

Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT # UP2013-0030

Property Address: **2941 TELEGRAPH AVENUE**

Permittee Name: **BING UDINSKY**

Use and/or Construction Permitted:

to construct a 900 sq. ft. ground floor rear addition and change the use of an existing two-story commercial building with an existing ground floor pharmacy at the front, offices to the rear and on the second floor, to group living accommodations for 10 persons and retaining the pharmacy on the ground floor and 1,590 sq. ft. of offices on the second floor.

- Use Permit to allow group living accommodations for 10 residents, under BMC Section 23E.36.030

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on July 3, 2014.

ATTACHMENT 1

FINDINGS AND CONDITIONS

JUNE 12, 2014

2941 Telegraph Avenue

Use Permit #UP2013-0030 to construct a 900 sq. ft. ground floor rear addition and change the use of an existing two-story commercial building with an existing ground floor pharmacy at the front, offices to the rear and on the second floor, to group living accommodations for 10 persons and retaining the pharmacy on the ground floor and 1,590 sq. ft. of offices on the second floor, on a 6,150 sq. ft. lot.

CEQA FINDINGS

1. The project is 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 15301 (“Existing Facilities”) and Section 15332 (“Infill Development Projects”) of the CEQA Guidelines. 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.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
 - A. There are no improvements to the existing storefront, the existing pharmacy will be retained, and the proposed group living accommodations will be at the rear of the property and not visible from the street frontage;
 - B. The 900 sq. ft. addition at the rear of the building and the conversion from office space to group living accommodations for then residents has received Staff-level Design Review approval and is not expected to be out of character with the surrounding residential and commercial community;
 - C. The proposed project satisfies the off-street parking space requirements and is unlikely to generate parking demands beyond the capacity of the C-1 District or significantly increase parking impacts on adjacent residential neighborhoods; and

- D. The proposal satisfies the usable open space of 90 sq. ft. per resident (1,143 sq. ft. proposed where 900 is required).

OTHER REQUIRED FINDINGS

3. Pursuant to Berkeley Municipal Code Section 23E.36.090.B1 and 23E.36.090.B.2, the Zoning Adjustments Board finds that the addition and conversion of office space to group living accommodations (the project) is compatible with the purposes of the District and the surrounding uses and buildings for the following reasons:
- A. The project maintains and does not interfere with the existing commercial area or pedestrian scale of the neighborhood. The project is compatible with adjacent commercial and residential areas and the inclusion of ten residents is expected to vitalize and strengthen the area economically by patronizing the local commercial establishments in the area; and
 - B. The project utilizes vacant office space and provides alternative housing in this neighborhood serving area. In addition, the applicant has stated her intention to provide a “cost effective” housing option which will be a benefit to the community.
4. Pursuant to Berkeley Municipal Code Section 23E.36.090.B.3, the Zoning Adjustments Board finds that the project includes an addition at the rear of the existing structure which cannot be seen from the street frontage, the group living accommodations are at the rear of the ground floor and the rear of the second floor, therefore, the proposed use will not interfere with the continuity of retail and service facilities at the ground level.
5. Pursuant to Berkeley Municipal Code Section 23E.36.090.B.4, the Zoning Adjustments Board finds that the project will not exceed the amount and intensity of use that can be serviced by the available traffic capacity and potential parking supply. Eleven parking spaces are proposed where eleven parking spaces are required; therefore, the project satisfies the off-street parking space requirements.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title ‘Use Permit Conditions’. The second sheet may also be used if the first 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. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

Changes in the plans for the construction of a building or structure may be modified prior to the completion of construction, in accordance with Section 23B.56.020.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided that such variation does not increase a structure's height, reduce the minimum distance to any property line, and/or conflict with any special objective sought by the Board. In the case of modifications to Use Permits for construction of, or additions or changes to, single-family homes which required Board review, the Zoning Officer shall follow Board policy adopted March 13, 1997, as follows:

- A. Upon applications for modifications to a home where a Use Permit has been granted, Staff shall review the Use Permit to determine if any explicit conditions were placed on the Use Permit that would be affected by the proposed modification.
- B. If, prior to acting on a Building Permit, Staff becomes aware of controversy over an earlier application, Staff may choose to conduct a more detailed review of the record to determine if conditions were implied by the Board or offered by the applicant (but not included in the Use Permit conditions) that would be affected by the proposed modification (this does not imply that Staff will review the whole Use Permit record for all applications).

- C. If there are explicit conditions (#A) or implied conditions (#B) affected by the proposed modification, the project shall be brought back to the Board as a Use Permit Modification.
- D. If there are no explicit conditions that would be affected by the proposed modification, and if Staff is not otherwise aware of implied conditions, and the project would otherwise meet the requirements of the Zoning Ordinance, Staff will approve the Building Permit without Board or public review.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

6. Subject to all City and Other Regulations (Section 23B.56.040)

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8 below.

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

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- 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.
- C. 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.

9. 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 OF APPROVAL

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Issuance of Any Building Permit

10. Prior to issuance of a building permit, the applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.

Noise Management Individual _____
Name Phone #

11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:

- Alterations, closures, or blockages to sidewalks or pedestrian paths
- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere in the public ROW
- Provision of exclusive contractor parking on-street
- Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

12. Project requires approval of a Final Design Review application by the Design Review Staff. **Final plans shall address the following conditions:**
- A. No changes can be made to these approved plans without Design Review approval.
 - B. **COLORS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Design Review Staff or note where materials match existing. All materials will be matte unless otherwise noted.
 - C. **CLEAR GLASS** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Design Review Staff.
 - D. **DETAILS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit window, door, and stair details for review and approval by the Design Review Staff. Staff encourages small awning or entrance canopy over apartment entrances.
 - E. **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 architectural 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.
 - F. **SIGNAGE** Applicant shall submit a separate application for design review of the signage. It is not included in this permit.
 - G. **LIGHTING** Prior to Design Review 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.
 - H. **LANDSCAPE PLANS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit a Landscape plan including the number, location, and species of all proposed plantings, and which existing plantings shall be removed. Provide irrigation for landscaped areas or provide drought tolerant plant palette.
 - I. **USE PERMIT** Design Review approval is contingent upon use permit approval.
 - J. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

- K. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Design Review Staff, which may modify or impose additional conditions, or revoke the design review approval.
- L. All building permit drawings and subsequent construction shall substantially conform to the final design review plans as outlined in Condition #1. Any modifications must be reviewed by the Zoning Officer or his designee to determine whether the modification requires approval.

During Construction:

- 13. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 14. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
- 15. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
- 16. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
- 17. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 18. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
- 19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
- 20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

Prior to Final Inspection or Issuance of Occupancy Permit:

22. The project shall conform to the plans and statements in the Use Permit.
23. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated March 27, 2014 and April 14, 2014.

At All Times:

24. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
25. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
26. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and/or Landmarks Preservation Commission approval.

GENERAL NOTES:

1. CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLIANCE OF ALL APPLICABLE CODES AND REGULATIONS.
2. DO NOT SCALE DRAWINGS, WRITTEN DIMENSIONS TAKE PRECEDENCE. SHOULD ANY DISCREPANCIES OCCUR, NOTIFY ARCHITECT BEFORE PROCEEDING WITH WORK.
3. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS AT THE SITE AND SHALL REPORT ANY DISCREPANCIES IN WRITING TO THE ARCHITECT PRIOR TO SUBMITTALS.
4. ALL WORK, MATERIAL, MEANS AND METHODS, ETC. SHALL CONFORM TO ALL GOVERNING BUILDING CODES, REGULATIONS AND AGENCIES.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS THAT ARE REQUIRED BY CITY/COUNTY AND OR OTHER AUTHORITIES WITH JURISDICTION ON THE PROJECT PRIOR TO BEGINNING WORK OR ORDERING MATERIALS.
6. CONTRACTOR SHALL COORDINATE WITH EQUIPMENT SUPPLIERS FOR POWER REQUIREMENTS, BLOCKING LOCATIONS, SUPPORT FOR EQUIPMENT, PLUMBING REQUIREMENTS AND ROUGHT-IN LOCATIONS.
7. USE OF ANY MATERIAL CONTAINING ASBESTOS IS PROHIBITED.
8. DETAILS, MATERIALS, AND FINISHES ARE TYPICAL FOR ALL SIMILAR CONDITIONS UNLESS NOTED OTHERWISE.
9. ALL DEMOLISHED ITEMS SHALL BE REMOVED FROM THE SITE AND DISPOSED OF PROPERLY.
10. ALL DOORS NOT LOCATED BY DIMENSIONS ON PLANS OR DETAILS SHALL BE 4" FROM FINISH WALL TO DOOR BUCK.
11. ALL DIMENSIONS ARE GIVEN FROM FACE OF CONCRETE, BLOCK, STUD, OR CENTERLINE OF PARTITION UNLESS OTHERWISE NOTED.

VICINITY MAP

UDINSKY ARCHITECTURE

ARCHITECT LICENSE NO. C 29081

TEL (510) 655-3253

2941 TELEGRAPH AVE, BERKELEY, CA 94705 FAX (510) 649-9650

2941 TELEGRAPH AVE REMODEL

APPLICABLE CODES

ALL WORK SHALL CONFORM TO THE FOLLOWING AND ALL OTHER APPLICABLE CODES AND ORDINANCES.

1. CBC, CALIFORNIA BUILDING CODE, 2010
2. CMC, CALIFORNIA MECHANICAL CODE, 2010
3. CPC, CALIFORNIA PLUMBING CODE, 2010
4. CEC, CALIFORNIA ELECTRICAL CODE, 2010
5. CALIFORNIA FIRE CODE, 2010
6. CIT OR COUNTY HEALTH REGULATIONS
7. TITLE 24, CA ENERGY EFFICIENCY STANDARDS, 2010
8. ADA STANDARDS FOR ACCESSIBLE DESIGN

BUILDING DATA

BUILDING TYPE: COMMERCIAL OFFICE MIXED USE

CONSTRUCTION TYPE: TYPE III

OCCUPANCY TYPE: GROUP B & R-3

BUILDING AREA (EXISTING): 6,385 S.F.

FIRST FLOOR: 2,585 S.F.

SECOND FLOOR: 3,800 S.F.

BUILDING AREA (NEW): 7,400 S.F.

FIRST FLOOR: 3,600 S.F.

SECOND FLOOR: 3,800 S.F.

LOT SIZE: 6140 S.F.

SHEET INDEX

- T1 TITLE SHEET
- A0 EXISTING SITE PLAN
- A1 PLANTING PLAN
- A2 EXISTING FIRST FLOOR PLAN
- A3 EXISTING SECOND FLOOR PLAN
- A4 NEW FIRST FLOOR PLAN
- A5 NEW SECOND FLOOR PLAN
- A6 ELEVATIONS

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD



SIGNATURE

June 12, 2014

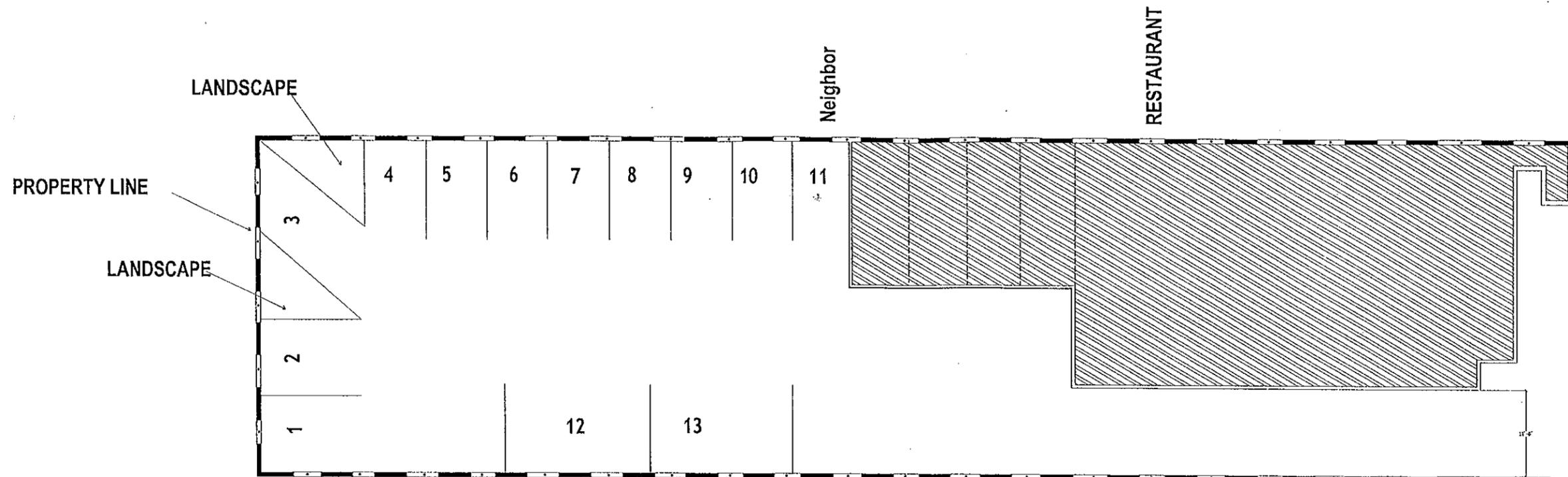
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* Findings and Conditions Attached



DATE: 7-1-2013

SHEET: SITE PLAN



VICINITY MAP

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

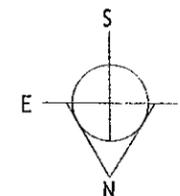
G. Smith **June 12, 2014**

SIGNATURE DATE

* Findings and Conditions Attached

EXISTING SITE PLAN

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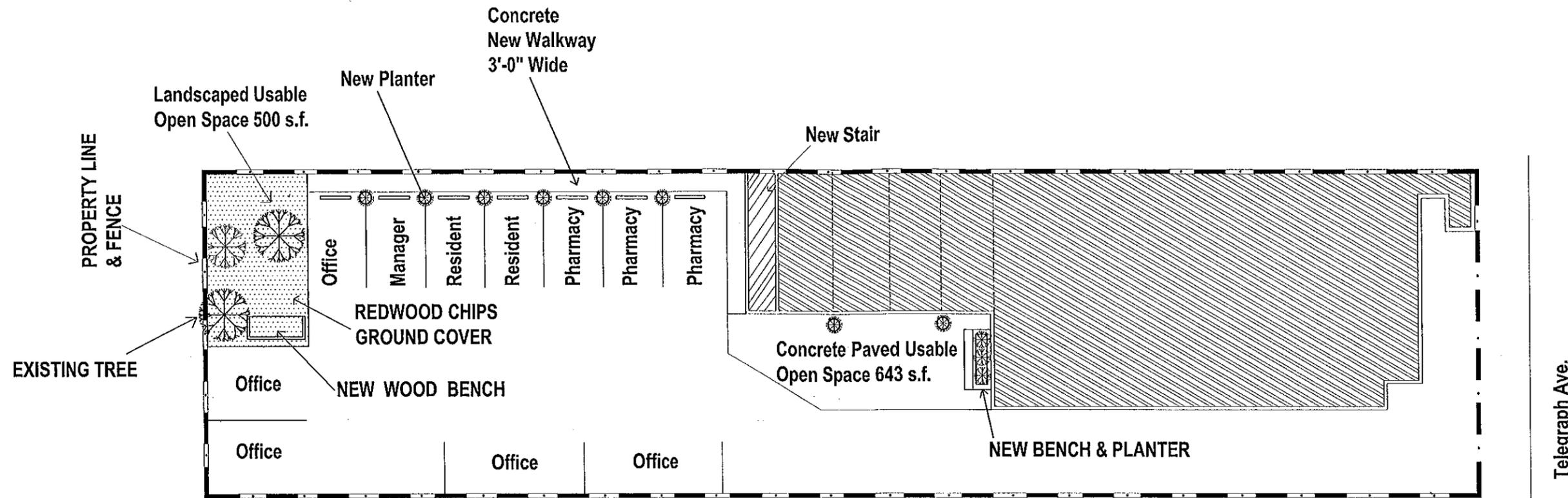
UDINSKY ARCHITECTURE
ARCHITECT LICENSE NO. C 29081

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FAX (510) 649-9850

2941 TELEGRAPH AVE REMODEL



DATE: 7-1-2013
SHEET: SITE PLAN



Total Usable Open Space: 1,143 s.f.
 Required Usable Open Space: 900 s.f.

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

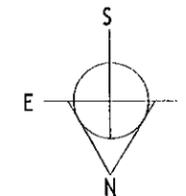
[Signature] June 12, 2014

SIGNATURE DATE

* Findings and Conditions Attached

PLANTING PLAN

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 0 5' 10' 15'
 Graphic Scale



UDINSKY ARCHITECTURE

ARCHITECT LICENSE NO. C 29081

TEL (510) 655-3253

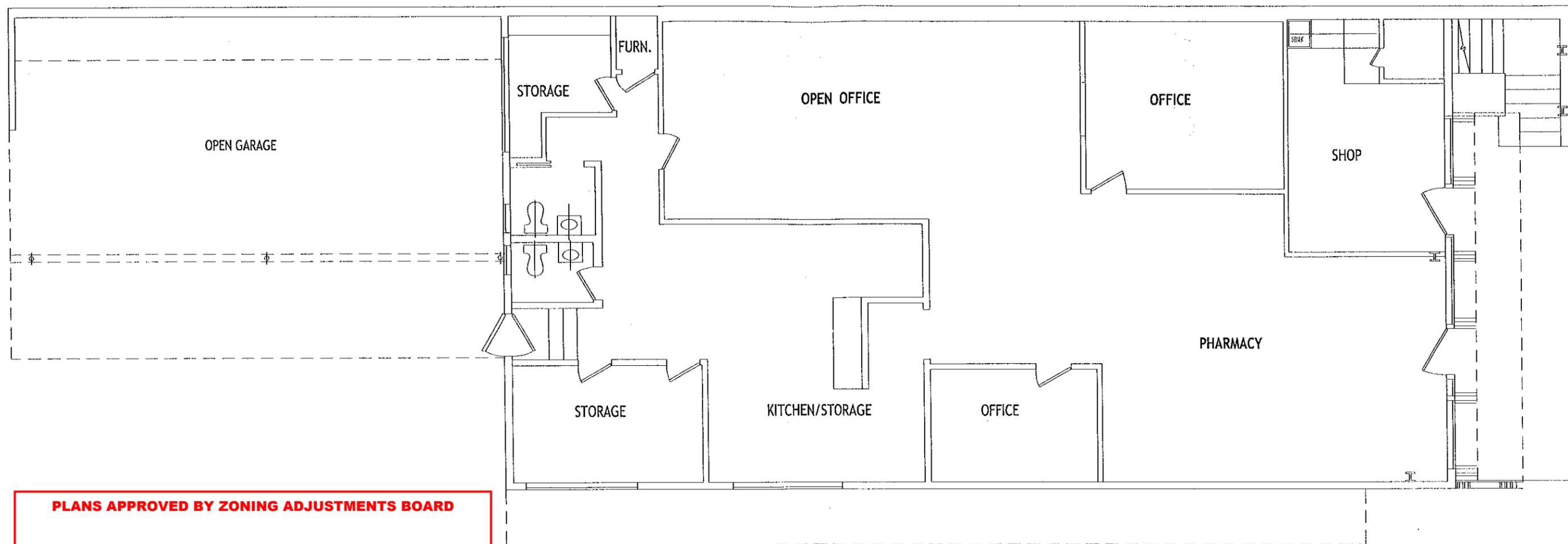
2941 TELEGRAPH AVE, BERKELEY, CA 94705 FAX (510) 649-9850

2941 TELEGRAPH AVE REMODEL



DATE: 05-12-2014

SHEET A1: PLANTING PLAN



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

[Handwritten Signature]

June 12, 2014

SIGNATURE

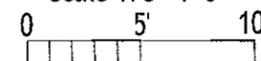
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* Findings and Conditions Attached

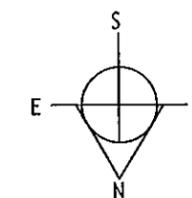
EXISTING FIRST FLOOR PLAN

AREA=2585 GROSS SQ.FT.

Scale 1/8"=1'-0"



Graphic Scale



UDINSKY ARCHITECTURE

ARCHITECT LICENSE NO. C 29081

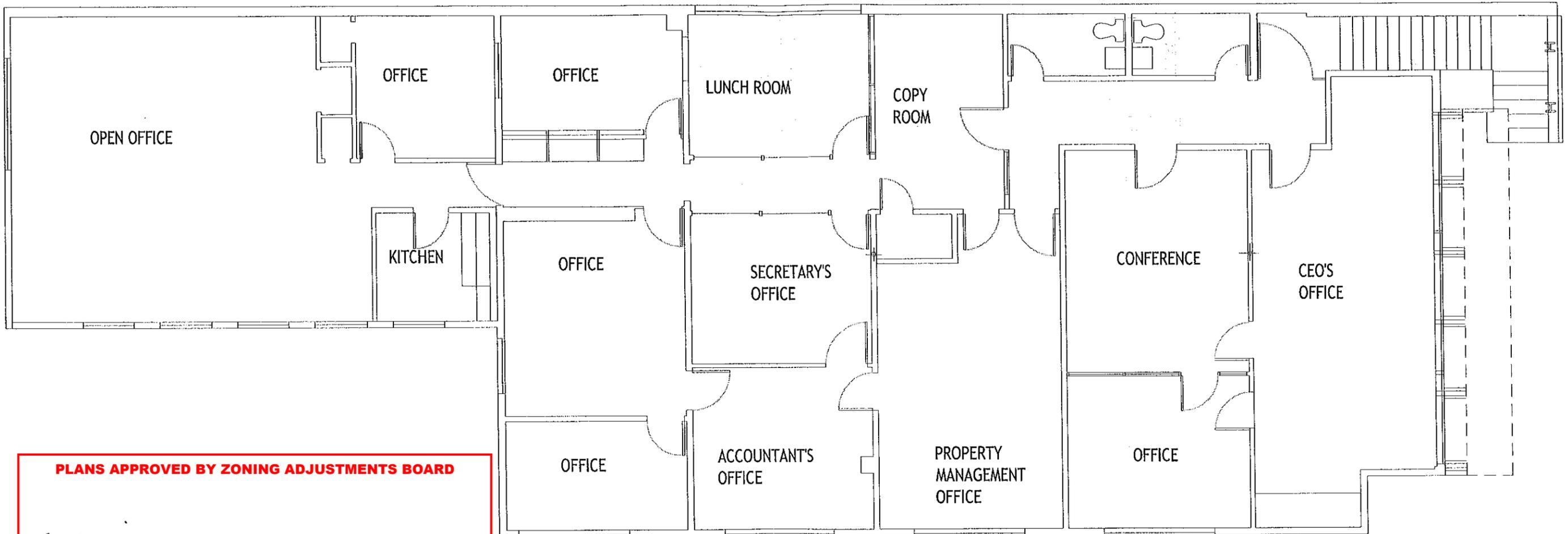
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2941 TELEGRAPH AVE REMODEL



DATE:5-12-2014
SHEET A2 EXISTING FIRST FLOOR PLAN



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

[Signature]
SIGNATURE

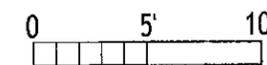
June 12, 2014
DATE

* Findings and Conditions Attached

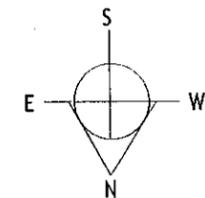
EXISTING SECOND FLOOR PLAN

AREA=3800 GROSS SQ.FT.

Scale 1/8"=1'-0"



Graphic Scale



UDINSKY ARCHITECTURE

ARCHITECT LICENSE NO. C 29081

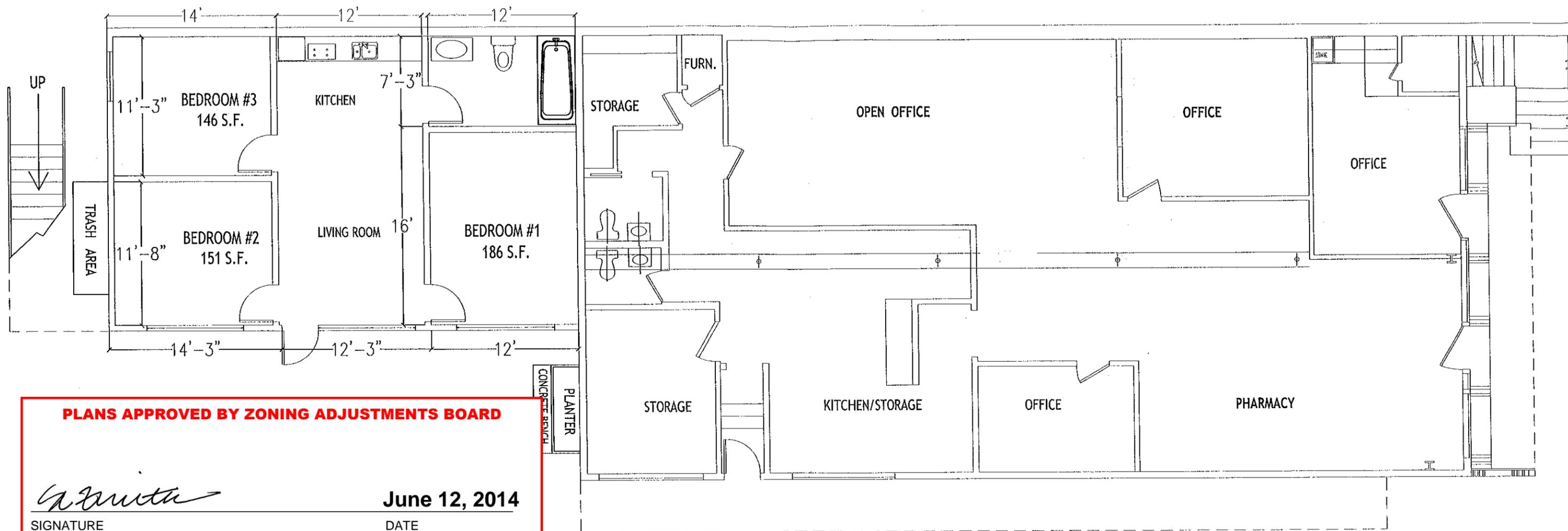
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2941 TELEGRAPH AVE REMODEL



DATE: 5-12-2014
SHEET A3 EXISTING
SECOND
FLOOR PLAN



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

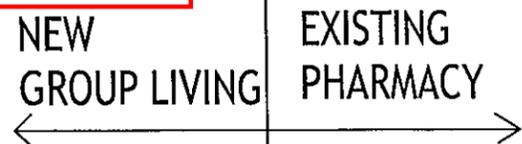
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June 12, 2014

SIGNATURE

DATE

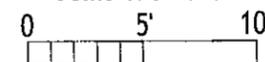
*** Findings and Conditions Attached**



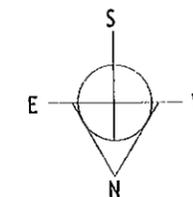
NEW FIRST FLOOR PLAN

AREA=3600 GROSS SQ.FT.

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Graphic Scale



UDINSKY ARCHITECTURE

ARCHITECT LICENSE NO. C 29081

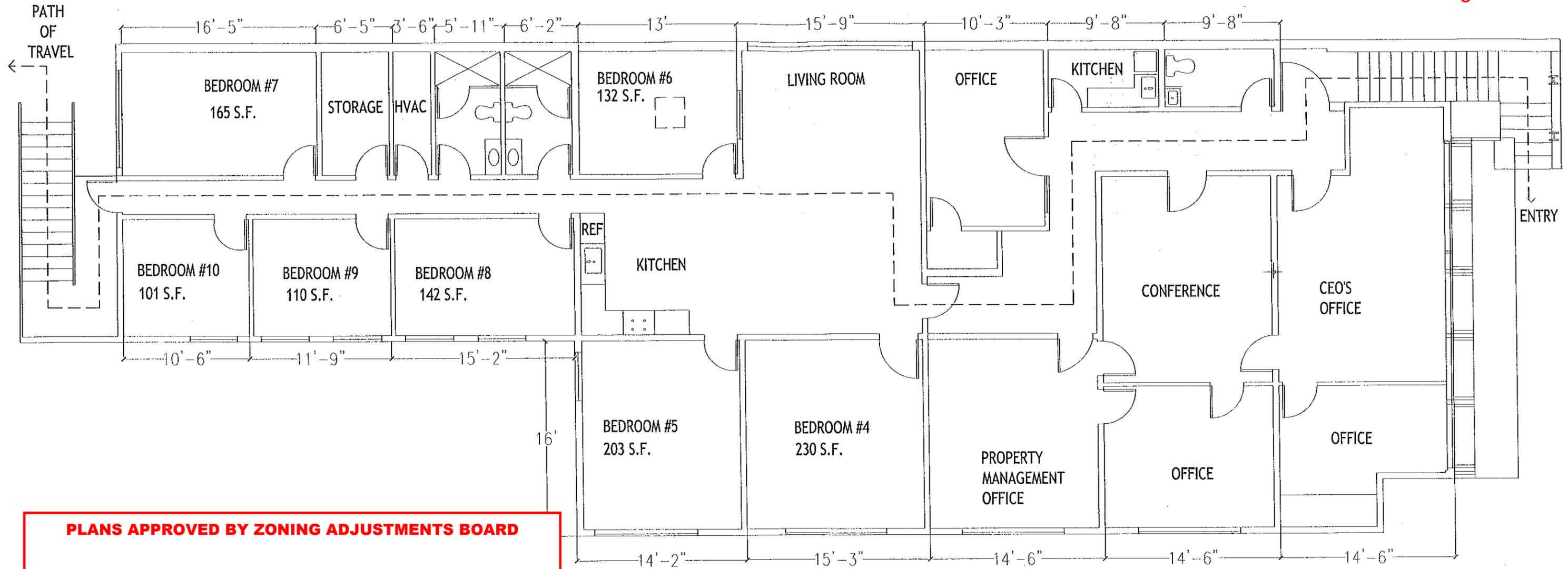
TEL (510) 655-3253

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2941 TELEGRAPH AVE REMODEL



DATE: 5-12-2014
SHEET A4: NEW FIRST FLOOR PLAN

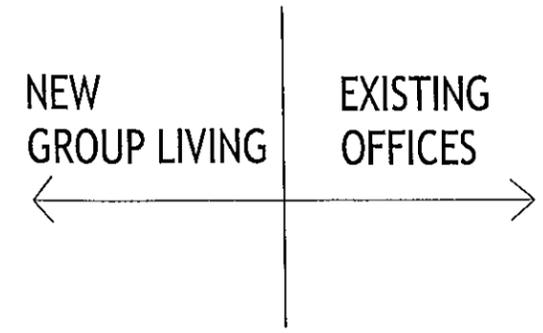


PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

G. Smith
SIGNATURE

June 12, 2014
DATE

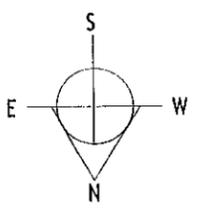
* Findings and Conditions Attached



NEW SECOND FLOOR PLAN

AREA=3785 GROSS SQ.FT.
Scale 1/8"=1'-0"

0 5 10'
Graphic Scale



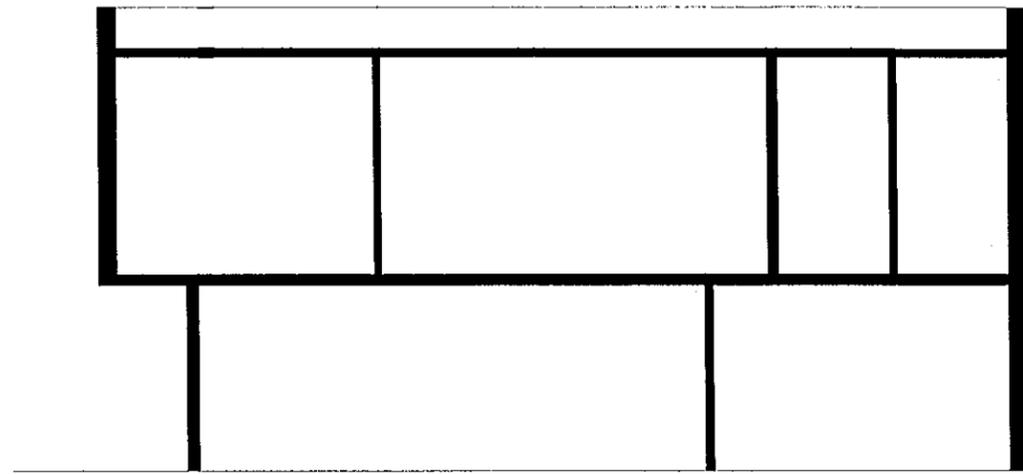
UDINSKY ARCHITECTURE
ARCHITECT LICENSE NO. C 29081

2941 TELEGRAPH AVE, BERKELEY, CA 94705 TEL (510) 655-3253 FAX (510) 649-9650

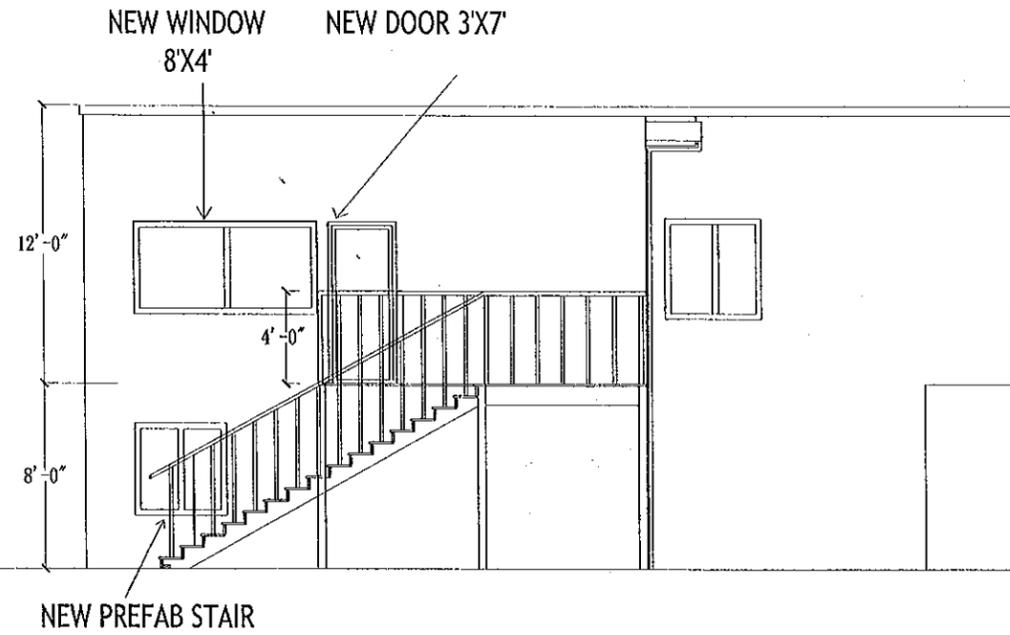
2941 TELEGRAPH AVE REMODEL



DATE: 5-12-2014
SHEET A5 : NEW SECOND FLOOR PLAN

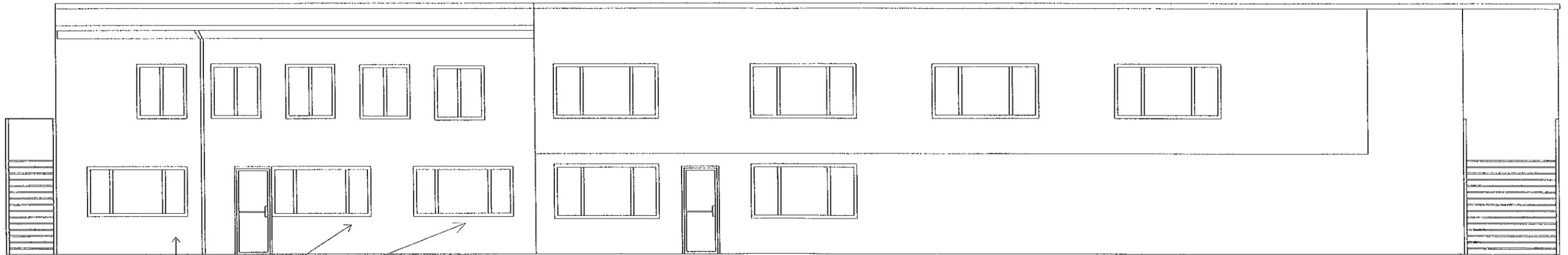


SECTION A-A



EAST ELEVATION

Scale 1/8"=1'-0"



NORTH ELEVATION

Scale 1/8"=1'-0"

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

[Handwritten Signature]

SIGNATURE

June 12, 2014

DATE

* Findings and Conditions Attached

UDINSKY ARCHITECTURE

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2941 TELEGRAPH AVE REMODEL



DATE: 5-12-2014

SHEET A6 : ELEVATIONS SECTIONS