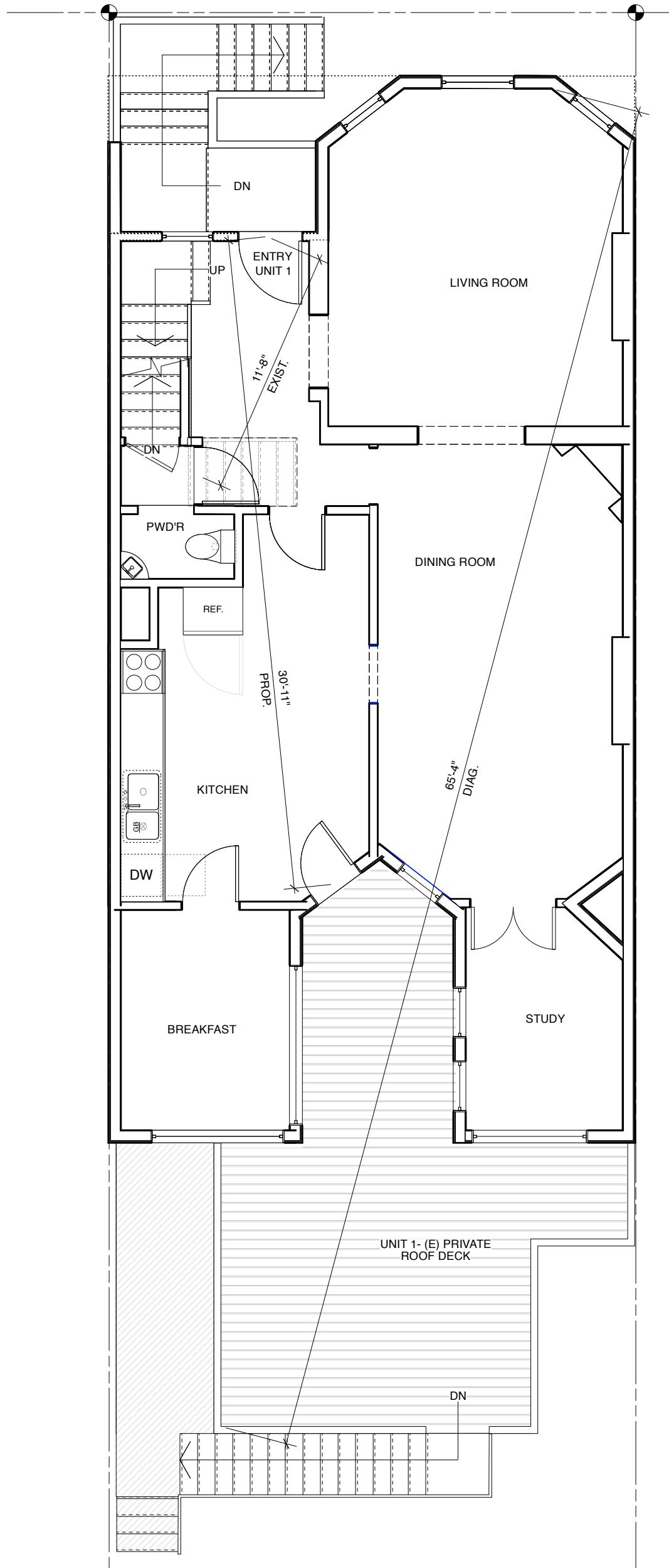
# XX

4.0

180



# EXHIBIT C



**SECOND FLOOR DIAGRAM**

1/4" = 1'-0"

# EXHIBIT D

From: **Bruce Carpenter** <[brucecarpenternz@gmail.com](mailto:brucecarpenternz@gmail.com)>  
Date: Thu, Jul 17, 2025 at 4:15 AM  
Subject: Re: Backyard Stairs  
To: Patrick Gilligan <[johnpatrickgilligan@gmail.com](mailto:johnpatrickgilligan@gmail.com)>  
Cc: Alan Gibson <[agibsonnz@gmail.com](mailto:agibsonnz@gmail.com)>, Curtiss Castonguay <[Curtiss.Castonguay@gmail.com](mailto:Curtiss.Castonguay@gmail.com)>

Hi Patrick

As owners of the adjoining property at 3925-3927 17th Street, we are writing in support of your request to put stairs down to your garden.

We see this primarily as a health and safety issue., particularly as you start your family.

We do not see the proposed design as visually intrusive.

Thanks for reaching out to us regarding this, and we wish you every success with your project.

Regards,  
Bruce Carpenter and Alan Gibson

# EXHIBIT E

July 17, 2025

Zoning Administrator  
San Francisco Planning Department  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103

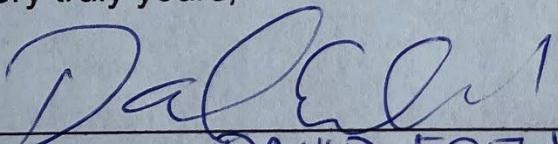
Re: Variance Request for 3929 17<sup>th</sup> Street

Dear Zoning Administrator:

I am one of Patrick Gilligan and Audrey Neuman's neighbors. We understand they want to install stairs from the back of their deck on the second story of their house to their backyard and that this requires a variance from the zoning rules which specify rear yard setbacks.

We support Patrick and Audrey's request for a variance for several reasons. We want to encourage people to raise their families in San Francisco and to improve their properties. The planned stairs will not block our view, will not be on the property line, and will barely be noticeable from other lots. Moreover, every nearby property that we can see has stairs from the second story to the backyard, and we would like Audrey and Patrick—and their expected family—to enjoy the same convenient access to their backyard.

Very truly yours,



Print name: DAVID EDEL  
Print address: 3937 17th ST.

# EXHIBIT F

# MARKET

S T

Blk. 3563

1 7 T H S T

# C A S T R O      S T

H A R T F O R D S T

1 8 T H

S T

B/k. 3583

B/k. 3583

# **SAN FRANCISCO CITY & COUNTY ASSESSOR'S BLOCK MAP**

**DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.**

REVISED 2023



A horizontal scale bar representing 150 feet. The bar is divided into three segments: a short black segment on the left, a longer black segment in the middle, and a final black segment on the right. The text "150 Feet" is positioned to the right of the bar.

B/K. 3584

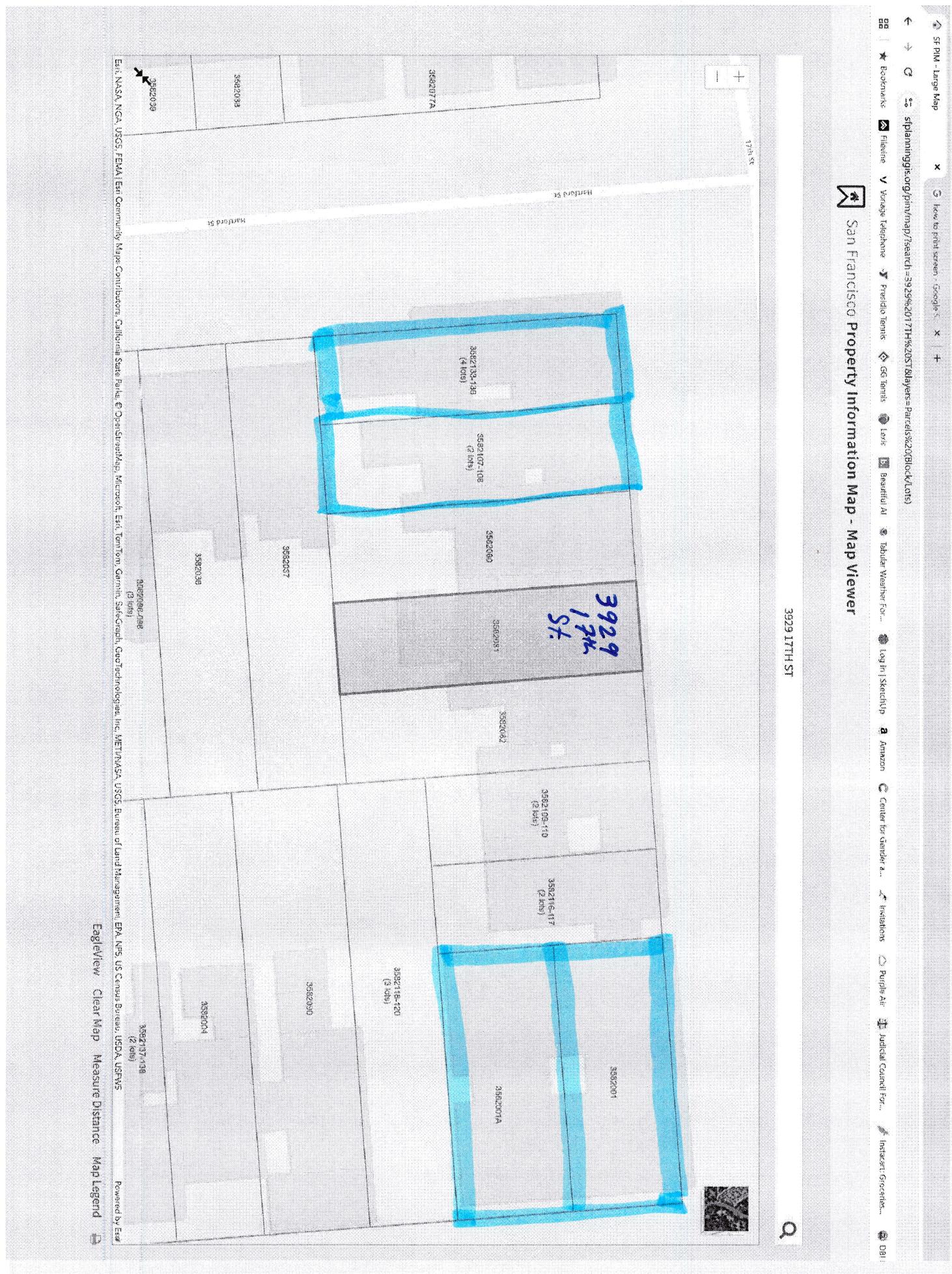
Blk. 3581

B1k. 3564

Revision History

From Lot	Change	To Lot	Year
65	into	64	1943
68-70	into	67	1943
67	into	85, 86	1963
63, 86	into	87	1964
2, 3	into	88	1974
88	into	89-90	1981
34	into	94-95	1996
35	into	96-98	1998
33	into	99-100	1999
43	into	101, 103	2003
64	into	104-106	2003
59-60	into	103	2005
79	into	107-108	2005
83	into	109-110	2005
23	into	114-115	2009
51	into	111-113	2009
89	into	118-120	2010
84	into	116-117	2016
50	into	130-132	2017
15	into	121-123	2022
5	into	137-138	2023
78	into	133-136	2023

# EXHIBIT G





# EXHIBIT H













# EXHIBIT I

**From:** [Yi, Kat \(CPC\)](#)  
**To:** [Farley Neuman](#); [Audrey Neuman \(aneuman518@gmail.com\)](#); [johnpatrickgilligan@gmail.com](#)  
**Cc:** [mt@toparchitecture.com](#)  
**Subject:** Variance Decision Follow-Up - 3929 17TH ST - 2025-000304VAR  
**Date:** Monday, September 29, 2025 1:28:39 PM

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Hi everyone,

I hope you're doing well and thank you for your patience. After a long two-month review, the Zoning Administrator has informed me of his decision to unfortunately deny the Variance application for this property. He extends his sympathies and understands the reasoning behind the Variance request.

However, even after reviewing the proposed design from all angles and meeting with the Department of Building Inspection to review the plans collectively, he was not able to identify sufficient evidence to meet the 5 findings he must justify in his writeup.

I gathered the following key points from his review that I wanted to share with you for additional context:

- The development of the lot, where the second-floor unit may not have direct access to the backyard, is not unique as it can be in thousands of other residents across San Francisco.
- Although not convenient, the top unit does have access to the backyard.
- Although it would add additional fire safety, the top unit having an additional exit at the rear of the building is not required in the building code for this property.
- Adjacent properties having non-complying stairs in the rear yard is not sufficient evidence as we cannot say for sure how many of these were legalized or built without the benefit of a building permit.
- Granting this variance would set a precedent to grant thousands of other variances in similar situations, thus going against the intent of the Planning Code which is to generally help majority of properties become more code compliant, not less.

At this stage, I will work on drafting the Variance Decision Letter and will share the formal document with you upon final approval.

Let me know if you have any questions or would like to have a phone call.

With care,

Kat

**Kat Yi (she/her), Assistant Planner**

Districts 5 & 8 - Current Planning Division

San Francisco Planning

49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103

Direct: 628-652-7367 | [kathryn.yi@sfgov.org](mailto:kathryn.yi@sfgov.org) | [www.sfplanning.org](http://www.sfplanning.org)  
[San Francisco Property Information Map](#)

## **BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)**



## BOARD OF APPEALS BRIEF

**HEARING DATE: December 17, 2025**

December 11, 2025

**Appeal Nos.:** 25-048  
**Project Address:** 3929 17<sup>th</sup> Street  
**Subject:** Variance Case No. 2025-000304VAR  
**Zoning/Height:** RH-3 / 40-X  
Central Neighborhoods Large Residence SUD  
**Staff Contact:** Corey A. Teague, AICP, Zoning Administrator – (628) 652-7328  
[corey.teague@sfgov.org](mailto:corey.teague@sfgov.org)

### Background

The subject lot contains a 2-unit building. The ground floor contains a garage at the front and a studio unit at the rear. While the Appellant describes the studio unit as an ADU, it is not technically an ADU per the Planning Code or State Law, but instead just a small studio unit that was added in the 1980s. The second and third floors contain a larger primary unit, including a rear deck at the second floor that provides 322 square feet of private open space to the upper unit. The rear yard provides nearly 500 square feet of common open space for both the upper and lower units. Planning Code Section 135 requires each unit in the RH-3 zoning district to have at least 100 square feet of private open space, or at least 133 square feet of common open space. As such, both existing units fully comply with the useable open space requirement of the Planning Code.

The subject lot has a required rear yard equal to 30% of the lot depth, which equals 26 feet 2 inches for the subject lot. The existing building extends approximately 6 feet into the required rear yard, which is deeper than the adjacent buildings to the east, and comparable to the adjacent building to the west. The project

proposes adding a stair from the existing rear, second floor deck of the upper unit down to the rear yard, which would extend an additional 3 feet into the required rear yard. Planning Code Section 136(c)(14) allows minimal stairs and landings for access from the second floor to the rear yard, but not to the extent proposed by the project. Therefore, the proposed stairs require a rear yard variance.

## **Key Points**

The proposed stairs and the additional convenience and safety they would provide are completely understandable, and similar proposals are common variance requests. The Appellant states that almost all such buildings already have such rear stairs, but there are many multi-unit buildings in the City that include one or more units without such direct access to the rear yard (hence the common variance request). Some of these types of variances are granted when the circumstances justify it, some are granted with modifications to address potential impacts, and some are denied. The Appellant requested and was provided such examples of similar variances that were denied, although those were not referenced in their brief.

The variance decision letter provides specific responses to the five required findings. The following are succinct responses to the arguments made in the Appellant's brief.

1. Desire for more safety and convenience is understandable. But it is my understanding that the existing building is an R-3 occupancy under the Building Code, and such a 2-unit building does not require a second means of egress (even for new construction). However, if the current Building Code did require such a second means of egress, it would not be required to be added to this building retroactively. A huge number of buildings in the City do not meet current Building Code requirements, but that alone is not justification for a variance, especially if it will disproportionately impact other units or occupants. Finally, on the safety issue alone, there are other potential options to explore like emergency ladders to

**Board of Appeals Brief**

**Appeal Nos. 25-048**

**3929 17<sup>th</sup> Street**

**Hearing Date: December 17, 2025**

allow direct access to the rear yard if needed.

2. The Appellant states it failed to occur to them that the building failed to include a required second means of egress. However, they purchased building in 2024 in its current state without the rear they now propose.
3. The Appellant claims that any potential impact from the project on the ground floor unit and/or future tenants is not applicable or relevant to a variance. However, such a position runs counter to years of precedent and examples to the contrary. The Code does not provide any guidance on how to interpret the language within the required findings, meaning it is fully within the Zoning Administrator's authority to use reasonable discretion when making the required variance findings. It is also logical that granting a variance to one or more requirements of the Code should be balanced against the potential impacts on other units or tenants within the same building or property. Finally, the Zoning Administrator may exercise the same general discretion as the Department, Planning Commission, and Board of Appeals when reviewing a variance, which may consider such potential impacts.
4. The Appellant states that the impacts to the lower studio unit do not justify the variance denial. While this is a subjective determination, it is important to note that, considering the surrounding buildings and trees, the direct southern exposure of the unit is key to receiving light into the unit. Additionally, having a stair directly across the face of the primary wall would have other impacts on the unit and its occupants.
5. The Appellant states that other nearby property's noncompliance should be grounds for them to make their lot even less compliant with the required rear yard. However, there are numerous examples of noncomplying buildings and structures that were built before modern Code requirements, and such logic, when used without additional context, could be used to justify numerous variances that may not

**Board of Appeals Brief**

**Appeal Nos. 25-048**

**3929 17<sup>th</sup> Street**

**Hearing Date: December 17, 2025**

otherwise involve any exceptional or extraordinary circumstances or associated practical difficulties or unnecessary hardships.

## **Conclusion**

To conclude, the proposed stair is completely understandable as a desirable amenity. It's always challenging to balance these issues, and there is no joy in denying applicants a variance that would help them update their homes to meet their desired layout (including safety improvements). However, the proposed stair is not currently required to be added by any code, and there is a purposefully high bar for granting a variance. While the scope of this project is relatively minor, it was determined that the facts of the case did not support making the required five findings for a variance, as described in the variance decision letter and this brief. Therefore, the Zoning Administrator did not err or abuse their discretion in denying the variance. The Board is respectfully requested to deny the appeal and uphold the variance decision.

cc: Farley J. Neuman (Agent for Appellant)  
Joe Ospitale (Department of Building Inspection)

# PUBLIC COMMENT

**From:** [Wilton Gorske](#)  
**To:** [BoardofAppeals \(PAB\)](#)  
**Cc:** [Les Gorske](#)  
**Subject:** Public Comment on Appeal No. 25-048; 3929 17th Street  
**Date:** Thursday, December 4, 2025 7:04:33 PM

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

Dear Board Members,

I am a nearby resident who lives within 150 feet of 3929 17th Street, and I am writing to voice my support for the Zoning Administrator's decision to deny the variance in Appeal No. 25-048.

San Francisco's planning rules around rear yards and open space are a big part of what makes the city's housing so livable. I moved here from New York City many years ago, and one of the differences I appreciate most is how often every room in a building has real windows, natural light, and cross-ventilation. There is wonderful airflow and a feeling of openness that is much harder to find in other cities. It's incredibly unique to SF. This is not an accident. It comes from standards like the requirement that lots maintain a rear yard equal to 30 percent of the lot depth.

According to the notice, the rear building at 3929 17th Street already extends 6 feet 4 inches into the required rear yard, and the proposed rear exterior stair would sit entirely within that protected space. Allowing an additional structure inside the required rear yard would erode the very open area that the code is designed to preserve. It would reduce light, air, and sense of openness for neighboring properties and would create a precedent that encourages further encroachments on an already tight block.

I believe variances should be reserved for clear hardships, not incremental upgrades that further crowd the shared rear yard environment. The situation at this property shows why the rule exists in the first place and why it should remain intact here.

For these reasons, I respectfully ask the Board to uphold the Zoning Administrator's denial of the variance for 3929 17th Street. Thank you for your attention and for your continued work to protect the quality of life in San Francisco's neighborhoods.

Sincerely,

Wilton Gorske

386 Noe St

San Francisco, CA 94114