

46

# INFORMATION CALENDAR July 23, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development

Subject: LPO NOD: 1915 Fourth Street/#LMSAP2019-0003

### INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting."

# **CURRENT SITUATION AND ITS EFFECTS**

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on July 8, 2019.

### **BACKGROUND**

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by July 23, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

### **ENVIRONMENTAL SUSTAINABILITY**

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

# POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

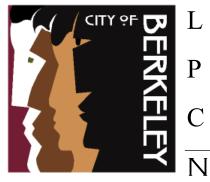
There are no known fiscal impacts associated with this action.

### **CONTACT PERSON**

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

### Attachments:

1: Notice of Decision – #LMSAP2019-0003 for 1915 Fourth Street



L A N D M A R K S

P R E S E R V A T I O N

C O M M I S S I O N

NOTICE OF DECISION

Attachment 1, pt 1 of 3

DATE OF BOARD DECISION: June 6, 2019

DATE NOTICE MAILED: July 8, 2019

APPEAL PERIOD EXPIRATION: July 23, 2019

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): July 24, 2019<sup>1</sup>

# 1915 Fourth Street – Spenger's Fish Grotto

Structural Alteration Permit #LMSAP2019-0003 to increase the size of an existing storefront, to add a new storefront designed to match the existing storefronts, and to replace a portion of the roof of the Spenger's Fish Grotto building.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the Structural Alteration Permit for this project.

APPLICANT: Jason Andre, Studio KDA, 1810 Sixth Street, Berkeley, CA 94710

**ZONING DISTRICT:** C-W, West Berkeley Commercial District

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt from environmental review pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

The Application materials for this project are available online at: http://www.cityofberkeley.info/zoningapplications

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

<sup>&</sup>lt;sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may "certify" any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

#### Page 4 of 27

LANDMARKS PRESERVATION COMMISSION NOTICE OF DECISION LMSAP2019-0003 1915 Fourth Street July 8, 2019 Page 2 of 4

**COMMISSION VOTE**: 8-0-0-0 (one vacancy)

YES: ABRACHAS DA SILVA, ALLEN, CHAGNON, CRANDALL, FINACOM, OLSON,

O'MALLEY, SCHWARTZ

NO: None

**ABSTAIN:** None

**ABSENT:** None

# TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

- 1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
- 2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
- 3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

### STRUCTURAL ALTERATION PERMIT ISSUANCE:

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link: <a href="http://www.ci.berkeley.ca.us/permitservicecenter/">http://www.ci.berkeley.ca.us/permitservicecenter/</a>.

### Page 5 of 27

LANDMARKS PRESERVATION COMMISSION NOTICE OF DECISION LMSAP2019-0003 1915 Fourth Street July 8, 2019 Page 3 of 4

### **NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

- If you challenge this decision in court, you may be limited to raising only those issues you
  or someone else raised at the public hearing described in this notice, or in written
  correspondence delivered to the Landmarks Preservation Commission at, or prior to, the
  public hearing.
- 2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
- 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
- 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
- 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION NOTICE OF DECISION LMSAP2019-0003 1915 Fourth Street July 8, 2019 Page 4 of 4

### **PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

### **FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

### ATTACHMENTS:

- 1. Approved Findings and Conditions
- 2. Project Plans, received APRIL 25, 2019

Fatema Crane, Secretary Landmarks Preservation Commission

ATTEST:

cc: City Clerk

Applicant: Jason Andre

Studio KDA

1810 Sixth Street Berkeley, CA 94710

Owner: Jamestown Premier Berkeley Grotto LLC

1700 Montgomery Street, Suite 110

San Francisco, CA 94111

# ATTACHMENT 1, part 2 of 3

# FINDINGS AND CONDITIONS

# 1915 Fourth Street

# Structural Alteration Permit #LMSAP2019-0003

To increase the size of an existing storefront, and to add a new storefront designed to match the existing storefronts, at the Spenger's Fish Grotto building.

### **CEQA FINDINGS**

The project <u>is</u> categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

# SECRETARY OF THE INTERIOR'S STANDARDS FINDINGS

Regarding the Secretary of the Interior's Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

- 1. The historic commercial retail and restaurant use of the subject property will continue and will be enhanced with this project; minimal change to its distinctive materials, features, spaces, and spatial relationships of the site are proposed.
- 2. The historic character of the property will be retained and preserved. The substantial removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided in the approved design.
- 3. This property will continue to be recognized as a physical record of its time, place, and use as a result of the approved project. No changes that will create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will be undertaken.
- 4. No changes to this property that have acquired historic significance in their own right are proposed.
- 5. This project will not affect distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize this property.

- 6. Any deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials are prohibited by the Conditions herein.
- 8. Any archeological resources at this site will be unaffected by the proposed work which includes no excavation.
- 9. Exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

# LANDMARK PRESERVATION ORDINANCE FINDINGS

- 1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
  - The proposal maintains the form and scale of the Spenger's facade as well as the retail and restaurant uses within the building.
  - This project would not affect any existing Shellmound-related resources as no excavation will be required to complete the proposed improvements.
  - The proposed work will not adversely affect the exterior architectural features of the Landmark, the special character or historical, architectural or aesthetic interest or value of the Landmark and its site because the approved storefront is sensitively designed thereby resulting in a balanced and respectfully differentiated historic building façade where the new work will not over-shadow or conflict with the integrity of the historic public façade of the Spenger's cottage.

#### STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is

not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

# 2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

# 3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

### 4. Exercise and Lapse of Permits (Section 23B.56.100)

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

### 5. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

### **ADDITIONAL CONDITIONS**

The following additional conditions are attached to this Permit:

- **6. Project plans**. The project is approved as shown on the drawings dated "received June 6, 2019."
- **7. Historic marker or plaque**. The project proponent shall install a plaque or similar marker at the site which describes the history of the site and historical significance.
- **8. Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.

- **9. Salvage and reuse existing portholes.** The applicant shall salvage the existing, non-historic portholes and, where possible, re-use the portholes on the southern end of the west elevation.
- **10. Unobscured glazing.** At all times, the storefront door and window glazing shall remain unobscured and shall not contain signage, text, photos, posters or other applications or objects. A numeric street address may be installed only as required for public safety.
- **11. Lighting.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- **12. Roof equipment.** Any above ground or roof equipment, such as transformer(s), utilities, fire apparatus, air conditioning units, compressors, etc. shall be shown to scale on the <u>architectural</u> drawings of the building permit set of drawings in both plan and elevation, in order to determine if additional screening and design review may be required.
- **13. Colors.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit color and materials information for review and approval by staff.

StudioKDA

1810 sixth

Owner:

510.841.3555

Jamestown, L.P.

san francisco, ca

415.813.2497

1700 montgomery st

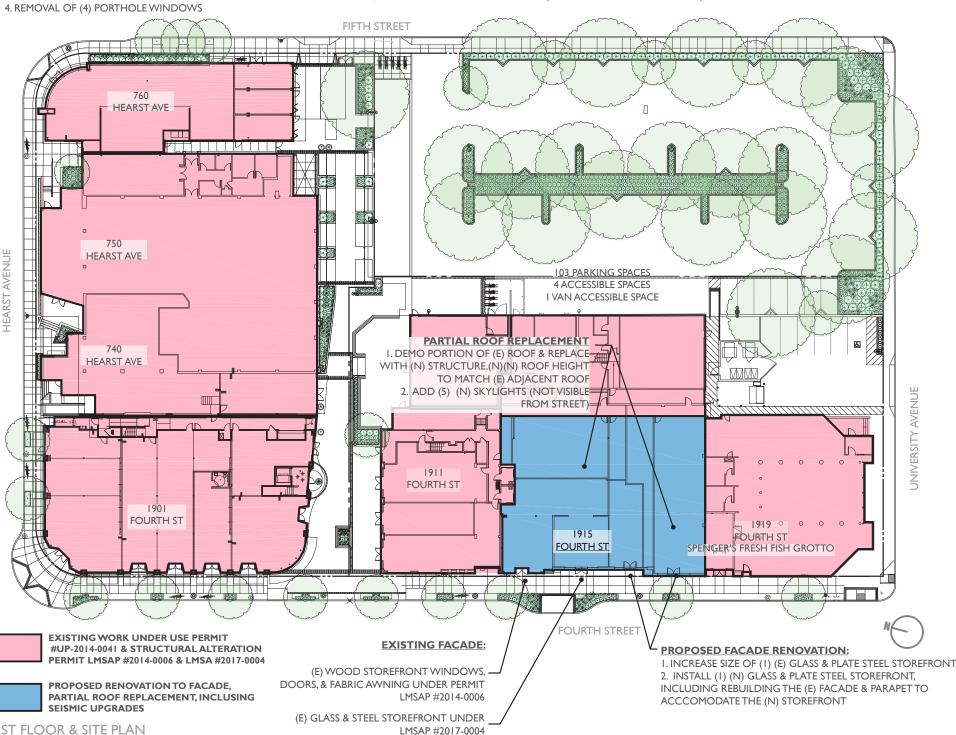
berkeley, ca 94710

#### **PROJECT SCOPE OF WORK**

THIS APPLICATION IS FOR MODIFICATIONS TO THE SPENGER'S FOURTH STREET FACADE. THESE CHANGES ARE IN ADDITION TO THOSE ALREADY APPROVED UNDER LMSA #2014-0006 &

THE PROPOSED SCOPE OF WORK FOR THIS APPLICATION INCLUDES:

- I. RENOVATING THE (E) FACADE TO INCREASE THE SIZE OF AN (E) BUTT-GLAZED & STEEL PLATE STOREFRONT
- 2. INSTALLING (I) NEW BUTT-GLAZED & PLATE STEEL STOREFRONT W/ DOUBLE DOORS, INCLUDING REBUILDING A PORTION OF FACADE & PARAPET AT THE SPENGER'S NORTH BAR LOCATION
- 3. PARTIAL ROOF REFRAMING OVER THE SPENGER'S RESTAURANT NORTH BAR, PRIVATE DINING AREA & KITCHEN. (INCLUDING SEISMIC UPGRADES).



### **SHEET INDEX**

A-00 COVER SHEET & SITE PLAN A-01 EXISTING PLAN A-02 PROPOSED PLAN A-03 EXISTING & PROPOSED BLDG. ELEVATIONS A-04 EXISTING ENLARGED ELEVATION & PARTIAL PLAN A-05 PROPOSED ENLARGED ELEVATION & PARTIAL PLAN A-06 PERSPECTIVE PHOTO - EXISTING VIEW 'A' A-07 PERSPECTIVE PHOTO - EXISTING VIEW 'B' A-08 PERSPECTIVE PHOTO - PROPOSED VIEW 'C' A-09 PERSPECTIVE PHOTO - PROPOSED VIEW 'D'

A-10 BLDG. SECTION @ RETAIL 'B'

A-11 BLDG. SECTION @ RETAIL 'C' A-12 BLDG. SECTION @ BAR

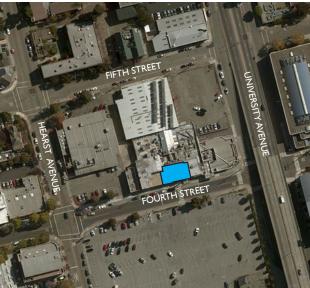
A-13 TYPICAL WALL SECTIONS @ STOREFRONTS

A-14 STOREFRONT DETAILS A-15 EXISTING ROOF PLAN

A-16 PROPOSED PARTIAL ROOF REPLACEMENT PLAN



AREA PLAN

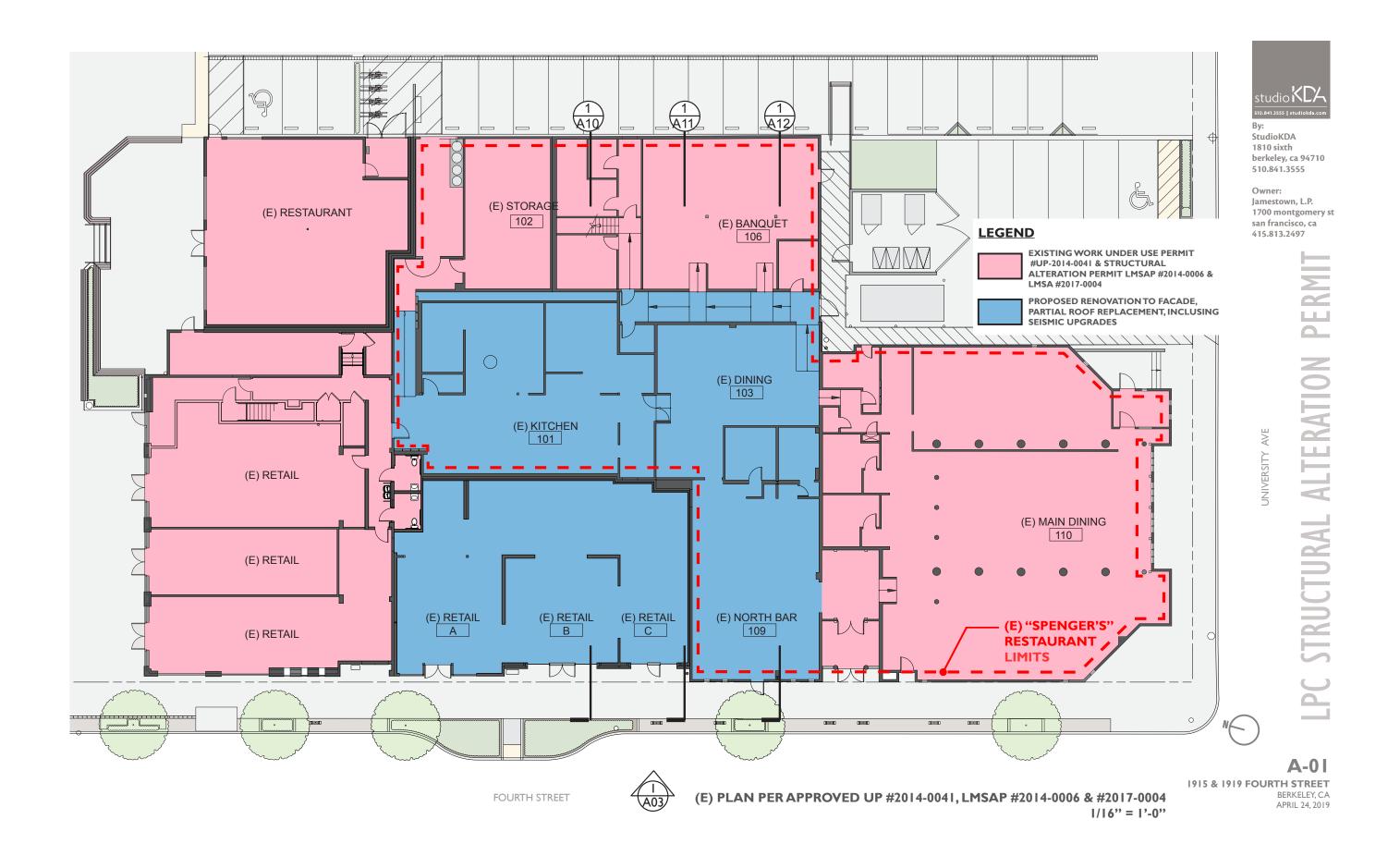


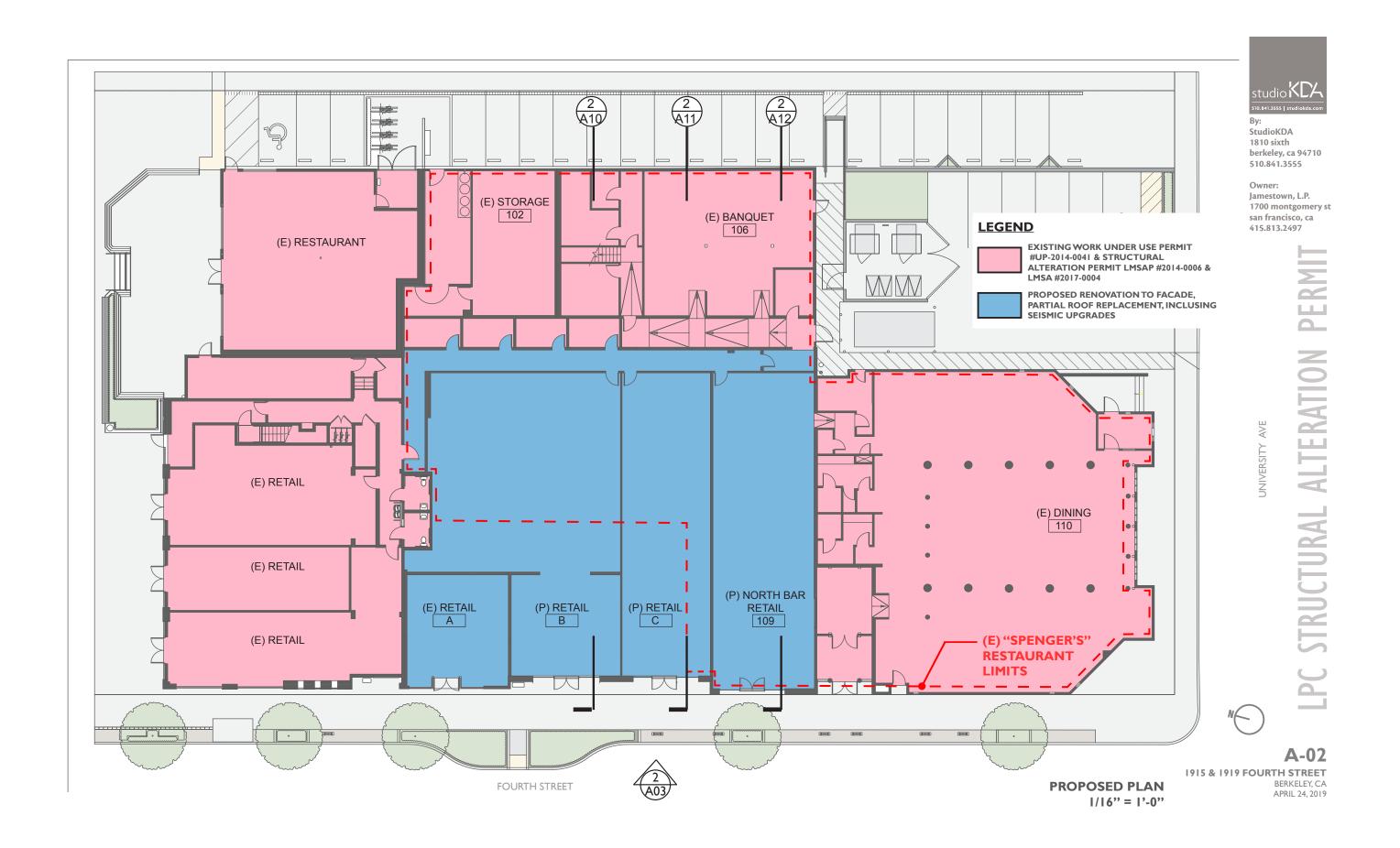
VICINITY PLAN 1" = 100

1915 & 1919 FOURTH STREET BERKELEY, CA APRIL 24, 2019

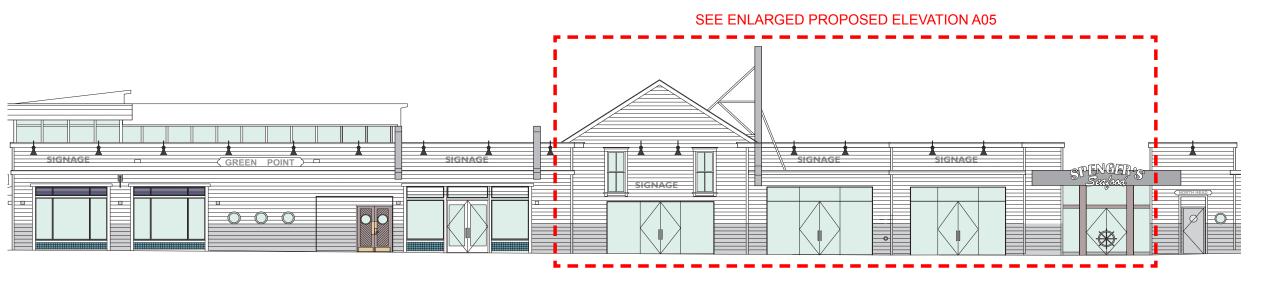
**A00** 

**IST FLOOR & SITE PLAN** NOT TO SCALE



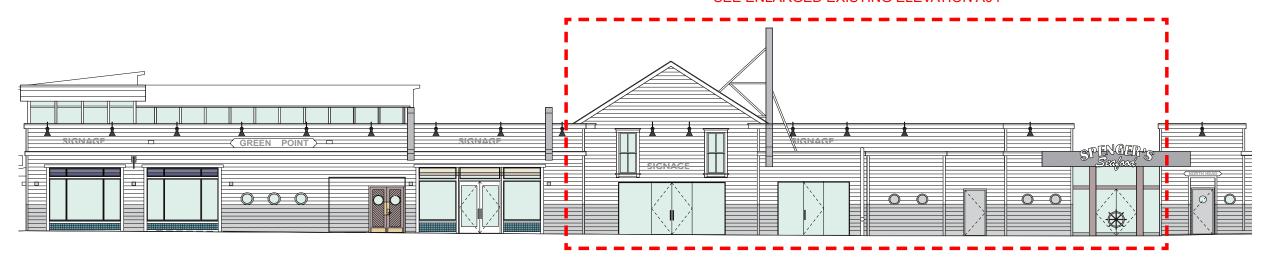


StudioKDA 1810 sixth berkeley, ca 94710 510.841.3555 Owner:



PROPOSED FOURTH STREET WEST ELEVATION
NOT TO SCALE

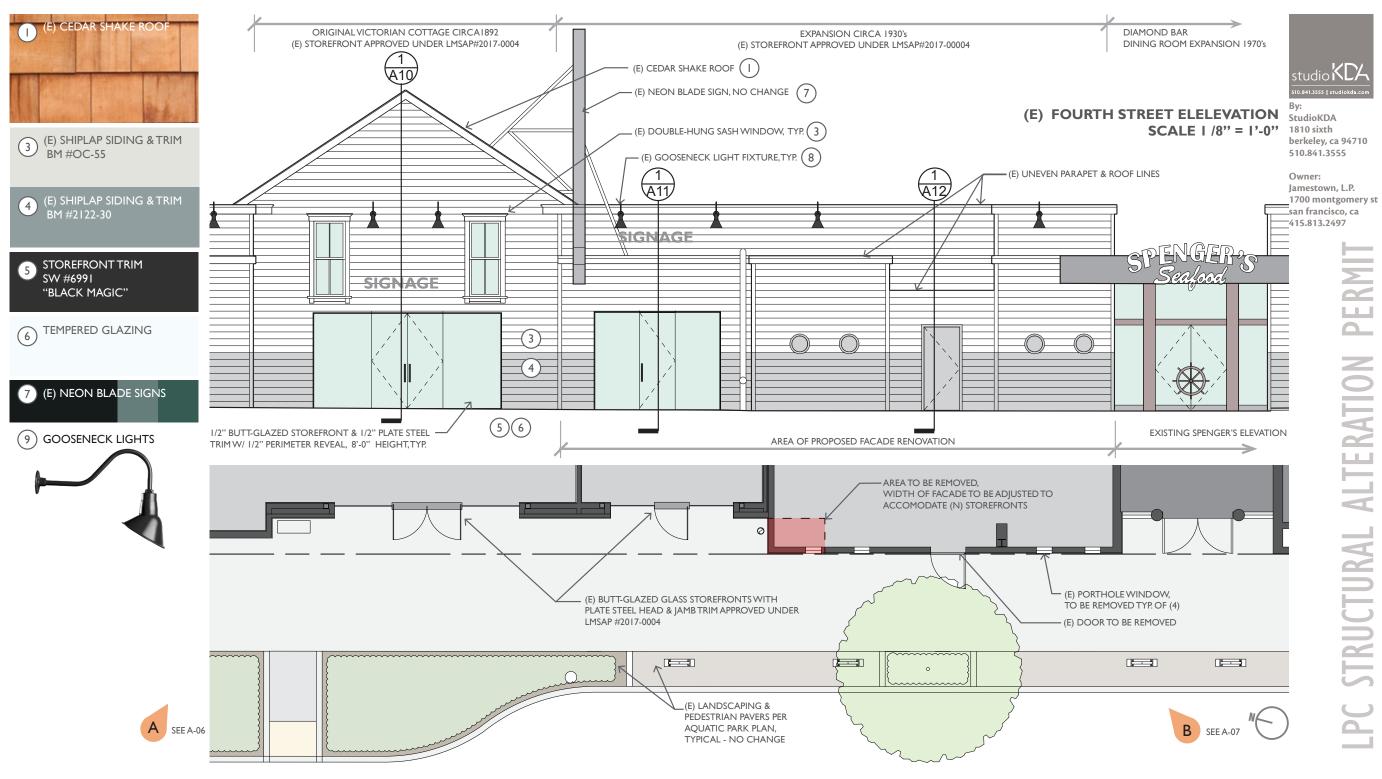
### SEE ENLARGED EXISTING ELEVATION A04



EXISTING FOURTH STREET WEST ELEVATION NOT TO SCALE

AS APPROVED IN USE PERMIT #2014-0041, LMSAP #2014-0006 & LMSAP #2017-004

A-03

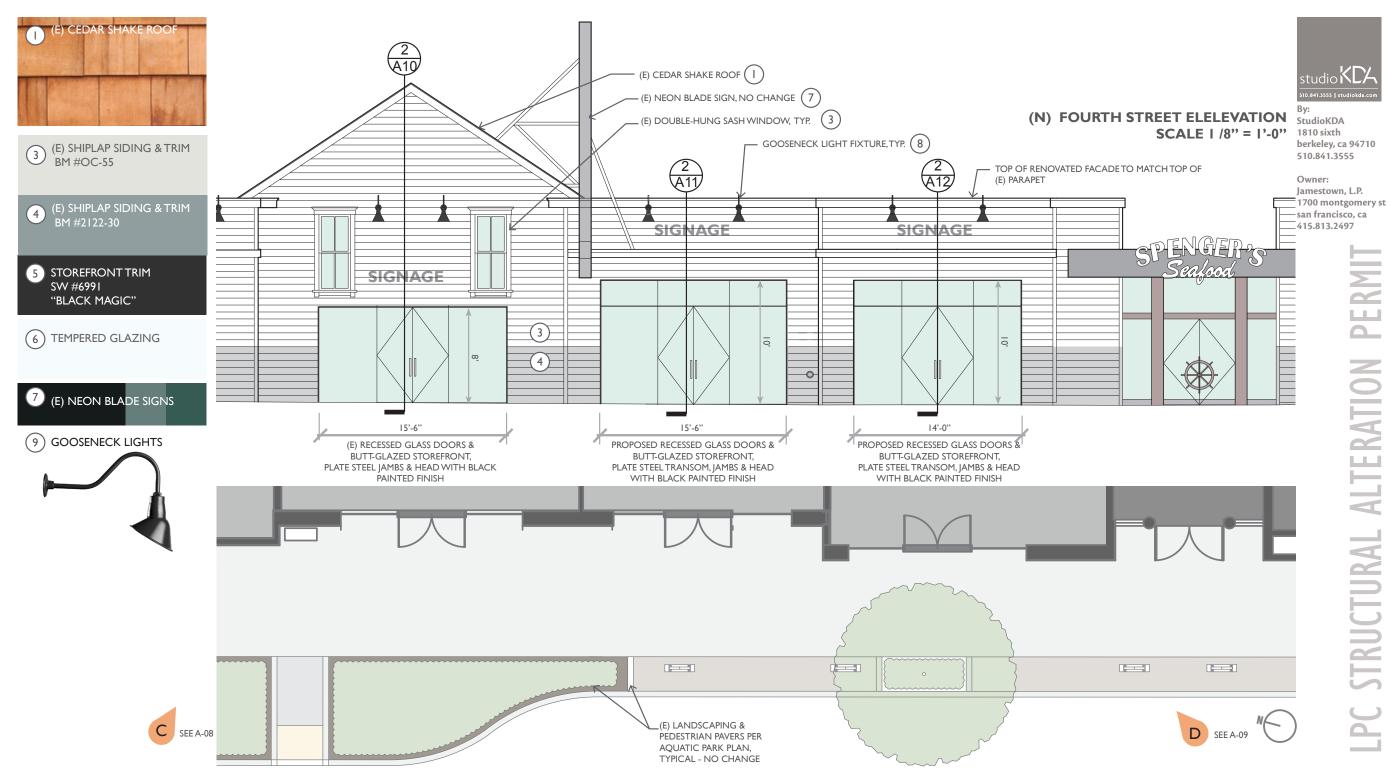


(E) PARTIAL PLAN @ FACADE SCALE I /8" = I'-0"

**A-04** 

APRIL 24, 2019

1915 & 1919 FOURTH STREET
BERKELEY, CA



(E) PARTIAL PLAN @ FACADE SCALE I /8" = 1'-0"

**A-05** 

APRIL 24, 2019

1915 & 1919 FOURTH STREET
BERKELEY, CA





By: StudioKDA 1810 sixth berkeley, ca 94710 510.841.3555

Owner: Jamestown, L.P. 1700 montgomery st san francisco, ca 415.813.2497

LPC STRUCTURAL ALTERATION PERMIT







By: StudioKDA 1810 sixth berkeley, ca 94710 510.841.3555

Owner: Jamestown, L.P. 1700 montgomery st san francisco, ca 415.813.2497

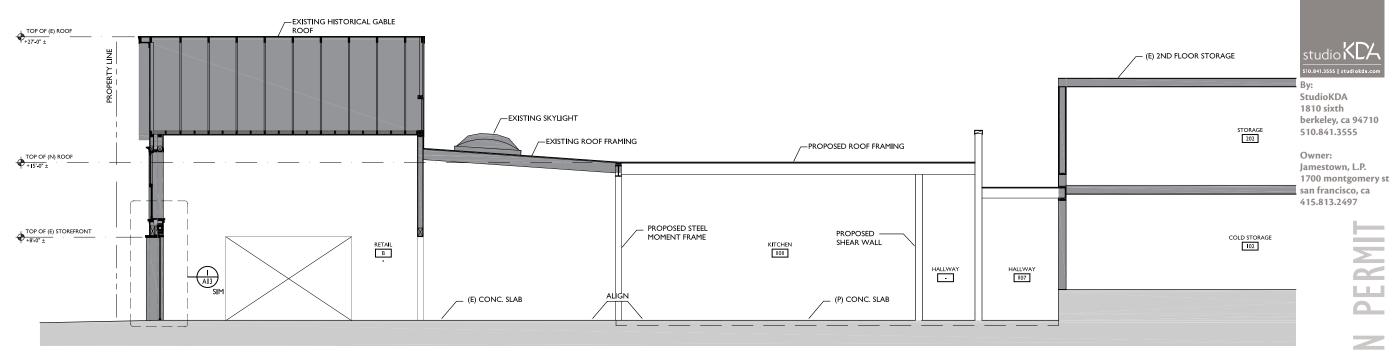
LPC STRUCTURAL ALTERATION PERMIT



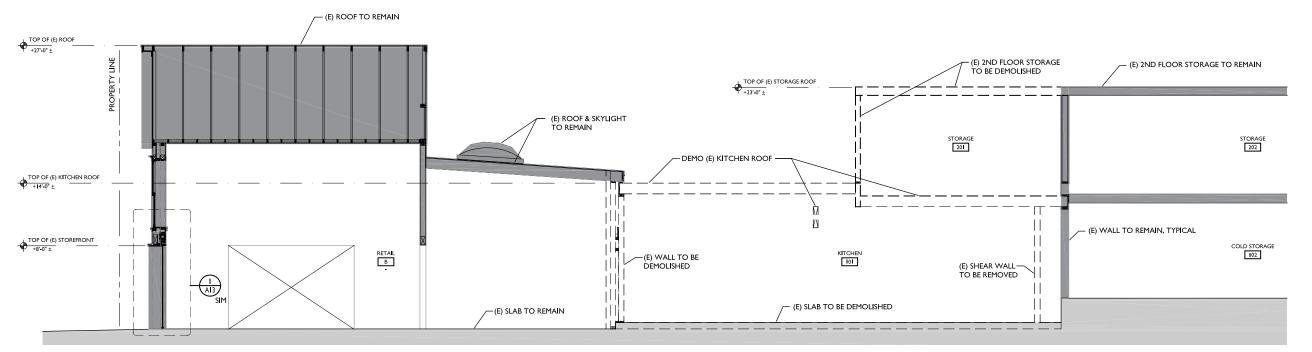
By: StudioKDA 1810 sixth berkeley, ca 94710 510.841.3555

Owner: Jamestown, L.P. 1700 montgomery st san francisco, ca 415.813.2497

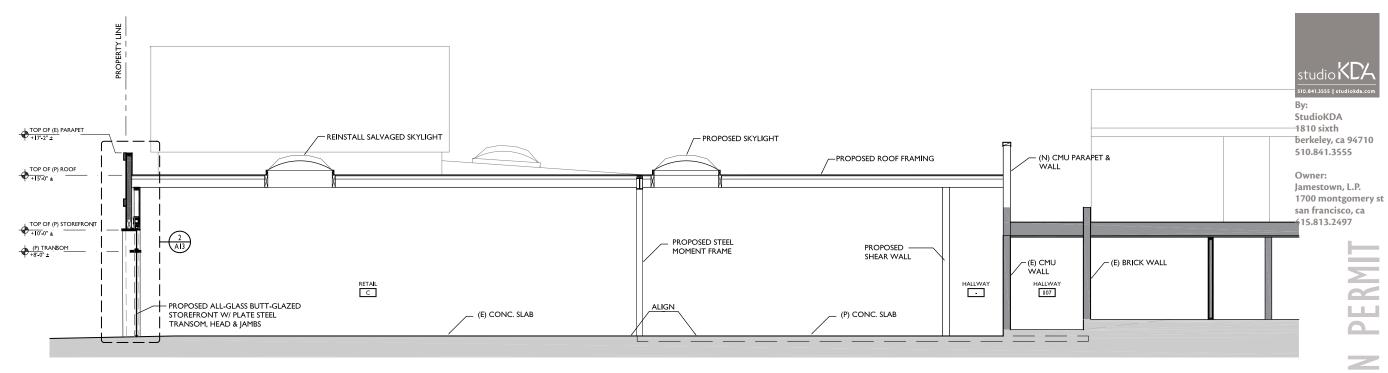
PC STRUCTURAL ALTERATION PERMIT



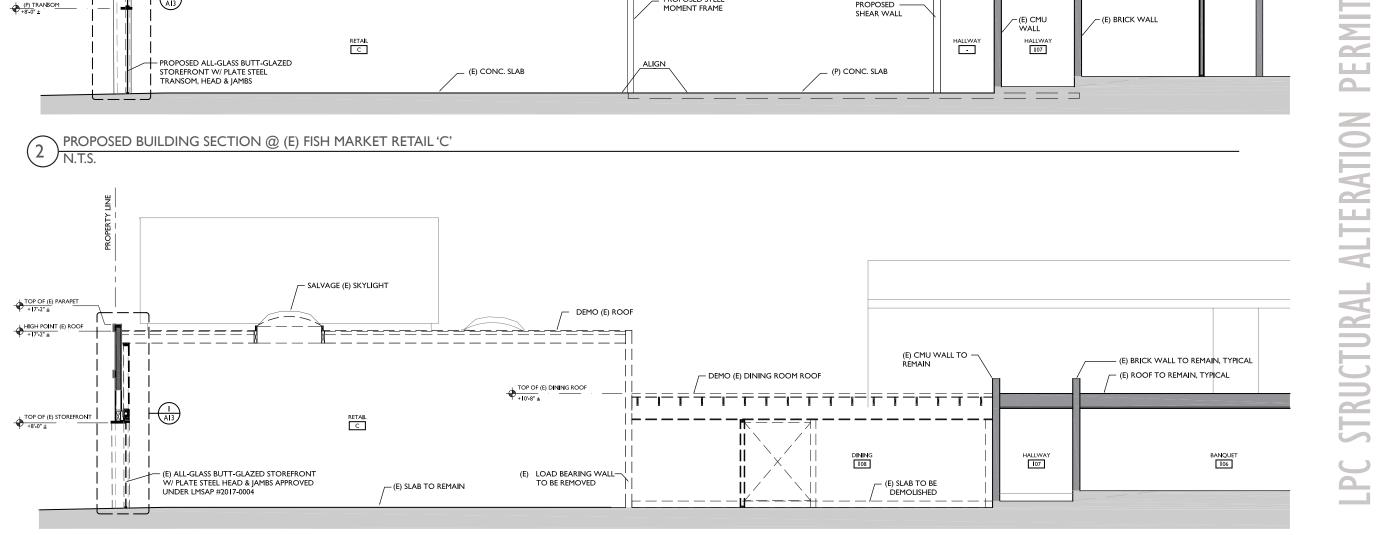
PROPOSED BUILDING SECTION @ HISTORIC GABLE ROOF



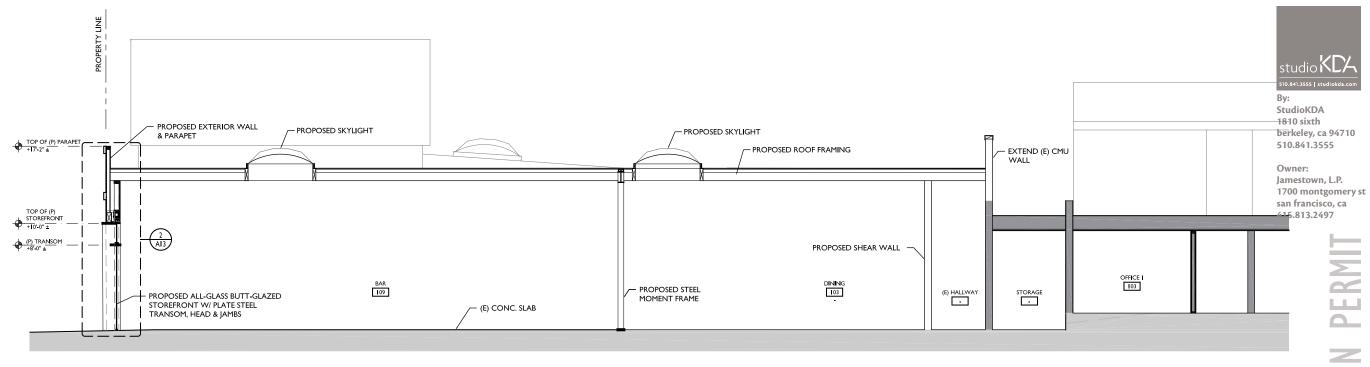
EXISTING BUILDING SECTION @ HISTORIC GABLE ROOF N.T.S.



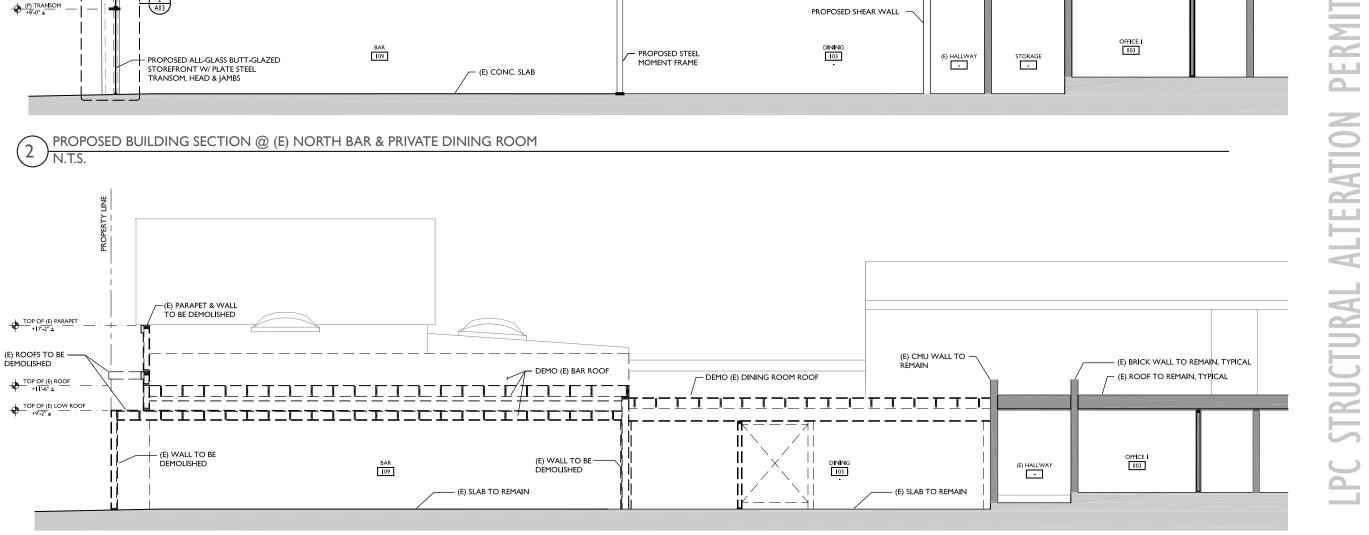
PROPOSED BUILDING SECTION @ (E) FISH MARKET RETAIL 'C'



EXISTING BUILDING SECTION @ (E) FISH MARKET RETAIL 'C'



PROPOSED BUILDING SECTION @ (E) NORTH BAR & PRIVATE DINING ROOM

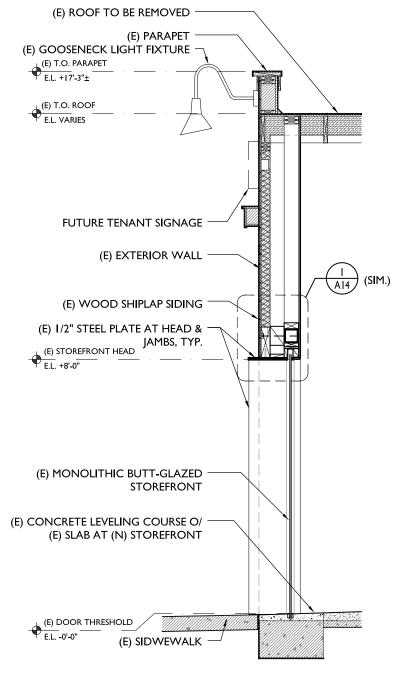


EXISTING BUILDING SECTION @ (E) NORTH BAR & PRIVATE DINING ROOM

**A-12** 

TYPICAL WALL SECTION @ (N) STOREFRONT SCALE: 3/8" = 1'-0"

Page 24 of 27







ATTACHMENT 1, part 3 of 3

from LPC 05-02-19

Page 14 of 17

By: StudioKDA 1810 sixth berkeley, ca 94710 510.841.3555

Owner: Jamestown, L.P. 1700 montgomery st san francisco, ca 415.813.2497

PC STRUCTURAL ALTERATION PERMIT

A-I3

1915 & 1919 FOURTH STREET BERKELEY, CA APRIL 24, 2019

