



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Letter of Determination

May 4, 2016

Mary G. Murphy  
Gibson, Dunn & Crutcher LLP  
555 Mission Street  
San Francisco, CA 94105

**Site Address:** 2590 Pacific Avenue  
**Assessor's Block/Lot:** 0583/013  
**Zoning District:** RH-1 (Residential, House, One-Family)  
40-X Height and Bulk District  
**Staff Contact:** Brittany Bendix, (415) 575-9114 or [brittany.bendix@sfgov.org](mailto:brittany.bendix@sfgov.org)  
**Record No.:** 2015-018009ZAD

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Ms. Murphy,

This letter is in response to your request for a Letter of Determination regarding the property at 2590 Pacific Avenue. The property is located in the RH-1 (Residential, House, One-Family) Zoning District and 40-X Height and Bulk District. The request is for a determination as to the appropriate point of measurement to establish the average elevation at the rear of the subject property for the purposes of measuring height under Planning Code Section 261(b)(1)(B) or more specifically, whether the property's existing rear retaining wall may be used to measure the average elevation at the rear.

The subject property is a rectangular corner lot, fronting on Pacific Avenue with a width of 37.50 feet and a depth of 127.69 feet along Pierce Street. The lot slopes downward from the front of the property to the rear. Planning Code Section 261(b)(1) states that no portion of a dwelling shall exceed a height of 35 feet; however, Section 261(b)(1)(B) further reduces the maximum height to 30 feet where the average ground elevation at the rear line of the lot is lower by 20 or more feet than at the front line thereof.

The request for determination includes a site survey dated December 11, 2014, by Martin M. Ron Associates that includes several spot elevations indicating the ground elevations of the site and identifies the location a concrete retaining wall at the rear of the lot, 11.25 inches from the rear property line. The request also includes plans (undated) from Walker Warner Architects which calculate the average elevations at the front property line (225.7 feet) and rear retaining wall (211.08 feet) above SF Datum. The spot elevations at the rear property line are called out as 199.60 feet, 199.80 feet and 207.5 feet; suggesting the average elevation at the rear property line is approximately 203.55 feet. The site plan indicates that the differential between the elevations at the front property line and top of the rear retaining wall is 14.62 feet, while the differential between the elevations at the front and rear property lines is approximately 22.15 feet. Further, photographs submitted with the request for determination demonstrate that the 11.25 inch wide area between the rear retaining wall and the rear property line is incorporated into the

Mary G. Murphy  
555 Mission Street  
San Francisco, CA 94105

May 4, 2016  
Letter of Determination  
2590 Pacific Avenue

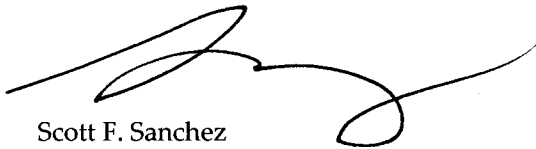
activities of the subject property's rear neighbors, Lots 014 and 015 of Assessor's Block 0583; although there is no recorded easement acknowledging the transfer of the properties.

In light of the foregoing, I have determined that the rear retaining wall may be used for the purpose of measuring the permitted height of the property pursuant to Planning Code Section 261(b)(1)(B) given that it effectively serves as the rear lot line of the subject property. As such, the subject property is subject to a height limit of 35 feet as provided under Section 261(b)(1).

**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: Brittany Bendix, Planner  
Neighborhood Groups

December 10, 2015

R # 2015 - 018009 ZAD  
CK # 1006 \$ 645 -  
D LINDSAY (NW)

Scott F. Sanchez  
Zoning Administrator  
City & County of San Francisco  
1650 Mission Street, #400  
San Francisco, CA 94103

Re: Request for Letter of Determination for 2590 Pacific Avenue (Block 0583 / Lot 013)

Dear Mr. Sanchez:

This firm represents the Owners of 2590 Pacific Avenue ("2590 Pacific" or the "Property"). This letter seeks on behalf of the Owners a determination as to the appropriate measurement to establish the average elevation at the rear of the Property for purposes of Section 261(b)(1)(B) of the Planning Code. Specifically, the Owners seek a Letter of Determination (LOD) as to whether it is appropriate under the circumstances to use their property's existing retaining wall to measure the average elevation at the rear for purposes of Section 261(b)(1)(B). The LOD will provide resolution with respect to the height measurements that apply to the Owners' home. I will send a proposed LOD under separate cover for your consideration. This letter summarizes why we believe that an appropriate measurement of the rear of the property in this case would be from the top of the existing retaining wall.

The primary issue presented is how Section 261(b)(1)(B) applies to the Property. That Section states in pertinent part:

***"The permitted height shall be reduced to 30 feet where the average ground elevation at the rear line of the lot is lower by 20 or more feet than at the front line thereof ..."***

Attached to this letter are materials and photographs showing the existing conditions and ground elevations at the Property. As you can see from the attached materials, the determination of the ground elevation from the survey is somewhat challenging because of the site conditions. As you can see in the attached photos, the retaining wall at the rear of 2590 Pacific happens to be set in approximately 11 inches from the actual rear property line of the Property. On the other side of the wall, the neighboring downslope property has two brick walls that run on either side of the neighbor's garden to the Property's retaining wall

# GIBSON DUNN

December 10, 2015

Page 2

and the rear 11 inches of the Owners' property give the appearance of being part of the garden of the down-sloping neighbor.

As you know, there are two prior LODs issued by the Zoning Administrator addressing a very similar circumstance that may be of assistance in resolving this issue. Both LODs pertain to 109 Alpine Terrace Block 2610; Lot 041 in San Francisco. 109 Alpine Terrace is zoned RH-2, so the operative section of the Planning Code is Section 261(b)(2), whereas the operative section applying to 2590 Pacific (which is zoned RH-1) is Section 261(b)(1)(B). However, the two Code sections are very similar and as such, it seems that the analysis in the 109 Alpine Terrace LODs can be applied to 2590 Pacific. In those letters, the Department discussed the concept of using a retaining wall for purposes of determining the rear elevation at the rear property line. As applied in the 109 Alpine Terrace matter, the Department's second letter clarified that in that particular instance, the retaining walls were not appropriate to use for the rear elevation because the retaining walls were not "located on (or near enough) to the property line to affect the property line elevation." (LOD #2) LOD #2 also noted that the rear property elevations appeared to "conform to the natural grade of the block" in rejecting using the retaining wall as a surrogate for the rear elevation.

By contrast, as you can see from the enclosed photographs, the retaining wall at 2590 Pacific, while 11 inches from the legal property line, functionally serves as the rear property line, so much so that the down-sloping neighbor has seemingly incorporated the rear 11 inches of the Owners' yard into her garden and the space is secured on both sides by a brick wall which by appearance, may be original to the neighbor's home.

In addition, a visual inspection and photos demonstrates that the natural grade is difficult to discern at the site. This point is well-illustrated on the last page of the enclosed plans entitled "Existing Building – 3D Model Views Showing Site Grade Changes," showing the relationship of 2590 Pacific (the small house to the West) to the neighboring property on Pacific. Also shown are the grade relationships between the two properties, including the fact that the neighboring property is much larger and taller than 2590 Pacific and the grade of the rear yard of neighboring property to the east is significantly higher than that of the rear property line of 2590 Pacific. We believe that the rear line as it exists today is clearly altered from the natural grade and a more appropriate measurement would be from the top of the retaining wall. Further, this request would not result in a disparate relationship between 2590 Pacific and its neighbor. In fact, 2590 is dwarfed by the neighboring residence to the east and the modest addition sought by the Owners would not be counter to the intent of this Code section, nor would it be in any way inappropriate or out of keeping with neighborhood character.

If the Department were to conclude that it is appropriate in these circumstances to use the existing retaining wall to measure the average elevation at the rear for purposes of Section

# GIBSON DUNN

December 10, 2015

Page 3

261(b)(1)(B), the Owners could proceed to process their application for further consideration. I hope this letter and the enclosed materials helps to clarify the issue.

Please feel free to call if you have questions, or the project team would be happy to meet to discuss this with you. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary G. Murphy'. The signature is fluid and cursive, with a large loop at the end.

Mary G. Murphy

MGM/cja  
Attachments

102031872.3



Walker Warner  
Architects

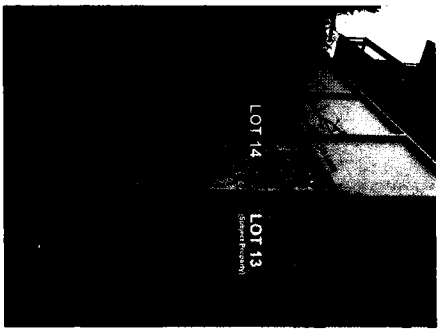
**2590 Pacific Avenue**  
San Francisco, CA 94115

Block 0583 / Lot 013

Rear Property Line  
Documentation Package  
2015.10.23



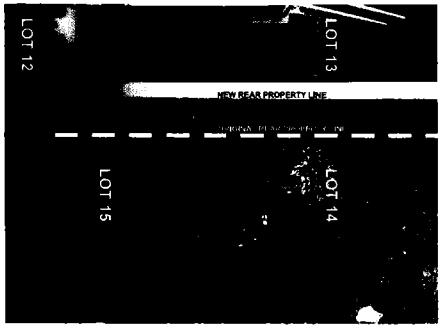
From Pierca, looking toward North-West corner of property



North-West property line



North-West property line



North-East property line (lean)



From diagonal vantage, looking toward South-West corner of property



From Pacific, South facade of property

2590 Pacific Avenue  
San Francisco, CA

Site Photos



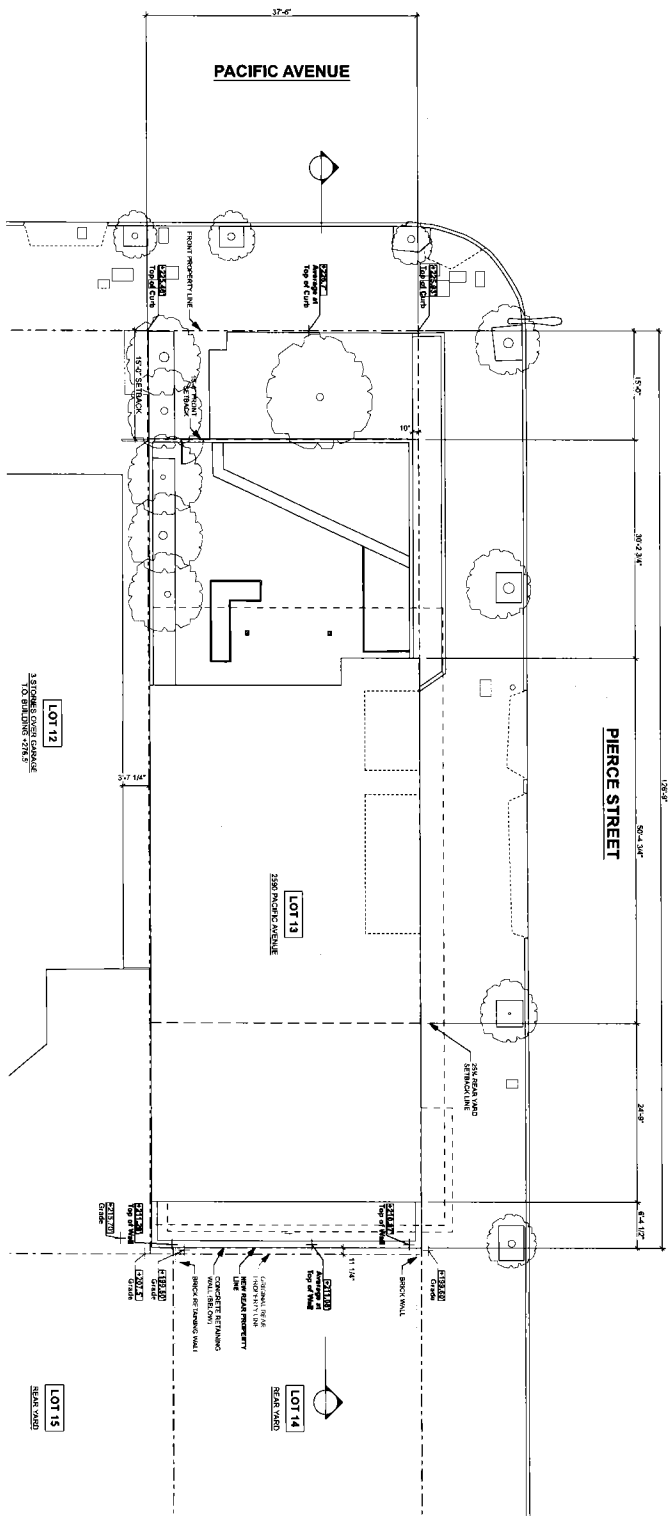
Walker/Worner



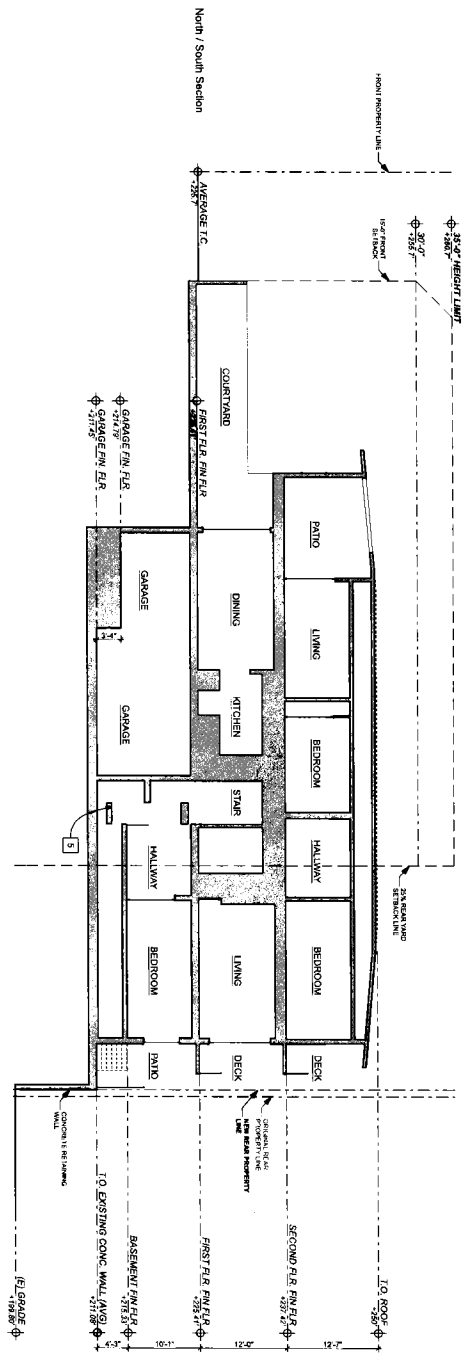
2590 Pacific Avenue  
San Francisco, CA

Walter Warner

Existing Building Plot Plan & Section  
1/8" = 1'-0"



Existing Plot Plan



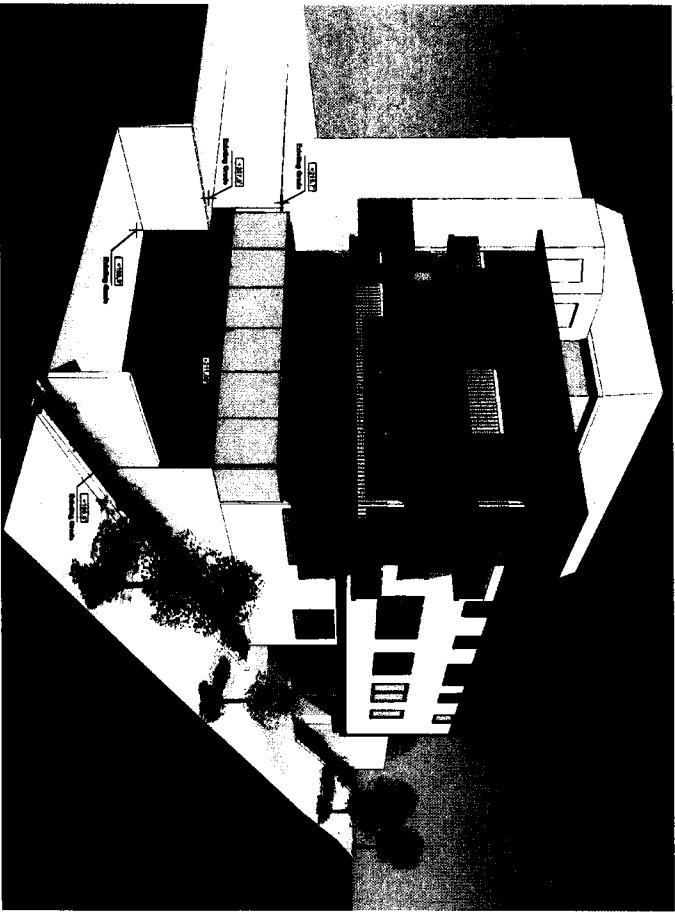
North / South Section

**Key: Elevation Calculations**

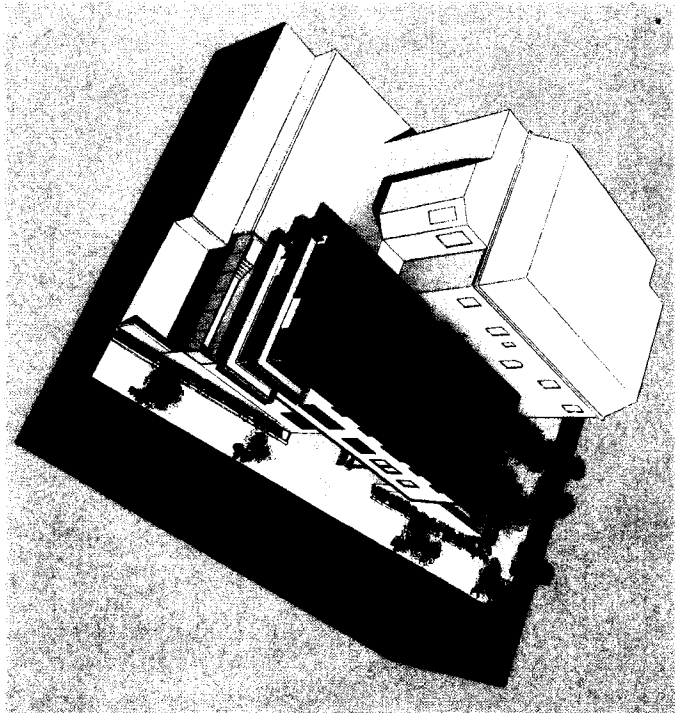
FRONT PROPERTY LINE AVERAGE ELEVATION	228.0' (Top of Curve)
REAR PROPERTY LINE AVERAGE ELEVATION	228.0' (Top of Curve)
PROPOSED FINISHED GARAGE ELEVATION	227.0' (Top of Curve)
PROPOSED FINISHED FIRST FLOOR ELEVATION	228.0' (Top of Curve)
PROPOSED FINISHED SECOND FLOOR ELEVATION	229.0' (Top of Curve)
PROPOSED FINISHED BASEMENT ELEVATION	225.0' (Top of Curve)
PROPOSED FINISHED GARAGE ELEVATION	227.0' (Top of Curve)
PROPOSED FINISHED FIRST FLOOR ELEVATION	228.0' (Top of Curve)
PROPOSED FINISHED SECOND FLOOR ELEVATION	229.0' (Top of Curve)
PROPOSED FINISHED BASEMENT ELEVATION	225.0' (Top of Curve)







Northwest Corner



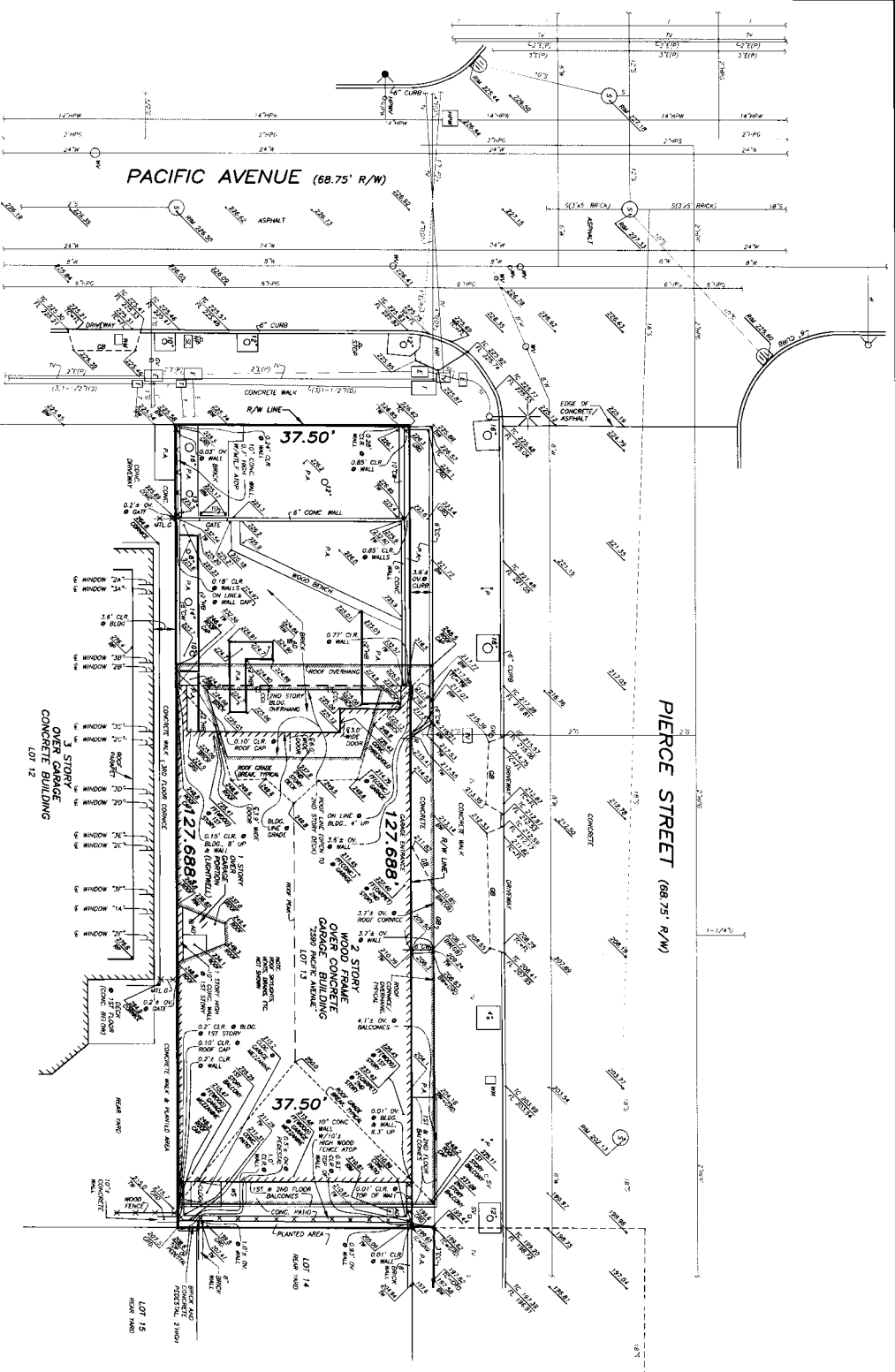
Aerial

2590 Pacific Avenue  
San Francisco, CA

Existing Building - 3D Model Views Showing Site Grade Change



WalkerWarren



**LEGEND**

- 1. 1/8" = 1'-0" AREA DIMENSION
- 2. 1/8" = 1'-0" PERIMETER DIMENSION
- 3. 1/8" = 1'-0" OVERPASS DIMENSION
- 4. 1/8" = 1'-0" DRIVE DIMENSION
- 5. 1/8" = 1'-0" DRIVE DIMENSION
- 6. 1/8" = 1'-0" DRIVE DIMENSION
- 7. 1/8" = 1'-0" DRIVE DIMENSION
- 8. 1/8" = 1'-0" DRIVE DIMENSION
- 9. 1/8" = 1'-0" DRIVE DIMENSION
- 10. 1/8" = 1'-0" DRIVE DIMENSION
- 11. 1/8" = 1'-0" DRIVE DIMENSION
- 12. 1/8" = 1'-0" DRIVE DIMENSION
- 13. 1/8" = 1'-0" DRIVE DIMENSION
- 14. 1/8" = 1'-0" DRIVE DIMENSION
- 15. 1/8" = 1'-0" DRIVE DIMENSION
- 16. 1/8" = 1'-0" DRIVE DIMENSION
- 17. 1/8" = 1'-0" DRIVE DIMENSION
- 18. 1/8" = 1'-0" DRIVE DIMENSION
- 19. 1/8" = 1'-0" DRIVE DIMENSION
- 20. 1/8" = 1'-0" DRIVE DIMENSION
- 21. 1/8" = 1'-0" DRIVE DIMENSION
- 22. 1/8" = 1'-0" DRIVE DIMENSION
- 23. 1/8" = 1'-0" DRIVE DIMENSION
- 24. 1/8" = 1'-0" DRIVE DIMENSION
- 25. 1/8" = 1'-0" DRIVE DIMENSION
- 26. 1/8" = 1'-0" DRIVE DIMENSION
- 27. 1/8" = 1'-0" DRIVE DIMENSION
- 28. 1/8" = 1'-0" DRIVE DIMENSION
- 29. 1/8" = 1'-0" DRIVE DIMENSION
- 30. 1/8" = 1'-0" DRIVE DIMENSION
- 31. 1/8" = 1'-0" DRIVE DIMENSION
- 32. 1/8" = 1'-0" DRIVE DIMENSION
- 33. 1/8" = 1'-0" DRIVE DIMENSION
- 34. 1/8" = 1'-0" DRIVE DIMENSION
- 35. 1/8" = 1'-0" DRIVE DIMENSION
- 36. 1/8" = 1'-0" DRIVE DIMENSION
- 37. 1/8" = 1'-0" DRIVE DIMENSION
- 38. 1/8" = 1'-0" DRIVE DIMENSION
- 39. 1/8" = 1'-0" DRIVE DIMENSION
- 40. 1/8" = 1'-0" DRIVE DIMENSION
- 41. 1/8" = 1'-0" DRIVE DIMENSION
- 42. 1/8" = 1'-0" DRIVE DIMENSION
- 43. 1/8" = 1'-0" DRIVE DIMENSION
- 44. 1/8" = 1'-0" DRIVE DIMENSION
- 45. 1/8" = 1'-0" DRIVE DIMENSION
- 46. 1/8" = 1'-0" DRIVE DIMENSION
- 47. 1/8" = 1'-0" DRIVE DIMENSION
- 48. 1/8" = 1'-0" DRIVE DIMENSION
- 49. 1/8" = 1'-0" DRIVE DIMENSION
- 50. 1/8" = 1'-0" DRIVE DIMENSION

**WINDOW TABLE**

WINDOW	DESCRIPTION	EST. DIMENSION	HIGH DIMENSION
1"	8' 0" WIDE WINDOW	245.5	241.2
2"	8' 0" WIDE WINDOW	245.5	241.2
3"	8' 0" WIDE WINDOW	245.5	241.2
4"	8' 0" WIDE WINDOW	245.5	241.2
5"	8' 0" WIDE WINDOW	245.5	241.2
6"	8' 0" WIDE WINDOW	245.5	241.2
7"	8' 0" WIDE WINDOW	245.5	241.2
8"	8' 0" WIDE WINDOW	245.5	241.2
9"	8' 0" WIDE WINDOW	245.5	241.2
10"	8' 0" WIDE WINDOW	245.5	241.2

**WINDOW TABLE**

WINDOW	DESCRIPTION	EST. DIMENSION	HIGH DIMENSION
1"	8' 0" WIDE WINDOW	245.5	241.2
2"	8' 0" WIDE WINDOW	245.5	241.2
3"	8' 0" WIDE WINDOW	245.5	241.2
4"	8' 0" WIDE WINDOW	245.5	241.2
5"	8' 0" WIDE WINDOW	245.5	241.2
6"	8' 0" WIDE WINDOW	245.5	241.2
7"	8' 0" WIDE WINDOW	245.5	241.2
8"	8' 0" WIDE WINDOW	245.5	241.2
9"	8' 0" WIDE WINDOW	245.5	241.2
10"	8' 0" WIDE WINDOW	245.5	241.2

△ 1/8" = 1'-0" AREA DIMENSION  
 ▽ 1/8" = 1'-0" PERIMETER DIMENSION  
 DIMENSIONS SUBJECT TO BE  
 RECORDED

**SCALE:** 1" = 8'

**DATE:** 12/17/14

**SHEET:** 1

**PROJECT:** SAN FRANCISCO, CALIFORNIA

**CLIENT:** MARTIN M. RON ASSOCIATES  
 850 HAMBURG STREET, SUITE 200  
 SAN FRANCISCO, CALIFORNIA 94107

**PREPARED BY:** TFPN LLC

**CHECKED BY:** [Signature]

**DATE:** 12/17/14

**SCALE:** 1" = 8'

**GRAPHIC SCALE**

0 4 8 16