



SAN FRANCISCO PLANNING DEPARTMENT

Revised Letter of Determination

December 12, 2017

Robia S. Crisp
Senior Counsel
Hanson Bridgett, LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Site Address:	122 Rivoli Street
Assessor's Block/Lot:	1284/038 (formerly a portion of Lot 008)
Zoning District:	RH-2 (Residential, House, Two-Family)
Staff Contact:	Mary Woods, (415) 558-6315 or mary.woods@sfgov.org
Record No.:	2017-009243ZAD

Dear Ms. Crisp:

This letter is in response to your request for a Letter of Determination to clarify certain conditions of a Variance Decision (Case No. 92.307V) issued on September 28, 1992 in connection with the subdivision of a single parcel (Lot 008) into two lots: Lot 038 (122 Rivoli Street) and Lot 037 (100 Rivoli Street). Your letter requested determinations on the following:

1. Whether the 1992 Variance Decision would be considered invalid since no building permit was issued within three years of the effective date of the Variance Decision.
2. Whether a side yard fence may be constructed to separate the two properties (100 and 122 Rivoli) for safety purposes or to prevent cross-over between the two properties
3. Whether the existing sloped roof may be replaced with an elevated flat roof that is no taller than the current permitted height of the existing structure.
4. If the answer to Question 3 is yes, can the proposed vertical expansion be approved administratively?

On September 22, 2017, I issued a Letter of Determination in response to your request. On October 5, 2017, the Letter of Determination was appealed to the Board of Appeals by the owner of the adjacent property at 100 Rivoli Street (Appeal No. 17-166). On December 7, 2017, I received a letter from Bob Passmore, the former Zoning Administrator who issued the subject Variance Decision. In this letter, Mr. Passmore indicated that it was his intention (as stated in the findings of the Variance Decision) to maintain the quantity and accessibility of open space between the two buildings on the site. With this new information, which clarifies the intent and conditions imposed by the Variance Decision, I have revised the Letter of Determination as follows.

Background

The 1992 Variance Decision involved the subdivision of a single lot into two parcels, resulting in the need to seek and justify Variances from Planning Code requirements for minimum lot area, rear yard, usable open space and off-street parking. A Variance Decision was issued on September 28, 1992 granting these Variances. Two conditions were imposed as part of the Variance approval and these conditions were to be recorded with the City Recorder's Office as a Notice of Special Restrictions (NSR). The first condition stated that future vertical or horizontal expansion may require a new Variance, at the discretion of the Zoning Administrator. The second condition stated that the conditions attached to the Variance Decision be recorded on the land records of the City and County of San Francisco. You state that the previous owners did not record the conditions of approval related to this Variance Decision.

Based on City records, the new parcel map for the subdivision of a single lot (formerly Lot 008) into two lots (Lots 037 and 038) was recorded with the City Recorder's Office on February 26, 1993 under document number F30310300.

In the 1992 Variance Decision, under Finding #1, one of the findings supporting that there are exceptional or extraordinary circumstances for the Variance, states that "As a condition of approval for this variance no fence or barrier shall be built on the newly created property line between the houses, in order to preserve the existing usable open space." While this finding was neither included in the Variance Decision as a condition of approval nor recorded as a part of the NSR, it has been confirmed by former Zoning Administrator Bob Passmore that his decision included such condition which was accepted by the applicant during the hearing and is explicitly written into the Variance Decision (albeit in the findings of the decision).

In your letter, you note that the Variance Decision contained (as an attachment) an NSR for the subject decision. In this NSR (which is likely the NSR prepared by the Planning Department), no reference to an additional condition limiting fences/barriers on the newly created property line. Further, you reference a second NSR prepared by the attorney (James T. Johnson) for the previous owners, dated October 1, 1992. In this NSR (which was not prepared by the Planning Department), a condition of approval is included which states: "no fence or barrier shall be built on the newly created property line between the two houses, in order to preserve the existing usable open space." Based upon available information, neither NSR was ever recorded on the property.

Determinations

Based on City records and information provided in your letter, it is my determination that the 1992 Variance Decision is valid because the lot subdivision was approved and recorded with the City Recorder's Office, and that a side yard fence may not be constructed based upon a condition contained in the Variance Decision.

Responses to your questions are as follows:

1. Whether the 1992 Variance Decision would be considered invalid since no building permit was issued within three years of the effective date of the Variance Decision.

The September 28, 1992 Variance Decision is valid because the lot subdivision was approved and recorded with the City Recorder's Office on February 26, 1993.

2. Whether a side yard fence may be constructed to separate the two properties (100 and 122 Rivoli) for safety purposes or to prevent cross-over between the two properties.

While the 1992 Variance Decision does not list as a limitation on fences between the properties amongst the standard conditions of approval, Finding No. 1 states the following: "As a condition of approval for this variance no fence or barrier shall be built on the newly created property line between the houses, in order to preserve the existing usable open space." The Planning Department received a letter from former Zoning Administrator Bob Passmore confirming that his decision included such a condition, which was accepted by the applicant during the hearing. Given this information, which was received after the issuance of the original Letter of Determination response on September 22, 2017, I find that this condition of approval remains in full force and effect and no fence or barrier may be built on the newly created property line between the houses. Modification of this condition of approval can only occur through the filing of a new Variance Application.

3. Whether the existing sloped roof may be replaced with an elevated flat roof that is no taller than the current permitted height of the existing structure.

A building permit application and Variance would be required for the vertical expansion because portions of the building proposed for expansion appear to be within the required front setback and rear yard.

4. If the answer to Question 3 is yes, can the proposed vertical expansion be approved administratively?

No, the proposed vertical expansion would require neighborhood notification pursuant to Planning Code Section 311 for the building permit application and public hearing for the Variance.

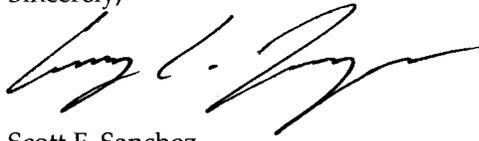
Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

Robia S. Crisp
425 Market Street, 26th Floor
San Francisco, CA 94105

December 12, 2017
Letter of Determination
122 Rivoli Street

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



For: Scott F. Sanchez
Zoning Administrator

cc: Property Owners:

100 Rivoli Street
Arceil Juranty Revocable Trust
100 Rivoli Street
San Francisco, CA 94117

Steven Faig Trust
100 Rivoli Street
San Francisco, CA 94117

122 Rivoli Street
Roya K. Rassai
288 Castle Crest Road
Alamo, CA 94507

Hamid R. Rassai
288 Castle Crest Road
Alamo, CA 94507

BBN Requestor: Patrick Buscovich, 235 Montgomery Street, SF, CA 94104
Neighborhood Groups
Mary Woods, Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

September 22, 2017

Robia S. Crisp
Senior Counsel
Hanson Bridgett, LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

Site Address:	122 Rivoli Street
Assessor's Block/Lot:	1284/038 (formerly a portion of Lot 008)
Zoning District:	RH-2 (Residential, House, Two-Family)
Staff Contact:	Mary Woods, (415) 558-6315 or mary.woods@sfgov.org
Record No.:	2017-009243ZAD

Dear Ms. Crisp:

This letter is in response to your request for a Letter of Determination to clarify certain conditions of a Variance Decision (Case No. 92.307V) issued on September 28, 1992 in connection with the subdivision of a single parcel (Lot 008) into two lots: Lot 038 (122 Rivoli Street) and Lot 037 (100 Rivoli Street). Your letter requested determinations on the following:

1. Whether the 1992 Variance Decision would be considered invalid since no building permit was issued within three years of the effective date of the Variance Decision.
2. Whether a side yard fence may be constructed to separate the two properties (100 and 122 Rivoli) for safety purposes or to prevent cross-over between the two properties
3. Whether the existing sloped roof may be replaced with an elevated flat roof that is no taller than the current permitted height of the existing structure.
4. If the answer to Question 3 is yes, can the proposed vertical expansion be approved administratively?

Background

The 1992 Variance Decision involved the subdivision of a single lot into two parcels, resulting in the need to seek and justify Variances from Planning Code requirements for minimum lot area, rear yard, usable open space and off-street parking. A Variance Decision was issued on September 28, 1992 granting these Variances. Two conditions were imposed as part of the Variance approval and these conditions were to be recorded with the City Recorder's Office as a Notice of Special Restrictions (NSR). The first condition stated that future vertical or horizontal expansion may require a new Variance, at the discretion of the Zoning Administrator. The second condition stated that the conditions attached to the Variance Decision be recorded on the land records of the City and County of San Francisco. You state that the previous owners did not record the conditions of approval related to this Variance Decision.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Based on City records, the new parcel map for the subdivision of a single lot (formerly Lot 008) into two lots (Lots 037 and 038) was recorded with the City Recorder's Office on February 26, 1993 under document number F30310300.

In the 1992 Variance Decision, under Finding #1, one of the findings supporting that there are exceptional or extraordinary circumstances for the Variance, states that "As a condition of approval for this variance no fence or barrier shall be built on the newly created property line between the houses, in order to preserve the existing usable open space." However, this finding was neither included in the Variance Decision as a condition of approval nor recorded as a part of the NSR.

In your letter, you note that the Variance Decision contained (as an attachment) an NSR for the subject decision. In this NSR (which is likely the NSR prepared by the Planning Department), no reference to an additional condition limiting fences/barriers on the newly created property line. Further, you reference a second NSR prepared by the attorney (James T. Johnson) for the previous owners, dated October 1, 1992. In this NSR (which was not prepared by the Planning Department), a condition of approval is included which states: "no fence or barrier shall be built on the newly created property line between the two houses, in order to preserve the existing usable open space." Based upon available information, neither NSR was ever recorded on the property.

Determinations

Based on City records and information provided in your letter, it is my determination that the 1992 Variance Decision is valid because the lot subdivision was approved and recorded with the City Recorder's Office, and that a side yard fence may be constructed in compliance with the requirements of the Planning Code.

Responses to your questions are as follows:

1. Whether the 1992 Variance Decision would be considered invalid since no building permit was issued within three years of the effective date of the Variance Decision.

The September 28, 1992 Variance Decision is valid because the lot subdivision was approved and recorded with the City Recorder's Office on February 26, 1993.

2. Whether a side yard fence may be constructed to separate the two properties (100 and 122 Rivoli) for safety purposes or to prevent cross-over between the two properties.

While the finding of the 1992 Variance Decision reference a limitation on fences between the properties, it does not contain this as a condition of approval. As such, a side yard fence may be constructed in accordance with relevant Planning Code provisions. Given the location of the building on the lot, portions of any proposed fence may be located within the front setback and rear yard. Any such portions of the fence must comply with the requirements of Planning Code Section 136(c)(16-19), which limits fences within the front setback to no more than 3 feet in height (solid) or 6 feet in height (75% open to perpendicular view) and fences within the rear yard to no more than 10 feet in height (solid).

Robia S. Crisp
425 Market Street, 26th Floor
San Francisco, CA 94105

September 22, 2017
Letter of Determination
122 Rivoli Street

3. Whether the existing sloped roof may be replaced with an elevated flat roof that is no taller than the current permitted height of the existing structure.

A building permit application and Variance would be required for the vertical expansion because portions of the building proposed for expansion appear to be within the required front setback and rear yard.

4. If the answer to Question 3 is yes, can the proposed vertical expansion be approved administratively?

No, the proposed vertical expansion would require neighborhood notification pursuant to Planning Code Section 311 for the building permit application and public hearing for the Variance.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Property Owners:

100 Rivoli Street
Arceil Juranty Revocable Trust
100 Rivoli Street
San Francisco, CA 94117

Steven Faig Trust
100 Rivoli Street
San Francisco, CA 94117

122 Rivoli Street
Roya K. Rassai
288 Castle Crest Road
Alamo, CA 94507

Hamid R. Rassai
288 Castle Crest Road
Alamo, CA 94507

BBN Requestor: Patrick Buscovich, 235 Montgomery Street, SF, CA 94104
Neighborhood Groups
Mary Woods, Planning Department



ROBIA S. CRISP
SENIOR COUNSEL
DIRECT DIAL (415) 995-5806
DIRECT FAX (415) 995-3455
E-MAIL rcrisp@hansonbridgett.com

R# 2017-009243 ZAD
CK# 54030 \$ 661.-
D. LINDSAY (NW)

July 14, 2017

RECEIVED

JUL 14 2017

CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
ADMINISTRATION

VIA MESSENGER & E-MAIL

scott.sanchez@sfgov.org

Scott Sanchez
Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: Request for Letter of Determination
Property: 122 Rivoli Street, San Francisco, CA 94117
Block/Lot: 1284/038
Issue: Variance Decision 92.307V

Dear Mr. Sanchez:

We hereby submit this Request for Letter of Determination on behalf of Roya Rassai and Hamid "Ray" Rassai, M.D., sister and brother, and the co-owners of the above-described San Francisco property ("122 Rivoli").

This Request follows our February 28, 2017 project review meeting with Mary Woods, a planner with the Planning Department. It is our understanding that Ms. Woods consulted with you in connection with that meeting and the recommendations she made to us during it. You therefore might be familiar with the matters discussed in this Request.

By this Request, Ms. Rassai and Dr. Rassai ask the Department to clarify certain conditions of approval of a variance issued 25 years ago in connection with the subdivision of a single parcel into two lots, now known as 122 Rivoli and 100 Rivoli Street ("100 Rivoli"). A survey plan showing the perimeter of the lots and the boundary line between them is attached hereto as Exhibit A. When the Department approved the variance, it imposed certain conditions on 122 Rivoli and 100 Rivoli. It also required Ms. Rassai's predecessor-in-interest to record those conditions in a Notice of Special Restrictions ("NSR"), but he failed to do so. Hence, Ms. Rassai had no notice of the conditions when she acquired 122 Rivoli.

The unrecorded conditions are ambiguous in several material respects, as detailed below. Accordingly, Ms. Rassai asks the Department to interpret those conditions and to make a determination as to the following issues:

1. Ms. Rassai resides in the single-family home at 122 Rivoli with her autistic daughter, who suffers from severe anxiety attacks. For safety and privacy reasons relating to her daughter's condition, she would like to construct a fence on the boundary line between 122 Rivoli and 100 Rivoli. The fence would protect the daughter from harm (including by preventing her from walking onto the adjacent property). Such a fence appears to be permissible under the Planning Code and under the

Hanson Bridgett LLP

425 Market Street, 26th Floor, San Francisco, CA 94105 hansonbridgett.com

13514767.8

terms of the variance, but Ms. Rassai would like confirmation of that fact given the ambiguities of the variance's conditions of approval.

2. The single-family home at 122 Rivoli has an existing A-frame sloped roof. Ms. Rassai would like to replace that sloped roof with an elevated flat roof that is no taller than the current, permitted height of the existing structure. This type of proposed vertical expansion appears to require only administrative approvals, not the issuance of a new variance, but Ms. Rassai would like confirmation of that fact given the ambiguities of the variance's conditions of approval.

FACTUAL BACKGROUND

A. 122 Rivoli and 100 Rivoli.

Prior to 1992, the properties located at 122 Rivoli and 100 Rivoli were conjoined as a single legal parcel. That parcel was owned by Thomas and Arceil Juranty, husband and wife. The parcel was improved with two principal structures, a large home and a smaller cottage. These structures were separated by outdoor, unimproved garden space.

In or about 1992, Mr. and Mrs. Juranty were divorced and they applied to the City for approvals to subdivide the single parcel into two lots. By agreement, Mrs. Juranty was to receive 100 Rivoli and its large house and Mr. Juranty was to receive 122 Rivoli and its small cottage. To achieve this lot split, the Jurantys required a variance for minimum lot area, rear yard, usable open space and off-street parking. On September 28, 1992, the City granted the Juranty's application (Case No. 92.307V), a fact reflected in the Department's written decision, a copy of which is attached hereto as Exhibit B (the "Variance"). The Variance, in its conditions of approval, imposes certain restrictions on 122 Rivoli.

In 2014, Ms. Rassai and her brother jointly acquired 122 Rivoli. At all times since, Ms. Rassai has resided in the cottage at 122 Rivoli with her daughter who requires continuous care and attention.

B. The Variance and Its Conditions of Approval.

The Variance allowed the existing lot and building configuration, which predated the development standards then in effect. However, it imposed two express conditions of approval: (1) a restriction on the further expansion of the envelopes of the existing structures at 122 Rivoli and 100 Rivoli and (2) a requirement that the applicants, Mr. and Mrs. Juranty, record the conditions of approval as a NSR in a form approved by the Zoning Administrator. Below are the two conditions in their entirety:

"1. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.

2. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator."

(Exhibit B, p. 2.) Although the Variance required Mr. and Mrs. Juranty to record the conditions of approval as a NSR in a form approved by the Zoning Administrator, it does not appear as though they ever did so. As a result, Ms. Rassai and Dr. Rassai learned of the conditions only after they purchased 122 Rivoli and only after we recently examined the Department's file for 122 Rivoli.

The Department's file is somewhat confusing. For example, it does not conclusively establish whether the Zoning Administrator ever approved a final NSR. Accordingly, which restrictions apply to 122 Rivoli remains unclear. To complicate matters, there are two NSRs in the file. One NSR, likely the official version, is physically attached to the Variance. A second NSR, likely a draft, is attached to a letter from the lawyer for Mr. and Mrs. Juranty. A copy of that letter and draft NSR is attached hereto as Exhibit C. The NSR prepared by the lawyer includes an extra restriction – a prohibition against the installation of a boundary line fence – despite the fact that such a prohibition is not listed in the Variance's conditions of approval or the NSR attached to the Variance.

Further, the Variance contains language suggesting that it is no longer valid:

"The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if a Building Permit has not been issued within three years from the effective date of this decision; however, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit is delayed by a City agency or by appeal of the issuance of such a permit." (Emphasis added.)

(Exhibit B, p. 6.) Although the lot split was completed, no building permit was ever issued for 100 Rivoli or 122 Rivoli within three years of the effective date of the City's variance decision. This fact would seem to suggest that the Variance is now void. However, given that 122 Rivoli is now owned by Ms. Rassai and Dr. Rassai, "innocent" buyers in all of this, it would seem inequitable to deny them the benefit of their bargain and to void a lot split that occurred a full 25 years ago.

We brought these issues to Ms. Woods' attention during our February 28, 2017 project review meeting. She told us that, following her consultation with you, it was the Department's informal position that:

1. The final and operative NSR is the version that is physically attached to the Variance in the Department's files (Exhibit A), and that the second NSR attached to the lawyer's letter was merely an unapproved draft and is not operative.
2. Although a building permit was never issued for 100 Rivoli or 122 Rivoli within three years of the effective date of the City's variance decision, the Variance continues in full force and effect.

REQUESTS FOR DETERMINATION

A. Issue 1: Boundary Line Fence.

Ms. Rassai wishes to construct a fence along the common boundary line between 122 Rivoli and 100 Rivoli in the location shown on the survey plan attached as Exhibit A and as depicted in the schematic attached hereto as Exhibit D. A fence is essential to the safety and security of Ms. Rassai and her daughter with special needs. A physical demarcation of the separate lots will allow Ms. Rassai's

daughter, helpers and assistants to freely access her yard without any confusion regarding its boundaries and will also ensure that Ms. Rassai's daughter will not mistakenly intrude onto 100 Rivoli or otherwise be disturbed or pose a health or safety threat to herself. (Letters of support for the fence from the social worker currently assigned to Ms. Rassai's daughter's care and one of Ms. Rassai's daughter's treating physicians are attached hereto as Exhibit E.) Under the City's Planning Code, a fence is a permitted obstruction within required setbacks, yards and usable open space.

Ms. Rassai requests a determination that she may construct a fence on the boundary line between 122 Rivoli and 100 Rivoli under the Variance and Planning Code.

B. Issue No. 2: Future Expansion of the Roof Line.

The Variance contains a standard condition of approval allowing the Zoning Administrator to authorize a vertical or horizontal expansion without requiring a new variance as long as such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings.

Ms. Rassai would like to replace the existing A-frame sloped roof of her home with an elevated flat roof that is no taller than the current, permitted height of the existing structure. The building height established by the new flat roof would still conform with applicable 40-X district regulations and the extension would be consistent with the neighborhood character and scale, as 122 Rivoli is surrounded by much larger, three to four story structures. Plans showing this proposed extension are attached hereto as Exhibit F and photographs illustrating the neighborhood context are attached hereto as Exhibit G.

Ms. Rassai requests a determination that she may replace the existing A-frame sloped roof of her home with the proposed elevated flat roof, subject to your administrative approval and without the issuance of a new variance.

Enclosed with this letter is a check in the amount of \$664.00 for the applicable fee. Should you require any additional information in order to respond to this Request, please feel free to contact my colleague, Michael Donner, or me.

Very truly yours,



Robia S. Crisp

Attachments

cc: Mary Woods (Via E-Mail)
Roya Rassai and Hamid "Ray" Rassai, M.D. (Via E-Mail)
Michael Donner (Via E-Mail)
Shannon Nessier (Via E-Mail)

EXHIBIT A

EXHIBIT B



City and County of San Francisco
Department of City Planning

450 McAllister Street
San Francisco, CA 94102

September 28, 1992

VARIANCE DECISION

UNDER THE CITY PLANNING CODE
CASE NO. 92.307V

APPLICANT: Thomas and Arceil Juranty
100 Rivoli Street
San Francisco, CA 94117

PROPERTY IDENTIFICATION: 100 & 122 RIVOLI STREET, northwest corner of the intersection with Cole Street; Lot 8 in Assessor's Block 1284 in an RH-2 (House, Two-Family) District.

DESCRIPTION OF VARIANCE SOUGHT: MINIMUM LOT AREA, REAR YARD, USABLE OPEN SPACE AND OFF-STREET PARKING VARIANCES SOUGHT: The proposal is to subdivide the subject property into two separate parcels. The proposed easterly lot contains an existing two-story-over-garage, single-family dwelling and the proposed westerly lot contains an existing one-story-over-basement, single family dwelling.

Section 121(e) of the Planning Code requires a minimum lot area of 1,750 square feet of all lots within 125 square feet of an intersection. The westerly lot would have an area of 1,133.75 square feet while the easterly lot would have an area of 1,366.25 square feet. Both lots would be deficient in lot area.

Section 134 of the Planning Code requires a minimum rear yard depth of approximately 15 feet for each of the proposed lots, measured from the rear property line. The existing building on proposed easterly lot would extend to within 5 feet of the proposed rear property line and the existing building on the proposed westerly lot would extend to the proposed rear property line. Both lots will have insufficient rear yards.

Section 135 of the Planning Code requires 125 square feet of private usable open space for each building; and the usable open space must have certain minimum dimensions. Both proposed lots will not have the required usable open space as a result of the proposed lot subdivision.

Section 151 of the Planning Code requires one independently accessible, off-street parking space for each dwelling unit on each lot. With the proposed lot subdivision, the proposed westerly lot will have no off-street parking, contrary to Section 151.

PROCEDURAL BACKGROUND:

1. This proposal was determined to be categorically exempt from Environmental Review.
2. The Zoning Administrator held a public hearing on Variance Application No. 92.307V on August 26, 1992.

DECISION:

GRANTED, to subdivide the subject property into two separate parcels in general conformity with plans on file with this application, shown as Exhibit A and dated March 31, 1992, subject to the following conditions:

1. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.
2. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

CASE NO. 92.307V
100 & 122 Rivoli Street
September 28, 1992
Page Three

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

FINDINGS:

FINDING 1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.

REQUIREMENT MET.

- o The subject property is already improved with two functionally independent properties, both of which predate the Code provisions that would allow the current building configuration.
- o Had the owners applied for a lot split with the proposed configuration at the time of construction of the second house, the lot split would have been approved and the houses would not be legal, non-complying structures. The present proposal does not alter the old pattern of use for the property.
- o As a condition of approval for this variance no fence or barrier shall be built on the newly created property line between the houses, in order to preserve the existing usable open space.
- o Although the granting of the subject variance will create lot that are smaller than required by the Planning Code, this is necessary to allow use of the separated lots and maintain the current site conditions.

FINDING 2. That owing to such exception and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

REQUIREMENT MET.

- o Literal enforcement of the minimum lot size requirements of the Planning Code would prevent the separate ownership of the two functionally independent properties known as 100 & 122 Rivoli Street that have existed for decades if there were two separate lots.
- o Literal enforcement of the lot area requirements in this case would require that a small functionally separate unit of the subject property remain a part of a larger lot in a situation where there is no public benefit to be gained by such a requirement.
- o Literal enforcement of the lot with requirements in this case would prohibit the reasonable sale and home ownership of dwelling units developed long before minimum lot size requirements were adopted. The siting and independent character of the dwellings on the subject property imposes an unnecessary hardship on this applicant if he/she is not allowed to divide the property as proposed.

FINDING 3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

REQUIREMENT MET.

- o Without this variance, the owner of this property is kept from disposing of a residential building which is functionally and physically separate from his own dwelling. In order to keep his present dwelling, owner is forced to be a landlord, accepting all of the responsibilities and constraints that go with it.
- o The existing development and ownership pattern is 25 feet wide lots and dwellings under separate ownership. Applicant is seeking parity with other properties in the same class of district.

FINDING 4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

REQUIREMENT MET.

- o This proposal would produce no physical change in the appearance or development pattern of this area. All that would change is the ownership of this parcel. The above conditions to this variance decision, combined with the current provisions of the City Planning Code, would not allow an increase in the intensity of development of this lot from its present condition without further advertised public review.

FINDING 5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

REQUIREMENT MET.

- o The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the Master Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- o City Planning Code Section 101.1 establishes eight priority planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:
 - A. That the project will enhance the City's supply of affordable housing.
 - B. That the approved structure must meet the requirements of the Building Code and therefore will provide the greatest possible preparedness to protect against injury and loss of life in an earthquake.
 - C. That the proposed project will be in keeping with the existing housing and neighborhood character.

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

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

CASE NO. 92.307V
100 & 122 Rivoli Street
September 28, 1992
Page Six

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if a Building Permit has not been issued within three years from the effective date of this decision; however, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit is delayed by a City agency or by appeal of the issuance of such a permit.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Permit Appeals in person at City Hall (Room 154-A) or call 554-6720.

Very truly yours,



Robert W. Passmore
Assistant Director of
Planning-Implementation
(Zoning Administrator)

=====

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

RWP/AMF:pg/VARI/1197

RECORDING REQUESTED BY)
)
 And When Recorded Mail To:)
)
 Name:)
)
 Address:)
)
 City:)
)
 State: California) Space Above This Line For Recorder's Use

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

I (We) _____, the owner(s) of that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

(PLEASE ATTACHED THE LEGAL DESCRIPTION AS ON DEED)

BEING Assessor's Block: 1284; Lot: 8,
 commonly known as 100 & 122 Rivoli Street,

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (City Planning Code).

Said restrictions consist of conditions attached to a variance granted by the Zoning Administrator of the City and County of San Francisco on September 24, 1992 (Case No. 92.307V) permitting the subdivision of the subject property into two separate parcels.

The restrictions and conditions of which notice is hereby given are:

1. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.

EXHIBIT C

DOOLEY, JOHNSON, KENT & PARDINI

MATTHEW J. DOOLEY
(1999-1976)
J. A. PARDINI
(1998-1988)
DAVID M. DOOLEY
JULIAN PARDINI
JAMES T. JOHNSON
ALLEN J. KENT
MICHAEL M. LIPSKIN
PROFESSIONAL CORPORATION

ATTORNEYS AT LAW
TRANSAMERICA PYRAMID, THIRTY-SECOND FLOOR
600 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94111

OF COUNSEL
WILLIAM W. WASHAUER

TELEPHONE
(415) 988-8000

TELECOPIER
(415) 788-0136

OCT 05 1992

October 1, 1992

CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
ADMINISTRATION

Augustine Fallay
Variance Division
Dept. of City Planning
450 McAllister Street
San Francisco, CA 94102

RE: EE File 92 - 307EV
100 & 122 Rivoli Street

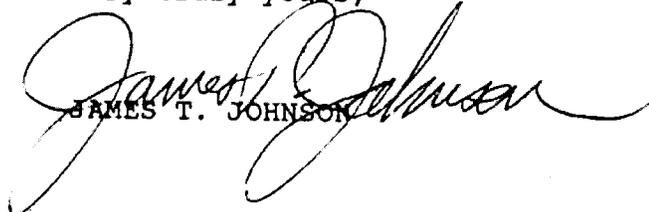
Dear Mr. Fallay:

Reference is made to the Variance Decision granting the above-referenced Variance Application on behalf of my clients, Thomas and Arceil Juranty. The decision was dated September 28, 1992. Pursuant to the Decision, I have prepared a form of Notice of Special Restrictions to be recorded against the property.

The Decision noted that the form of the Special Restrictions were to be approved by the Department of City Planning. Therefore, I have enclosed a draft of the Notice of Special Restrictions and would ask that you review it and let me know as soon as possible if it is acceptable to the City. If so, I will have the document signed and notarized to be ready for recording together with the Subdivision Map.

Thank you very much for your assistance in this matter and should you have any questions, please let me know.

Very truly yours,


JAMES T. JOHNSON

JTJ:js

Enclosure

Recording Requested by:)
)
JAMES T. JOHNSON)
)
And When Recorded Mail To:)
)
James T. Johnson, Esq.)
Dooley, Johnson, Kent & Pardini)
600 Montgomery, Ste 3200)
San Francisco, CA 94111)

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

We, Arceil G. Juranty and Thomas J. Juranty, the owners of that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

BEGINNING at the point of intersection of the northerly line of Rivoli Street and the westerly line of Cole Street; running thence northerly and along said line of Cole Street 25 feet; thence at a right angle westerly 100 feet; thence at a right angle southerly 25 feet to the northerly line of Rivoli Street; thence at a right angle easterly along said line of Rivoli Street 100 feet to the point of Beginning.

BEING part of Western Addition Block NO. 879

BEING Assessor's Block: 1284; Lot 8

Commonly known as 100 & 122 Rivoli Street

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (City Planning Code).

Said restrictions consist of conditions attached to a variance granted by the Zoning Administrator of the city and County of San Francisco on September 24, 1992 (Case NO. 92.307V) permitting the subdivision of the subject property into two separate parcels.

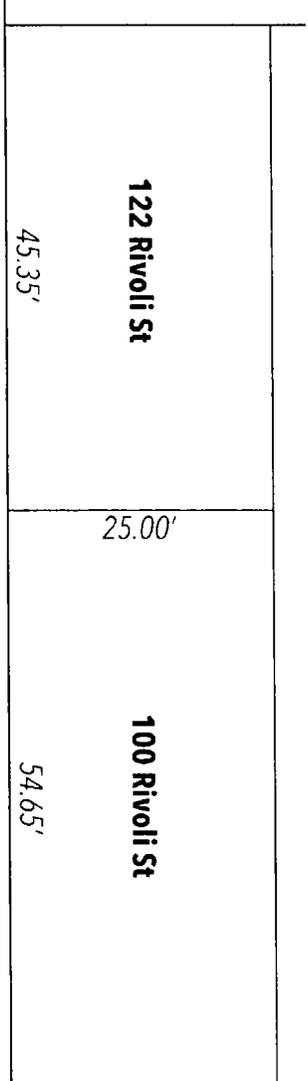
The restrictions and conditions of which notice is hereby given are:

1. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and

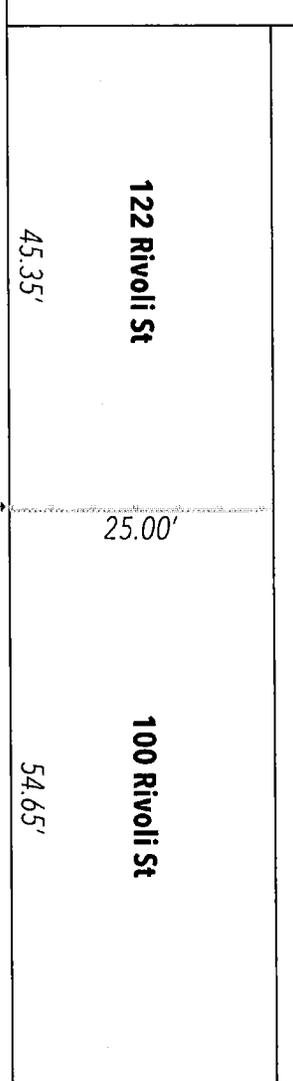
j/d/juranty/sp.rest
Revised 10/1/92

Page 1 of 2

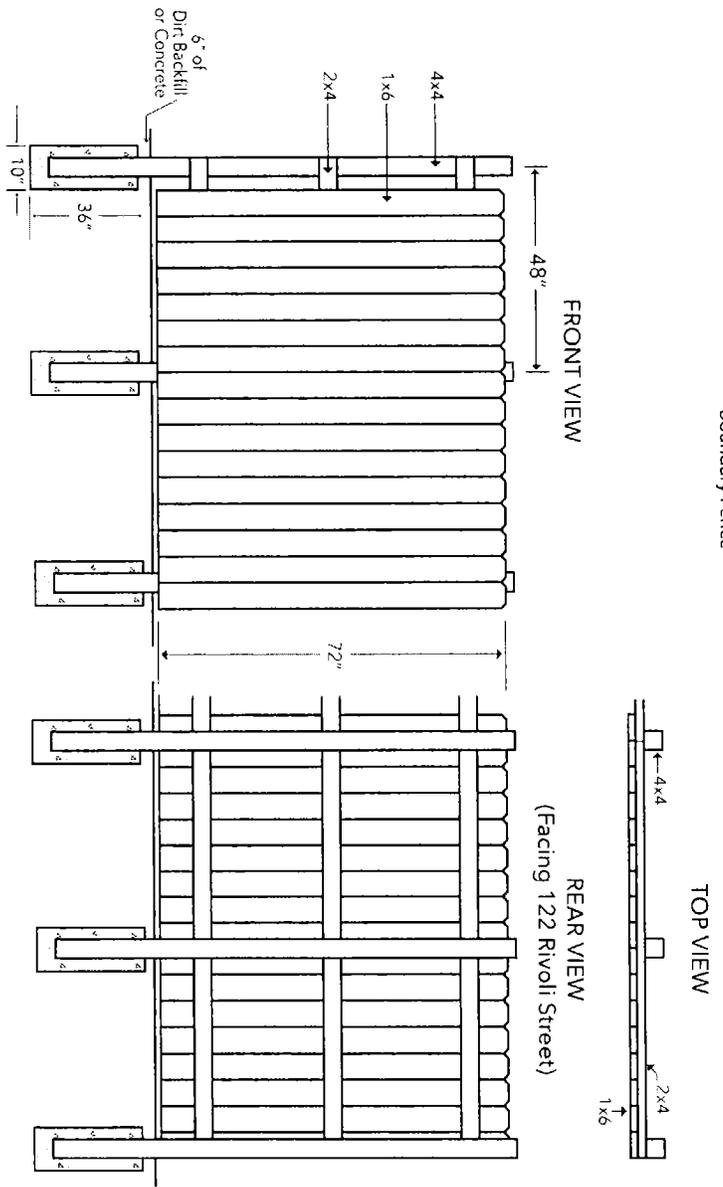
EXHIBIT D



Existing
Boundary



Proposed
Boundary
Fence



Boundary Fence
122 Rivoli Street
San Francisco, CA

EXHIBIT E



Golden Gate Regional Center

Supporting people with developmental disabilities since 1966

May 8, 2017

Re: [REDACTED] (UCI # 6498096)
D.O.B: Feb 24, 1994

To whom it may concern:

My name is Fernando Ocana. I am a social worker with Golden Gate Regional Center. Our agency provides services to children and adults with developmental disabilities.

I am confirming that [REDACTED] has been a regional center client since 1998 under the diagnosis of Autism and Pervasive Developmental Disorder. In addition she suffers from Severe Anxiety Disorder. [REDACTED]'s mother is very supportive of her daughter's needs and would like to continue to provide a safe and loving home for her daughter. It is important that [REDACTED] lives in a safe environment as she lacks safety awareness at times of severe anxiety. Because of this hardship in caring for [REDACTED]; her mother is asking to build a safe and secure fence before another incident can occur.

If you have any other questions, please feel free to contact me at the number below.

Sincerely,

Fernando Ocana
Social Worker
focana@ggrc.org
Direct: (415) 832-5634
Fax: (415) 832-5635

Belong, Contribute, Thrive

www.ggrc.org

1355 Market Street, Suite 220
San Francisco, CA 94103
(415) 546-9222

3130 La Selva Street, Suite 202
San Mateo, CA 94403
(650) 574-9232

4000 Civic Center Drive, Suite 310
San Rafael, CA 94903
(415) 446-3000

UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

M.I.N.D. INSTITUTE
CHILD DEVELOPMENT CLINIC
2825 50th STREET
SACRAMENTO, CALIFORNIA 95817

UC DAVIS MEDICAL CENTER
2315 STOCKTON BOULEVARD
SACRAMENTO, CALIFORNIA 95817

7-14-2017

To Whom It May Concern:

The purpose of this letter is to support the medical necessity of the property enhancement being requested by Roya Rassai.

Ms. Rassai's 23 year old daughter has been my patient since she was 3 years old, at which time I diagnosed her with Autism. I have been one of her treating physicians since that time and know both the young woman and her mother well. Ms. Rassai, a single mother, has devoted her life to providing for her daughter's well-being. And her daughter has done remarkably well, is achieving a degree of independence, and is a creative, intelligent, and verbally fluent young woman. However, her sensory issues and independent judgement continue to be areas requiring ongoing support and supervision.

Ms. Rassai purchased a small home for herself and her daughter in San Francisco based on the home's location. The location is ideally situated for her daughter's long term medical needs (access to medical care at Langely Porter), it's friendly, safe and family oriented composition, and ultimately to support her hard-earned yet fragile self-sufficiency (access to shopping for necessities, transportation) if and when her mother may no longer be living or able to provide the supervision and support her daughter needs.

In addition to Autism, her daughter suffers from phobias and intermittent severe anxiety accompanied by panic attacks. The latter result in escape behaviors (efforts to flee). This past year such a situation occurred during which her daughter bolted from their home without thinking, requiring 911 rescue and emergency medical care. The event has traumatized both her daughter and her mother.

As a result, Ms. Rassai has determined their home requires a secure perimeter with a digital locking mechanism which will allow her to know when it is opened if she herself is not home with her daughter. Additionally, because their yard is not physically separated from their neighbor's, they have been unable to have their therapy dog at home. The dog is medically necessary for her daughter. The fencing would allow this needed intervention. The fenced yard will provide privacy which will allow another needed intervention to be provided (a soaking tub for water therapy).

Ms. Rassai is also wisely thinking ahead to a time when accommodations for a caregiver may be necessary. In anticipation of such a time, she is interested in developing some additional open space in their small home for current and future needs. This too will be medically necessary at some point in order to accommodate my patient's need for supervision and still allow her the autonomy and independence she has worked so hard to achieve with her disability.

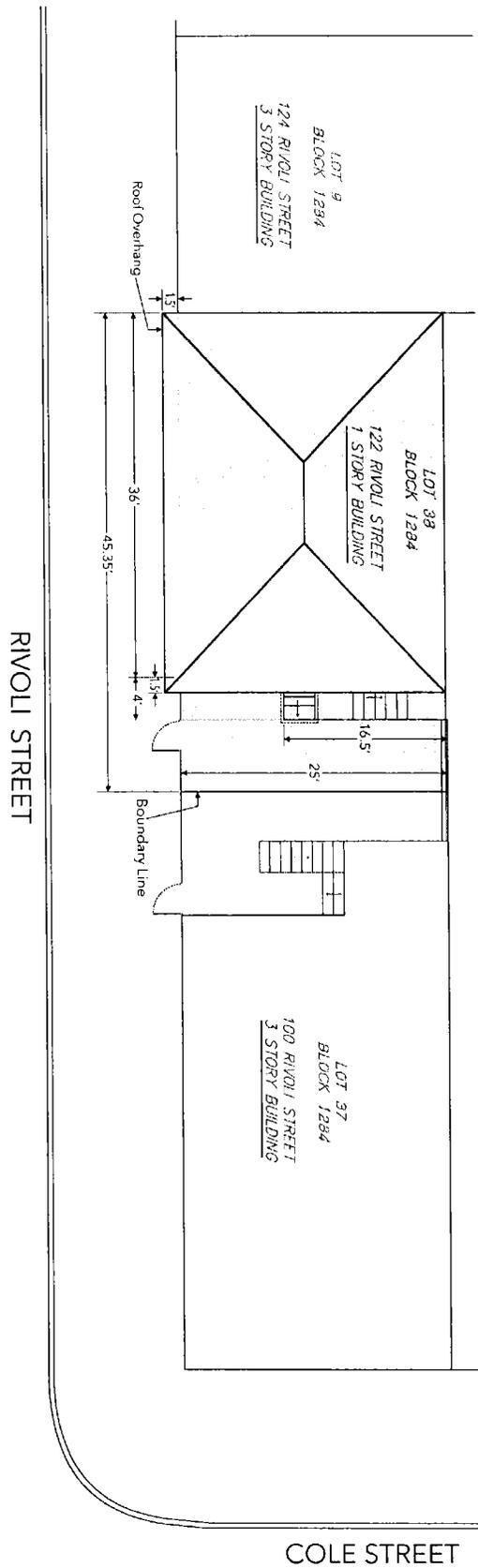
Thank you for your consideration. Please feel free to contact me if you have questions about this statement of medical necessity.

A handwritten signature in cursive script that reads "Mary Beth Steinfeld".

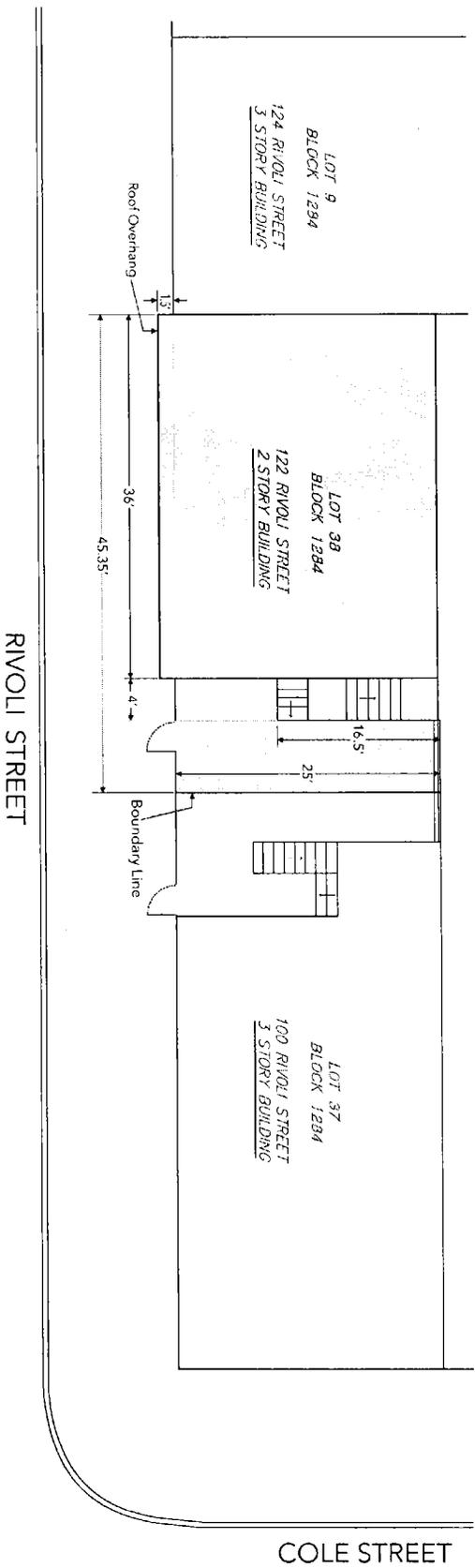
Mary Beth Steinfeld, M.D.
Clinical Professor of Pediatrics
Developmental-Behavioral Pediatrician
UC Davis Department of Pediatrics & MIND Institute
mbsteinfeld@ucdavis.edu

EXHIBIT F

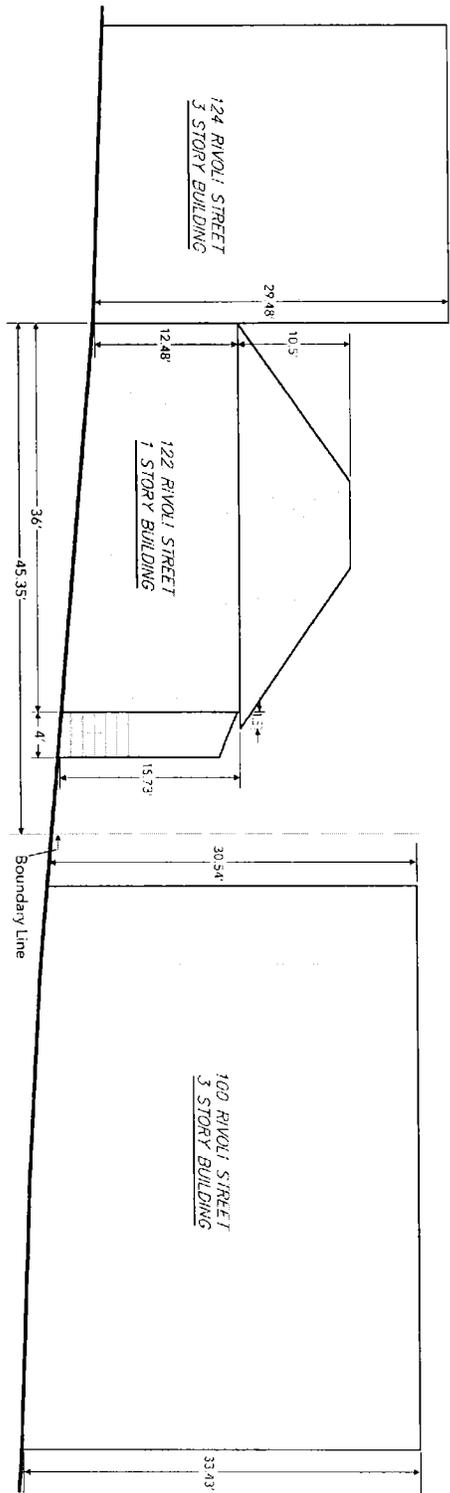
Existing Building Envelope Top View



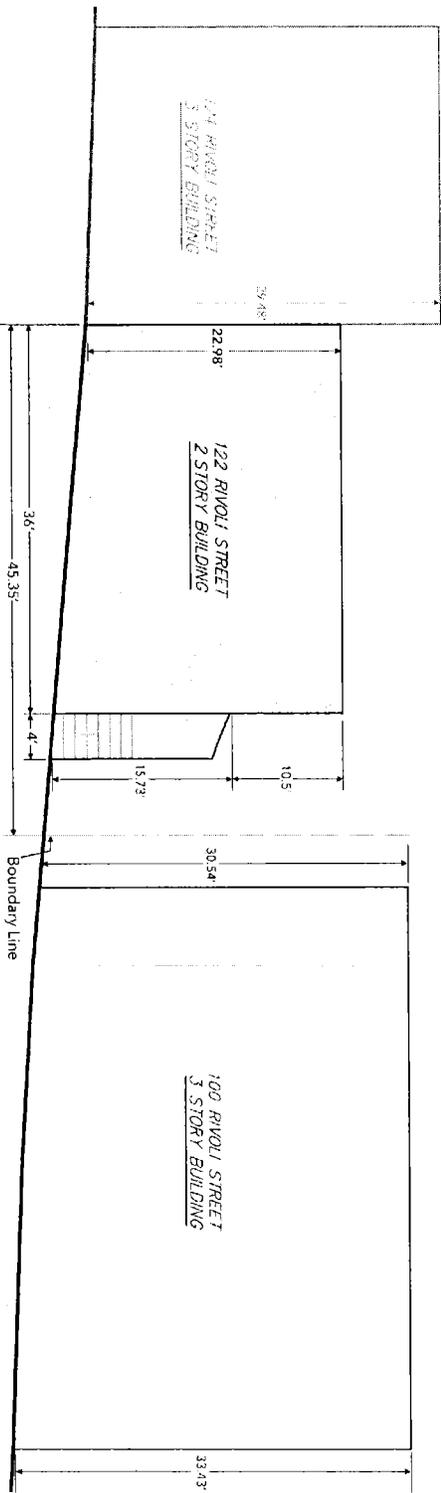
Proposed Building Envelope Top View



Existing Building Envelope Elevations

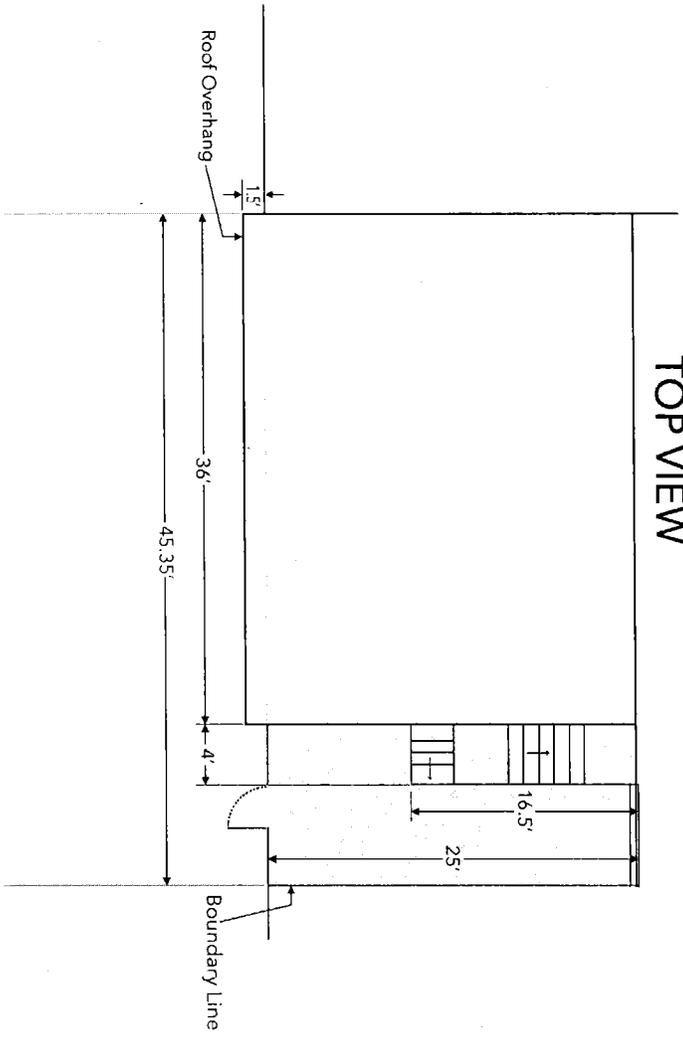


Proposed Building Envelope Elevations

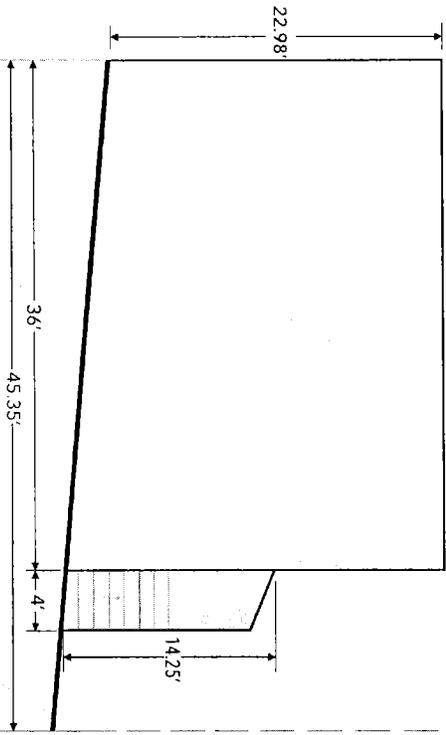


Proposed Envelope - Top View & Elevations

TOP VIEW



FRONT ELEVATIONS



SIDE ELEVATIONS

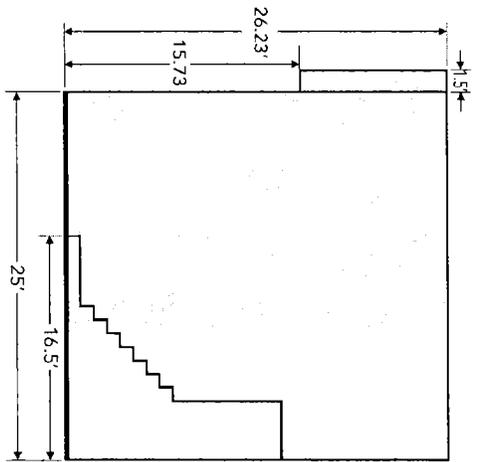
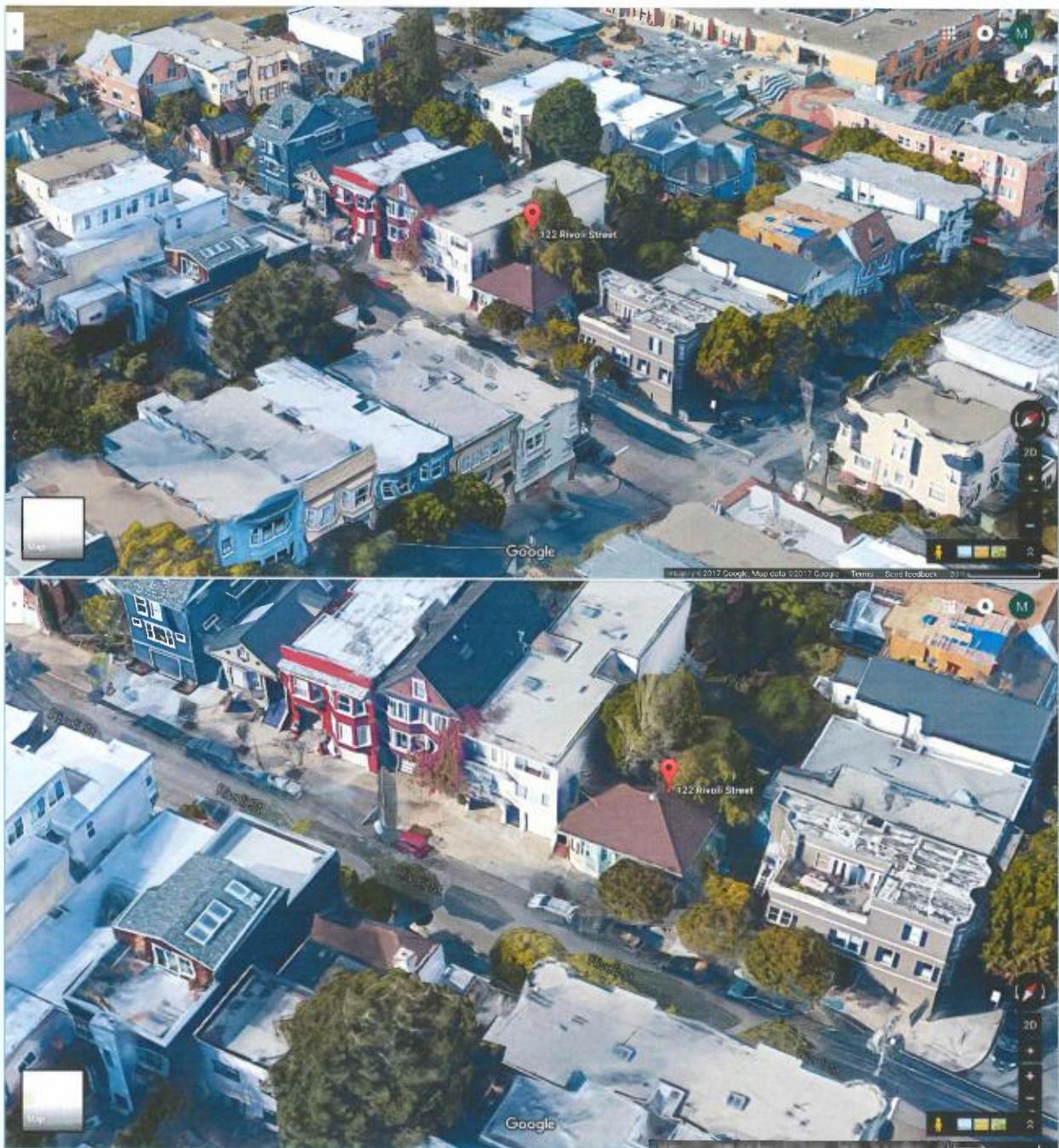


EXHIBIT G

Photo Attachment to 122 Rivoli Request for Letter of Determination



Neighborhood Context – small one story above grade home surrounded by 3-4 story buildings

Photo Attachment to 122 Rivoli Request for Letter of Determination



Front of home and view of side yard where boundary fence is proposed.

Photo Attachment to 122 Rivoli Request for Letter of Determination



View of 100 Rivoli (on right) from Cole Street



View of 122 Rivoli looking towards Cole Street