



# SAN FRANCISCO PLANNING DEPARTMENT

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## Discretionary Review

### Abbreviated Analysis

HEARING DATE: OCTOBER 7, 2010

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Date:* September 29, 2010  
*Case No.:* **2010.0475D**  
*Project Address:* **120 Cherry Street**  
*Zoning:* RH-1 [Residential, House, One-Family]  
40-X Height and Bulk District  
*Block/Lot:* 0989/014  
*Project Sponsor:* Leonardo Zylberberg Architect  
1331 Harrison Street  
San Francisco, CA 94103  
*Staff Contact:* Aaron Starr – (415) 588-6362  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)  
*Recommendation:* **Do not take DR and approve as revised**

### PROJECT DESCRIPTION

The subject building is a one-story-over-garage, single-family house. The proposal is to construct a 2<sup>nd</sup> floor addition that starts approximately 13.5' back from the front façade (behind existing tiled roof) and extends back to within 5' of the rear wall of the 1<sup>st</sup> floor; to infill an approximately 21' wide by 3' deep portion of the first floor at the north side property line; and to reconfigure the rear southeast corner of the building by reducing its depth by approximately 5' and reducing the depth of a light well on the south side of the building from 7' to 3.5'. The proposal also includes interior alterations. There are no proposed changes to the front façade.

The project applicant voluntarily revised the proposed plans after notification by setting back the south side facade one additional foot. This façade is now set back a total of five feet from the southern property line.

### SITE DESCRIPTION AND PRESENT USE

The subject property is currently developed with a circa 1923 one-story-over-garage, single-family home rendered in a Marina or Mediterranean style. The subject lot slopes upward from the street and is approximately 40' wide by 117' deep. The existing building currently occupies approximately 75% of the lot.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The immediate area is characterized by two- to three-story, single-family homes constructed from the late 1800s to the 1920s. The adjacent house to the north was designed by Willis Polk and is a three-story single-family house. The adjacent house to the south, owned by the DR Requestor, is a three-story plus attic, single-family house that fronts on Washington Street.

**BUILDING PERMIT NOTIFICATION**

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	May 12, 2010 – June 11, 2010	June 09, 2010	October 7, 2010	118 days

**HEARING NOTIFICATION**

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	September 27, 2010	September 27, 2010	10 days
Mailed Notice	10 days	September 27, 2010	September 27, 2010	10 days

**PUBLIC COMMENT**

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	0	0	0
Other neighbors on the block or directly across the street	0	3	0
Neighborhood groups	0	0	0

The neighbors’ letters state support for the DR Request and their concerns are mainly light and privacy impacts of the new addition. The letters are included in this report for the Commission’s reference. The adjacent neighbor to the north expressed concern over the project’s impact to her building as a historic resource during the 311 process, but it appears her concerns were allayed once the project was more thoroughly explained to her.

**DR REQUESTOR**

Richard Fried  
 3898 Washington Street  
 San Francisco, CA 94118

Mr. Fried’s rear property line abuts the south side property line of the subject property.

**DR REQUESTOR’S CONCERNS AND PROPOSED ALTERNATIVES**

See attached *Discretionary Review Application*, dated June 10, 2010 and revised by the DR Requestor on June 15, 2010

## PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached *Response to Discretionary Review*, dated September 29, 2010

## ENVIRONMENTAL REVIEW

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

## RESIDENTIAL DESIGN TEAM REVIEW

The RDT supports the project as noticed. The project does not create any unusual impacts to surrounding properties' access to light, nor will it create any unusual privacy impacts on the DR Requestor's interior living spaces. Many of the other issues outlined in the DR Requestor's application – such as the foundation, hours of construction, hazardous materials, need for landscaping plans, and solar panel design – are not Planning-related issues

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

<b>RECOMMENDATION:</b> <b>Do not take DR and approve project as revised</b>
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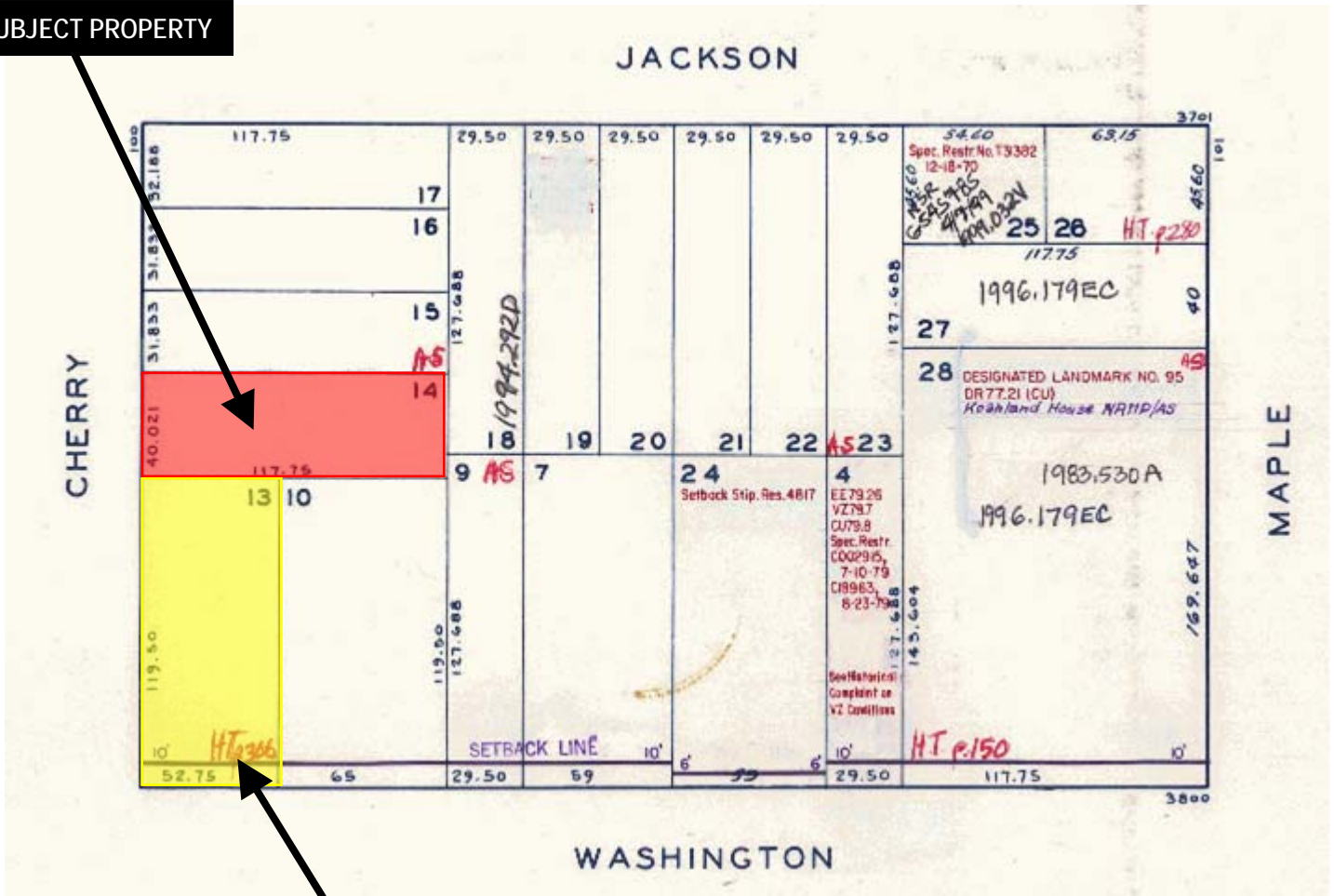
### Attachments:

Block Book Map  
Sanborn Map  
Zoning Map  
Aerial Photographs  
Context Photographs  
Section 311 Notice  
DR Application  
Response to DR Application dated September 29, 2010  
Reduced Plans

AS: G:\DOCUMENTS\Discretionary Review\120 Cherry St\120 Cherry St.Abbreviated Analysis.doc

# Parcel Map

SUBJECT PROPERTY



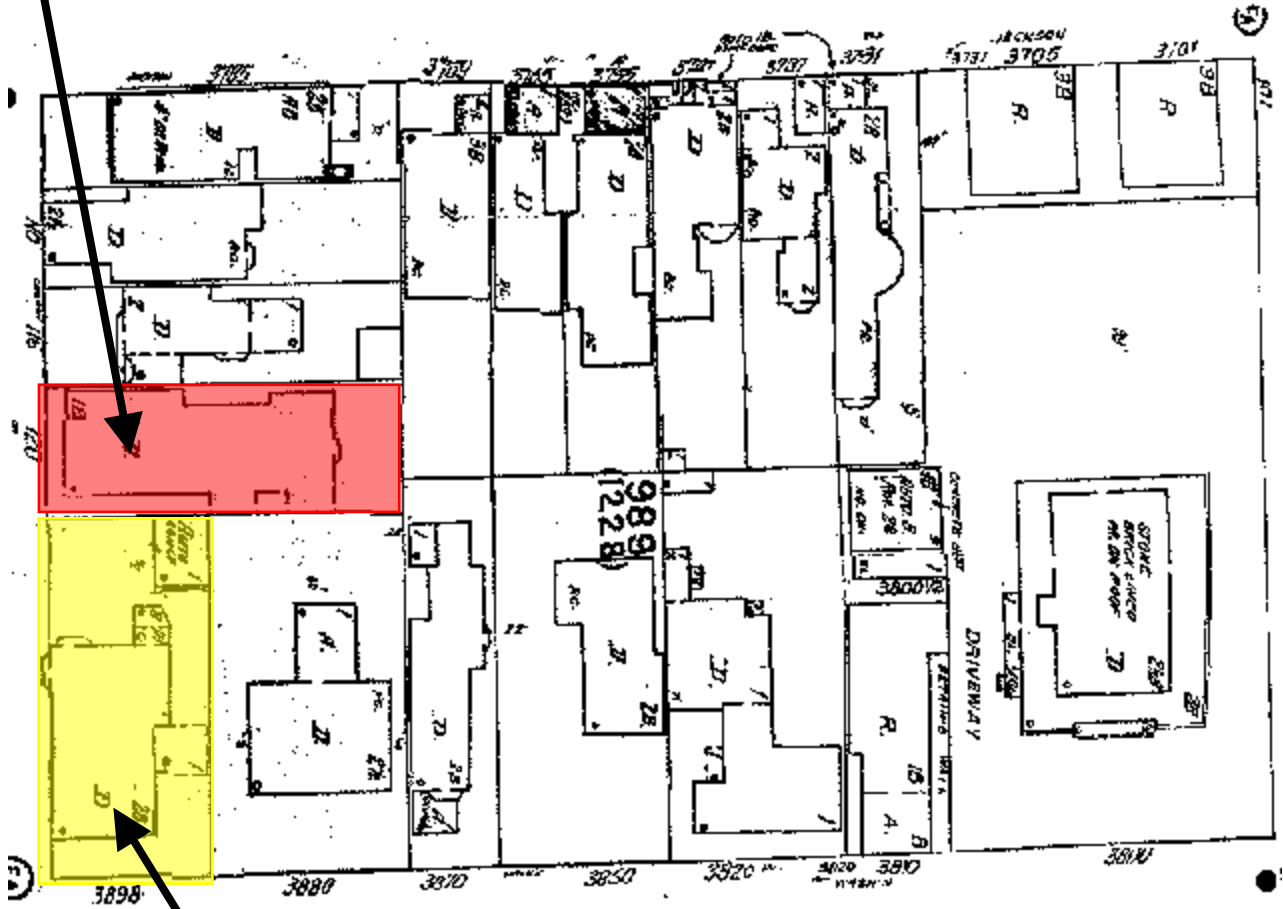
DR REQUESTOR'S PROPERTY



Discretionary Review Hearing  
Case Number 2010.0475D  
120 Cherry Street

# Sanborn Map\*

SUBJECT PROPERTY



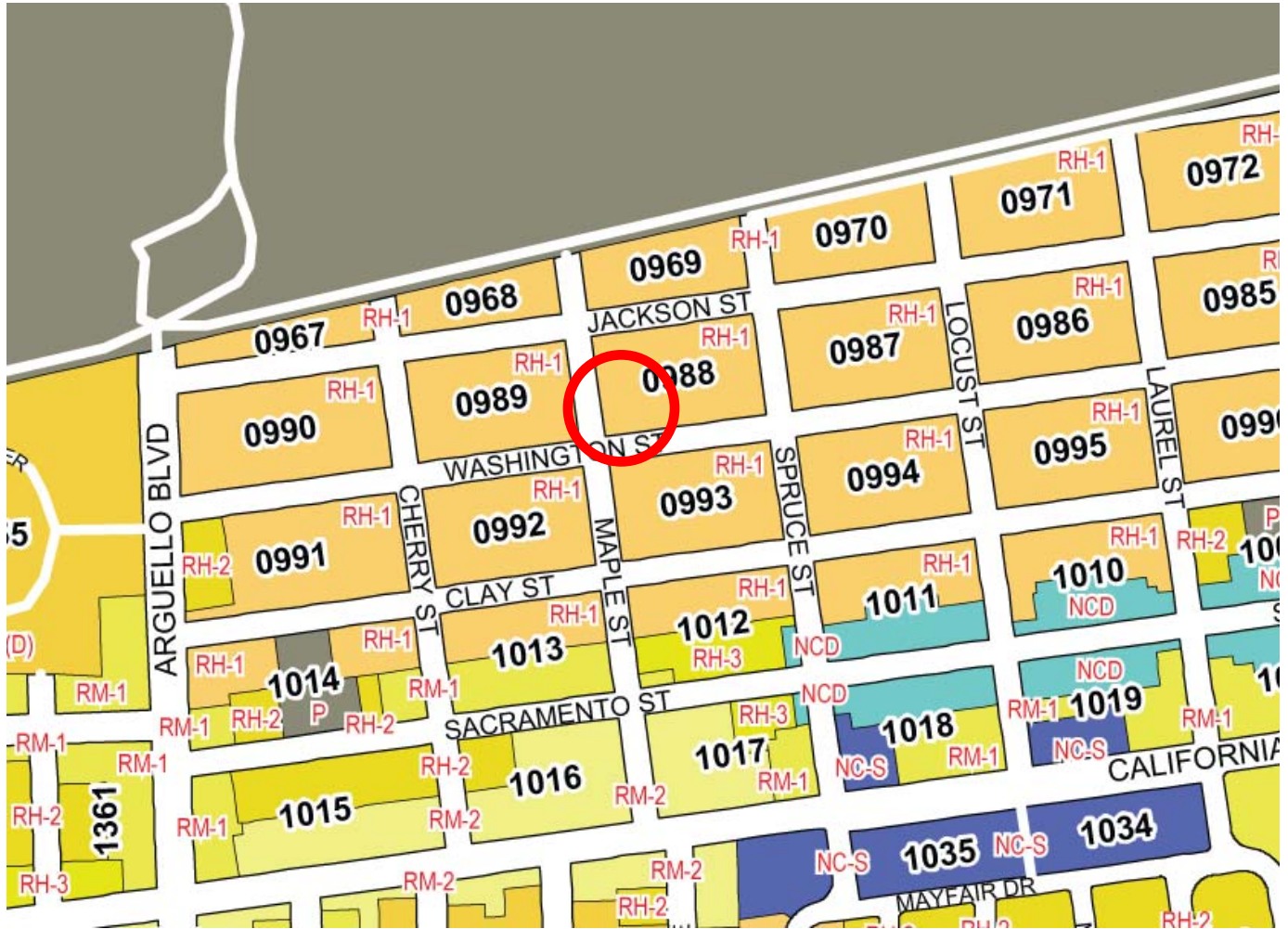
DR REQUESTOR'S PROPERTY

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



Discretionary Review Hearing  
Case Number 2010.0475D  
120 Cherry Street

# Zoning Map



Discretionary Review Hearing  
Case Number 2010.0475D  
120 Cherry Street



# Aerial Photo

SUBJECT PROPERTY



DR REQUESTOR'S  
PROPERTY



Discretionary Review Hearing  
Case Number 2010.0475D  
120 Cherry Street

# Site Photo



Discretionary Review Hearing  
Case Number 2010.0475D  
120 Cherry Street





# SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

## NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **February 25, 2008**, the Applicant named below filed Building Permit Application No. **2008.02.25.5476** (Alteration) with the City and County of San Francisco.

CONTACT INFORMATION		PROJECT SITE INFORMATION	
Applicant:	<b>Leonardo Zylberberg Architect</b>	Project Address:	<b>120 Cherry Street</b>
Address:	<b>1331 Harrison Street</b>	Cross Streets:	<b>Jackson St. and Washington St.</b>
City, State:	<b>San Francisco, CA 94103</b>	Assessor's Block /Lot No.:	<b>0989/014</b>
Telephone:	<b>(415) 882-7880</b>	Zoning Districts:	<b>RH-1 /40-X</b>

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

PROJECT SCOPE		
<input type="checkbox"/> DEMOLITION	and/or	<input type="checkbox"/> NEW CONSTRUCTION or <input checked="" type="checkbox"/> ALTERATION
<input checked="" type="checkbox"/> VERTICAL EXTENSION		<input type="checkbox"/> CHANGE # OF DWELLING UNITS <input type="checkbox"/> FACADE ALTERATION(S)
<input type="checkbox"/> HORIZ. EXTENSION (FRONT)		<input checked="" type="checkbox"/> HORIZ. EXTENSION (SIDE) <input type="checkbox"/> HORIZ. EXTENSION (REAR)
PROJECT FEATURES	EXISTING CONDITION	PROPOSED CONDITION
FRONT SETBACK .....	±6'	No Change
REAR YARD .....	±24'	No Change
NUMBER OF STORIES .....	1 over garage	2 over garage
NUMBER OF DWELLING UNITS .....	1	No Change
NUMBER OF OFF-STREET PARKING SPACES .....	1	3
PROJECT DESCRIPTION		

The proposal is to construct a 2<sup>nd</sup> floor addition that starts approximately 13.5' back from the front façade (behind existing tiled roof) and extends back to within 5' of the rear wall of the 1<sup>st</sup> floor; to infill an approximately 21' wide by 3' deep portion of the first floor at the north side property line; and to reconfigure the rear southeast corner of the building by reducing its depth by approximately 5' and reducing the depth of a light well on the south side of the building from 7' to 3.5'. The proposal also includes interior alterations. There are no proposed changes to the front façade.

PLANNER'S NAME: **Aaron Starr**  
PHONE NUMBER: **(415) 558-6362**  
EMAIL: **Aaron.starr@sfgov.org**

DATE OF THIS NOTICE:  
EXPIRATION DATE:

# NOTICE OF BUILDING PERMIT APPLICATION GENERAL INFORMATION ABOUT PROCEDURES

Reduced copies of the site plan and elevations (exterior walls) of the proposed project, including the position of any adjacent buildings, exterior dimensions, and finishes, and a graphic reference scale, have been included in this mailing for your information. Please discuss any questions with the project Applicant listed on the reverse. You may wish to discuss the plans with your neighbors and neighborhood association or improvement club, as they may already be aware of the project. Immediate neighbors to the project, in particular, are likely to be familiar with it.

Any general questions concerning this application review process may be answered by the Planning Information Center at 1660 Mission Street, 1st Floor (415/ 558-6377) between 8:00 a.m. - 5:00 p.m. Please phone the Planner listed on the reverse of this sheet with questions specific to this project.

If you determine that the impact on you from this proposed development is significant and you wish to seek to change the proposed project, there are several procedures you may use. We strongly urge that steps 1 and 2 be taken.

1. Seek a meeting with the project sponsor and the architect to get more information, and to explain the project's impact on you and to seek changes in the plans.
2. Call the local Community Board at (415) 920-3820 for assistance in conflict resolution/mediation. They may be helpful in negotiations where parties are in substantial disagreement. On many occasions both sides have agreed to their suggestions and no further action has been necessary.
3. Where you have attempted, through the use of the above steps, or other means, to address potential problems without success, call the assigned project planner whose name and phone number are shown at the lower left corner on the reverse side of this notice, to review your concerns.

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects, which generally conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review. If you believe the project warrants Discretionary Review by the Planning Commission over the permit application, you must make such request **within 30 days of this notice, prior to the Expiration Date shown on the reverse side**, by completing an application (available at the Planning Department, 1660 Mission Street, 1st Floor, or on-line at [www.sfgov.org/planning](http://www.sfgov.org/planning)). You must submit the application to the Planning Information Center during the hours between 8:00 a.m. and 5:00 p.m., with all required materials, and a check for \$300.00, for each Discretionary Review request payable to the Planning Department. If the project includes multi building permits, i.e. demolition and new construction, a separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you. Incomplete applications will not be accepted.

If no Discretionary Review Applications have been filed within the Notification Period, the Planning Department will approve the application and forward it to the Department of Building Inspection for its review.

## BOARD OF APPEALS

An appeal of the approval (or denial) of the permit application by the Planning Department or Planning Commission may be made to the Board of Appeals within 15 days after the permit is issued (or denied) by the Superintendent of the Department of Building Inspection. Submit an application form in person at the Board's office at 1660 Mission Street, 3rd Floor, Room 3036. For further information about appeals to the Board of Appeals, including their current fees, contact the Board of Appeals at (415) 575-6880.

**APPLICATION REQUESTING DISCRETIONARY REVIEW ("D.R.")**

This application is for projects where there are exceptional and extraordinary circumstances that justify further consideration, even though the project already meets requirements of the Planning Code, City General Plan and Priority Policies of the Planning Code.

D.R. Applicant's Name Richard Freed Telephone No: 421-2151

D.R. Applicant's Address 3858 Washington  
Number & Street (Apt. #) 94118  
San Francisco  
City Zip Code

D.R. Applicant's telephone number (for Planning Department to contact): 421-2151  
If you are acting as the agent for another person(s) in making this request please indicate the name and address of that person(s) (if applicable): Joint filing

Name Jim Shepard Telephone No: 364-2521

Address 3880 Washington  
Number & Street (Apt. #) 74118  
San Francisco  
City Zip Code

Address of the property that you are requesting the Commission consider under the Discretionary Review: 120 Cherry St

Name and phone number of the property owner who is doing the project on which you are requesting D.R.: Alex Miller 415 407 8425

Building Permit Application Number of the project for which you are requesting D.R.: 2009.02.25.5476

Where is your property located in relation to the permit applicant's property?  
Directly South

**A. ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST**

Citizens should make very effort to resolve disputes before requesting D.R. Listed below are a variety of ways and resources to help this happen.

1. Have you discussed this project with the permit applicant? YES  NO
2. Did you discuss the project with the Planning Department permit review planner? YES  NO
3. Did you participate in outside mediation on this case? Community Board  Other  NO

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4. If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the results, including any changes that were made to the proposed project so far.

See Attached

**B. DISCRETIONARY REVIEW REQUEST**

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

See attached

2. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

See attached

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above (in question B1)?

See attached



Please write (in ink) or type your answers on this form. Please feel free to attach additional sheets to this form to continue with any additional information that does not fit on this form.

**CHECKLIST FOR APPLICANT:**

Indicate which of the following are included with this Application:

**REQUIRED:**

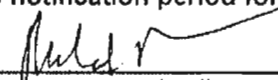
- G** Check made payable to Planning Department (see current fee schedule).
- ✓G** Address list for nearby property owners, in label format, plus photocopy of labels.
- G** Letter of authorization for representative/agent of D.R. applicant (if applicable).
- G** Photocopy of this completed application.

**OPTIONAL:**

- G** Photographs that illustrate your concerns.
- G** Covenants or Deed Restrictions.
- G** Other Items (specify).

**File this objection in person at the Planning Information Center.** If you have **questions** about this form, please contact Information Center Staff from 8 a.m. to 5 p.m., Monday to Friday.

**Plan to attend the Planning Commission public hearing which must be scheduled after the close of the public notification period for the permit.**

Signed  Applicant      6/8/10 Date

Robert Fried  
3898 Washington St.  
San Francisco, CA 94118

Aaron D. Starr, LEED AP  
Planner, NW Quadrant, Neighborhood Planning  
1650 Mission St., Suite 400  
San Francisco, CA 94103

June 15, 2010

Re: DR Application filed June 10, 2010, in response to Building Permit Application number 2008.02.25.5476

Dear Mr. Starr,

Per our correspondence I am submitting the attached amendment to my DR Application. I understand that you prefer the whole package to be included with this amendment, but please note that the only changes are to the attached answers to section A-4 and Section B. The rest remains the same. Thank you.

Sincerely,

Robert Fried

Two full copies of DR enclosed

*Revised  
DR Application  
RF*

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120 Cherry Street  
DR Application:  
June 9, 2010

Section A.

4. After much give and take, we were under the impression that we had reached a settlement with the 311 applicant, and were working to implement the settlement in written form. After exactly five months of silence, the 311 applicant moved ahead without telling us and we received a 311 notice. We therefore believe that the settlement has been rejected. The attached email shows the last communication we had from 311 applicant, to which we had responded with proposed changes in early December 2009 (Exhibit 1). 311 applicant has communicated sporadically at best, led DR Applicant to believe we were on a path to settlement and then rejected settlement agreement. DR applicant is willing to compromise on certain remaining issues and withdraw its DR application if those can be satisfactorily concluded in a written agreement. The remaining areas are limited to (a) clarifying manner of construction process and minimizing/indemnifying damage to DR applicants' properties, (b) including a portion of the 311 applicant's fencing and landscaping plan (only that part in direct abutment to DR applicants' properties) in the approved building plan, and (c) confirming in a Settlement Agreement these and certain other promises 311 applicant is currently making. DR Applicant is hopeful that a settlement agreement is achievable but given the timelines imposed by the pre-emptive filing of the 311 application we felt we have no other recourse but to make this filing.

Section B.

1. While we and the 311 applicant had negotiated a settlement and were working to implement it in writing, the 311 applicant has now revised his plans in a way that ignores certain aspects previously accepted by him. Our remaining concerns include:

a. Loss of privacy due to new windows inserted on the new third story addition. DR applicants spent years and significant effort to create open space in their rear (north) yards for the use of their children. 311 applicant's window additions will rob this area, as well as multiple rooms in DR applicants' homes, of privacy.

b. 311 applicant has failed to indicate how 311 applicant plans to construct addition/foundation work without accessing or undermining DR applicants' properties. 311 applicant has also not agreed in writing to specified hours of work or a mitigation plan in the likely event that 311 applicant's residence contains hazardous materials (based on the age of the residence lead paint is almost a certainty and asbestos is likely). 120 Cherry is located in an area with an usually significant number of children in near proximity (including a school on Washington Street).

2. 3898 Washington, 3880 Washington will be impacted by a loss of privacy and we and several other neighbors could be damaged during construction due to a lack of clarity on

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environmental mitigation and process. 3898 Washington and 3880 Washington are located directly to the south of the 311 applicant.

3. A. The landscape/fencing plan has a major impact our privacy and quality of life. We believe that little separates our desires for the plan from the 311 applicant's stated intentions. However, we would like the landscape plan and fencing plan to be attached to the permit set due to 311 applicant's previous history of renegeing on agreements.

B. The easternmost window on the southern façade of the new third storey was previously removed from the plan through give and take negotiation. It has been reintroduced. We would like both of the south facing windows on the new third story to be fretted so as to allow in light but to preserve privacy, but are only willing to pursue this requirement with the planning department's support (we feel VERY strongly about this privacy issue, and thought we had negotiated a settlement, but as these windows are not on the property line we need a referee's call on this one).

C. The roof on the east side of the property should be constructed (pursuant to the 311 applicant's promises) so that it can not be turned into a balcony at a later date. We have asked that this space not be utilized as outdoor space to preserve our privacy, and the 311 applicant has promised that it will not. However, the current plans indicate a possibility that 311 applicant will after the fact utilize this space as a balcony (which based on the plans would be a manner not approved by the Planning Commission). We would also like the 311 applicant to agree to this condition in the Settlement Agreement. An area of identical concern has been added to the latest plan below the (newly-added) easternmost window on the southern façade of the new third storey. Rather than have that area constructed as a flat roof with railing we would like it to be constructed as a sloping roof consistent with the rest of the sightlines on that side. This would increase visual coherence and eliminate the possibility of use as a balcony.

D. The solar panels on the roof should be attached in a manner so that they lay flush with the roof and non-reflective flashing should be used on all roof elements. Applicant has agreed to these items but we would like this change reflected in the building permit and Settlement Agreement).

E. We would like work hours defined as a condition of approval to the building permit. These are also agreed to by the 311 applicant as 7:30-5:00 Monday through Friday.

F. The 311 applicant should engage an environmental consultant to confirm the existence of hazardous materials on their site and to come up with a mitigation plan that can be part of the Settlement Agreement. It is doubtful that the 311 applicant can complete his demolition and construction without access to one or both of our properties. 311 applicant had previously asked for an access agreement, and supplied a proposed access agreement to DR applicants. DR applicants felt the agreement was unacceptably one-sided, and responded with proposed changes. 311 applicant rejected this agreement but declined to respond with specific changes. Rather the 311 applicant now claims that

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access to the DR applicants' properties is no longer required. This does not appear feasible to us, so DR applicants would like a mutually-acceptable access agreement to be finalized, and are happy to consider revisions proposed by 311 applicants. We would accept as a substitute for this a satisfactory explanation of how the project can be completed without such access. 311 applicant has also promised that the color for the southern façade (which he will not ever see but will represent a significant presence to us) would be chosen with mutual consent and we would like that to be part of the settlement agreement.

10.0475D

120 Cherry Street  
Exhibit 1

Thu 11/5/2009 5:18 PM

Jim,

Per my email below, I have revised the settlement agreement in a manner that I hope you will find satisfactory and have attached the drawings to reflect the potential access area as well as noting the 2nd floor window as non-operable.

I hope that you find it acceptable and reflective of what we had last discussed.

I look forward to resolving this and getting the project completed.

Thanks,

Alex Millar  
415-407-8425

----- Forwarded message -----

From: **Alex Millar** <[alex@blfsh.com](mailto:alex@blfsh.com)>

Date: Wed, Jul 8, 2009 at 4:02 PM

Subject: comment from lawyer....

To: James Shapiro <[jim@kearnyvp.com](mailto:jim@kearnyvp.com)>

Jim,

Thanks for continuing to work with me on this.

My attorney sent back this response as to how she was intending to bind the agreement with property:

"put the agreement as an exhibit to a Notice of Special Restriction which show up at a title report and runs with the land."

Maybe that is what your guy was talking about? Not sure. Anyway let me know what he comes back with.

In the meantime, I have asked them to tone down the language on yard access, etc. and non opposition, etc.

I will work with them on this and get back to you.

Thanks,

Alex

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## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT, dated July \_\_, 2009 (this "**Agreement**") is made by and between Alexander Millar and Kristin P. Millar (collectively, "**Millar**") James M. Shapiro and Sarah B. Shapiro (collectively, "**Shapiro**"), and Richard B. Fried and Lycia M. Carmody Fried (collectively, "**Fried**"). The Shapiro Property and Fried Property shall be collectively referred to herein as the "**Shapiro and Fried Properties.**" This Agreement is entered into with reference to the following facts:

A. Millar is the owner of that certain real property located at 120 Cherry Street, San Francisco, California (the "**Millar Property**").

B. Shapiro is the owner of that certain real property located at 3880 Washington Street, San Francisco, California (the "**Shapiro Property**").

C. Fried is the owner of that certain real property located at 3898 Washington Street, San Francisco, California (the "**Fried Property**").

D. Millar submitted a building permit application number 200802255476 ("**Permit**") to the Department of Building Inspection ("**DBI**") of the City and County of San Francisco (the "**City**") for an alteration and addition of a second floor to the Millar Property.

E. Shapiro and Fried are concerned with the impact that a second floor addition to the Millar Property (the "**Project**") proposed by the Permit will have on the Shapiro and Fried Properties.

F. The parties have agreed that it is in their mutual interests to resolve this dispute in accordance with the terms of this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1. Millar covenants and agrees to:

1.1 Revise the current plans to conform with the revised plans attached hereto as **Exhibit A** (the "**Plans**") to the Planning Department, which Plans shall be initialed by all of the parties on every sheet.

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1.2 Submit revised plans to the Department of Building Inspection that conform with the Plans attached hereto.

1.3 Not include any doors leading from the second floor to the living roof; however, windows with low sills shall be permitted on the second floor to allow access to maintain the living roof as the living roof is not an area for active or passive uses.

2. Non-Opposition to the Project. Shapiro and Fried covenant and agree as follows:

2.1 To initial every sheet of the Plans;

2.2 To refrain from filing discretionary review requests with the Planning Commission;

2.3 Not to appeal the environmental review determination for the Project to the Board of Supervisors or otherwise judicially challenge said determination;

2.4 Not to appeal the Permit, or the issuance of any other permits for the Project by the City necessary to construct the project, or otherwise challenge or oppose the Project;

2.5 Not to aid or assist any others in connection with challenging or opposing the Project; and

2.6 Refrain from any action that will delay or prevent the construction of the Project.

3. Access to the Neighboring Properties.

3.1 Grant of License. Shapiro grants Millar and Millar's contractors, subcontractors, consultants, employees, and agents (collectively, the "**Licensees**") a temporary license over, across and upon a portion of the rear yard of the Shapiro Property that is adjacent to the common property line between the Millar Property and the Shapiro Property (the "**Shapiro License Area**"). Fried grants the Licensees a temporary license over, across and upon a portion of the rear yard of the Fried Property that is adjacent to the common property line between the Millar Property and Fried Property (the "**Fried License Area**"). The Shapiro License Area and the Fried License Area shall be referred to collectively as the "**License Areas**." The License Areas shall consist of the area designated on the site plan drawing, prepared by Leonardo Zylberberg Associates, and attached hereto as Exhibit B. The Licensees shall have access to the License Areas between the hours of 7:30 A.M. and 5:00 P.M., Monday through Friday, for the sole purpose of performing construction work related to the construction of the Project such as the erection and removal of scaffolding, waterproofing, the performance of exterior finish work on the south facing exterior wall along the common property line with the Shapiro Property and Fried Property, and the replacement and restoration of landscaping damaged during use of the License Areas (collectively, the "**Permitted Uses**"). Millar shall not use or permit the License Areas to be used for any purpose other than the Permitted Uses.

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3.2 Term of License. The term of the License shall commence upon notice to Shapiro and Fried (the “**Effective Date**”) and expire upon completion of the Project (the “**Term**”). Millar agrees to provide Shapiro and Fried seven (7) calendar days notice prior to accessing the License Areas.

3.3 Indemnity By Millar. Millar agrees to indemnify, protect, defend and hold harmless Shapiro and Fried and the Shapiro and Fried Properties free and harmless from and against any and all damages, claims, losses, liabilities, causes of action, proceedings, costs and expenses to the extent caused by the Licensees, and from all mechanic’s, materialmen’s and other liens resulting from access or use of the License Areas by the Licensees; provided, however, Millar shall have no responsibility or liability for (i) any act or omission of Shapiro and Fried or Shapiro and Fried’s agents, employees, representatives, invitees, contractors or subcontractors and (ii) any pre-existing condition or defect. Millar shall cause to be satisfied or otherwise discharged all liens, stop notices or other claims or encumbrances within ten (10) working days after obtaining knowledge that any such lien, claim or encumbrance has been filed. Millar shall cause any contractors accessing the License Areas to provide Shapiro and Fried with lien releases prior to commencing any work on the License Areas. While on the License Areas, Millar will comply, and shall cause all Licensees to comply, with all applicable governmental laws.

3.4 Repair and Restoration. Millar shall, at their cost and expense, within thirty (30) days after the termination of this Agreement or Shapiro or Fried’s written demand, whichever occurs first, repair any damage to the Shapiro Property or Fried Property which is directly caused by the Licensees. In the event of damage to landscaping, Millar shall cause the repair or replacement of such landscaping with like-kind landscaping upon expiration of the Term.

3.5 Insurance. Prior to any entry on the License Areas, Millar’s contractors shall provide Shapiro and Fried with certificates of insurance evidencing the following coverage with respect to any loss (i) worker’s compensation insurance as required by law and (ii) commercial general liability insurance with aggregate and per occurrence limits of at least One Million Dollars (\$1,000,0000). Such policy of insurance shall name Shapiro and Fried and their successors and assigns as additional insureds and shall be endorsed to state that coverage shall not be suspended, voided or canceled, or reduced in coverage or in limits, except after thirty (30) calendar days' prior written notice by certified mail, return receipt requested, has been given to Shapiro and Fried.

4. Covenant to cooperate. Shapiro and Fried shall cooperate with Millar and shall execute and deliver or caused to be delivered, all such other reasonable documents, and will make all such other reasonable actions, as Millar reasonably requests from time to time in order to effectuate the construction of the Project.

5. General Provisions.

5.1 Time of Essence. Time is of the essence to each and every term, condition, obligation and provision of this Agreement.

10.04750

5.2 Attorneys' Fees. If any legal action, arbitration or other proceeding is brought to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

5.3 Specific Performance. In the event that any of the parties violates any of the terms of this Agreement, the Parties agree that monetary damages would be insufficient to make them whole and that each is entitled to specific performance of covenants made by each.

5.4 Governing Law. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

5.5 Successors and Assigns. All covenants and agreements set forth in this Agreement shall be binding upon and inure to the benefit of the Parties and successors-in-interest to the subject real properties, heirs, and assigns.

5.6 Authority. Each person executing this Agreement represents that he or she is duly authorized to execute and deliver this Agreement on behalf of such party and agrees to deliver evidence of his or her authority to the other party upon request..

5.7 Complete Agreement; Written Modification Only. This Agreement contains the entire agreement of the parties and constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof. This Agreement supersedes any and all prior correspondence, arrangements, representations and understandings, whether written or oral, express or implied, with respect to the subject matter hereof. This Agreement is entered into after full investigation by each party hereto with neither party relying upon any statements or representations by the other party that are not embodied in this Agreement. This Agreement may not be modified except by a written agreement, which specifically sets forth each modification and is signed by all parties.

5.8 Severability. If any provision of this Agreement is finally determined to be invalid or unenforceable, that part of the Agreement only shall be ineffective and shall not affect the validity of the remaining parts of the Agreement.

5.9 Counterparts. This Agreement may be executed in counterparts and/or by facsimile, each of which shall be deemed an original regardless of the date of its execution and delivery. All counterparts together shall constitute one and the same agreement.

[Signatures on Next Page]

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The parties have executed this Agreement as of the last date set forth below.

**MILLAR:**

\_\_\_\_\_  
Alexander Millar

Date: July \_\_\_\_, 2009

\_\_\_\_\_  
Kristin P. Millar

Date: July \_\_\_\_, 2009

**FRIED:**

\_\_\_\_\_  
Richard B. Fried

Date: July \_\_\_\_, 2009

\_\_\_\_\_  
Lycia M. Carmody Fried

Date: July \_\_\_\_, 2009

**SHAPIRO:**

\_\_\_\_\_  
James M. Shapiro

Date: July \_\_\_\_, 2009

\_\_\_\_\_  
Sarah B. Shapiro

Date: July \_\_\_\_, 2009

10.04750

**From:** [cchnarnas@aol.com](mailto:cchnarnas@aol.com)  
**To:** [aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)  
**cc:** [rfried@faralloncapital.com](mailto:rfried@faralloncapital.com); [jim@kearnyvp.com](mailto:jim@kearnyvp.com); [Mcharnas@aol.com](mailto:Mcharnas@aol.com); [cchnarnas@aol.com](mailto:cchnarnas@aol.com); [cchnarnas@gmail.com](mailto:cchnarnas@gmail.com)  
**Subject:** Permit Application 2008.02.25.5476 - 120 Cherry Street - Application for Discretionary Review Submitted by Richard Fried and Jim Shapiro  
**Date:** 06/11/2010 04:29 PM

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Via e-mail only

June 11, 2010

Mr. Aaron Starr  
Planner  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)

RE: Permit Application 2008.02.25.5476 - 120 Cherry Street -  
Application for Discretionary Review, dated June 8, 2008, Submitted by Richard  
Fried and Jim Shapiro

Dear Mr. Starr:

My name is Charles Charnas, and my wife's name is Margaret Charnas. We live at 3769 Jackson Street in San Francisco. The residence at 120 Cherry Street for which a permit (permit application 2008.02.25.5476) is being sought is adjacent to the southwestern corner of our property.

Trees on the east side of the property of 120 Cherry Street currently provide some measure of privacy for us in our master bedroom and bathroom and our kitchen and bathroom on the south side of our residence from the residents in 120 Cherry Street. Following completion of the proposed third floor addition at 120 Cherry Street, those trees will be essential to helping us maintain our privacy, although even the existing trees will provide us less privacy after completion of the third floor addition.

We respectfully request that the Planning Commission note our general support of the Application for Discretionary Review, dated June 8, 2008, submitted by Richard Fried and Jim Shapiro.

In addition, we ask that the Planning Commission please note our specific support for Section 3(A) of the Application for Discretionary Review, which requests that a landscape and fencing plan be attached to the permit when issued. In particular, we would like to request that such plan include a

requirement that the owners of 120 Cherry Street maintain the current trees at at least their current height and fullness or install replacement trees of at least the current height and fullness of the existing trees.

We raised our concerns about privacy and the importance of maintaining those trees at their current height and fullness to the owners of 120 Cherry Street at a neighborhood meeting with the owners held on July 29, 2008.

Would you please reply to this e-mail acknowledging the Planning Department's receipt.

Thank you.

Sincerely,

Charles Charnas

--

cncarnas@aol.com  
(415) 516-8039 (cell)

cc: Margaret Charnas  
Richard Fried  
Jim Shapiro

**From:** [David Boudreau](mailto:David.Boudreau@sfgov.org)  
**To:** [aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)  
**cc:** [vandywb@pacbell.net](mailto:vandywb@pacbell.net); [dboudreau@otrc.net](mailto:dboudreau@otrc.net); [rfried@faralloncapital.com](mailto:rfried@faralloncapital.com); [jim@kearnyvp.com](mailto:jim@kearnyvp.com); [ccharnas@aol.com](mailto:ccharnas@aol.com); [mcharnas@aol.com](mailto:mcharnas@aol.com); [ccharnas@gmail.com](mailto:ccharnas@gmail.com)  
**Subject:** Permit Application 2008.02.25.5476 - Application for Discretionary Review (120 Cherry St)  
**Date:** 06/11/2010 10:04 PM

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Via e-mail only

June 11, 2010

Mr. Aaron Starr  
Planner  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)

RE: Permit Application 2008.02.25.5476 (120 Cherry Street)  
Application for Discretionary Review, dated June 8, 2008, Submitted by Richard Fried and Jim Shapiro

Dear Mr. Starr:

My name is David Boudreau. My wife's name is Louisa Woods Boudreau. We live at 110 Cherry Street in San Francisco. The residence at 120 Cherry Street, for which permit application 2008.02.25.5476 has been filed, is located one parcel over and approximately 35 feet south of our home.

We respectfully request that the Planning Commission note our general support of (i) the Application Requesting Discretionary Review, dated June 8, 2010 submitted by Richard Fried and Jim Shapiro, and (ii) the concerns of Charles and Margaret Charnas, which were separately emailed to you today.

We also ask that the Planning Commission please note that the 3rd floor addition at 120 Cherry Street will block southern exposure and a significant amount of sunlight from reaching our small rear yard at 110 Cherry Street. We recently renovated our rear yard by removing a brick patio and installing synthetic turf and play structures so that our four children could have outdoor recreation space. The 3rd floor addition at 120 Cherry Street will cast shadows, impede air flow, and generally limit our enjoyment of the small amount of open space that we have in our rear yard. The adverse effects of the project could be reduced by relocating the rear wall of the addition to the west.

We raised our concerns about the height and length of the 3rd floor addition to the owners of 120 Cherry Street at a neighborhood meeting with the owners held on July 29, 2008.

Please reply to this e-mail acknowledging the Planning Department's receipt.

Thank you.

Sincerely,

David and Louisa Boudreau  
415-265-1542

**From:** [James Shapiro](#)  
**To:** [Aaron Starr](#)  
**cc:** [Rocky Fried](#)  
**Subject:** RE: 120 Cherry DR  
**Date:** 06/14/2010 01:50 PM

---

Dear Mr. Starr,

I am Rocky's neighbor and am in full support of the DR (we intended to file it jointly but learned that is not permitted). Is it ok for me to bring the revised DR in for filing or must that be done by the original applicant? We're trying to share the load a bit. Thanks very much.

Sincerely,

Jim

Jim Shapiro  
Kearny Venture Partners  
88 Kearny St., 2nd Floor  
San Francisco, CA 94108  
(415) 364-2521  
[www.kearnyvp.com](http://www.kearnyvp.com)

-----Original Message-----

From: Aaron Starr [mailto:[Aaron.Starr@sfgov.org](mailto:Aaron.Starr@sfgov.org)]  
Sent: Monday, June 14, 2010 9:08 AM  
To: Rocky Fried  
Cc: James Shapiro; 'Jonas.ionin@sfgov.org'  
Subject: Re: 120 Cherry DR

Thanks for letting me know.

Aaron D Starr, LEED AP  
Planner, NW Quadrant, Neighborhood Planning  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)

415.558.6362 (voice)  
415.558.6409 (fax)

Rocky Fried  
<[RFried@FarallonCapital.com](mailto:RFried@FarallonCapital.com)>

06/11/2010 03:41  
PM

"'Aaron.starr@sfgov.org'"  
<[Aaron.starr@sfgov.org](mailto:Aaron.starr@sfgov.org)>,  
" 'Jonas.ionin@sfgov.org' "  
<[Jonas.ionin@sfgov.org](mailto:Jonas.ionin@sfgov.org)>

To

cc

" 'jim@kearnyvp.com' "  
<[jim@kearnyvp.com](mailto:jim@kearnyvp.com)>

Subject

120 Cherry DR

Dear Mr. Starr,



# SAN FRANCISCO PLANNING DEPARTMENT

## RESIDENTIAL DESIGN TEAM REVIEW

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

DATE: 08/16/10 RDT MEETING DATE: 08/19/10

Reception:  
**415.558.6378**

### PROJECT INFORMATION:

Planner: Aaron Starr

Address: 120 Cherry Street

Cross Streets: Jackson St. and Washington St.

Block/Lot: 0989/014

Zoning: RH-1

Height/Bulk District: 40-X

BPA/Case No. 2008.02.25.5476

Project Status  Initial Review  Post NOPDR  DR Filed

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PROJECT DESCRIPTION:

The proposal is to construct a 2<sup>nd</sup> floor addition that starts approximately 13.5' back from the front façade (behind existing tiled roof) and extends back to within 5' of the rear wall of the 1<sup>st</sup> floor; to infill an approximately 21' wide by 3' deep portion of the first floor at the north side property line; and to reconfigure the rear southeast corner of the building by reducing its depth by approximately 5' and reducing the depth of a light well on the south side of the building from 7' to 3.5'. The proposal also includes interior alterations. There are no proposed changes to the front façade.

### PROJECT CONCERNS:

DR filed by neighbor over privacy issues. Hearing on October 7, 2010

### RDT COMMENTS:

- The RDT supports the project as noticed. The RDT does not find the project to create any unusual impacts to surrounding properties' access to light, nor will it create any usual privacy impacts on the DR Requestor's interior living spaces. Many of the other issues outlined in the DR Requestor's application – such as the foundation, hours of construction, hazardous materials, need for landscaping plans, and solar panel design – are not Planning-related issues (RDG, pg. 16, 17)
- The project does not contain or create any exceptional or extraordinary circumstances.
- Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission. As such, this DR warrants an Abbreviated DR Analysis.





September 29, 2010

San Francisco Planning Commission  
1650 Mission Street, 4<sup>th</sup> floor  
San Francisco, CA 94103

**RE: 120 Cherry Street  
Case No. 2010.0475D**

Dear Commissioners:

### **PROPOSAL**

Alex and Kristin Millar propose to add a Code-complying vertical addition to a one-story over garage single-family house in the Presidio Heights neighborhood. By utilizing the existing three feet of crawl space between the existing interior ceiling and the finished roof, the new floor can be accommodated with only eight additional feet of height, which is still 13 feet below the height limit. The vertical addition has been designed to maintain the existing scale of the subject building. The new level is set back approximately 18 feet from the front (Cherry Street) property line and has been inserted behind the existing roof. Both sides of the proposed vertical addition are set back and sculpted to maintain the appropriate scale and massing. As a result the new addition is subordinate to the main façade.

### **EXISTING CONDITIONS**

The subject property is located in an RH-1 (one-family dwelling) zoning district. The one-story over garage subject building is, and would continue to be, the shortest house on the block face and in the immediate area. The immediate and broader neighborhood can be characterized as single-family homes that are three to four stories in height situated on wide and deep lots compared to standard San Francisco parcels in RH-1 zoning districts. The block face has a mixed visual character and no clear pattern of development.

### **NEIGHBORHOOD OUTREACH**

The project sponsor held a pre-application informational neighborhood meeting on January 30, 2008. A second follow-up meeting was held on July 29, 2008. The project sponsor has been communicating directly with individual neighbors to maintain a focused and constructive dialogue. The principal DR requestor has refused several requests from the Millars to meet, and has only sent messages through his non-signatory joint DR requestor.

## **MODIFICATIONS TO PROJECT IN RESPONSE TO ADJACENT NEIGHBORS**

### **116 Cherry Street**

Dr. John Bier, property owner of the adjacent home—an historic Willis Polk structure—directly to the north of the subject property requested that we consider making modifications to the proposal in order to maintain light and air into their south-facing windows, especially their third floor property line window.

In response to Dr. Bier's constructive suggestions the project was modified by the following:

- 1) The proposed stairs at the northwest corner of the new floor were re-oriented and the roof form was changed to a sloping roof so as not to obstruct the adjacent property line window.
- 2) The proposed vertical addition has been set back six feet from our northern property line to acknowledge the side setback of the adjacent property. The side setback will also maintain an appropriate spatial relationship between the architecturally significant Willis Polk building and the proposed new northern wall.

### **3870 Washington Street**

- 1) The property owner was opposed to the proposed roof deck. The roof deck has been eliminated.

### **3898 & 3880 Washington Street (DR requestors)**

- 1) The property owners were opposed to the accessible balcony. The proposed balcony at the southeast corner has been removed.

All modifications have been illustrated on hatched drawings. See Exhibit D.

## **DISCRETIONARY REVIEW REQUEST**

A (joint) discretionary review request application (see Exhibit B) was filed by Richard Fried of 3898 Washington Street (corner property directly south of the subject site) and Jim Shapiro of 3880 Washington Street (interior parcel directly south of subject property). The primary concern of the DR requestors is that they will lose their privacy, unless two bedroom windows are eliminated from the children's bedrooms (which are more than 57 feet from each of the DR requestors' homes). It should be noted that both DR requestors have made significant changes to their properties that have contributed to their perceived lack of privacy within the urban context. Please see Exhibit C for the project sponsor's response to the DR.

### **RESIDENTIAL DESIGN TEAM (RDT) COMMENTS**

The Residential Design Team supports the project as proposed. The RDT did not find the project to create any unusual impacts to surrounding properties' access to light, nor will it create any usual privacy impacts on the DR Requestor's living space. The RDT concluded that the project does not contain or create any exceptional or extraordinary circumstances and under the Planning Commission's pending DR Reform Legislation, the project would not be referred to the Commission.

### **CONCLUSION**

The proposed vertical addition is Code-complying and meets all aspects of the Residential Design Guidelines. Even with the vertical addition, the subject building will continue to be the shortest building in the immediate area.

The project is supported by Planning Department staff and the Residential Design Team as proposed. We believe that the DR request is completely unreasonable. Indeed, this request may meet the standard of frivolity and may well represent a potential abuse of the San Francisco land use process. Both DR applicants have made significant physical changes to their properties that have directly reduced their own privacy, but are now attempting to prohibit the project sponsors from enjoying their property in a reasonable and Code-complying manner. We agree with Planning Department staff that the proposed vertical addition does not pose an exceptional or extraordinary circumstance. We respectfully request that you deny the DR request and approve the project as proposed.

Thank you for your consideration.



Tony B. Kim  
(415) 246-8855

## LIST OF EXHIBITS

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EXHIBIT A	Residential Design Team's Comments
EXHIBIT B	Copy of Application Requesting Discretionary Review ("DR")
EXHIBIT C	Project Sponsor's Response to Discretionary Review
EXHIBIT D	Hatched drawings showing modifications made to the proposal in response to neighbors' concerns
EXHIBIT E	Aerial photo and photographs of the blockface and opposite blockface
EXHIBIT F	Site survey showing distance between buildings
EXHIBIT G	Photographs of recent construction in the immediate area & DBI records
EXHIBIT H	Color rendering and architectural drawings



# SAN FRANCISCO PLANNING DEPARTMENT

## RESIDENTIAL DESIGN TEAM REVIEW

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

DATE: 08/16/10 RDT MEETING DATE: 08/19/10

Reception:  
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Block/Lot: 0989/014

Zoning: RH-1

Height/Bulk District: 40-X

BPA/Case No. 2008.02.25.5476

Project Status  Initial Review  Post NOPDR  DR Filed

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PROJECT DESCRIPTION:

The proposal is to construct a 2<sup>nd</sup> floor addition that starts approximately 13.5' back from the front façade (behind existing tiled roof) and extends back to within 5' of the rear wall of the 1<sup>st</sup> floor; to infill an approximately 21' wide by 3' deep portion of the first floor at the north side property line; and to reconfigure the rear southeast corner of the building by reducing its depth by approximately 5' and reducing the depth of a light well on the south side of the building from 7' to 3.5'. The proposal also includes interior alterations. There are no proposed changes to the front façade.

### PROJECT CONCERNS:

DR filed by neighbor over privacy issues. Hearing on October 7, 2010

### RDT COMMENTS:

- The RDT supports the project as noticed. The RDT does not find the project to create any unusual impacts to surrounding properties' access to light, nor will it create any usual privacy impacts on the DR Requestor's interior living spaces. Many of the other issues outlined in the DR Requestor's application – such as the foundation, hours of construction, hazardous materials, need for landscaping plans, and solar panel design – are not Planning-related issues (RDG, pg. 16, 17)
- The project does not contain or create any exceptional or extraordinary circumstances.
- Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission. As such, this DR warrants an Abbreviated DR Analysis.

**APPLICATION REQUESTING DISCRETIONARY REVIEW ("D.R.")**

This application is for projects where there are exceptional and extraordinary circumstances that justify further consideration, even though the project already meets requirements of the Planning Code, City General Plan and Priority Policies of the Planning Code.

D.R. Applicant's Name Richard Fried Telephone No: 421-2151

D.R. Applicant's Address 3858 Washington  
Number & Street (Apt. #) 94118  
San Francisco  
City Zip Code

D.R. Applicant's telephone number (for Planning Department to contact): 421-2151  
If you are acting as the agent for another person(s) in making this request please indicate the name and address of that person(s) (if applicable): Joint filing.

Name Jr. Shepard Telephone No: 364-2521

Address 3880 Washington  
Number & Street (Apt. #) 74118  
San Francisco  
City Zip Code

Address of the property that you are requesting the Commission consider under the Discretionary Review: 120 Cherry St

Name and phone number of the property owner who is doing the project on which you are requesting D.R.: Alex Miller 415 407 8425

Building Permit Application Number of the project for which you are requesting D.R.: 2008.02.25.5476

Where is your property located in relation to the permit applicant's property?  
Directly South

A. ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST  
Citizens should make very effort to resolve disputes before requesting D.R. Listed below are a variety of ways and resources to help this happen.

- 1. Have you discussed this project with the permit applicant? YES  NO
- 2. Did you discuss the project with the Planning Department permit review planner? YES  NO
- 3. Did you participate in outside mediation on this case? Community Board  Other  NO

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4. If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the results, including any changes that were made to the proposed project so far.

SEE Attached

**B. DISCRETIONARY REVIEW REQUEST**

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

See attached

2. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

See attached

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above (in question B1)?

See attached

Please write (in ink) or type your answers on this form. Please feel free to attach additional sheets to this form to continue with any additional information that does not fit on this form.

CHECKLIST FOR APPLICANT:

Indicate which of the following are included with this Application:

REQUIRED:

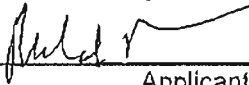
- G Check made payable to Planning Department (see current fee schedule).
- G Address list for nearby property owners, in label format, plus photocopy of labels.
- G Letter of authorization for representative/agent of D.R. applicant (if applicable).
- G Photocopy of this completed application.

OPTIONAL:

- G Photographs that illustrate your concerns.
- G Covenants or Deed Restrictions.
- G Other Items (specify).

File this objection in person at the Planning Information Center. If you have questions about this form, please contact Information Center Staff from 8 a.m. to 5 p.m., Monday to Friday.

Plan to attend the Planning Commission public hearing which must be scheduled after the close of the public notification period for the permit.

Signed  Applicant                      6/8/10 Date



Robert Fried  
3898 Washington St.  
San Francisco, CA 94118

Aaron D. Starr, LEED AP  
Planner, NW Quadrant, Neighborhood Planning  
1650 Mission St., Suite 400  
San Francisco, CA 94103

June 15, 2010

Re: DR Application filed June 10, 2010, in response to Building Permit Application number 2008.02.25.5476

Dear Mr. Starr,

Per our correspondence I am submitting the attached amendment to my DR Application. I understand that you prefer the whole package to be included with this amendment, but please note that the only changes are to the attached answers to section A-4 and Section B. The rest remains the same. Thank you.

Sincerely,

Robert Fried

Two full copies of DR enclosed

*Revised  
DR Application  
RF*

10.04750

120 Cherry Street  
DR Application:  
June 9, 2010

Section A.

4. After much give and take, we were under the impression that we had reached a settlement with the 311 applicant, and were working to implement the settlement in written form. After exactly five months of silence, the 311 applicant moved ahead without telling us and we received a 311 notice. We therefore believe that the settlement has been rejected. The attached email shows the last communication we had from 311 applicant, to which we had responded with proposed changes in early December 2009 (Exhibit 1). 311 applicant has communicated sporadically at best, led DR Applicant to believe we were on a path to settlement and then rejected settlement agreement. DR applicant is willing to compromise on certain remaining issues and withdraw its DR application if those can be satisfactorily concluded in a written agreement. The remaining areas are limited to (a) clarifying manner of construction process and minimizing/indemnifying damage to DR applicants' properties, (b) including a portion of the 311 applicant's fencing and landscaping plan (only that part in direct abutment to DR applicants' properties) in the approved building plan, and (c) confirming in a Settlement Agreement these and certain other promises 311 applicant is currently making. DR Applicant is hopeful that a settlement agreement is achievable but given the timelines imposed by the pre-emptive filing of the 311 application we felt we have no other recourse but to make this filing.

Section B.

1. While we and the 311 applicant had negotiated a settlement and were working to implement it in writing, the 311 applicant has now revised his plans in a way that ignores certain aspects previously accepted by him. Our remaining concerns include:

a. Loss of privacy due to new windows inserted on the new third story addition. DR applicants spent years and significant effort to create open space in their rear (north) yards for the use of their children. 311 applicant's window additions will rob this area, as well as multiple rooms in DR applicants' homes, of privacy.

b. 311 applicant has failed to indicate how 311 applicant plans to construct addition/foundation work without accessing or undermining DR applicants' properties. 311 applicant has also not agreed in writing to specified hours of work or a mitigation plan in the likely event that 311 applicant's residence contains hazardous materials (based on the age of the residence lead paint is almost a certainty and asbestos is likely). 120 Cherry is located in an area with an usually significant number of children in near proximity (including a school on Washington Street).

2. 3898 Washington, 3880 Washington will be impacted by a loss of privacy and we and several other neighbors could be damaged during construction due to a lack of clarity on

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environmental mitigation and process. 3898 Washington and 3880 Washington are located directly to the south of the 311 applicant.

3. A. The landscape/fencing plan has a major impact our privacy and quality of life. We believe that little separates our desires for the plan from the 311 applicant's stated intentions. However, we would like the landscape plan and fencing plan to be attached to the permit set due to 311 applicant's previous history of renegeing on agreements.

B. The easternmost window on the southern façade of the new third storey was previously removed from the plan through give and take negotiation. It has been reintroduced. We would like both of the south facing windows on the new third story to be fretted so as to allow in light but to preserve privacy, but are only willing to pursue this requirement with the planning department's support (we feel VERY strongly about this privacy issue, and thought we had negotiated a settlement, but as these windows are not on the property line we need a referee's call on this one).

C. The roof on the east side of the property should be constructed (pursuant to the 311 applicant's promises) so that it can not be turned into a balcony at a later date. We have asked that this space not be utilized as outdoor space to preserve our privacy, and the 311 applicant has promised that it will not. However, the current plans indicate a possibility that 311 applicant will after the fact utilize this space as a balcony (which based on the plans would be a manner not approved by the Planning Commission). We would also like the 311 applicant to agree to this condition in the Settlement Agreement. An area of identical concern has been added to the latest plan below the (newly-added) easternmost window on the southern façade of the new third storey. Rather than have that area constructed as a flat roof with railing we would like it to be constructed as a sloping roof consistent with the rest of the sightlines on that side. This would increase visual coherence and eliminate the possibility of use as a balcony.

D. The solar panels on the roof should be attached in a manner so that they lay flush with the roof and non-reflective flashing should be used on all roof elements. Applicant has agreed to these items but we would like this change reflected in the building permit and Settlement Agreement).

E. We would like work hours defined as a condition of approval to the building permit. These are also agreed to by the 311 applicant as 7:30-5:00 Monday through Friday.

F. The 311 applicant should engage an environmental consultant to confirm the existence of hazardous materials on their site and to come up with a mitigation plan that can be part of the Settlement Agreement. It is doubtful that the 311 applicant can complete his demolition and construction without access to one or both of our properties. 311 applicant had previously asked for an access agreement, and supplied a proposed access agreement to DR applicants. DR applicants felt the agreement was unacceptably one-sided, and responded with proposed changes. 311 applicant rejected this agreement but declined to respond with specific changes. Rather the 311 applicant now claims that

10.04750

access to the DR applicants' properties is no longer required. This does not appear feasible to us, so DR applicants would like a mutually-acceptable access agreement to be finalized, and are happy to consider revisions proposed by 311 applicants. We would accept as a substitute for this a satisfactory explanation of how the project can be completed without such access. 311 applicant has also promised that the color for the southern façade (which he will not ever see but will represent a significant presence to us) would be chosen with mutual consent and we would like that to be part of the settlement agreement.

10.0475D

## Response to Discretionary Review

- 1) **Given the concerns of the DR requestor and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requestor, please meet the DR requestor in addition to reviewing the attached DR application.)**

The project should be approved for the following reasons:

- The proposal has been reviewed and evaluated by Planning Department staff including the Residential Design Team (see Exhibit A – RDT Comments) and they are in full support of the project as proposed.
- The proposal is a Code-complying vertical addition that fully meets the Residential Design Guidelines.
- By utilizing the existing three feet of crawl space between the existing interior ceiling and the finished roof, the proposed new floor can be accommodated with only eight additional feet of height, which would be 13 feet below the height limit for that parcel.
- The vertical addition has been designed to maintain the existing scale of the subject building. The new level is set back approximately 18 feet from the front (Cherry Street) property line and has been inserted behind the existing roof.
- Both sides of the proposed vertical addition are set back and sculpted to maintain the appropriate scale and massing. As a result the new addition is subordinate to the main façade.
- The project sponsor has responded effectively and modified the project to respond to Dr. John Bier at 116 Cherry Street (adjacent property directly to the north). Dr. Bier does not oppose the vertical addition.
- The project sponsor has responded effectively and modified the project to respond to the property owner at 3870 Washington Street. In response to their concerns, the roof deck has been removed.
- The DR requestors demanded that the proposed balconies be non-accessible. In response, the project sponsor has eliminated the balcony at the southeast corner of the subject property.
- The proposed bedroom windows are approximately 57 to 60 feet away from the rear facing windows of 3898 Washington Street (property of Rocky Fried, primary DR requestor).

- The proposed bedroom windows are approximately 66 feet away from the rear windows of 3880 Washington Street (property of Jim Shapiro, non-signatory joint DR requestor).

**2) What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requestor and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes. Indicate whether the changes were made before filing your application with the City or after filing the application.**

The project sponsor has made significant changes to the proposal and has effectively responded to many neighbors as described above. In specific response to the DR requestor, the project sponsor removed the proposed balcony at the southeast corner of the subject property. Many of the changes were made prior to the submittal of the application. A few changes were made after filing of the application once the project sponsor was able to understand the concerns of other parties.

**3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Please explain your needs for space or other personal requirements that prevent you from making the changes requested by the DR requestor.**

***The DR requestor states – Loss of privacy due to new windows inserted on the new third story addition.***

The project sponsor proposes two appropriately-proportioned south-facing bedroom windows in their children's two bedrooms. The two proposed windows are the only windows for each bedroom. South-facing windows will provide natural light, air, and energy efficiency. The project sponsor would like to have standard operable windows so that their children can look out the window and see the sky. The proposed two windows are approximately 57 to 66 feet away from the DR requestors' windows. (Please see Exhibit F – site survey showing distances.)

***DR applicants spent years and significant effort to create open space in their rear (north) yards for the use of their children. 311 applicant's window additions will rob this area, as well as multiple rooms in DR applicants' homes, of privacy.***

Through a series of building permits both Rocky Fried (3898 Washington Street, corner lot) and Jim Shapiro (3880 Washington Street, interior lot to the south) have completed significant physical construction to their properties and now are

trying to prohibit the project sponsor from enjoying their property in a reasonable manner.

**3898 Washington Street (corner lot – DR applicant’s property)**

**BP# 2006/1023/5677 SCOPE OF WORK CONSISTS OF RAISING GRADE IN REAR YARD, IN-FILLING THE EXISTING GARAGE WITH SOIL AT REAR YARD (235 YDS), FENCE AND ADD (N) GARAGE UNDER HOUSE AT EXISTING SPACE. MINOR EXCAVATING FOR NEW GARAGE.**  
**(see Exhibit G)**

Department of Building Inspection records and the aerial photographs (see Exhibit G) show that Rocky Fried conducted major excavation to his rear yard, inserted a new garage accessed from Cherry Street, and elevated the finished grade of his rear yard.

The DR requestor made significant changes to his property to construct a garage that resulted in raising the finished grade of his rear yard by several feet, thereby bringing his practical useable open space into closer proximity to the project sponsor’s property, and now he states that the proposed project and the south-facing bedroom windows will “rob” him of his privacy.

**3880 Washington Street**

**BP# 2003/1023/8395 CHANGE ROOF + DORMERS MOVE GARAGE TO FRONT ENLARGE BASEMENT**

Department of Building Inspection records and aerial photographs (see Exhibit G) show that Jim Shapiro made some significant renovations to his property including the removal of two mature trees (see Exhibit G) that appeared to provide significant screening and privacy to his property.

The subject block lacks a clear mid-block open space pattern. However, the subject block contains a clear pattern of mature trees that appear to provide a natural method of screening and privacy. Jim Shapiro removed two mature trees on his property and their large canopy that provided privacy to all adjacent properties. Replacement trees were never planted.

***The DR requestors request that the project sponsor not utilize the proposed balconies.***

The project sponsor has removed one balcony in response to the DR requestor’s concerns. Two other balconies are proposed as part of this project. The project sponsor wishes to retain these two balconies as important outdoor living spaces that provide light, air and landscaping in an urban environment.

***The DR requestors state that they will be impacted by a loss of privacy and they and several other neighbors could be damaged during construction due to a lack of clarity on environmental mitigation and process.***

The project sponsor's representatives have consulted with both the Major Environmental Analysis division of the Planning Department and the Department of Building Inspection.

The Planning Department has issued a categorical exemption for the proposed project. No environmental mitigation plan is required or necessary. The project sponsor will comply with all local, State and Federal regulations to properly abate any hazardous materials found at the subject property. A licensed contractor will coordinate with representatives of the Department of Building Inspection and all other agencies to oversee the abatement plan and process.

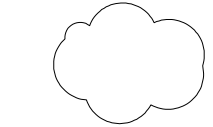
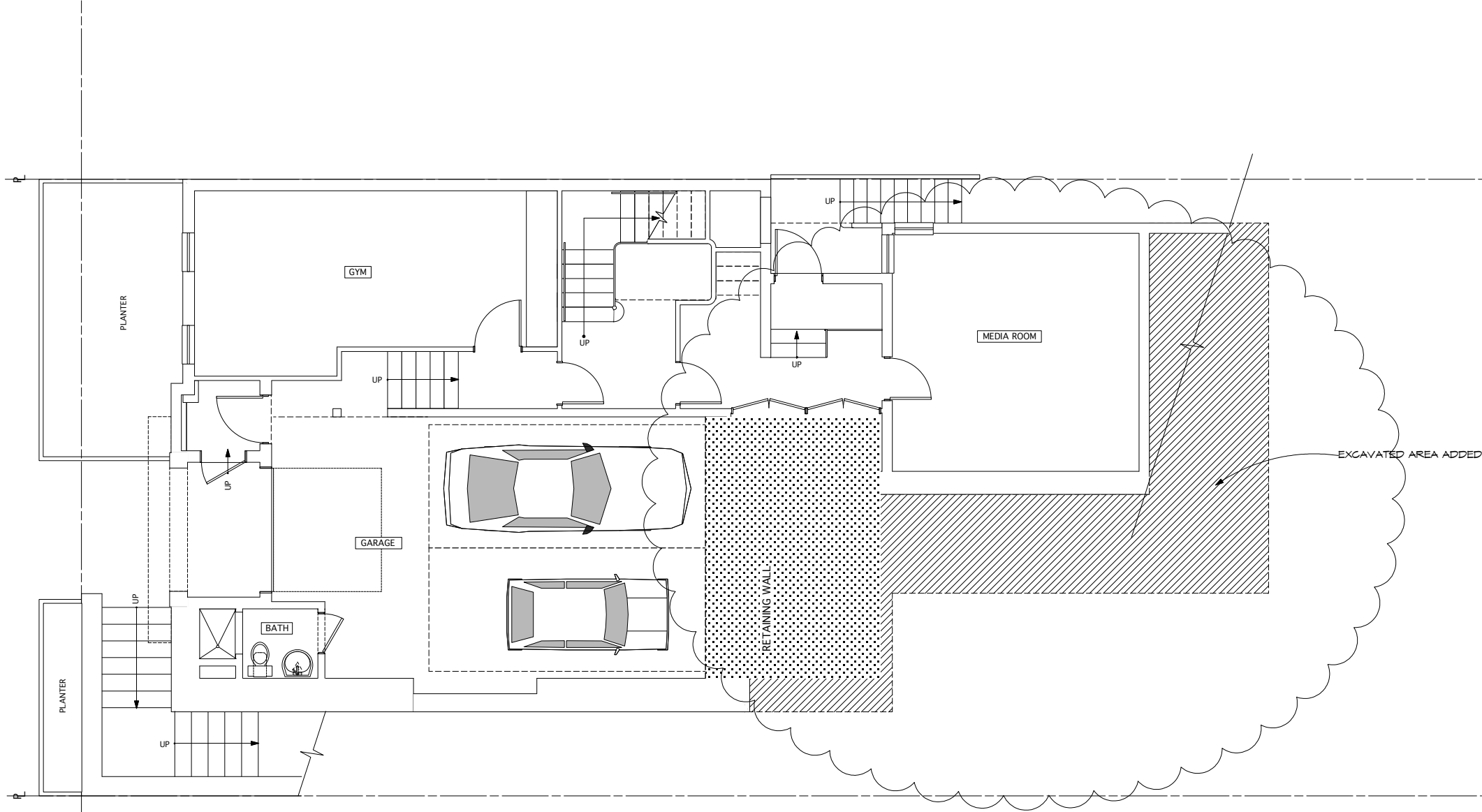
***The DR requestor would like hours defined as a condition of approval to the building permit.***

The project sponsor will comply with the standard work hours regulated by the Department of Building Inspection and San Francisco Police Department.

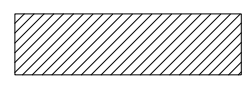
***The DR requestors insist that the project sponsor will require access to their properties.***

The project sponsor will be able to perform the proposed scope of work without access to the adjacent properties. Therefore, the project sponsor does not require an access agreement.

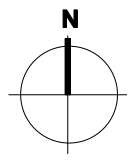




REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



SCHEMATIC DESIGN

Revisions:

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**LEONARDO ZYLBERBERG arch**  
 1331 Harrison Street  
 San Francisco, CA 94103  
 (415) 882 7880 Voice  
 (415) 882 9786 Fax  
**LZ Architect**  
 lz@lzarchitect.com

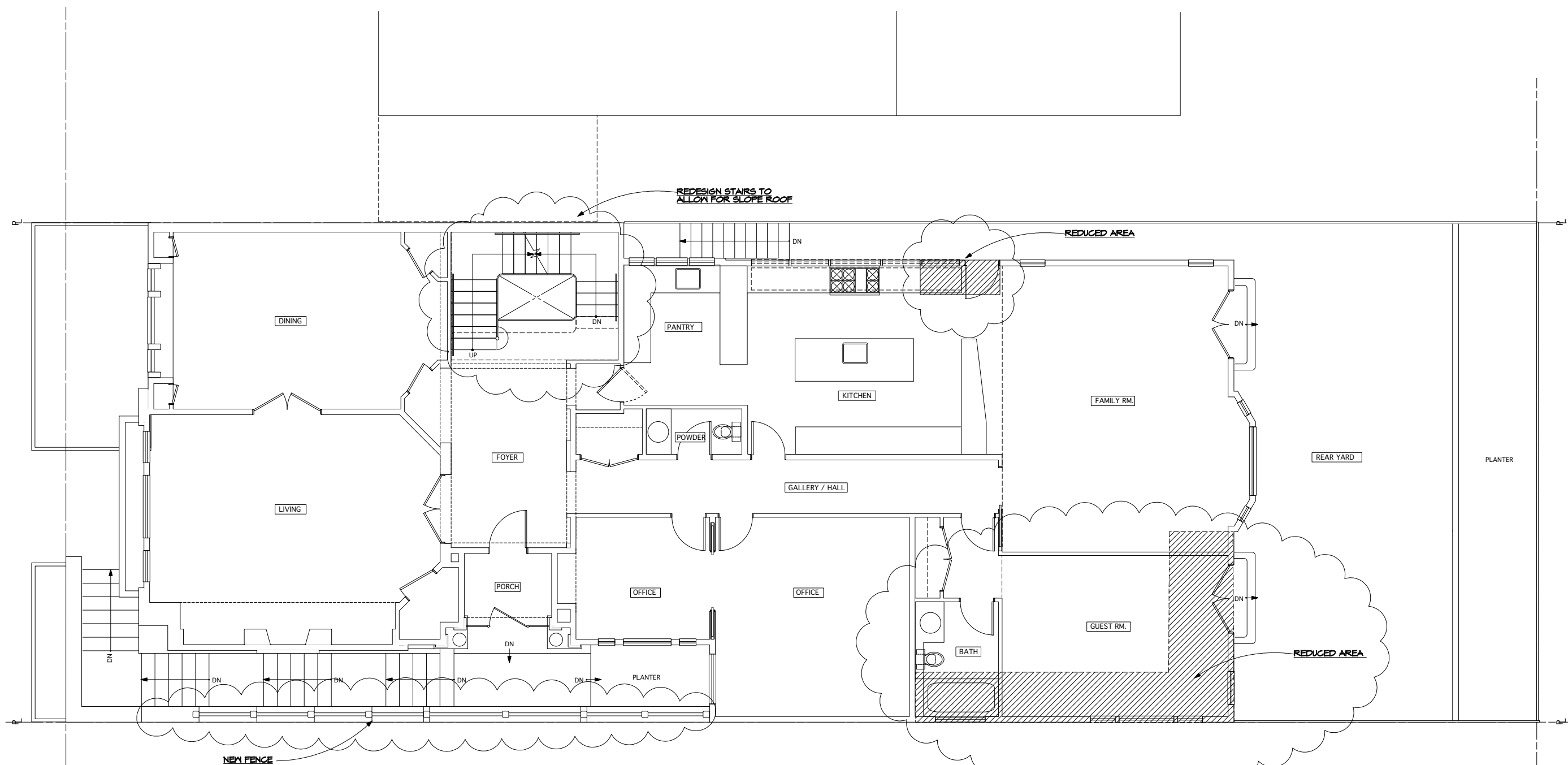
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**PROPOSED BASEMENT PLAN**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

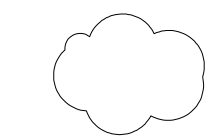


NEW FENCE

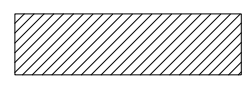
REDESIGN STAIRS TO ALLOW FOR SLOPE ROOF

REDUCED AREA

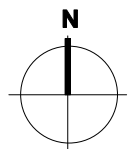
REDUCED AREA



REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



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**PROPOSED  
 FIRST FLOOR PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

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**PROPOSED SECOND FLOOR PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

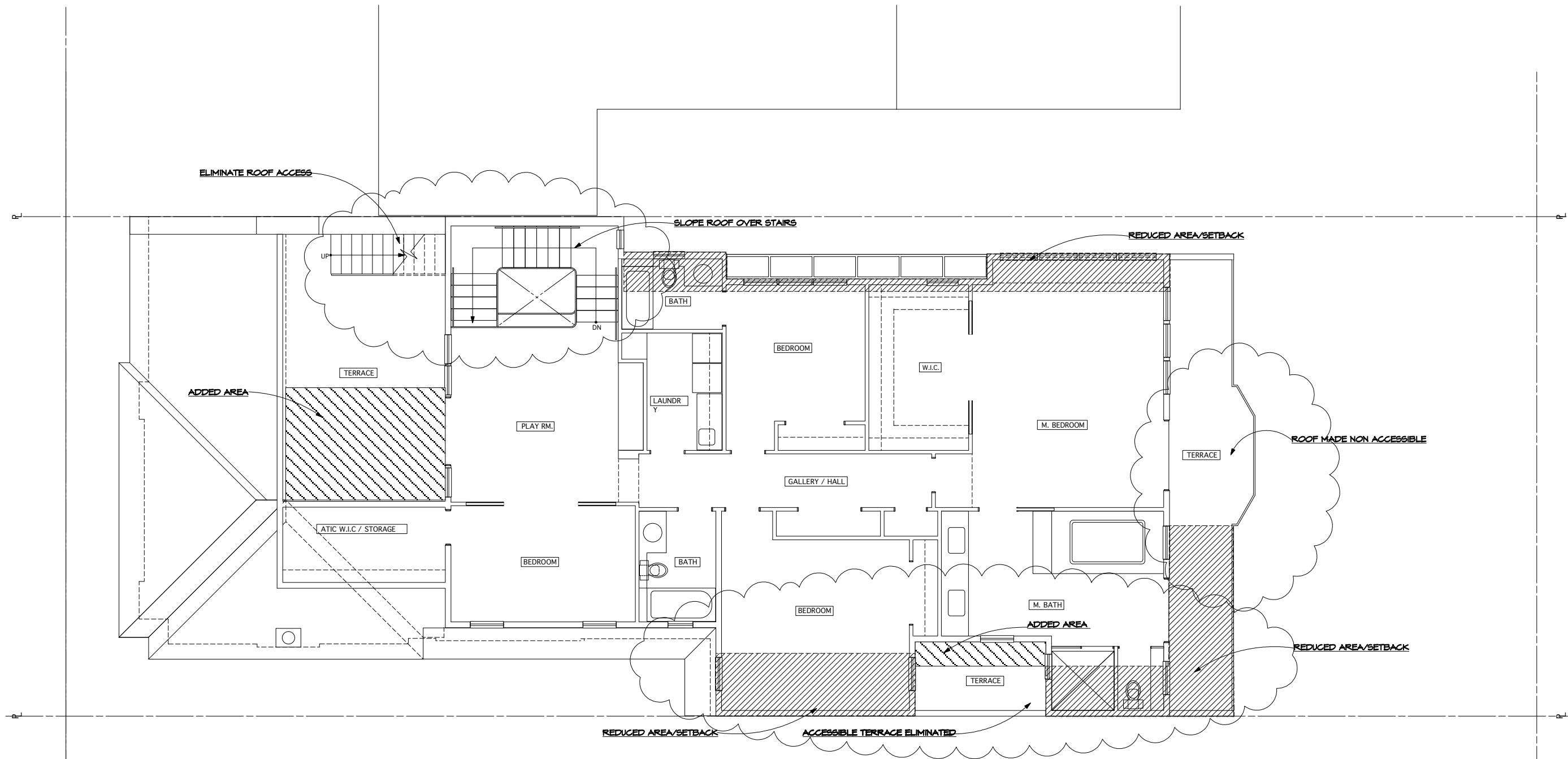
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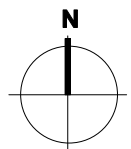
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☁️ REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS

▨ ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



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**PROPOSED ROOF PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

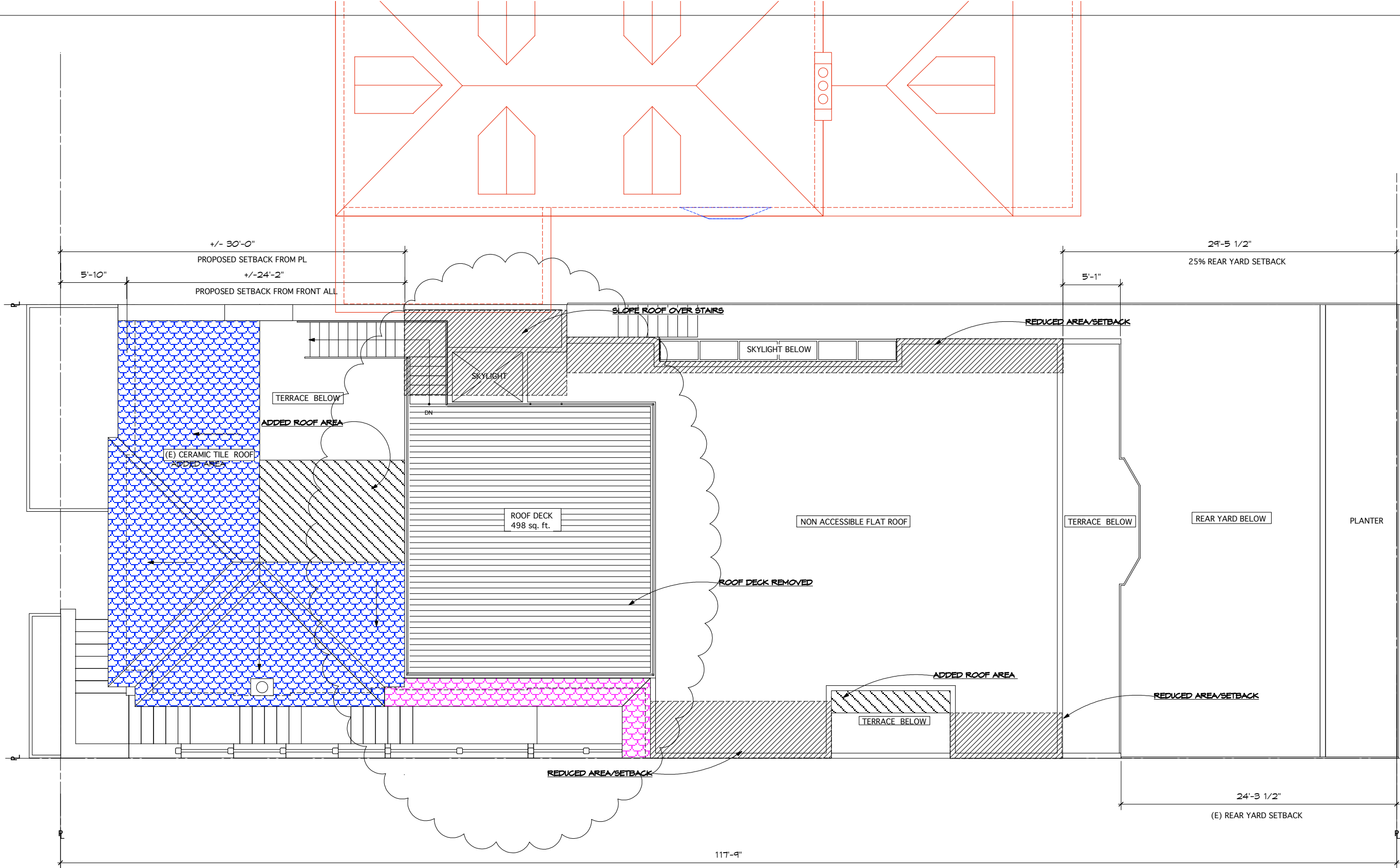
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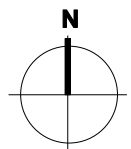
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REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS

ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS



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**PROPOSED  
STREET & REAR YARD  
ELEVATIONS**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118

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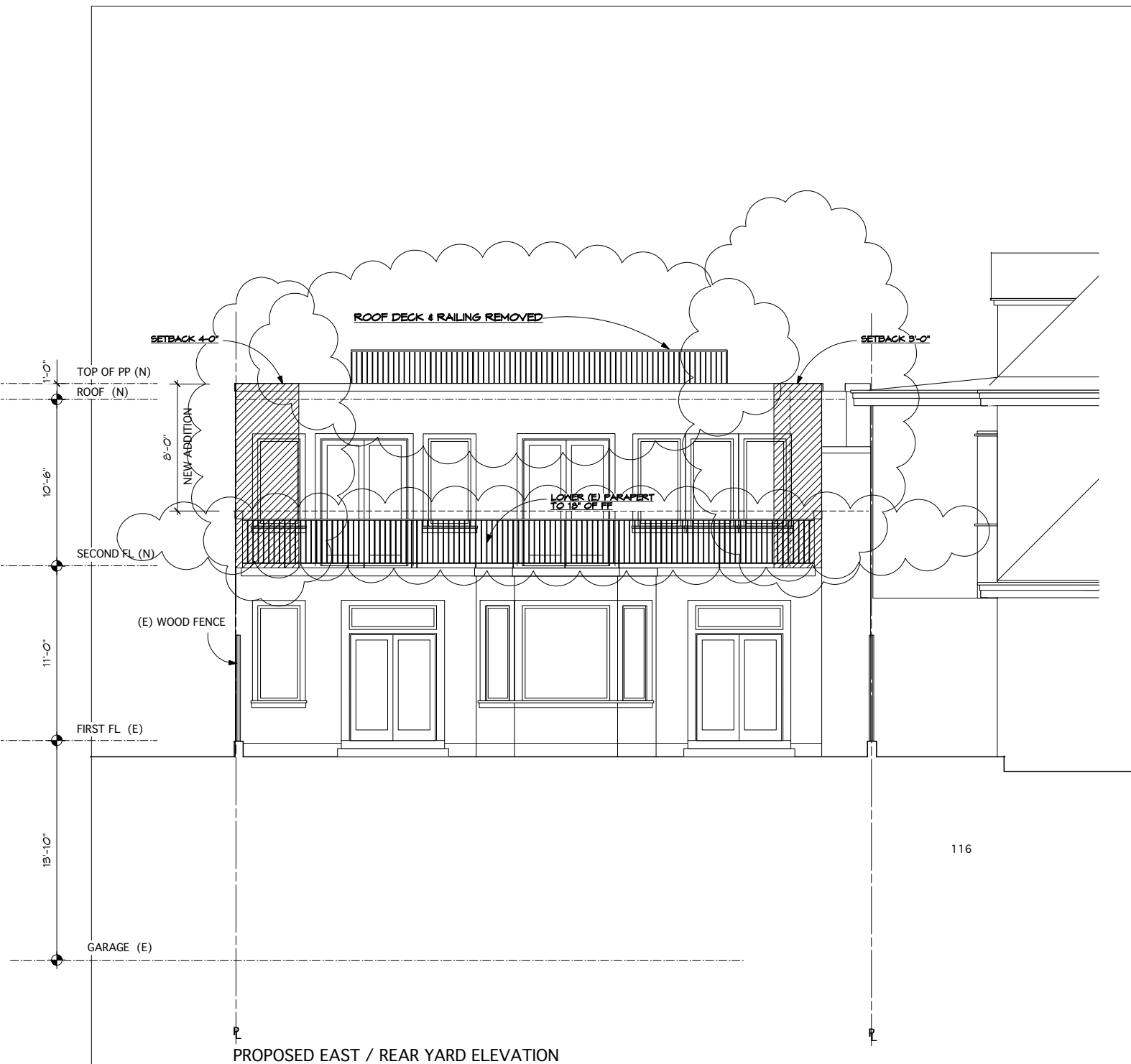
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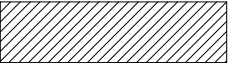
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PROPOSED EAST / REAR YARD ELEVATION



PROPOSED WEST / FRONT ELEVATION

 REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS  
 ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS

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**PROPOSED SOUTH ELEVATION**

Project:

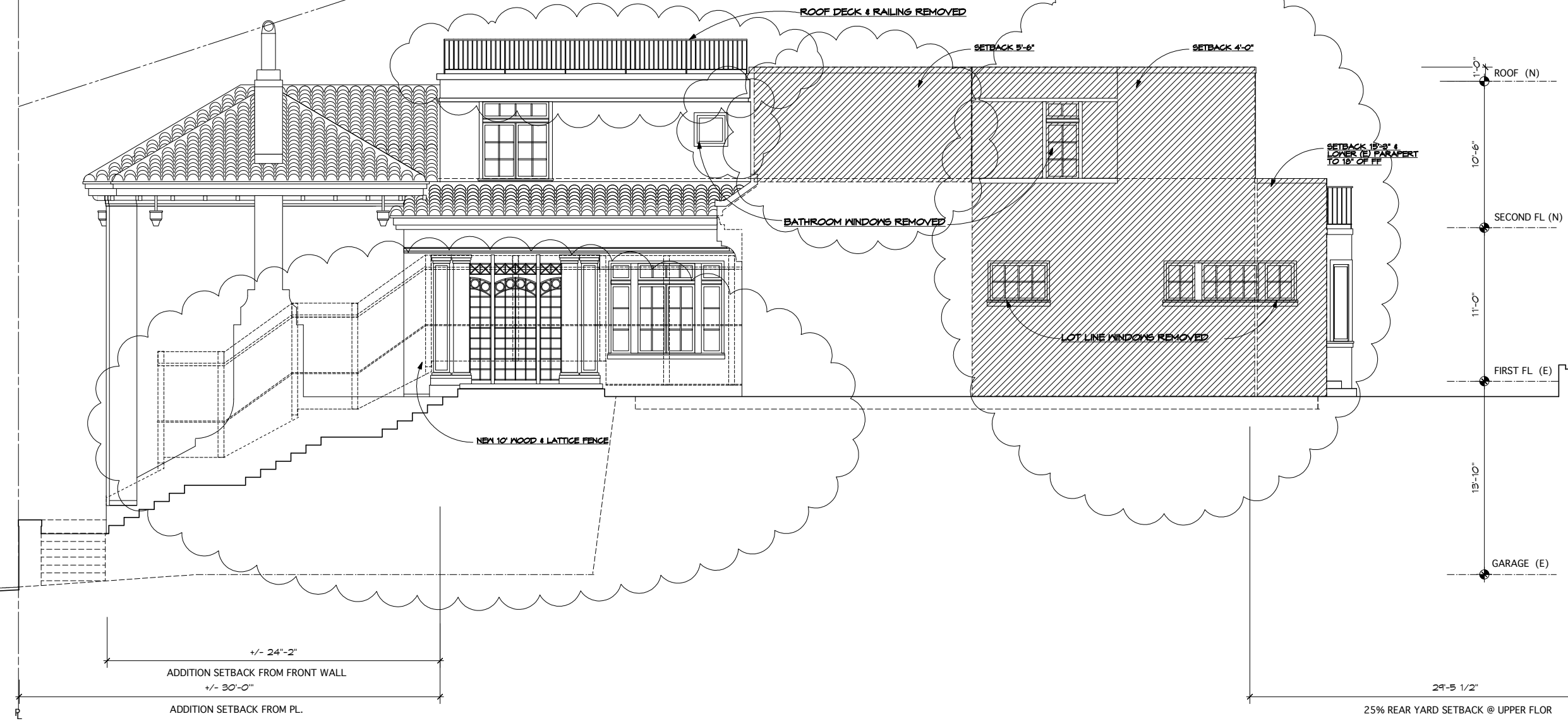
**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118

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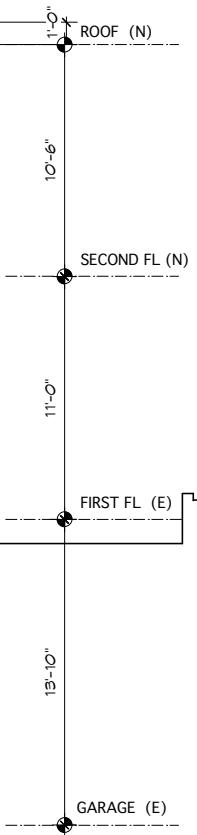


REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS

ENVELOPE REVISIONS TO NEIGHBORHOOD MEETING PRESENTATION PLANS IN PROPOSED PLANS

+/- 24'-2"  
ADDITION SETBACK FROM FRONT WALL  
+/- 30'-0"  
ADDITION SETBACK FROM PL.

29'-5 1/2"  
25% REAR YARD SETBACK @ UPPER FLOR



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**PROPOSED  
NORTH ELEVATION**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118

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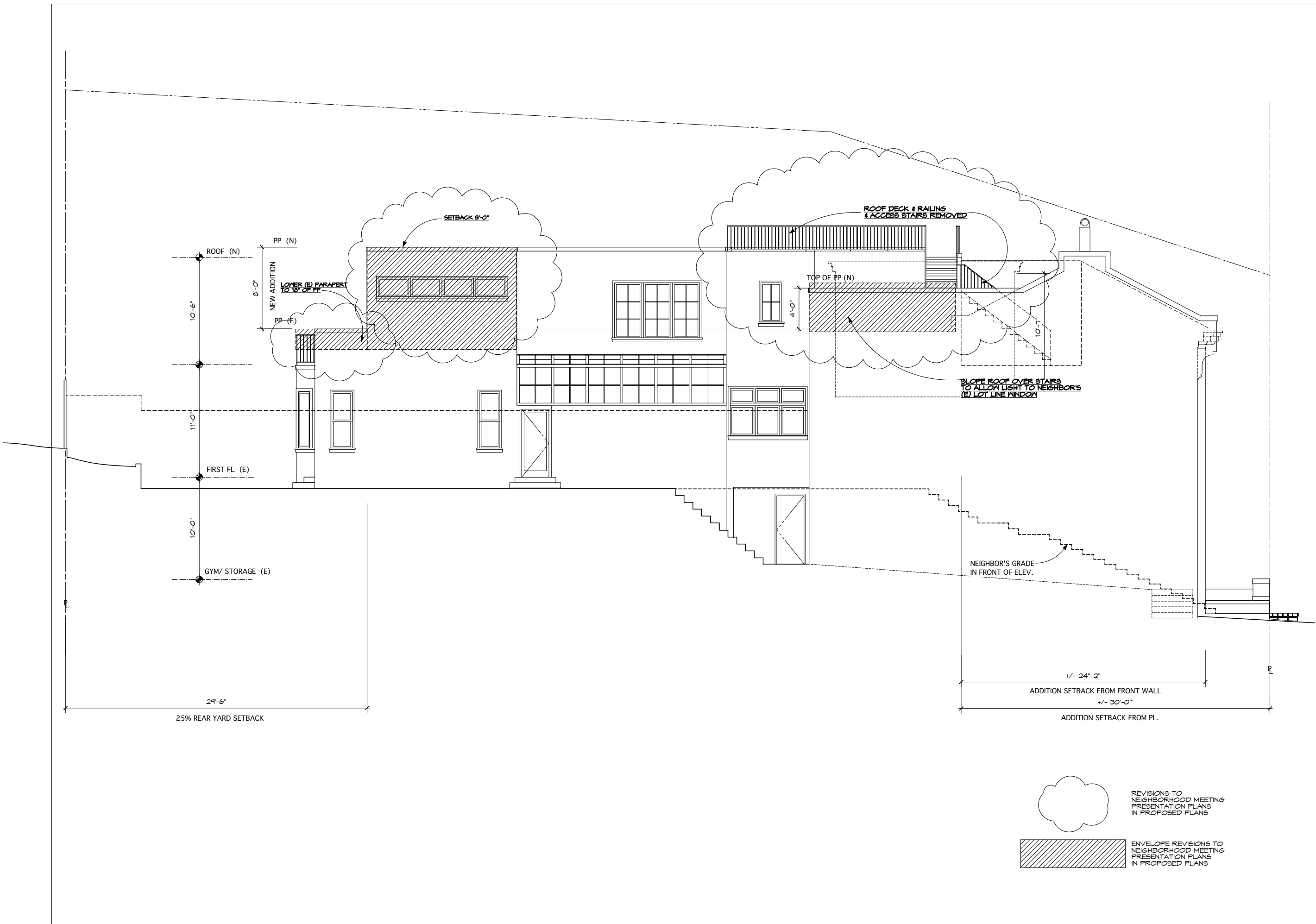
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**Subject Building**



**Streetscape Along Subject Building**

**120 Cherry Street**





**Subject Building**

**DR Applicant's Building - 3898 Washington Street**

**120 Cherry Street**



**Streetscape Across Subject Building**

**120 Cherry Street**



**DR Applicant**

**Cherry Street**

**Washington Street**

**Streetscape Along Washington Street**

**120 Cherry Street**



**Subject Building**

**DR Applicant**

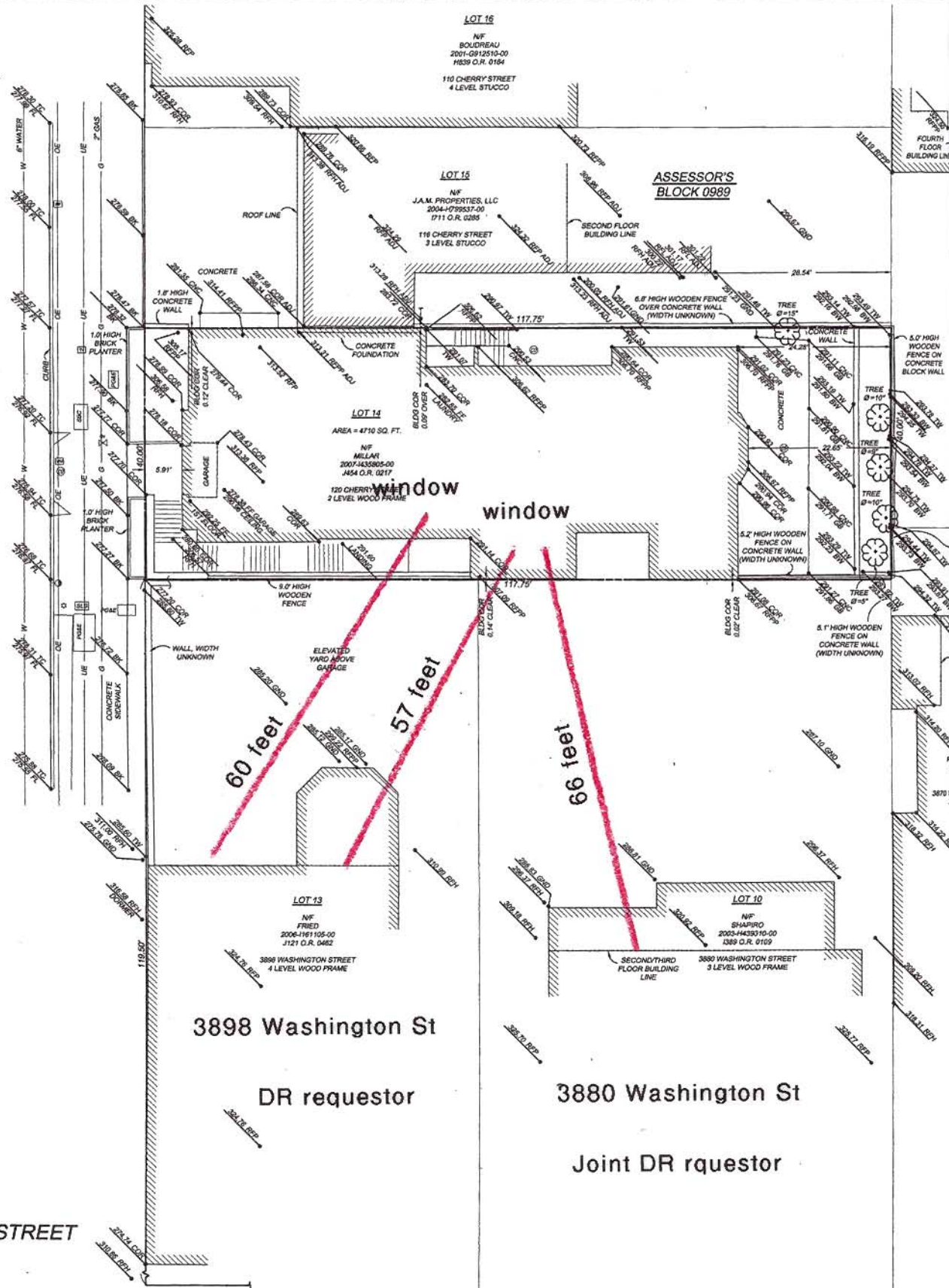


**Rear Yard of DR Applicant's Building**

**120 Cherry Street**



CHERRY STREET  
68.75' WIDE



3898 Washington St  
DR requestor

3880 Washington St  
Joint DR requestor

WASHINGTON STREET  
68.75' WIDE

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ARCHITECTUR  
120 CHERRY STRE  
ASSESSOR'S BL

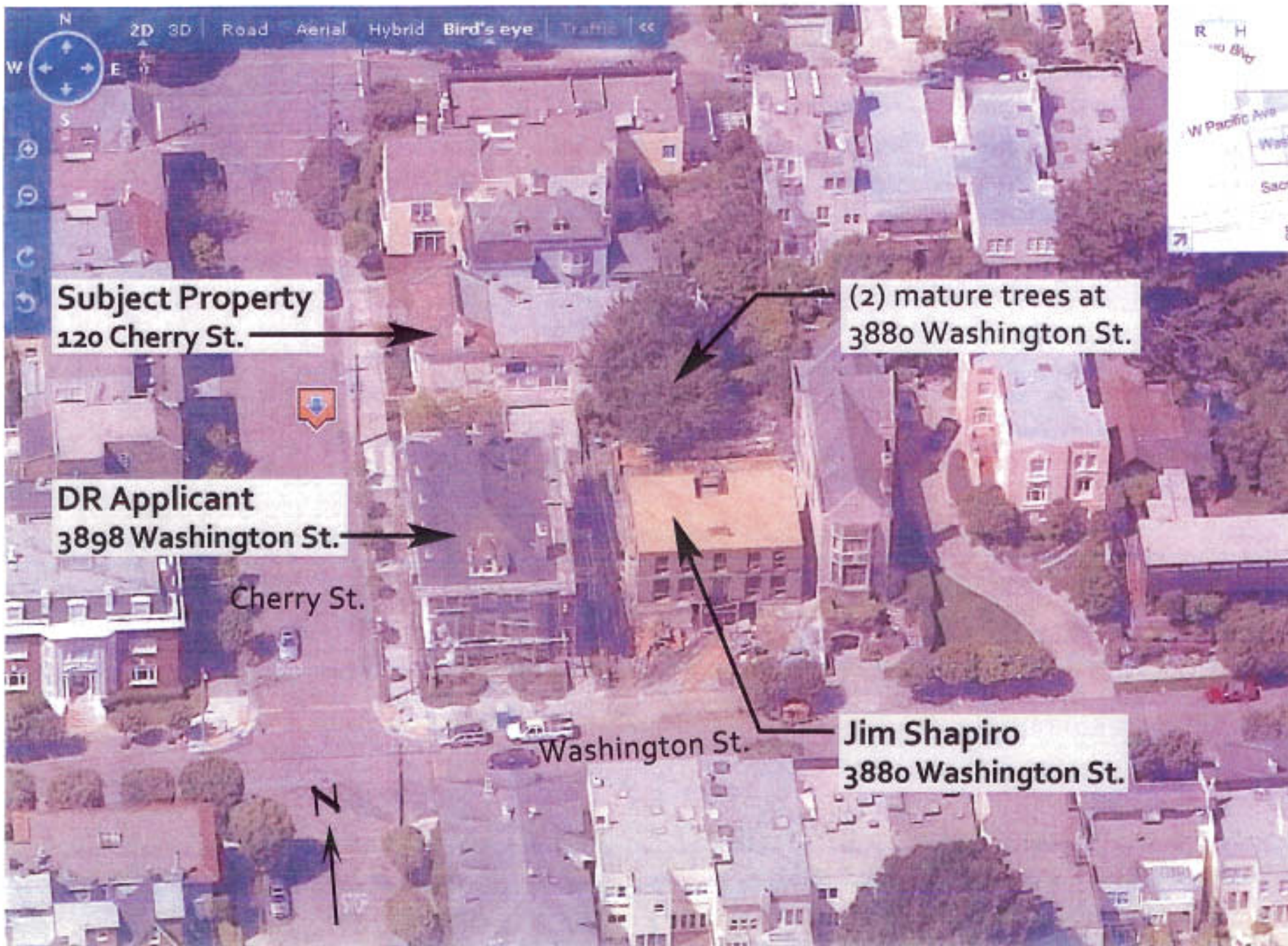




Aerial View

120 Cherry Street

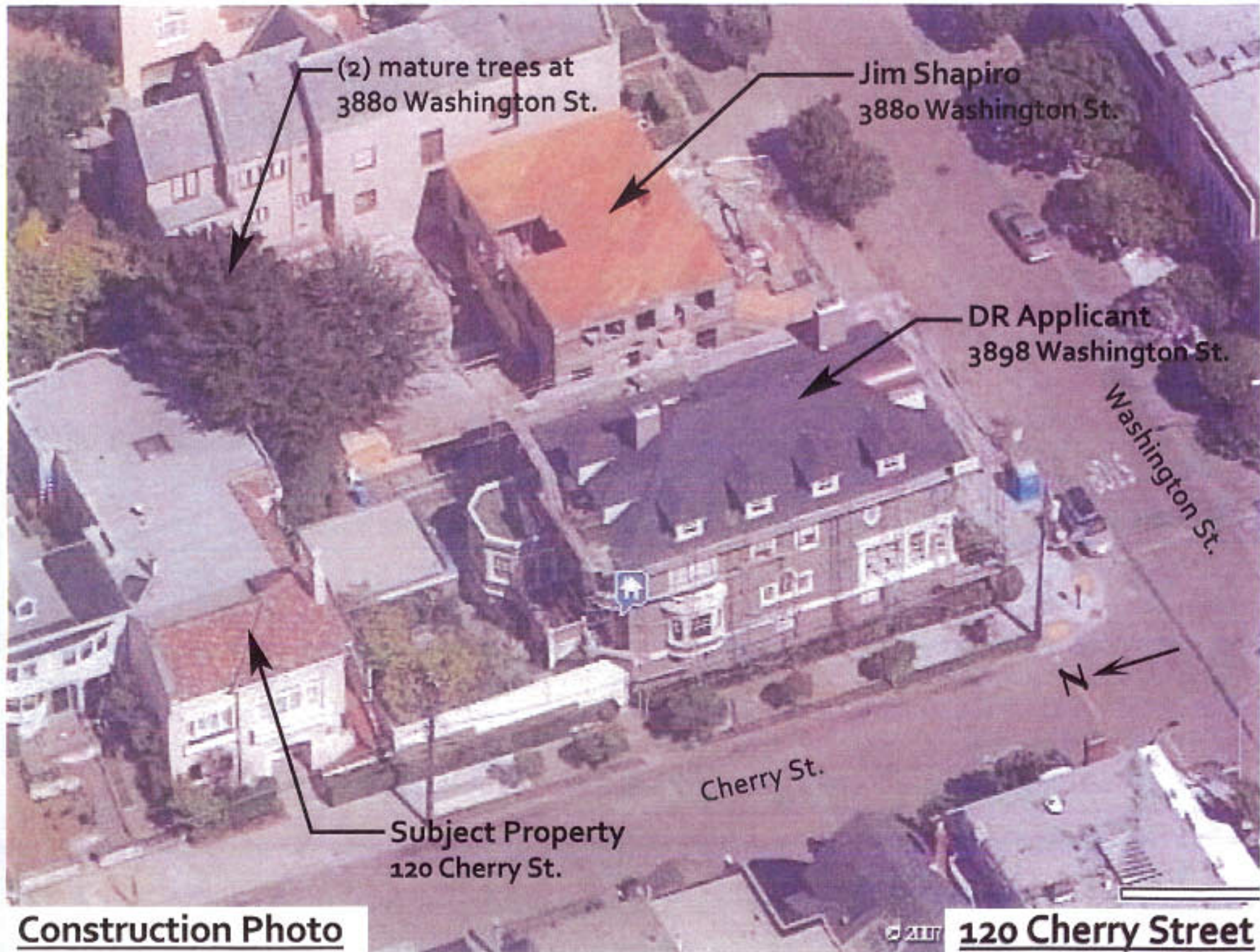




**Construction Photo**

**120 Cherry Street #1**





(2) mature trees at  
3880 Washington St.

Jim Shapiro  
3880 Washington St.

DR Applicant  
3898 Washington St.

Subject Property  
120 Cherry St.

Washington St.

Cherry St.



**Construction Photo**

© 2017

**120 Cherry Street #2**



**Subject Building**

**DR Applicant**

**elevated rear yard and new garage**

**Rear Yard of DR Applicant's Building**

**120 Cherry Street #3**





0 Cherry St, San Francisco, CA 94118

**Subject Property**  
120 Cherry St.

(E) trees removed

Jim Shapiro  
3880 Washington St.

DR Applicant  
3898 Washington St.

Washington St.

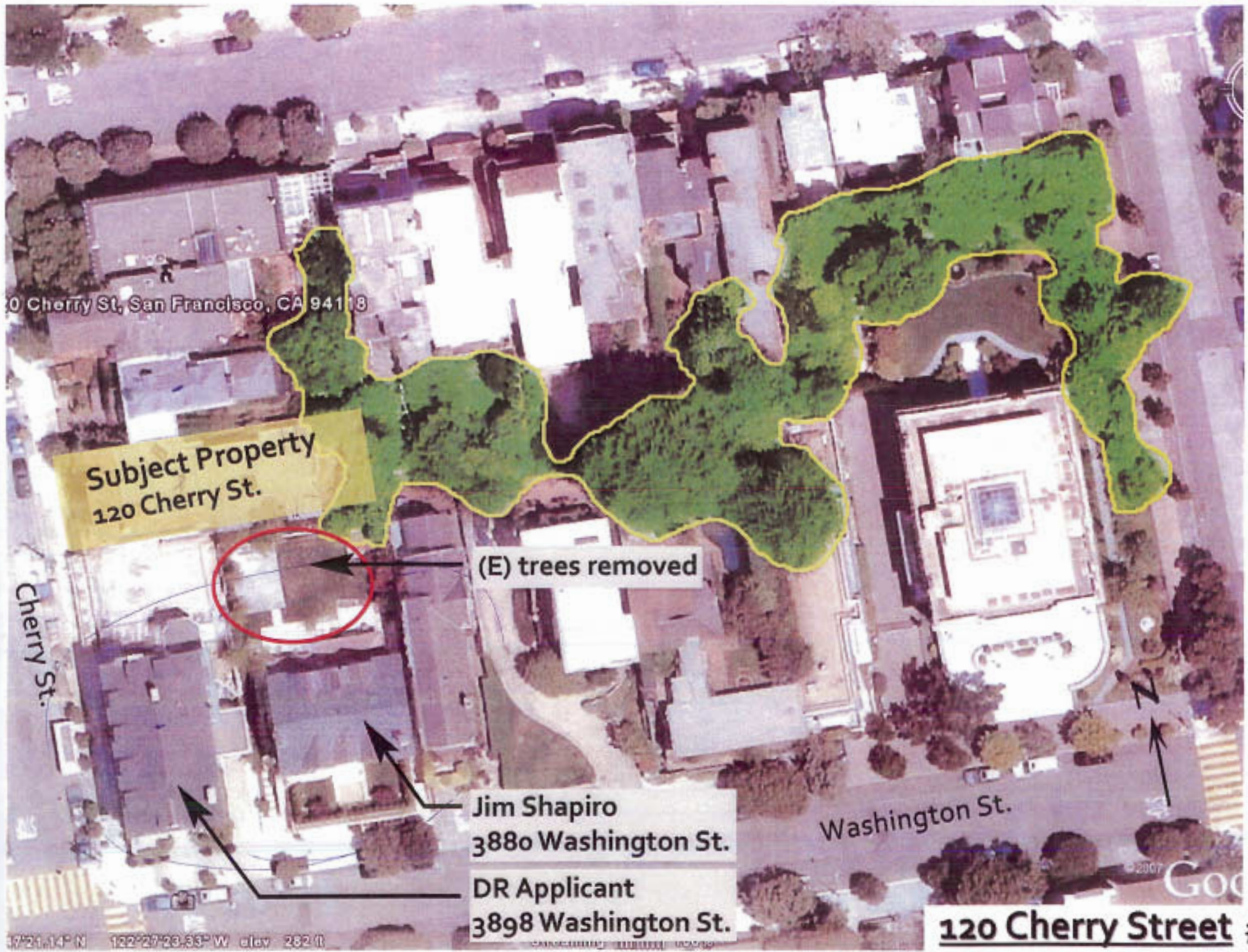
Cherry St.

© 2007

GOO

**120 Cherry Street #4**

37°21.14' N 122°27'23.53" W elev 282 ft





## Online Permit and Complaint Tracking

### Permit Details Report

**Report Date:** 9/28/2010 8:34:25 AM

Application Number: 200610235677

Form Number: 3

Address(es): 0989 / 013 / 0 3898 WASHINGTON ST

Description: SCOPE OF WORK CONSISTS RAISING GRADE IN REAR YARD, IN-FILLING THE EXISTING GARAGE WITH SOIL AT REAR YARD(235 YDS), FENCE AND ADD (N) GARAGE UNDER HOUSE AT EXISTING SPACE. MINOR EXCAVATING FOR NEW GARAGE.

Cost: \$60,000.00

Occupancy Code: R-3

Building Use: 27 - 1 FAMILY DWELLING

### Disposition / Stage:

Action Date	Stage	Comments
10/23/2006	TRIAGE	
10/23/2006	FILING	
10/23/2006	FILED	
2/8/2007	PLANCHECK	
2/8/2007	APPROVED	
2/9/2007	ISSUED	
11/7/2007	COMPLETE	Final Inspection/Approved

### Contact Details:

#### Contractor Details:

License Number: 747611  
 Name: DANIEL PELSINGER & DANIEL MATAROZZI  
 Company Name: MATAROZZI/PELSINGER BUILDERS INC.  
 Address: 355 11TH ST \* SAN FRANCISCO CA 94103-0000  
 Phone:

### Addenda Details:

#### Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	10/23/06	10/23/06			10/23/06		TAKEN IN BY FDR
2	CP-ZOC	10/20/06	10/20/06			10/20/06	CORRETTE MOSES	
3	CNT-PC	10/23/06	10/25/06	2/6/07		12/5/06	MCNULTY JOHN	grading permit was filed today (2/6/07)
4	CNT-CE	12/8/06	12/26/06	12/26/06		1/23/07	HUANG MICHELLE	
5	DPW-BSM	1/26/07	1/26/07	1/26/07		1/31/07	GAIME BERHANE	Subject to all conditions of DPW/BSM SI #061E-0685, Pre-construction site meeting and DPW/BSM sign of is required, and landscape permit is required from BUF
6	ONE-STOP	2/1/07	2/5/07			2/7/07	WONG IRENE	Back to CNT-PC: It appears that the description on applicaon "raising grade in rear yard in filled the existing garage w/soil of rear yard" should be deleted since demolition of the existing garage under separate permit.
7	CNT-PC	2/7/07	2/7/07			2/7/07	TOM RONALD	
8	ONE-STOP	2/8/07	2/8/07			2/8/07	WONG IRENE	
9	CPB	2/8/07	2/8/07			2/8/07	CHUNG JANCE	SAFETY PERMIT REQ. SFUSD NOT REQ. APPROV BY BYAN.

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

### Appointments:

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

Activity Date	Inspector	Inspection Description	Inspection Status
11/7/2007	Bernard Curran	FINAL INSPECT/APPRVD	FINAL INSPECT/APPRVD
9/27/2007	Bernard Curran	FINAL INSPECT/APPRVD	PRE-FINAL
7/12/2007	Bernard Curran	ROUGH FRAME	ROUGH FRAME

**1 2 3**

**Special Inspections:**

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0	11/5/2007	Howard Zee	1	CONCRETE (PLACEMENT & SAMPLING)	
0	11/5/2007	Howard Zee	2	BOLTS INSTALLED IN CONCRETE	
0	11/5/2007	Howard Zee	4	REINFORCING STEEL AND PRESTRESSING TENDONS	
0	11/5/2007	Howard Zee	19	SHEAR WALLS AND FLOOR SYSTEMS USED AS SHEAR DIAPHRAGMS	
0	11/5/2007	Howard Zee	24F	OTHERS	SOIL EXCAVATION AND FILLING.
0	11/5/2007	Howard Zee	21B	UNDERPINNING	
0	11/5/2007	Howard Zee	23	OTHERS:AS RECOMMENDED BY PROFESSIONAL OF RECORD	EPOXY DOWELS
0	11/5/2007	Howard Zee	24A	FOUNDATIONS	
0	11/5/2007	Howard Zee	21A	SHORING	

For information, or to schedule an inspection, call 558-6570 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.

## Online Permit and Complaint Tracking

### Permit Details Report

**Report Date:** 9/28/2010 8:36:54 AM

Application Number: 200702063531  
 Form Number: 5  
 Address(es): 0989 / 013 / 0 3898 WASHINGTON ST  
 Description: FILL - PLACE 235 C.Y. OF FILL TO RAISE GRADE IN REAR YARD AS SHOWN IN APPLICATION 2006/10/23/5677 AGAINST (E) AND (N) CONC WALLS  
 Cost: \$10,000.00  
 Occupancy Code:  
 Building Use: -

### Disposition / Stage:

Action Date	Stage	Comments
2/6/2007	TRIAGE	
2/6/2007	FILING	
2/6/2007	FILED	
2/6/2007	APPROVED	
2/6/2007	ISSUED	
11/7/2007	COMPLETE	Final Inspection/Approved

### Contact Details:

#### Contractor Details:

License Number: UND  
 Name: UNDECIDED UNDECIDED  
 Company Name: UNDECIDED  
 Address: UNDECIDED \* UNDECIDED CA 00000-0000  
 Phone:

### Addenda Details:

#### Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	DPW-BSM	2/6/07	2/6/07			2/6/07	GAIME BERHANE	
2	CP-ZOC	2/6/07	2/6/07			2/6/07	CORRETTE MOSES	
3	PAD-PC	2/6/07	2/6/07			2/6/07	MCNULTY JOHN	
4	CPB	2/6/07	2/6/07			2/6/07	LEE ANITA	

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

### Appointments:

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

### Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
11/7/2007	Bernard Curran	FINAL INSPECT/APPRVD	FINAL INSPECT/APPRVD

### Special Inspections:

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

For information, or to schedule an inspection, call 558-6570 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](#)

## Online Permit and Complaint Tracking

### Permit Details Report

**Report Date:** 9/29/2010 9:31:04 AM  
**Application Number:** 200310238395  
**Form Number:** 3  
**Address(es):** 0989 / 010 / 0 3880 WASHINGTON ST  
**Description:** CHANGE ROOF + DORMERS MOVE GARAGE TO FRONT ENLARGE BASEMENT  
**Cost:** \$850,000.00  
**Occupancy Code:** R-3  
**Building Use:** 27 - 1 FAMILY DWELLING

### Disposition / Stage:

Action Date	Stage	Comments
10/23/2003	TRIAGE	
10/23/2003	FILING	
10/23/2003	FILED	
6/16/2004	PLANCHECK	
6/16/2004	APPROVED	
6/16/2004	ISSUED	
10/26/2006	EXPIRED	
11/8/2006	EXPIRED	

### Contact Details:

STEVE GEISZLER ARCH 1593 NORTH POINT SF -

### Contractor Details:

### Addenda Details:

#### Description:

SITE PERMIT (ONE-STOP JOB)

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
0	CP-ZOC	10/24/03	2/17/04			3/23/04	CABREROSGLENN	Approved. Driveway pending appeal of disapproval of tree removal permit.
0	CPB	10/23/03	10/23/03			10/23/03	SHEK KATHY	
0	CP-NP	2/17/04	2/17/04	2/17/04	3/23/04	3/23/04	CABREROSGLENN	Sec 311 mailed 2/17/04 exp 3/18/04
1	ONE-STOP	3/29/04	3/29/04			3/29/04		Transfer to PCD/DBI (One-Stop) after DCP's approval
2	PAD-MECH	4/8/04	4/13/04			4/13/04	ZHAN JAMES	
2	CNT-PC	4/9/04	4/29/04	4/29/04		5/7/04	POWER ROBERT	
2	CNT-CE	4/9/04	5/13/04	5/13/04		6/10/04	HUANG VIVIAN	
2	DPW-BSM	4/8/04	4/9/04			6/14/04	TANG ELEANOR	Subj to all cond of 04IE-281 & 04MSE-206; BSM sign off on Job Card required.
3	ONE-STOP	6/16/04	6/16/04			6/16/04	FALLAY AUGUSTINE	H/C TO CPB FOR ISSUANCE
4	CPB	6/16/04	6/16/04			6/16/04	SHEK KATHY	

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

### Appointments:

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

Activity Date	Inspector	Inspection Description	Inspection Status
11/8/2006	Bernard Curran	EXPIRE	EXPIRE
10/26/2006	Bernard Curran	EXPIRE	EXPIRE
10/21/2005	Steve Hajnal	REINFORCING STEEL	REINFORCING STEEL

1 2 3 4 5 6 7 8 9

**Special Inspections:**

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0	9/1/2006	Quyên (Tom) Le	1	CONCRETE (PLACEMENT & SAMPLING)	
0	9/1/2006	Quyên (Tom) Le	2	BOLTS INSTALLED IN CONCRETE	
0	9/1/2006	Quyên (Tom) Le	5A1	SINGLE PASS FILLET WELDS < 5/16"	
0	9/1/2006	Quyên (Tom) Le	5B5	MOMENT-RESISTING FRAMES	
0	9/1/2006	Quyên (Tom) Le	5B6	OTHERS	IF ANY (RE'O SEPADATE PERMIT)
0	9/1/2006	Quyên (Tom) Le	19	SHEAR WALLS AND FLOOR SYSTEMS USED AS SHEAR DIAPHRAGMS	
0	9/1/2006	Quyên (Tom) Le	20	HOLDOWNS	
0	9/1/2006	Quyên (Tom) Le	21A	SHORING	
0	9/1/2006	Quyên (Tom) Le	6	HIGH-STRENGTH BOLTING	

For information, or to schedule an inspection, call 558-6570 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.







## SCOPE OF WORK

ADDITION OF A SECOND FLOOR TO THE EXISTING ONE STORY OVER GROUND FLOOR GARAGE, SINGLE FAMILY HOME. ADDITION TO BE SETBACK FROM STREET  
 WORK INCLUDES INERIOR REMODEL OF EXISTING FLOORS

## PLANNING DEPARTMENT NOTES

**PROJECT LOCATION:** 120 CHERRY STREET

**ASSESSOR BLOCK #** 0989 **LOT #** 014

**LOT SIZE:** 40'-0" x 117'-9"= 4,710 sq. ft.

**ZONING DISTRICT:** RH-1, Residential, House District, One Family

**HEIGHT DISTRICT:** 40 X. DISTRICT HEIGHT LIMIT 35 ft., 30 ft. at Front of Property

**PROPOSED USE:** Residential, House, One Family (same as existing)

**USABLE OPEN SPACE:** Existing 1,000 sq. ft. Rear Yard (to remain)  
 Proposed 560 sq. ft. Second Floor Deck & Patio  
 Total 1,560 sq. ft. U.S.O.

**EXIST'G BASEMENT GROSS AREA:** 1,320 sq. ft.  
**EXIST'G FIRST FLOOR GROSS AREA:** 2,930 sq. ft.  
**EXIST'G HOUSE GROSS AREA:** 4,250 sq. ft.

**PROPOSED BASEMENT ADDITION:** 790 sq. ft.  
**PROPOSED FIRST FL. ADDITION:** (-20 sq. ft.)  
**PROPOSED SECOND FL. ADDITION:** 1,880 sq. ft.  
**TOTAL PROPOSED ADDITION:** 2,650 sq. ft.

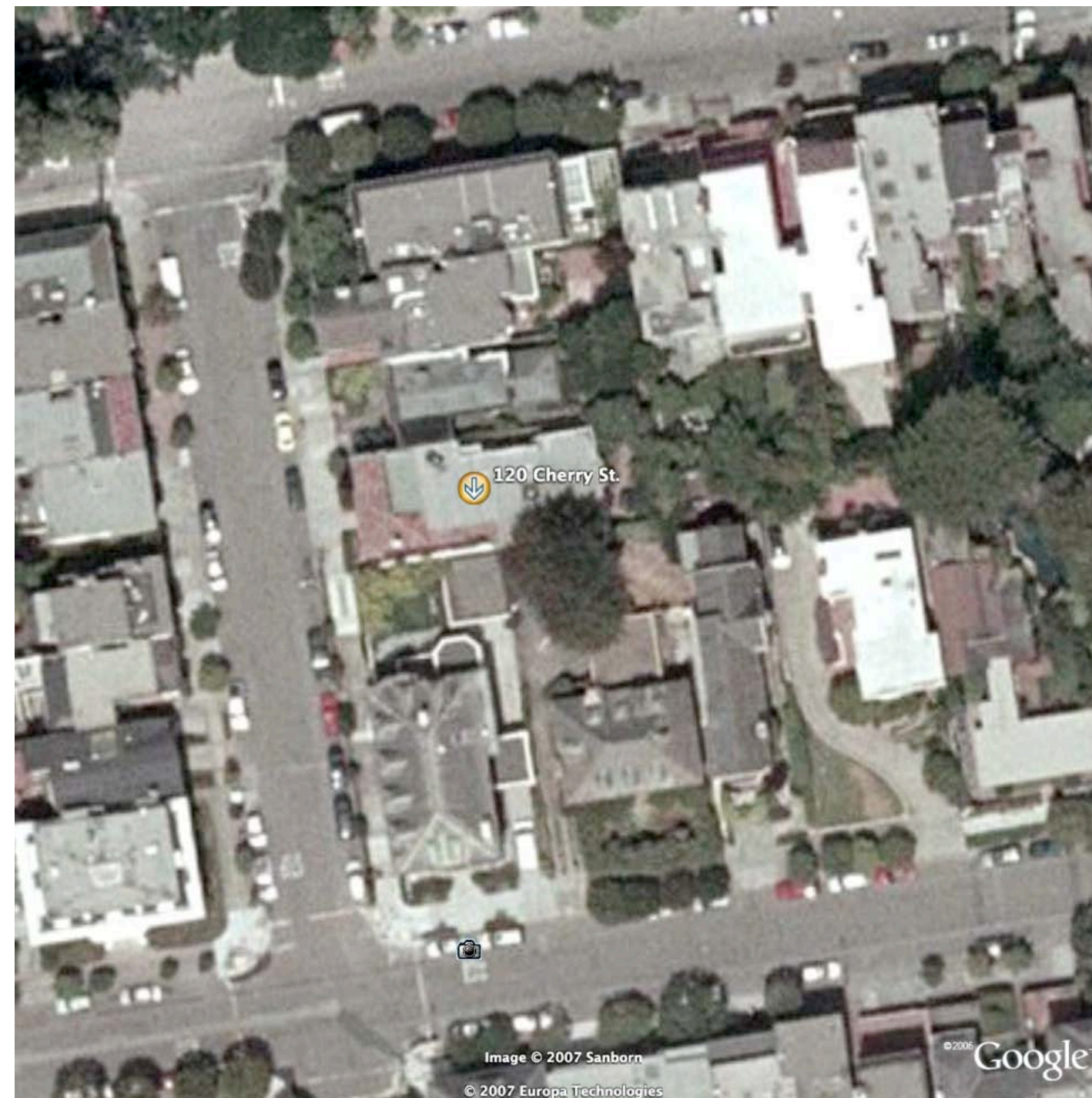
**TOTAL PROPOSED GROSS AREA:** 6,900 sq. ft.

**TOTAL GROSS HABITABLE AREA:** 4,770 sq. ft.

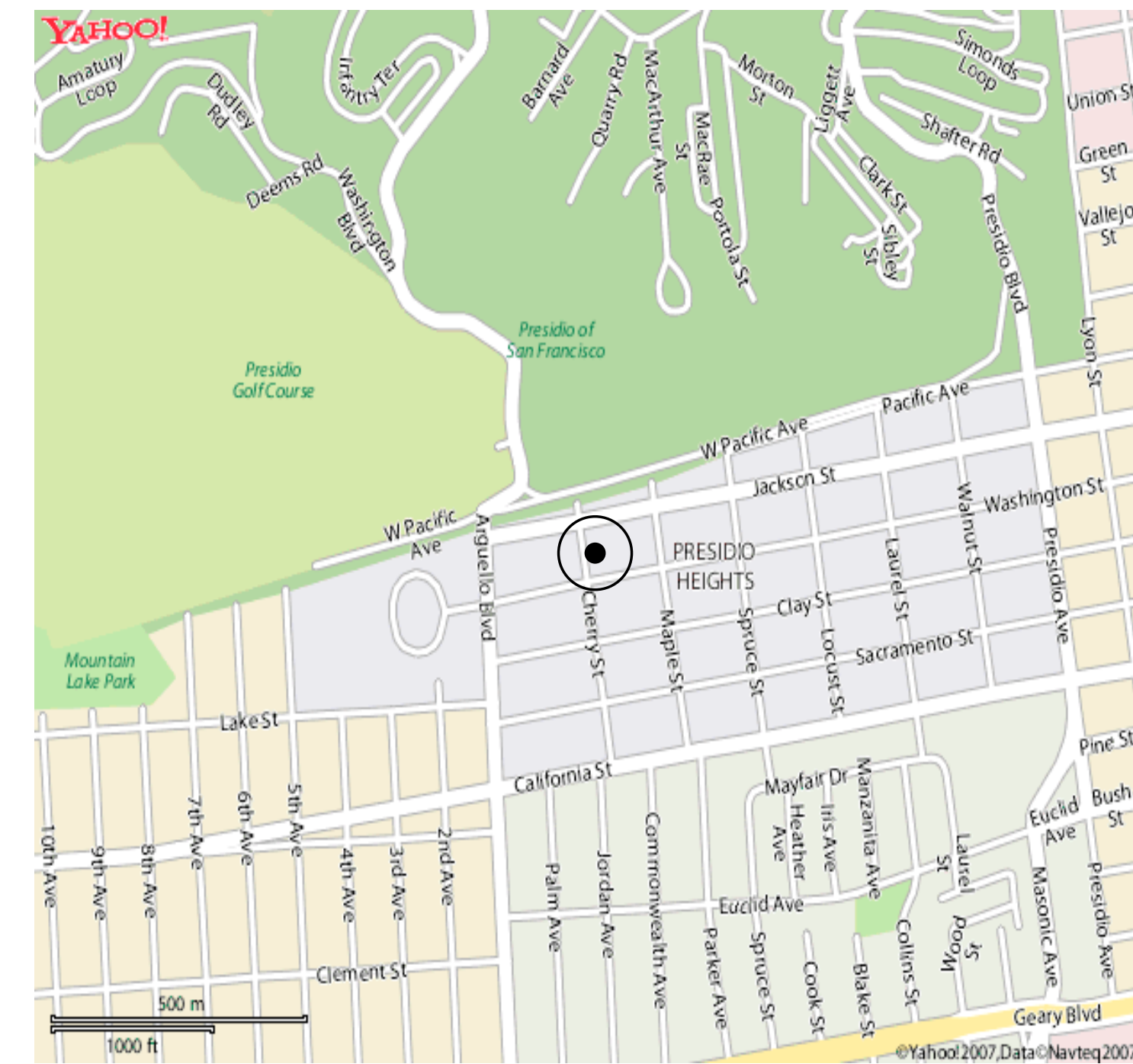
**TOTAL GROSS BASEMENT AREA:** 2,110 sq. ft.

**NET GARAGE AREA:** 660 sq. ft.  
 One parking stall existing  
 Three parking stalls proposed

## REFERENCE PHOTOS



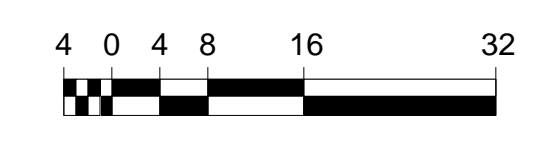
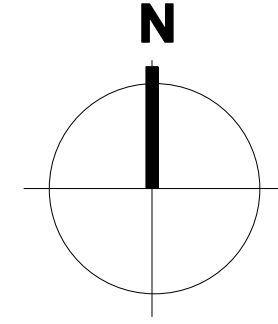
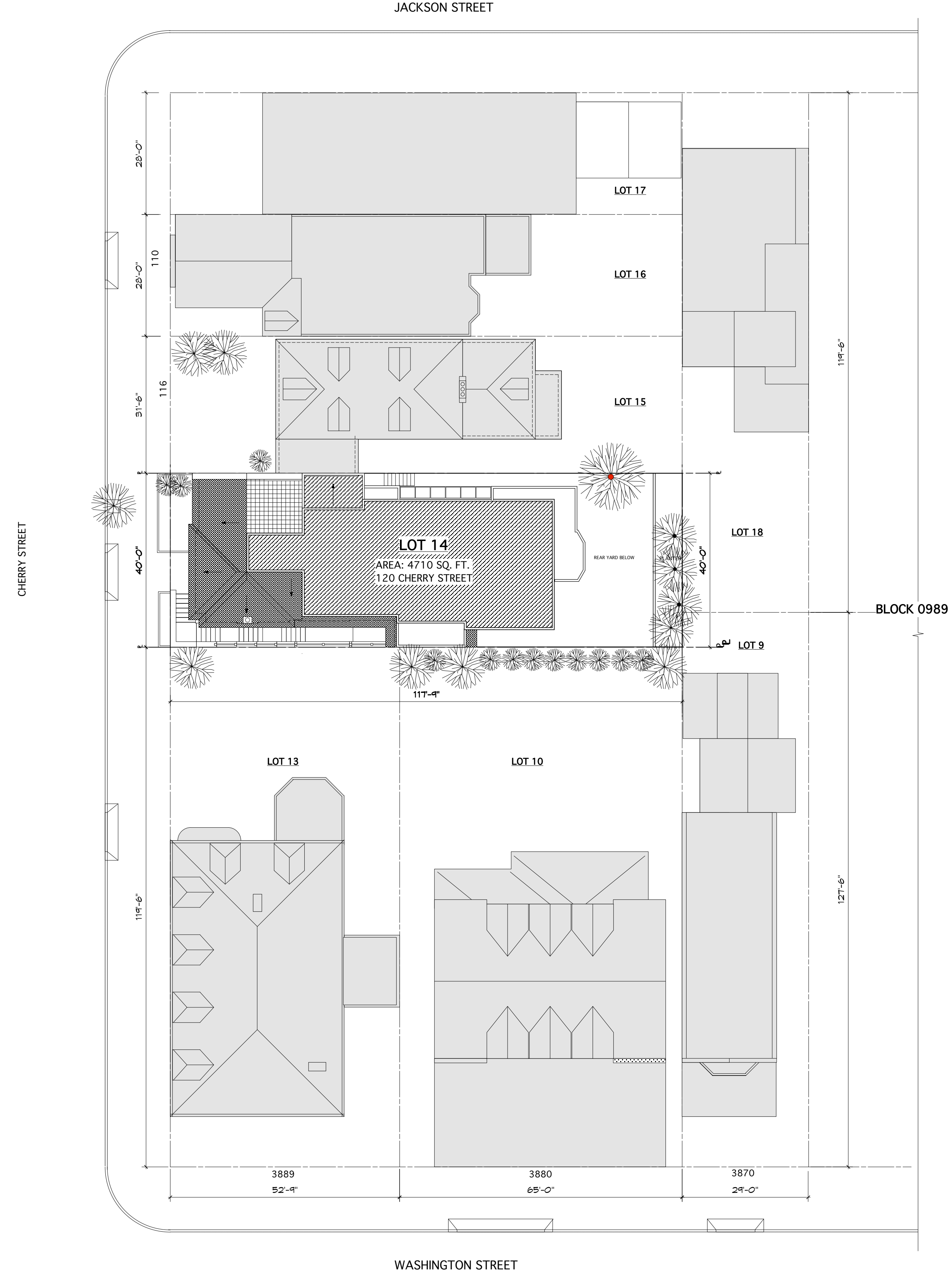
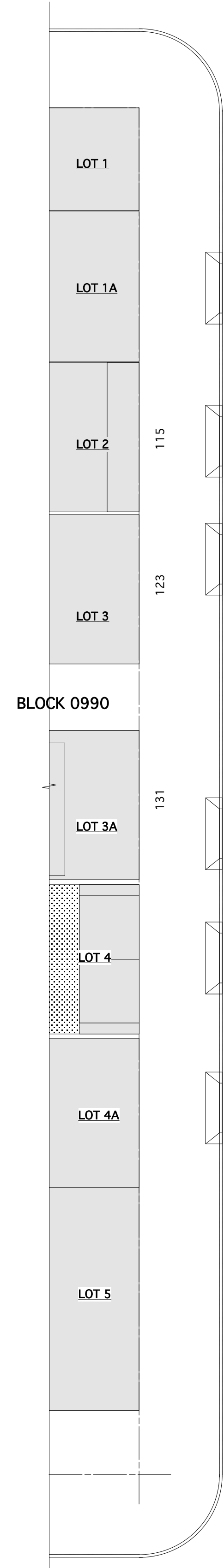
## LOCATION MAP



## DRAWING INDEX

- A-0** COVER SHEET
- A-0.0** NEIGHBORHOOD SITE PLAN
- A-0.1** SITE PLAN
- A-0.2** STREET ELEVATION IN CONTEXT
- A-0.3** SOUTH ELEVATION IN CONTEXT
- A-0.4** REAR ELEVATION IN CONTEXT
- A-1** PROPOSED BASEMENT PLAN
- A-2** PROPOSED FIRST FLOOR PLAN
- A-3** PROPOSED SECOND FLOOR PLAN
- A-4** PROPOSED ROOF PLAN
- A-5** PROPOSED WEST/STREET ELEVATION
- A-6** PROPOSED SOUTH ELEVATION
- A-7** PROPOSED NORTH ELEVATION
- A-8** PROPOSED EAST/REAR ELEVATION
- A-9** PROPOSED LONG SECTION
- A-10** PROPOSED CROSS SECTION
- A-11** PROPOSED CROSS SECTION AT STAIRS
- A-12** EXISTING BASEMENT PLAN
- A-13** EXISTING FIRST FLOOR PLAN
- A-14** EXISTING ROOF PLAN
- A-15** EXISTING WEST/STREET ELEVATION
- A-16** EXISTING SOUTH ELEVATION
- A-17** EXISTING NORTH ELEVATION
- A-18** EXISTING EAST/REAR ELEVATION





SITE PERMIT REVISED

**A-0.0**  
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Date: 02/21/08

Scale: 1/16"=1'-0"

Revisions:

6	
5	
4	09/24/10
3	07/20/10
2	04/05/10
1	04/22/09

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

**NEIGHBORHOOD  
SITE PLAN**

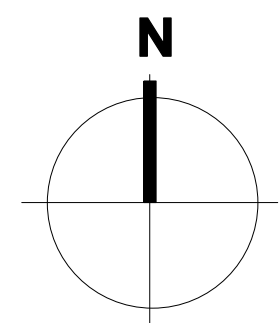
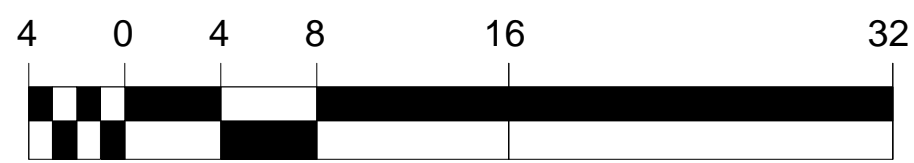
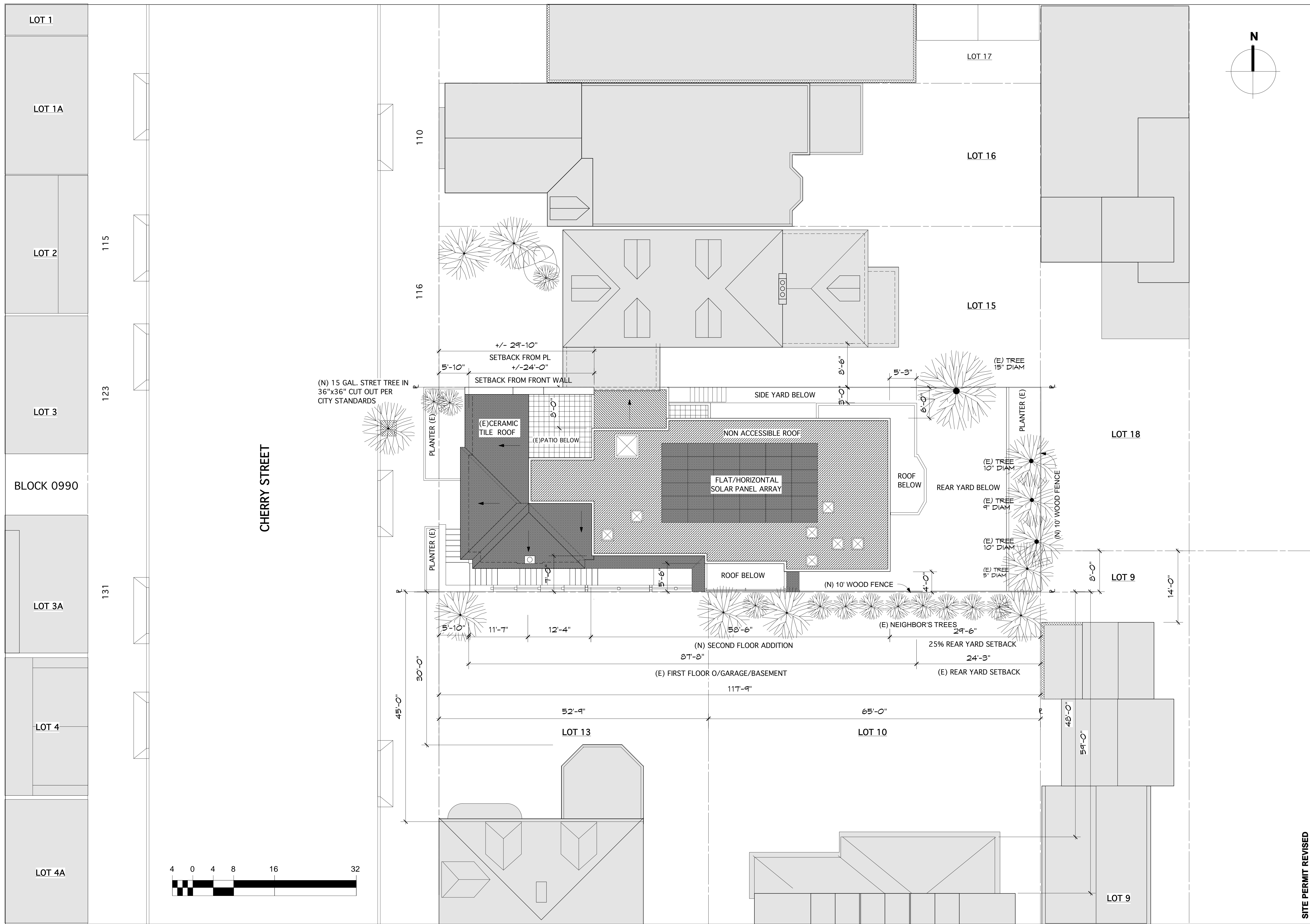
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Client:

Stamp:

**LEONARDO ZYLBERBERG arch**  
1331 Harrison Street  
San Francisco, CA 94103  
(415) 882 7880 Voice  
(415) 882 9786 Fax

**LZ Architect**  
Lz@lzarhitect.com



**LEONARDO ZYLBERBERG arch**  
 1331 Harrison Street  
 San Francisco, CA 94103  
 (415) 862 7880 Voice  
 (415) 862 9786 Fax

**LEONARDO ZYLBERBERG**  
 Architect  
 lz@lzarchitect.com

Stamp:

Client:

Sheet Title:

**SITE PLAN**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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 of sheets

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Sheet Title:

**SITE CONTEXT  
 CHERRY STREET  
 ELEVATION**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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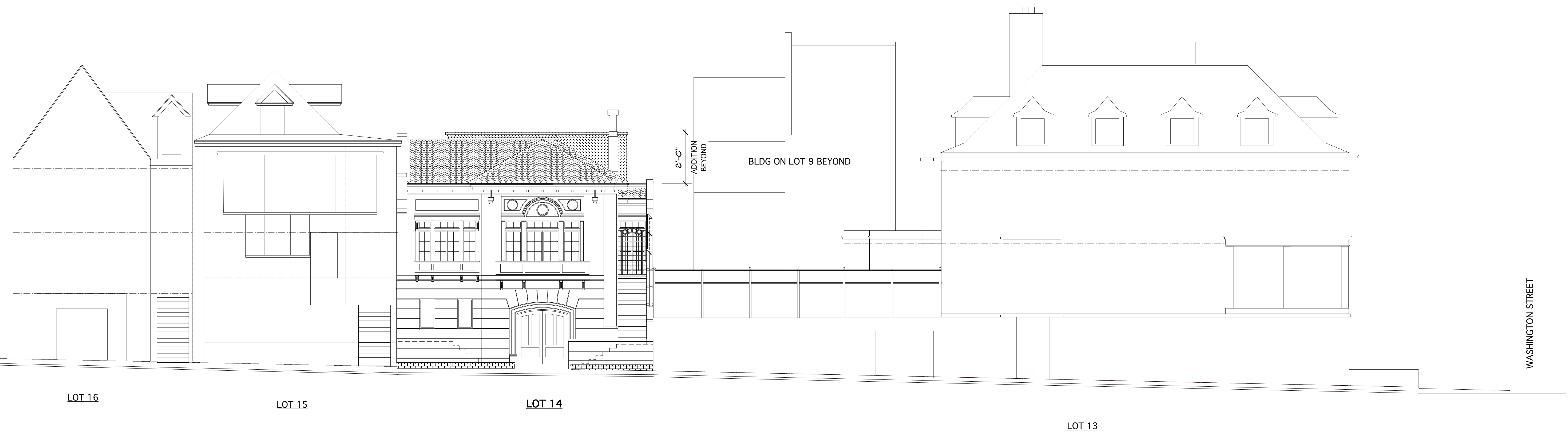
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**SITE PERMIT REVISED**



LOT 16

LOT 15

LOT 14

LOT 13

WASHINGTON STREET

2'-0"  
 ADDITION  
 BEYOND

BLDG ON LOT 9 BEYOND



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Sheet Title:

**SITE CONTEXT**  
**SOUTH ELEVATION**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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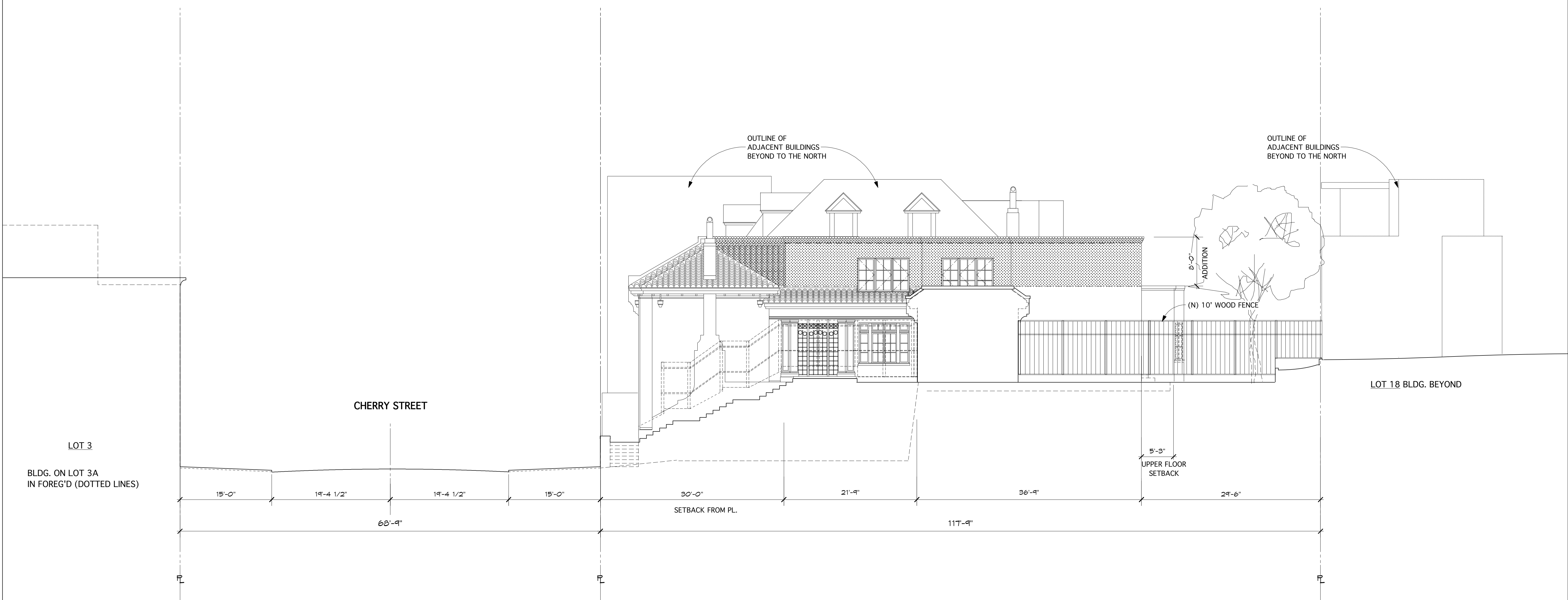
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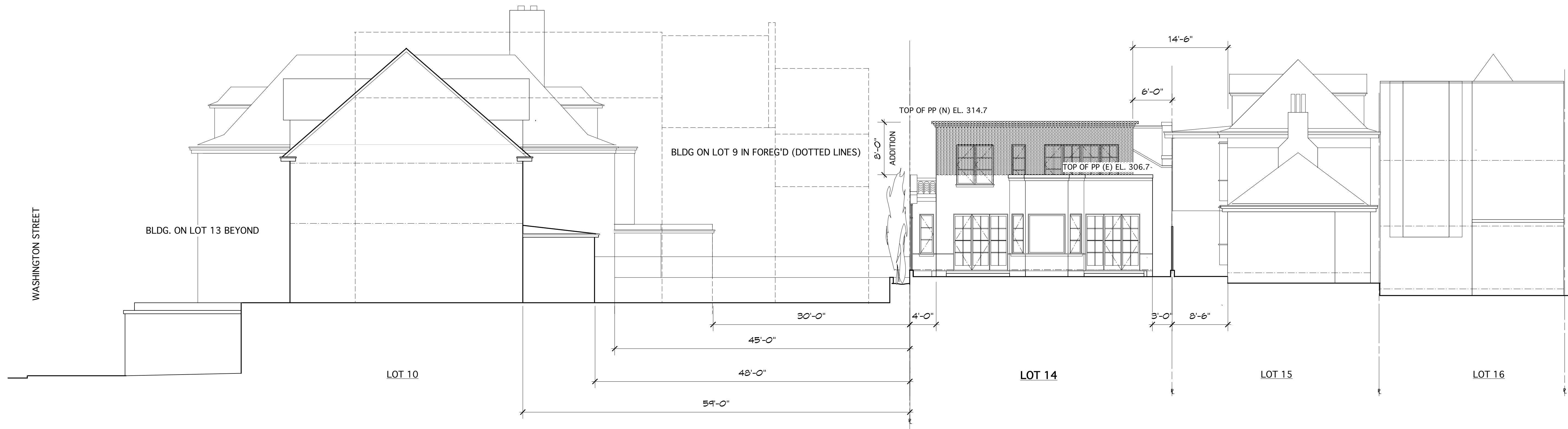
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SITE PERMIT REVISED





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**SITE CONTEXT  
 REAR YARD  
 ELEVATION**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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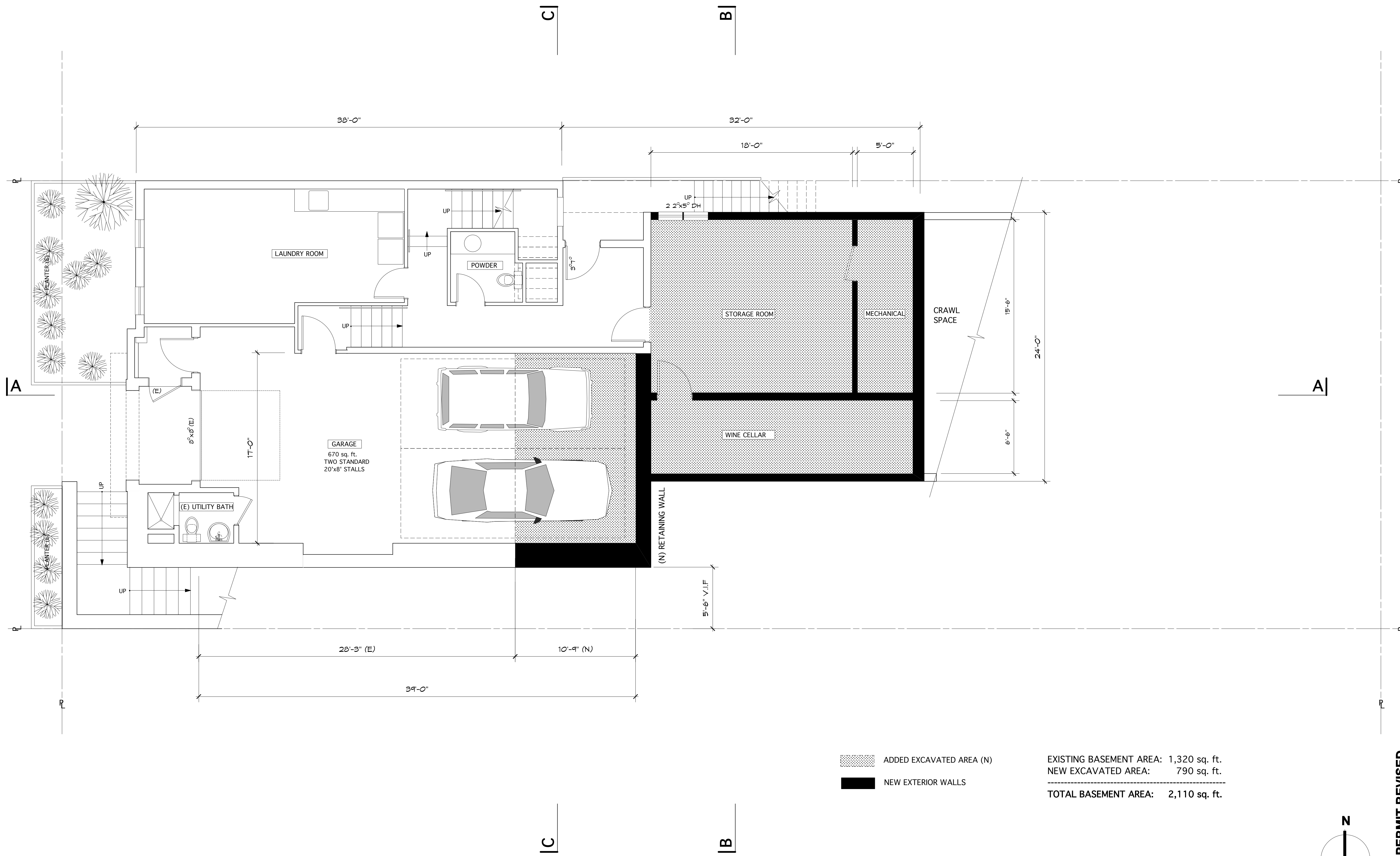
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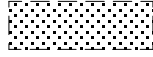

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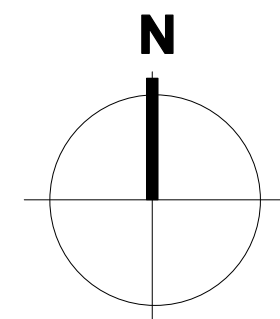
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**SITE PERMIT REVISED**



 ADDED EXCAVATED AREA (N)  
 NEW EXTERIOR WALLS

EXISTING BASEMENT AREA: 1,320 sq. ft.  
 NEW EXCAVATED AREA: 790 sq. ft.  
 TOTAL BASEMENT AREA: 2,110 sq. ft.



SITE PERMIT REVISED

Stamp:

Client:

Sheet Title:

**PROPOSED BASEMENT PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

Revisions:

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Sheet Title:

**PROPOSED  
FIRST FLOOR PLAN**

Project:  
**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118

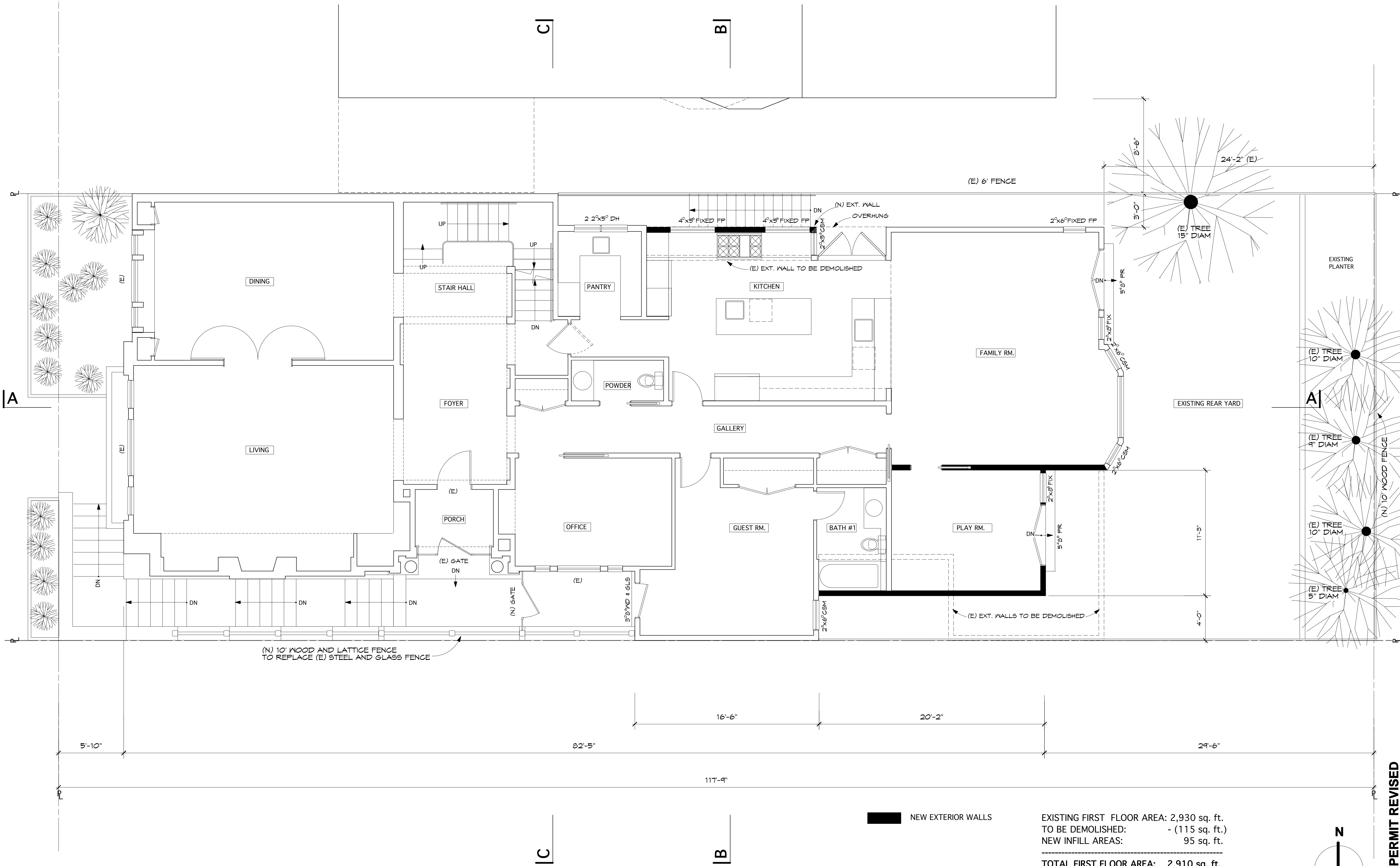
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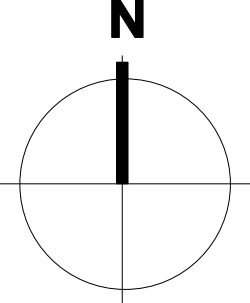
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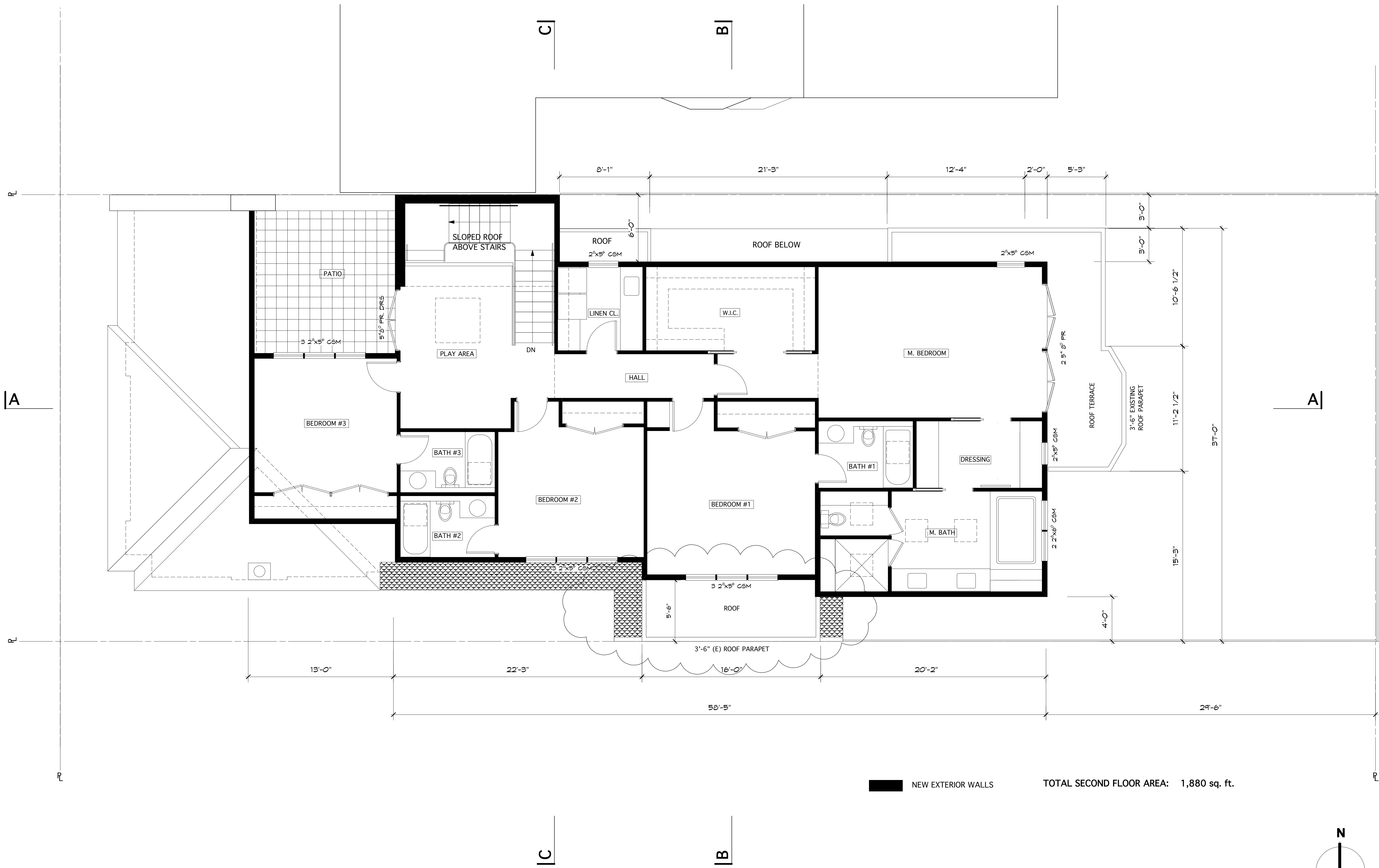
NEW EXTERIOR WALLS

EXISTING FIRST FLOOR AREA: 2,930 sq. ft.  
TO BE DEMOLISHED: - (115 sq. ft.)  
NEW INFILL AREAS: 95 sq. ft.  
TOTAL FIRST FLOOR AREA: 2,910 sq. ft.



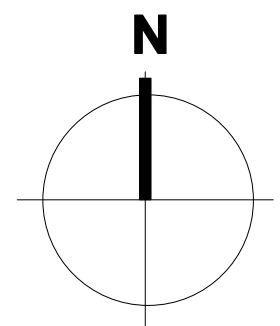
SITE PERMIT REVISED





NEW EXTERIOR WALLS

TOTAL SECOND FLOOR AREA: 1,880 sq. ft.



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**PROPOSED SECOND FLOOR PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

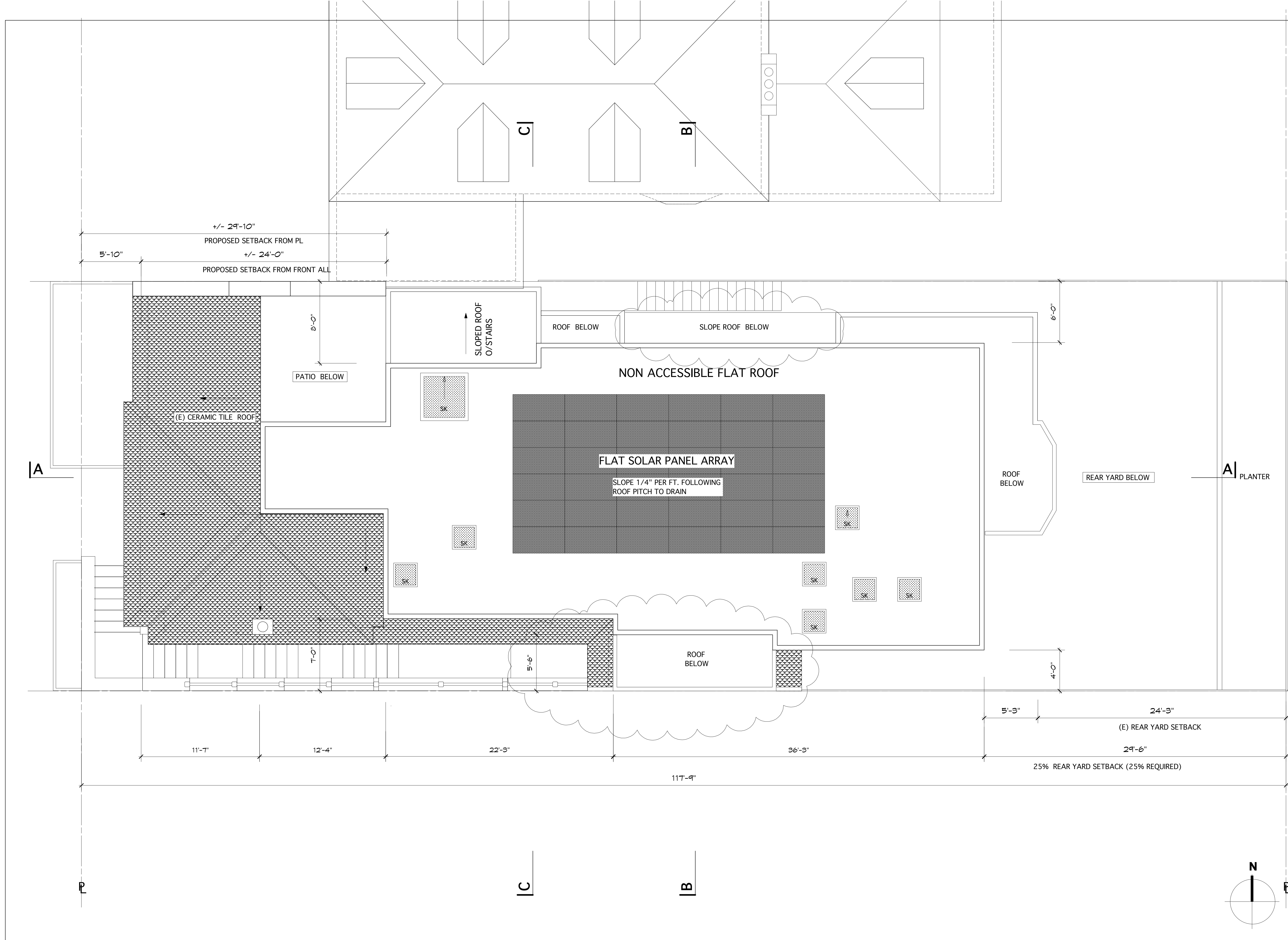
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**PROPOSED  
 ROOF PLAN**

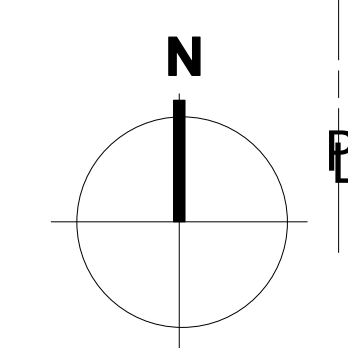
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**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118

Revisions:

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Date: 02/21/08  
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Sheet Title:

**PROPOSED  
CHERRY STREET  
ELEVATIONS**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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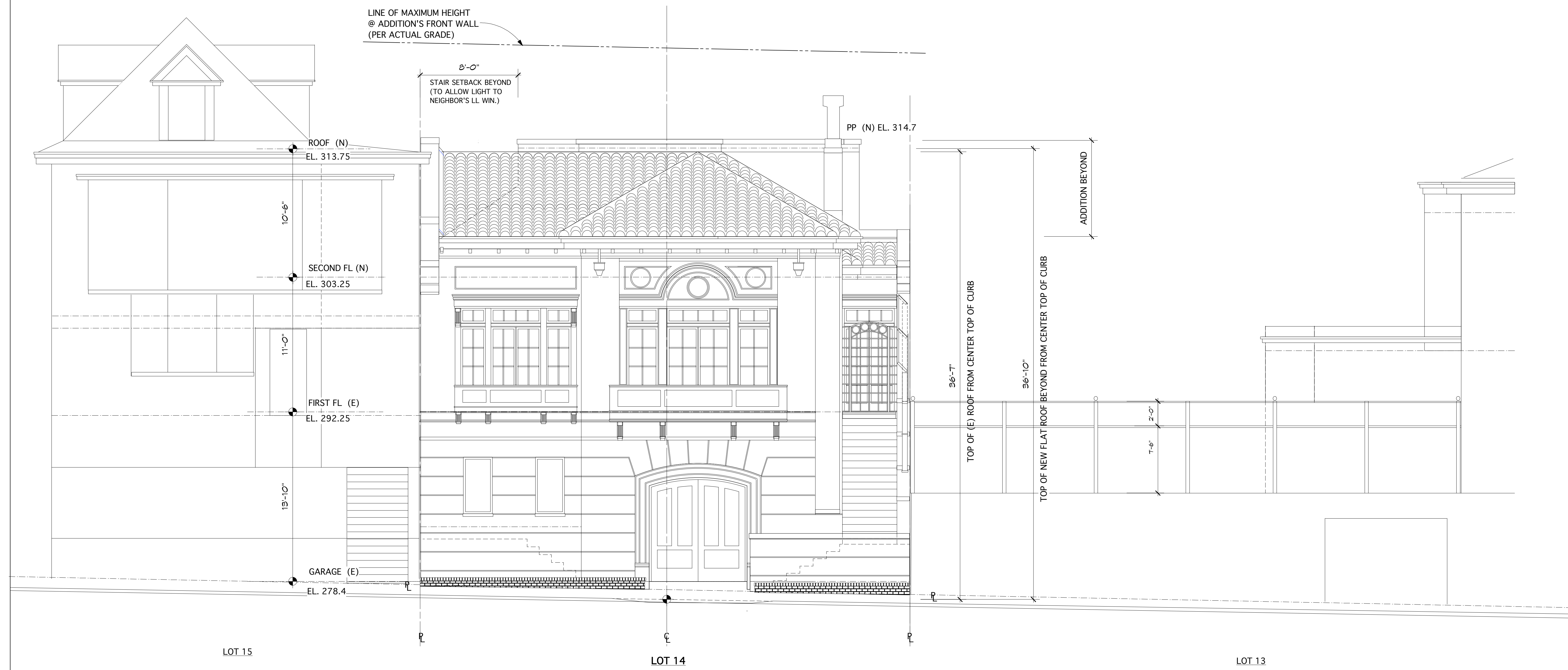
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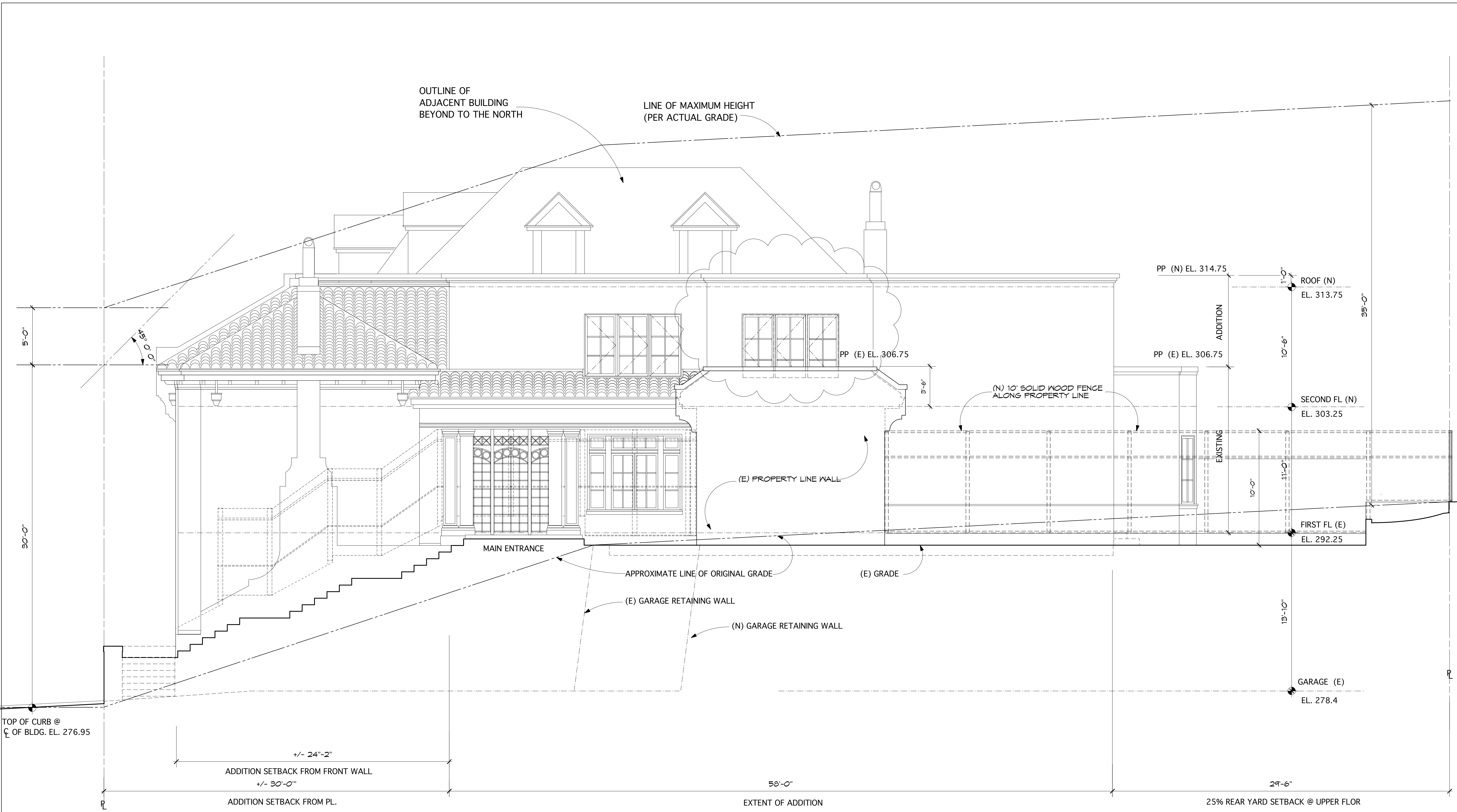
**SITE PERMIT REVISED**



**MATERIALS AND FINISHES NOTES**

- 1) EXTERIOR WALL FINISH: 3 COAT CEMENT STUCCO SYSTEM, TEXTURE AND COLOR TO MATCH EXIST'G
- 2) WOOD WINDOWS, TRIM AND COLOR TO MATCH EXIST'G  
(O) = OPAQUE GLAZING
- 3) WROUGHT IRON GUARDRAILS, PAINT FINISH TO MATCH EXIST'G





- MATERIALS AND FINISHES NOTES**
- 1) EXTERIOR WALL FINISH: 3 COAT CEMENT STUCCO SYSTEM, TEXTURE AND COLOR TO MATCH EXIST'G
  - 2) WOOD WINDOWS, TRIM AND COLOR TO MATCH EXIST'G  
 (O) = OPAQUE GLAZING
  - 3) WROUGHT IRON GUARDRAILS, PAINT FINISH TO MATCH EXIST'G

Stamp:

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Sheet Title:

**PROPOSED  
NORTH ELEVATION**

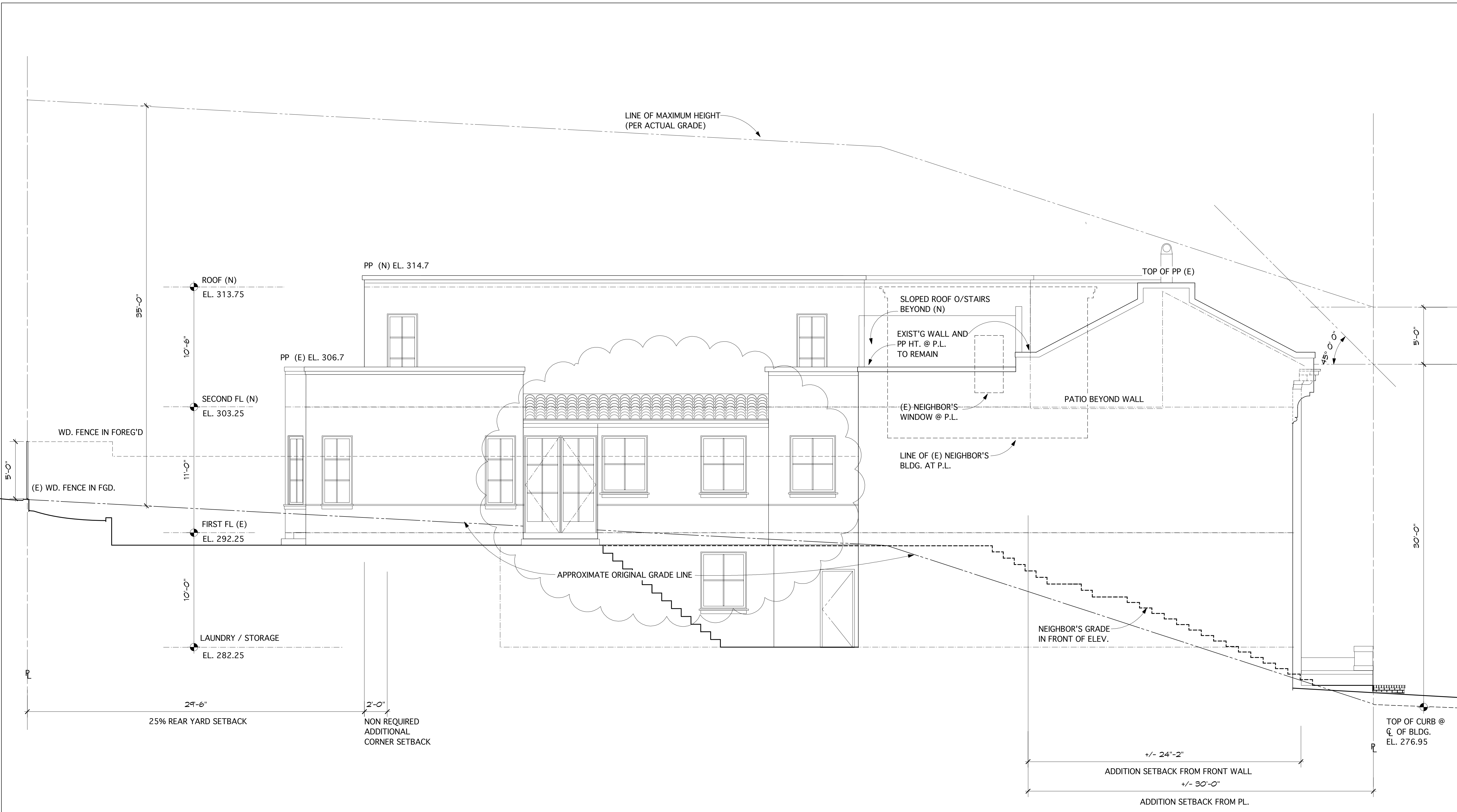
Project:  
**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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3	09/24/10
2	03/17/10
1	04/22/09

Date: 02/21/08  
Scale: 1/4"=1'-0"  
Job: Drawn:

**SITE PERMIT REVISED**



**MATERIALS AND FINISHES NOTES**

- 1) EXTERIOR WALL FINISH: 3 COAT CEMENT STUCCO SYSTEM, TEXTURE AND COLOR TO MATCH EXIST'G
- 2) WOOD WINDOWS, TRIM AND COLOR TO MATCH EXIST'G  
(O) = OPAQUE GLAZING
- 3) WROUGHT IRON GUARDRAILS, PAINT FINISH TO MATCH EXIST'G



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**PROPOSED REAR  
YARD ELEVATION**

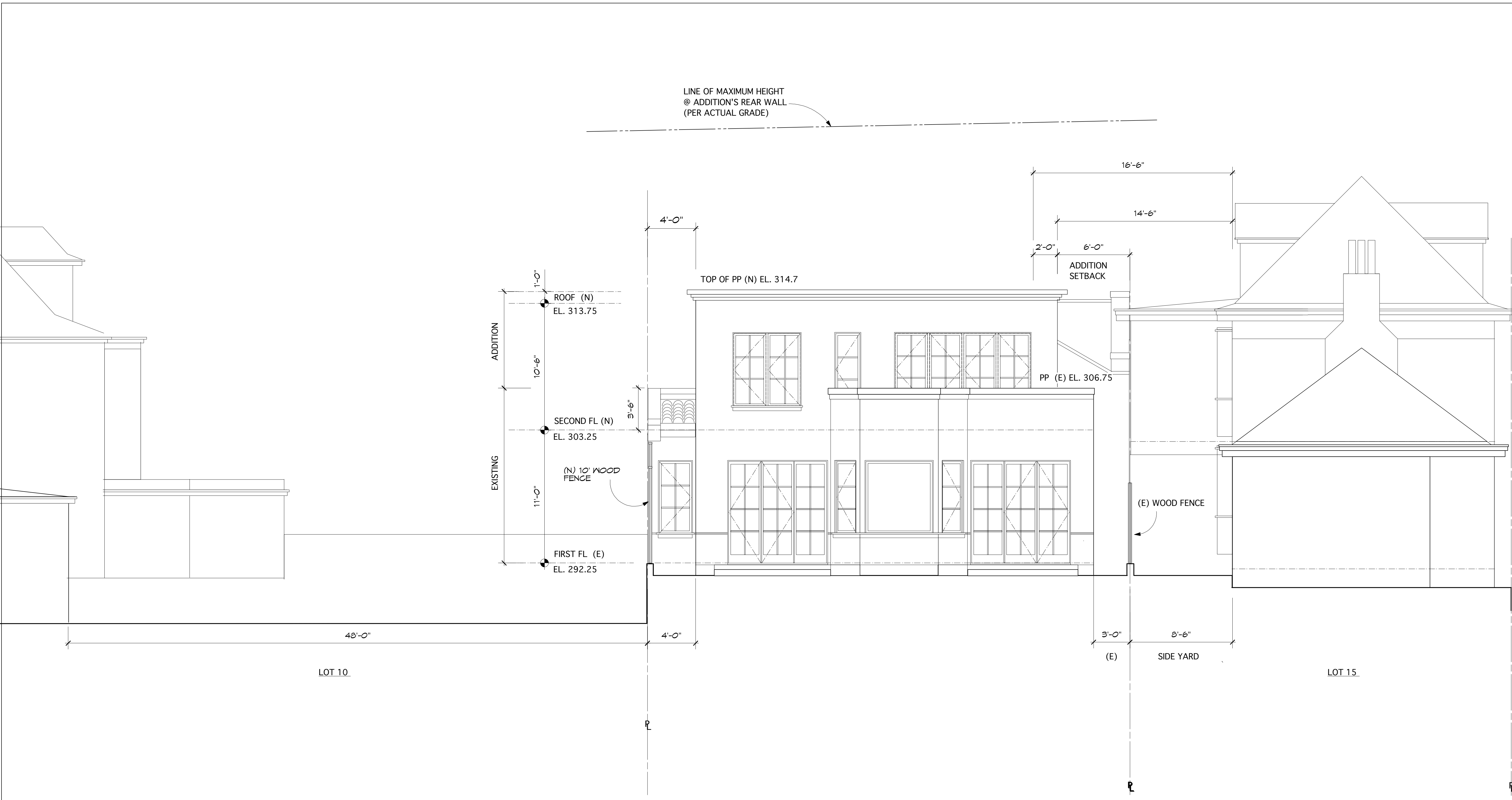
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**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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3	09/24/10
2	03/17/10
1	04/22/09

Date: 02/21/08  
Scale: 1/4"=1'-0"  
Job: Drawn:

**SITE PERMIT REVISED**



**MATERIALS AND FINISHES NOTES**

- 1) EXTERIOR WALL FINISH: 3 COAT CEMENT STUCCO SYSTEM, TEXTURE AND COLOR TO MATCH EXIST'G
- 2) WOOD WINDOWS, TRIM AND COLOR TO MATCH EXIST'G  
(O) = OPAQUE GLAZING
- 3) WROUGHT IRON GUARDRAILS, PAINT FINISH TO MATCH EXIST'G

Stamp:

Client:

Sheet Title:

**PROPOSED SECTION AA**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

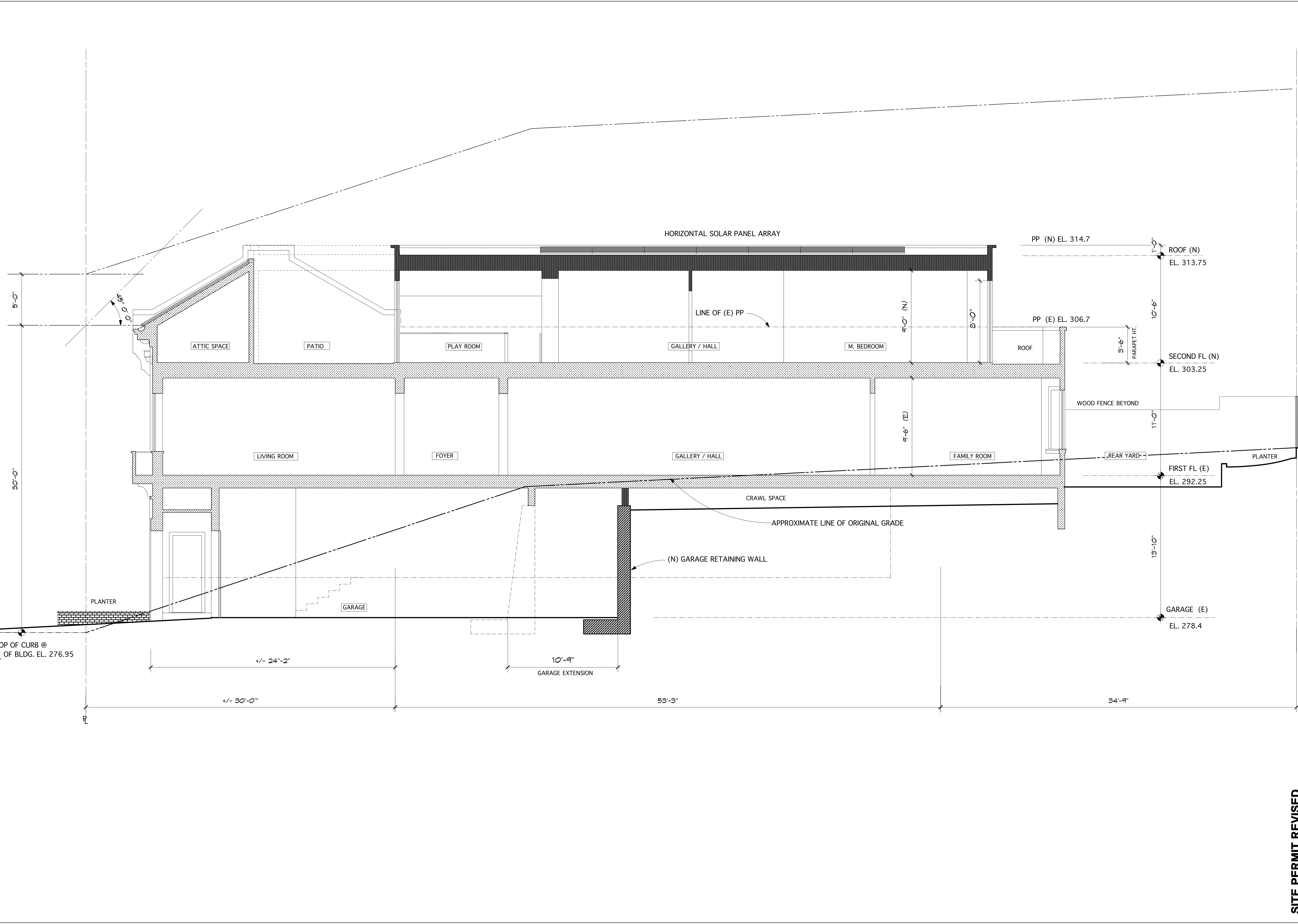
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1	06/30/08

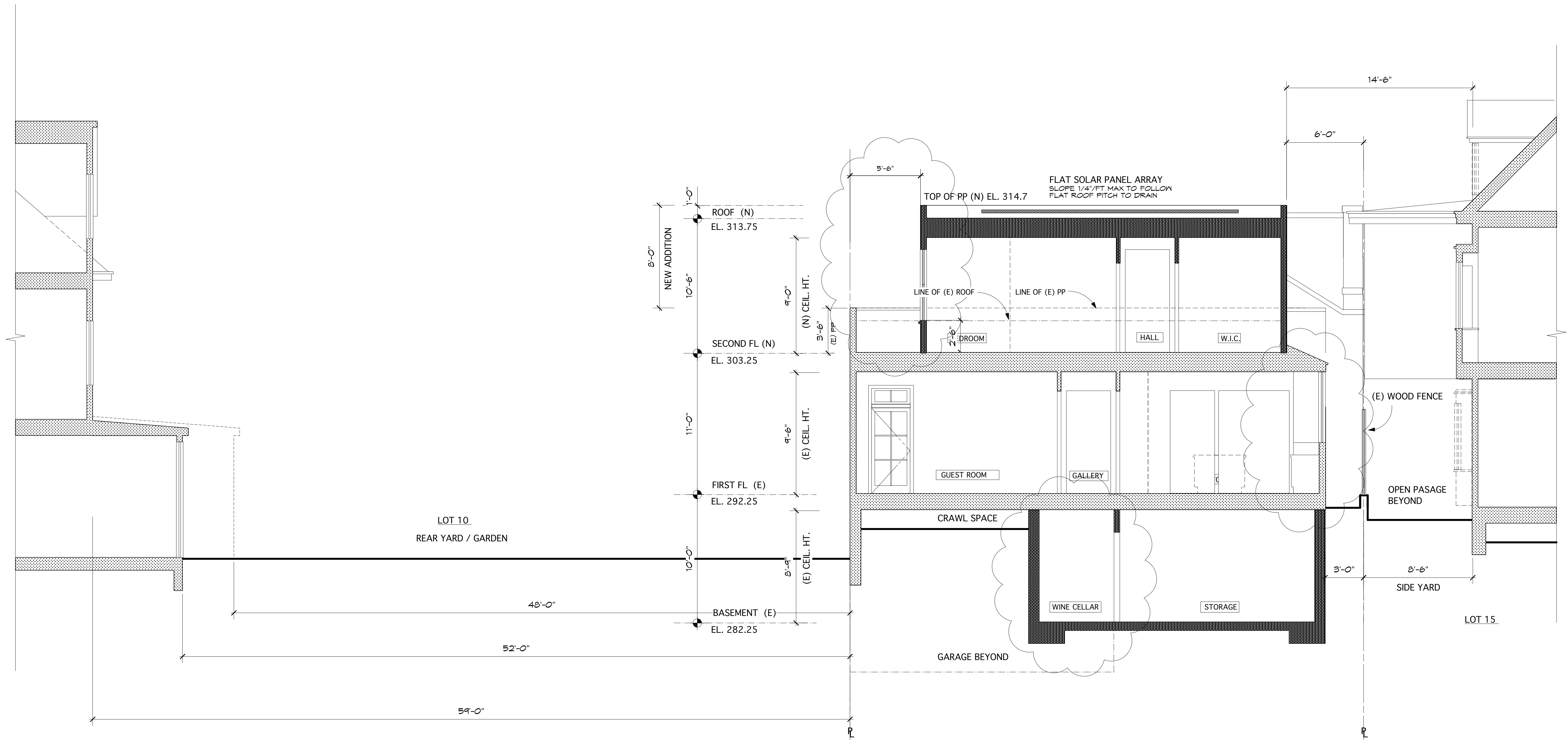
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**SITE PERMIT REVISED**





EXISTING FRAMING  
 PROPOSED ADDITION

Stamp:

Client:

Sheet Title:

**PROPOSED SECTION BB**

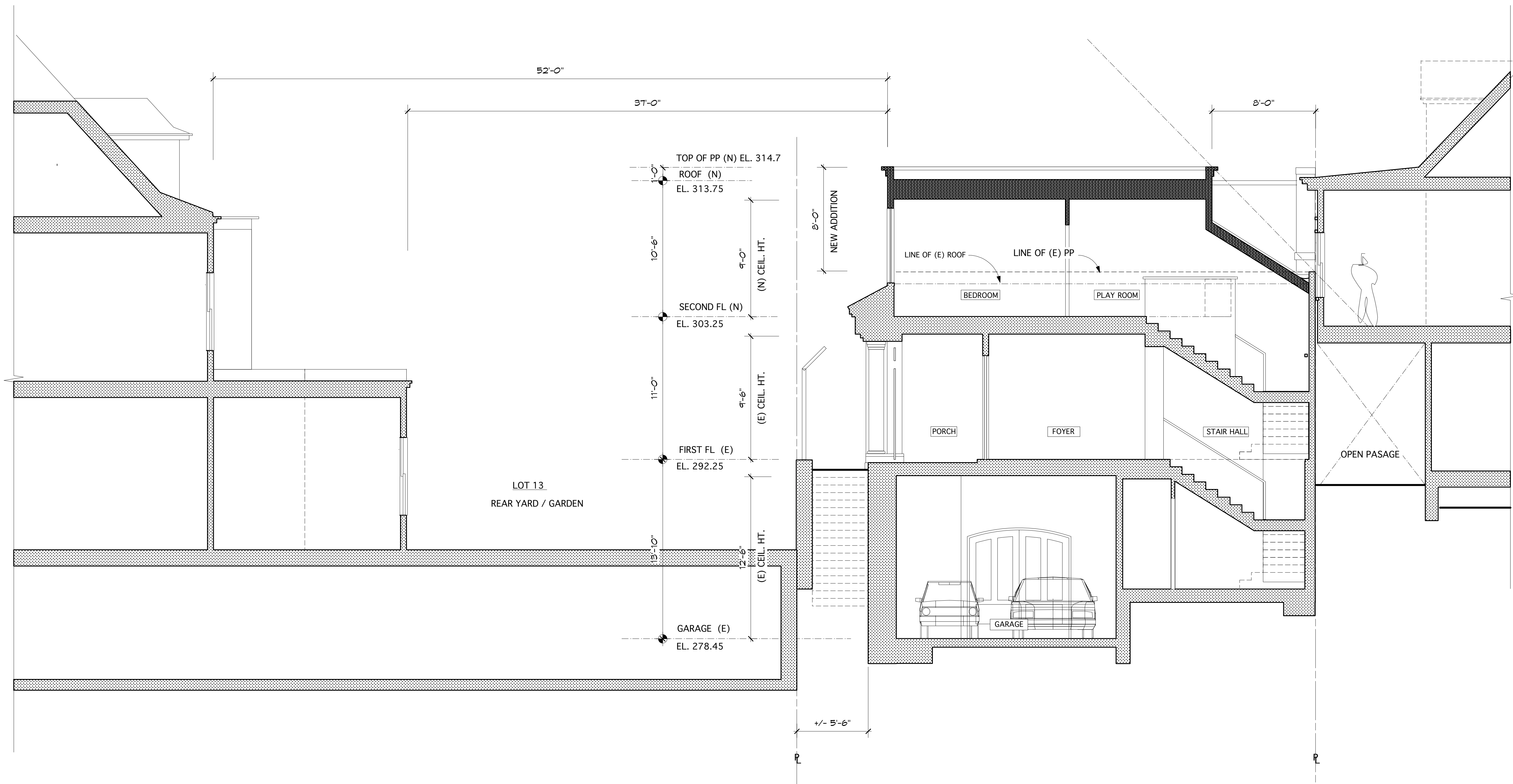
Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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4	01/25/10
3	04/22/09
2	08/08/08
1	06/30/08

Date: 02/21/08  
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 Job: Drawn:

**SITE PERMIT REVISED**



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Sheet Title:

**PROPOSED**  
**SECTION CC**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

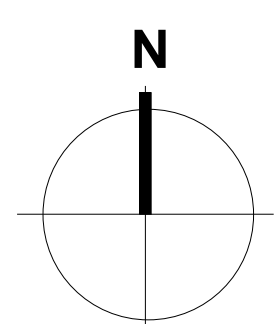
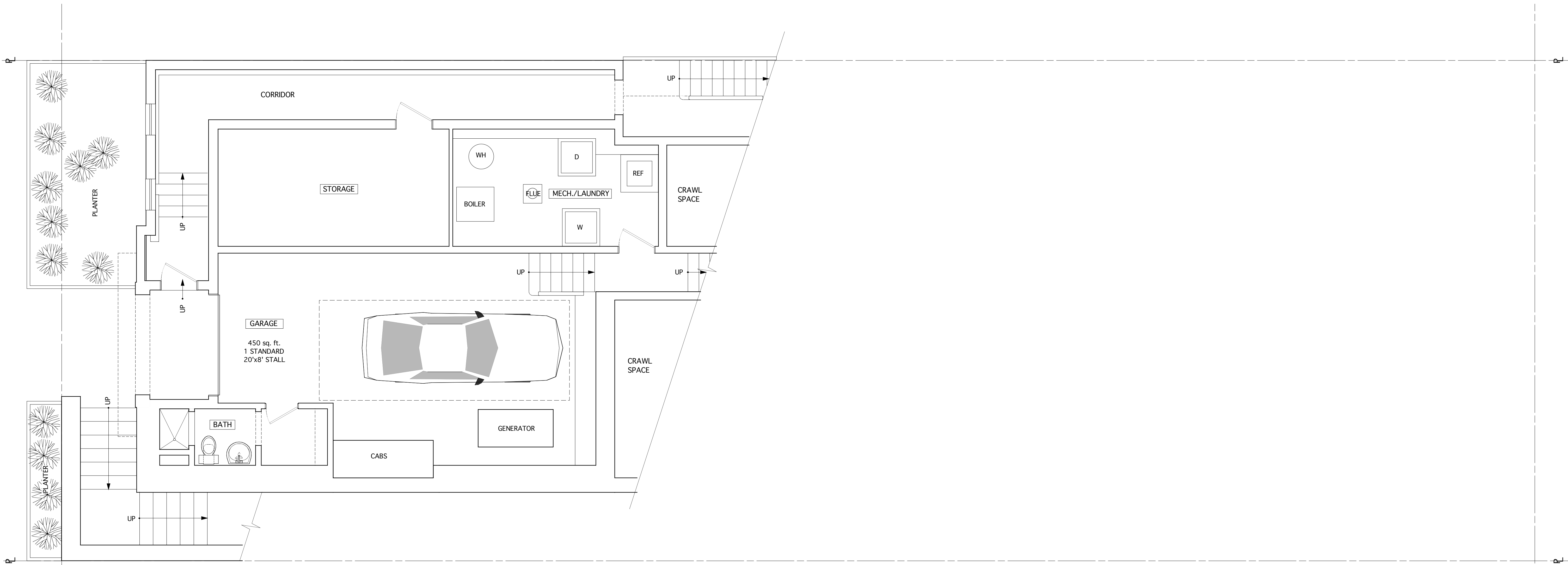
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△	08/08/08
△	06/30/08

Date: 02/21/08

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

Job: Drawn:

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**SITE PERMIT**

**ZYLBERBERG**  
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**LEONARDO**  
**LZ**  
**Architect**  
 lz@lzarchitect.com

Stamp:

Client:

Sheet Title:

**EXISTING  
 BASEMENT PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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Date: 02/12/08

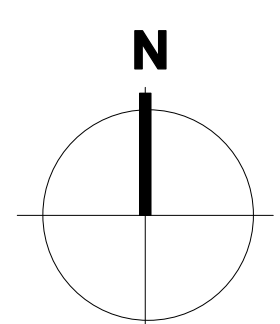
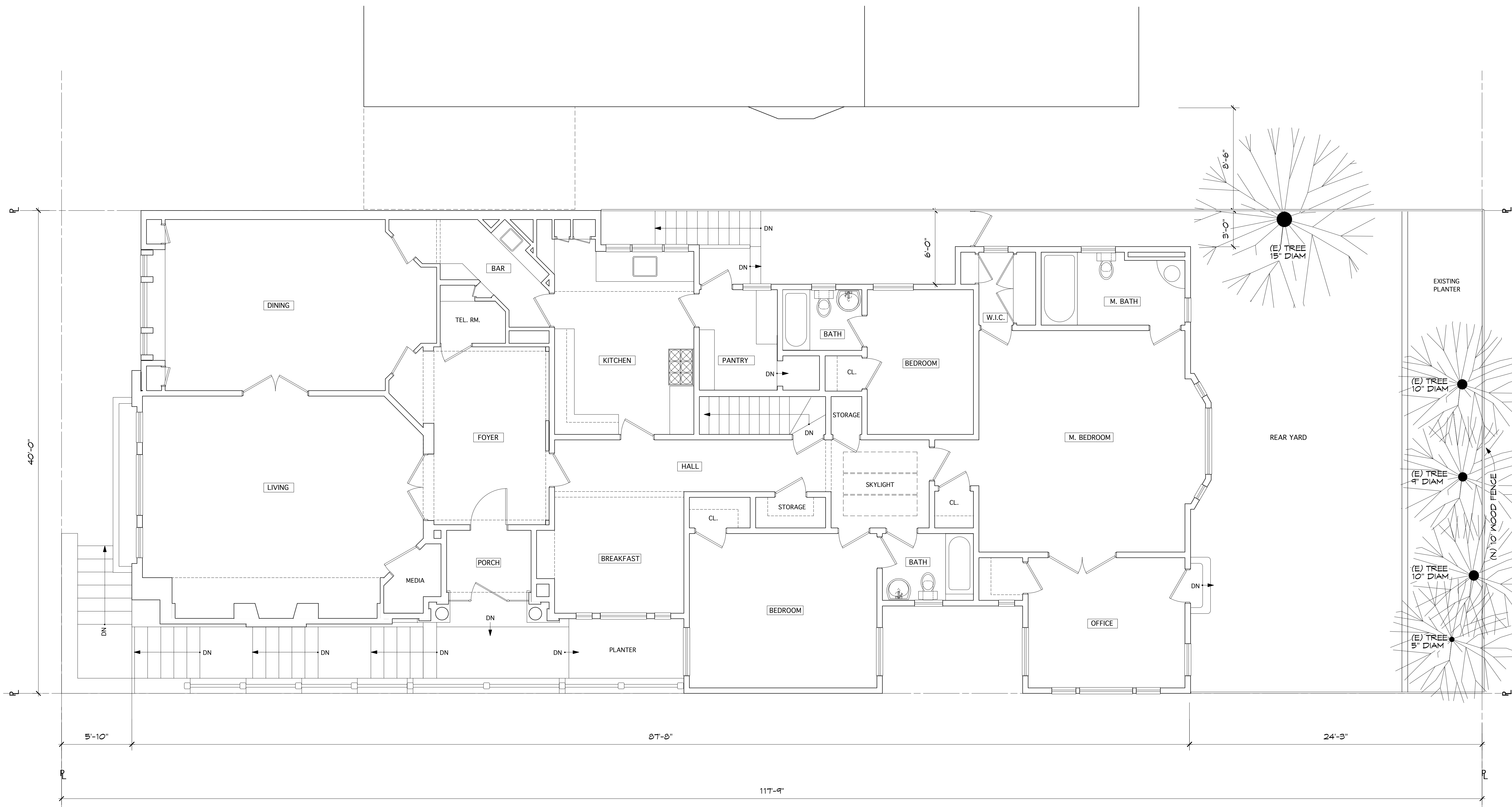
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of sheets





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Client:

Sheet Title:

**EXISTING  
 FIRST FLOOR PLAN**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

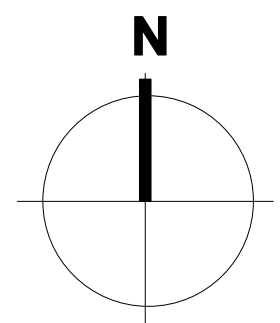
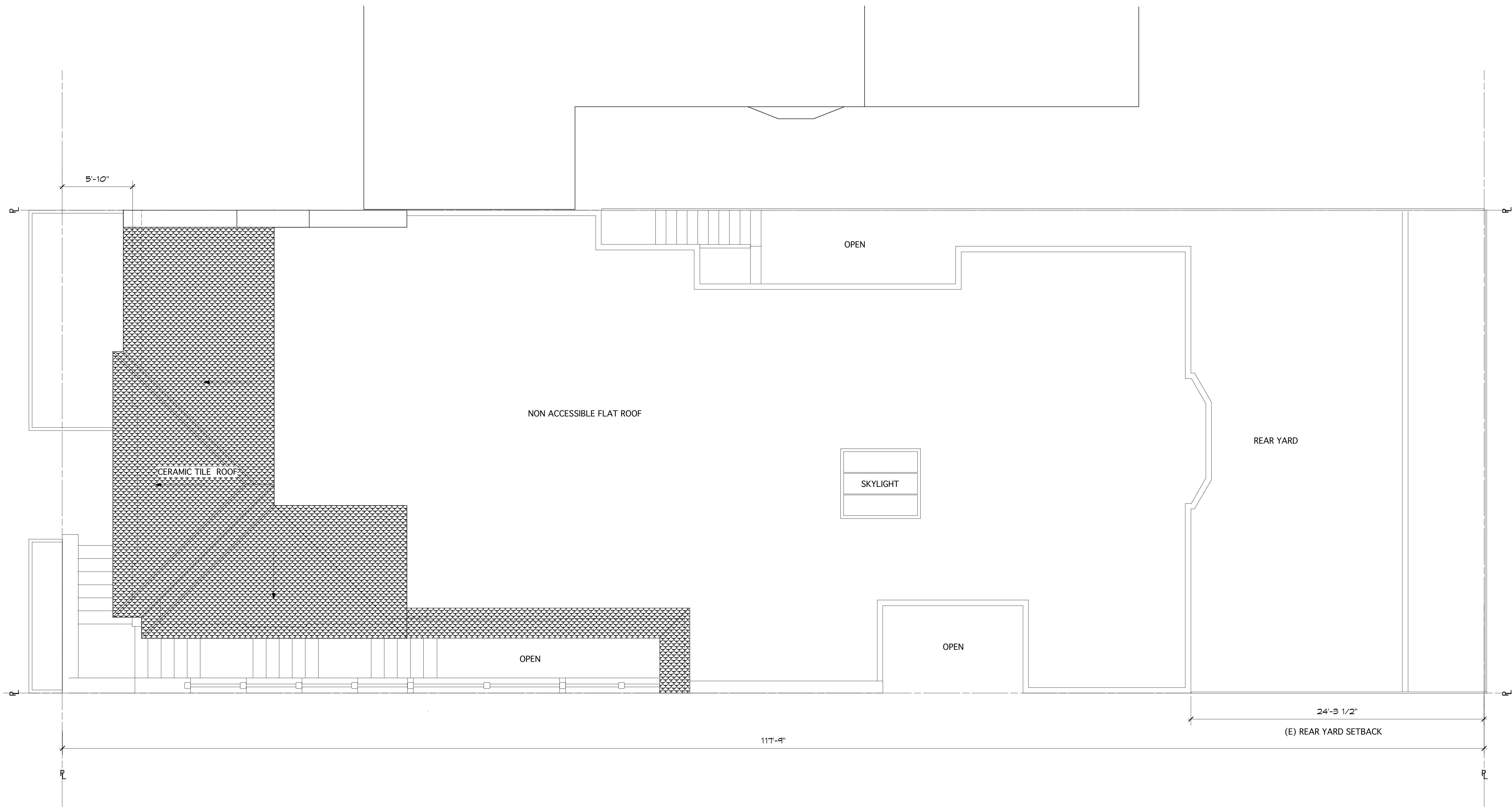
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Sheet Title:

**EXISTING ROOF PLAN**

Project:  
**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA 94118  
**BLOCK: 0989 LOT: 14**

Revisions:

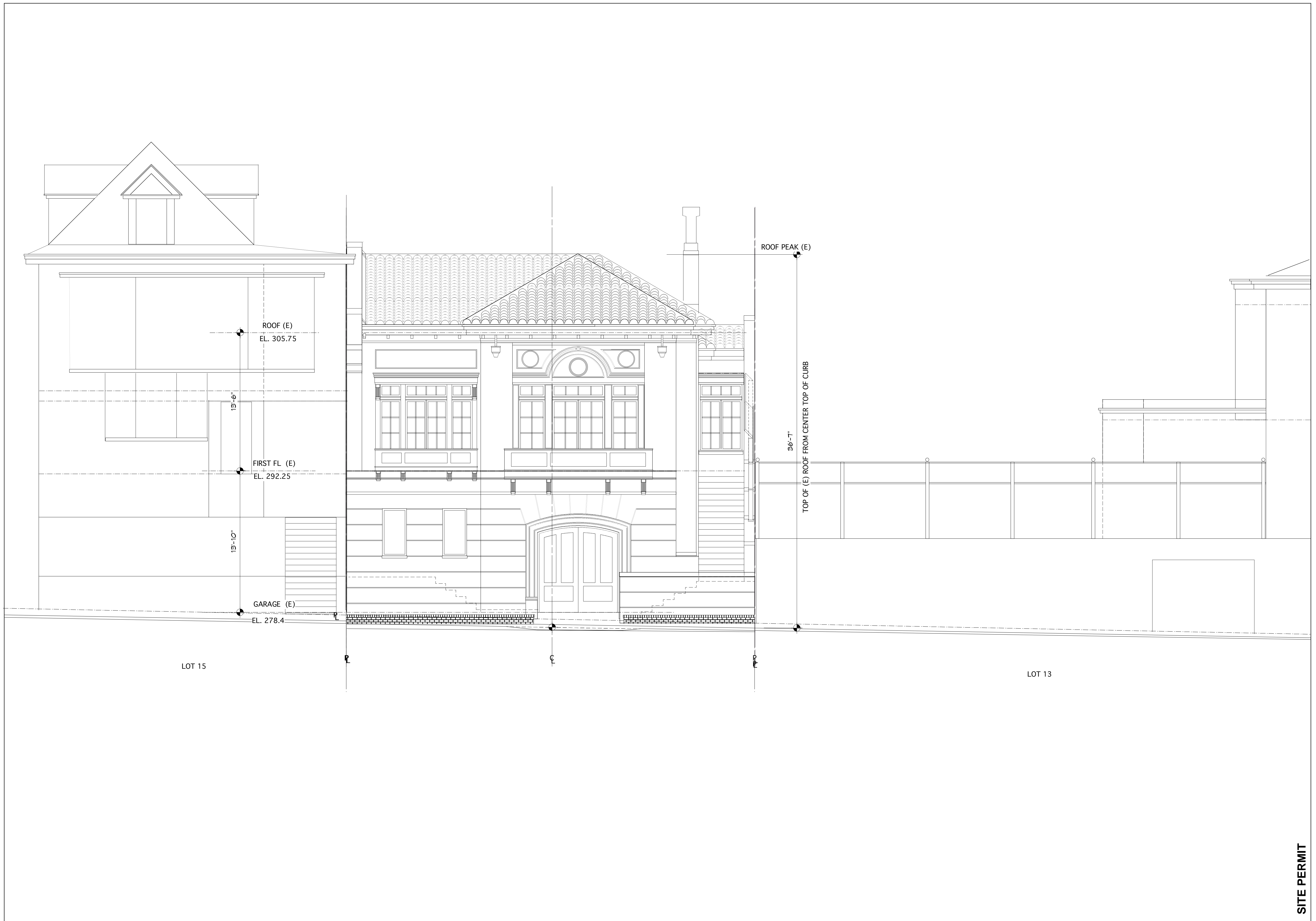
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 of sheets



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Client:

Sheet Title:

**EXISTING  
 CHERRY STREET  
 ELEVATION**

Project:

**MILLAR RESIDENCE**  
 120 CHERRY STREET  
 SAN FRANCISCO, CA  
 94118

**BLOCK: 0989 LOT: 14**

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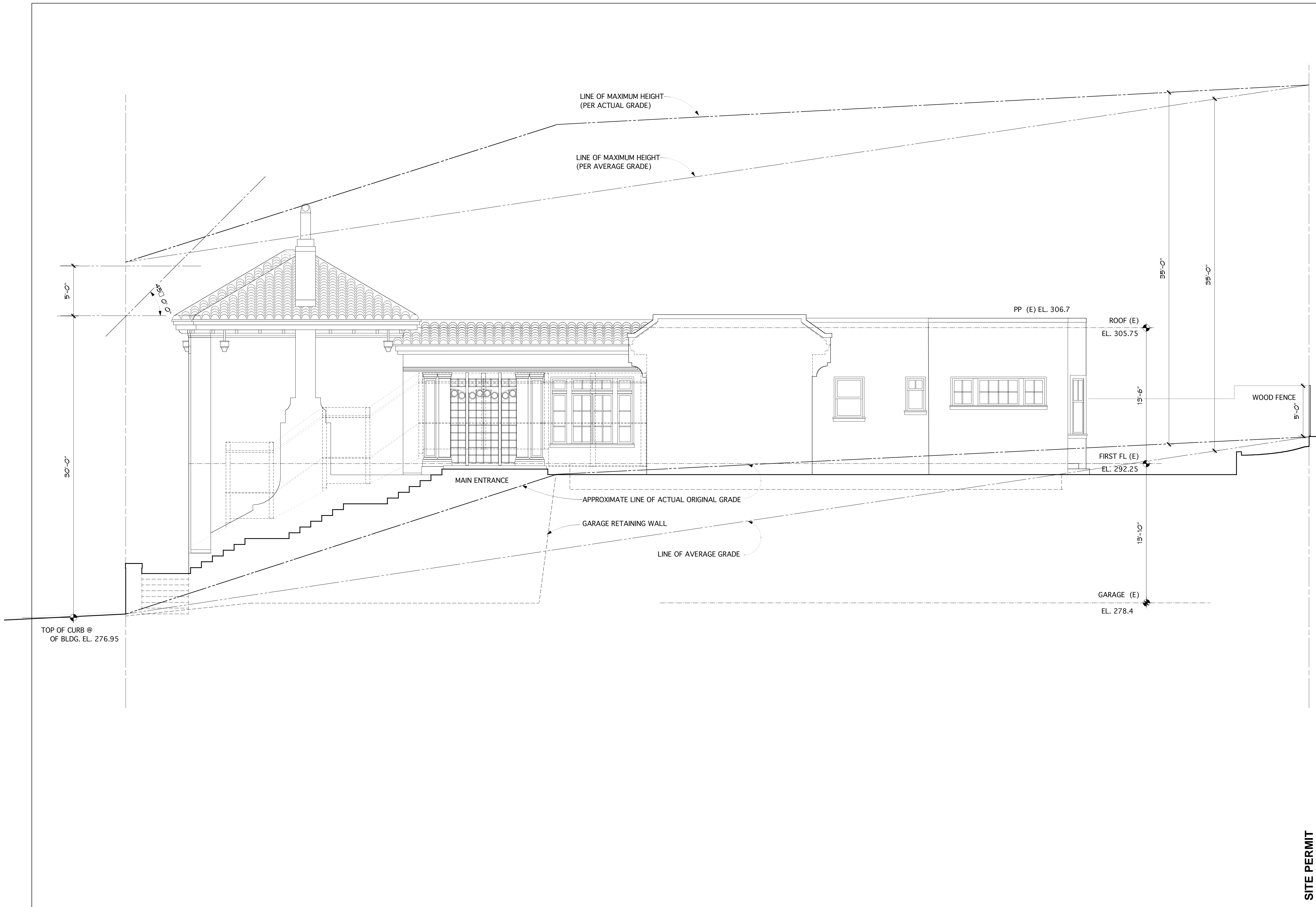
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 of sheets



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Client:

Sheet Title:

**EXISTING SOUTH ELEVATION**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA  
94118  
**BLOCK: 0989 LOT: 14**

Revisions:

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Date: 02/21/08

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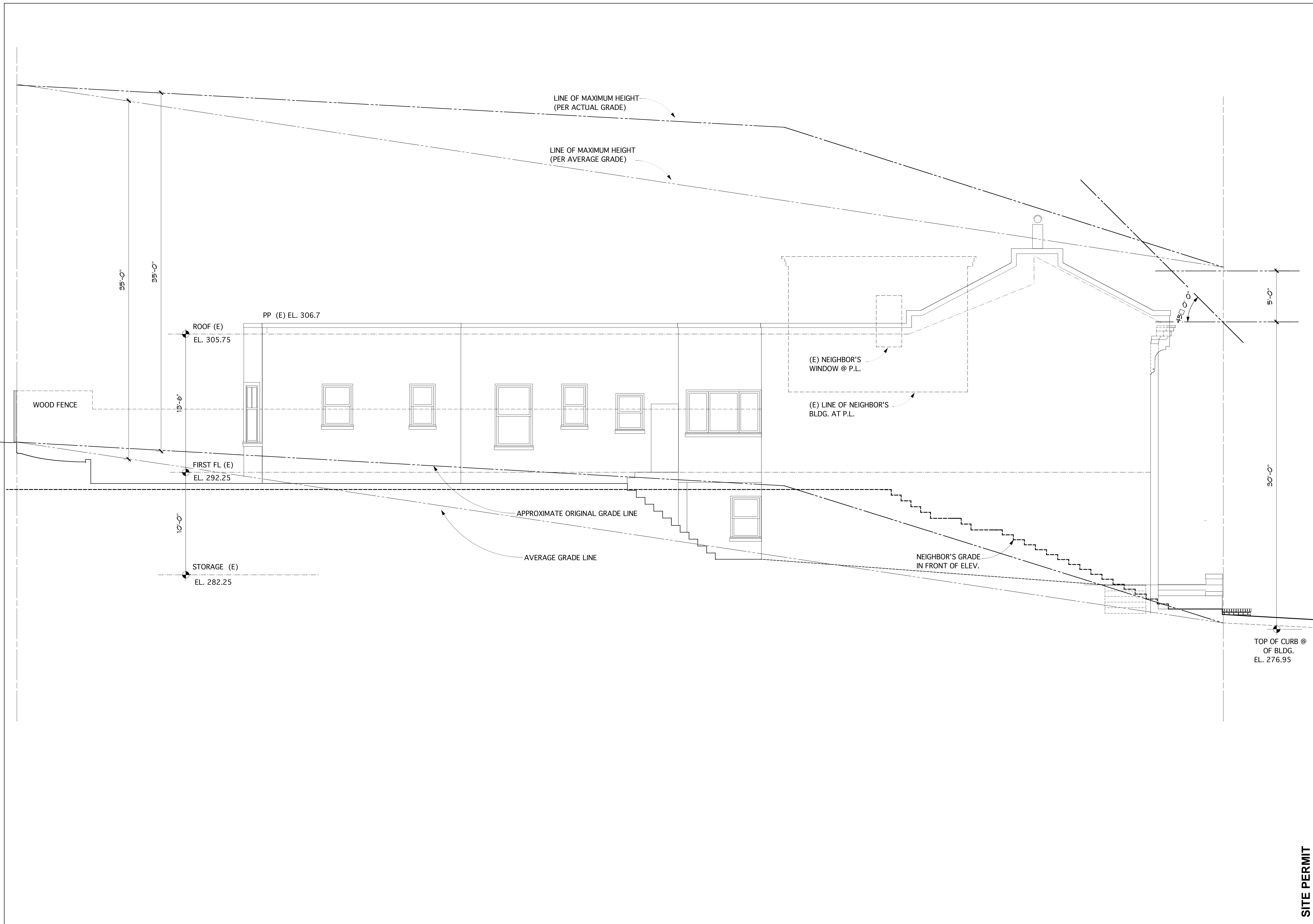
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**A-16**

of sheets





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Client:

Sheet Title:

**EXISTING  
NORTH ELEVATION**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA  
94118  
**BLOCK: 0989 LOT: 14**

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Sheet Title:

**EXISTING  
REAR YARD  
ELEVATION**

Project:

**MILLAR RESIDENCE**  
120 CHERRY STREET  
SAN FRANCISCO, CA  
94118

**BLOCK: 0989 LOT: 14**

Revisions:

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Date: 02/21/08

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

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