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Office of the City Attorney

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OFFICE OF THE CITY CLERK  
OAKLAND

2016 MAR 30 AM 11:05

OAKLAND CITY COUNCIL

ORDINANCE No. 13367 C.M.S.

**ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, TO REZONE THE PROJECT SITE FROM RU-1 URBAN RESIDENTIAL ZONE-1 TO RU-4 URBAN RESIDENTIAL ZONE – 4 WITH HEIGHT AREA 45 FOR 1638-47<sup>TH</sup> AVENUE AND ADOPT CEQA EXEMPTIONS**

**WHEREAS**, the applicant owns property located at 1638-47<sup>th</sup> Avenue in the City of Oakland, Alameda County; and

**WHEREAS**, the applicant proposes converting an existing vacant church, a non-operational school and an occupied single family dwelling (to remain one single family dwelling unit) into a total of 60 on-site residential dwelling units within the existing building envelopes, including 32 studios, 26 one-bedroom apartments, and 2 two-bedroom units at 1638-47<sup>th</sup> Avenue; and

**WHEREAS**, the subject property of 40,808 square feet comprises the entire block bounded by Bond Street, Bancroft Avenue, 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue; and

**WHEREAS**, the applicant has developed plans for the development of 60 on-site residential dwelling units located at 1638-47<sup>th</sup> Avenue, and on or about June 1, 2015, the applicant submitted development applications for Regular Design Review to create residential units with exterior alterations, a Minor Variance for 22 off-street parking spaces where 57 are required, Rezoning, and a tree permit (“Project”); and

**WHEREAS**, the Project includes new landscaping with approximately 10,808 square feet of open space plus an additional 1,896 square feet of publicly accessible landscaping and open space in the center island at the intersection of 48<sup>th</sup> Avenue and Bancroft Avenue; and

**WHEREAS**, the Project also includes 50 bicycle parking spaces and 22 off-street parking spaces, and ample parking is available nearby with approximately 34 on-street parking spaces available around the perimeter of the site on Bond Street, Bancroft Avenue, 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue; and

**WHEREAS**, the applicant requests a rezone from the RU-1 Urban Residential Zone to the adjacent zone of RU-4 Urban Residential Zone with height area 45, which has a maximum allowable density of 90 residential units; and

**WHEREAS**, on July 14, 2015, the City of Oakland, Public Works Agency, Tree Services Division granted a permit authorizing removal of 14 trees and preservation of 9 trees; and

~~**WHEREAS**, on October 8, 2015, the applicant conducted an on-site community meeting, and on November 3, 2015, the developer made a presentation about the Project to Oakland Heritage Alliance; and~~

**WHEREAS**, on November 18, 2015 the City Planning Commission conducted a duly noticed public hearing to consider the Project and, after conducting and closing the public hearing, recommended that the City Council adopt the CEQA exemptions, approve the Project's planning-related permits including Regular Design Review and a Minor Variance, as well as the Rezoning, subject to the requirements and findings contained the staff report ("City Planning Commission Report"); and

**WHEREAS**, on December 14, 2015, the Project was considered by the Landmarks Preservation Advisory Board, the members of which voted unanimously to recommend approval of the Project; and

**WHEREAS**, after a duly noticed public meeting on April 12, 2016, the Community and Economic Development Committee of the City Council voted to approve staff's recommendation and forward the recommendation to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on April 19, 2016 to consider the Project; and

**WHEREAS**, the City Council independently reviewed and considered the findings made by the Planning Commission for approval of the Rezone of the Project site from RU-1 Urban Residential Zone-1 to RU-4 Urban Residential Zone – 4 with Height Area 45, and hereby affirms said findings; and

**WHEREAS**, the City Council has reviewed, analyzed and considered the Project and through a companion resolution, affirmed and sustained the Planning Commission's decision to approve the development permits (Regular Design Review and Minor Variance) for the project; and

**WHEREAS**, the proposed project is categorically exempt from the environmental review requirements pursuant to CEQA Guidelines sections 15332, in-fill development projects, and 15183, projects consistent with a community plan, general plan or zoning; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

**Section 2.** The City Council hereby adopts the proposed rezoning of the Project site from RU-1 Urban Residential Zone-1 to RU-4 Urban Residential Zone -4 with Height Area 45, as detailed in *Exhibit A*, attached hereto and hereby incorporated by reference, based in part upon the findings

contained in the approved City Planning Commission Report and the City Council Agenda Report.

**Section 3.** The City Council has reviewed the Project and the CEQA exemptions described in the approved City Planning Commission Report and the City Council Agenda Report and independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15332 (infill development findings) and 15183 (projects consistent with a community plan, general plan or zoning), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance. The Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

**Section 4.** The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

**Section 5.** Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

**Section 6.** The record before this Council relating to this Ordinance include, without limitation, the following:

1. The June 1, 2015 development application, as may be amended or supplemented, and all related materials, including all accompanying maps, papers and appendices;
2. All final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including all related/supporting final materials, and all final notices relating to the Project and attendant hearings;
3. All oral and written evidence received by the Oakland Landmarks Preservation Advisory Board, City Planning Commission, City Administrator's Office, and City Council during the public hearings on the Project as well as all written evidence received by the relevant City Staff (including the Public Works Agency Tree Division) before and during the public hearings on the Project; and
4. All matters of common knowledge and all official enactments and acts of the City, such as: (a) the General Plan; (b) Oakland Municipal Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations.

**Section 7.** The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department – Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; (b) City Administrator's Office, One Frank H. Ogawa Plaza, 11<sup>th</sup> Floor, Oakland California; (c) Public Works Agency Tree Services Division, 7101 Edgewater Dr., Bldg 4, Oakland California; and (d) Office of the City Clerk, One Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Oakland California.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 03 2016

**PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, GALLO, GUILLEN, KALB, KAPLAN, REID, WASHINGTON, and PRESIDENT GIBSON  
MCELHANEY — 8

NOES - ∅

ABSENT - ∅

ABSTENTION - ∅

ATTEST: LaTonda Simmons  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: May 4, 2016

Introduction Date  
APR 19 2016

EXHIBIT A

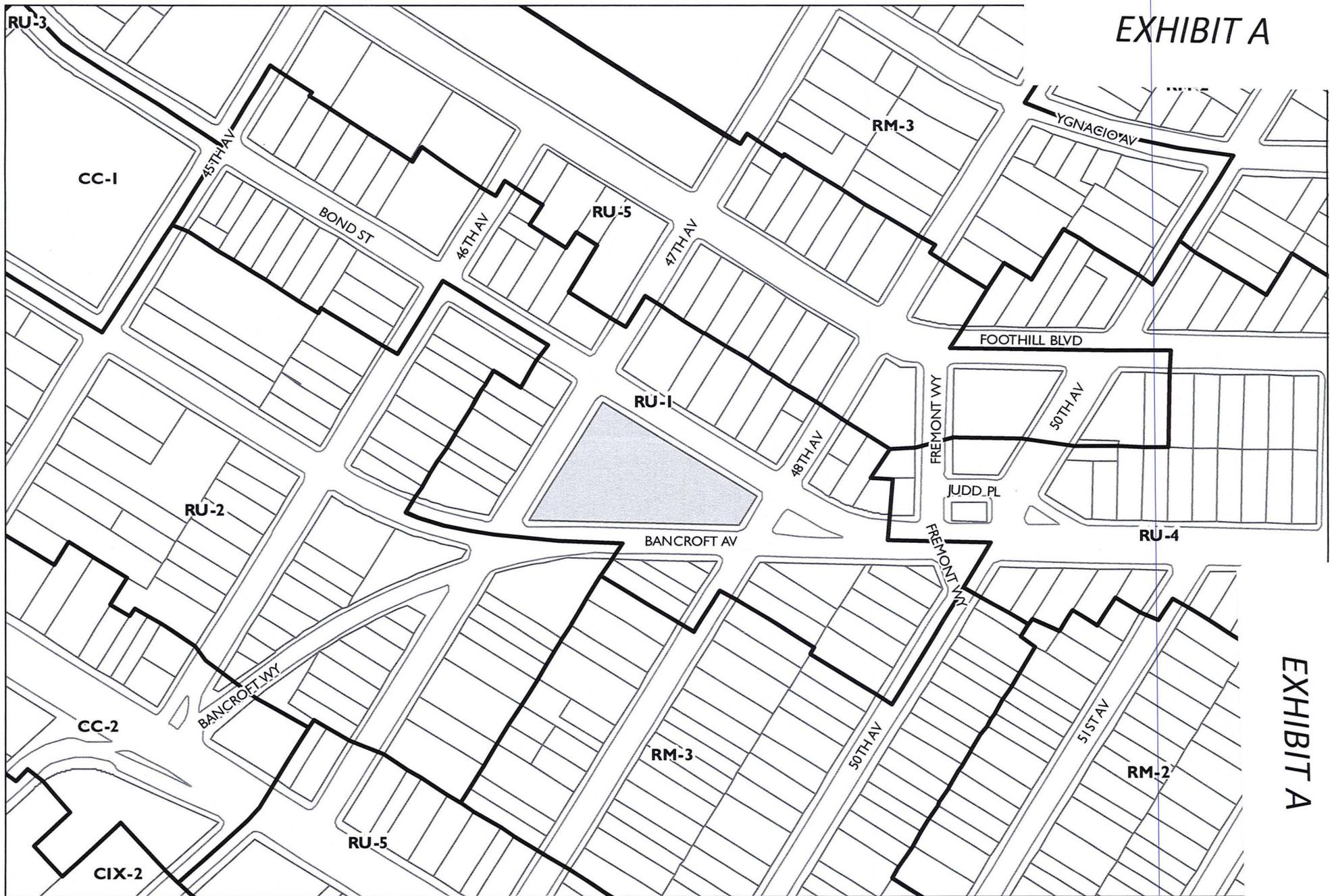
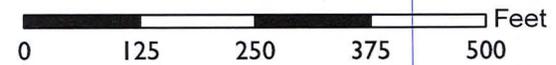


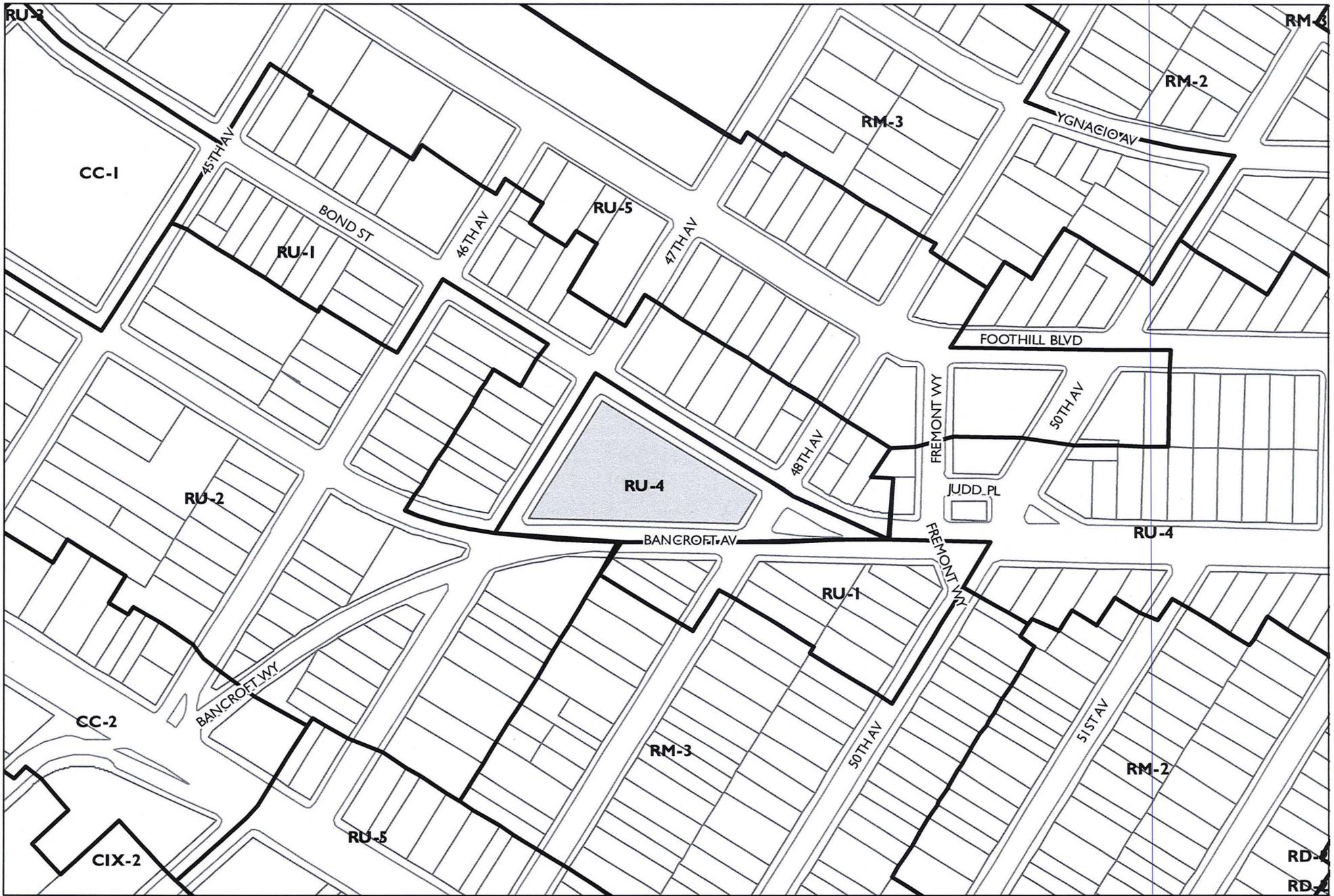
EXHIBIT A



**Existing Zoning**  
1638 - 47th Avenue

Planning & Building Department  
March 16, 2016

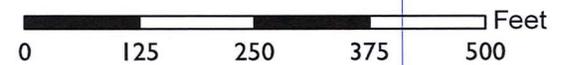


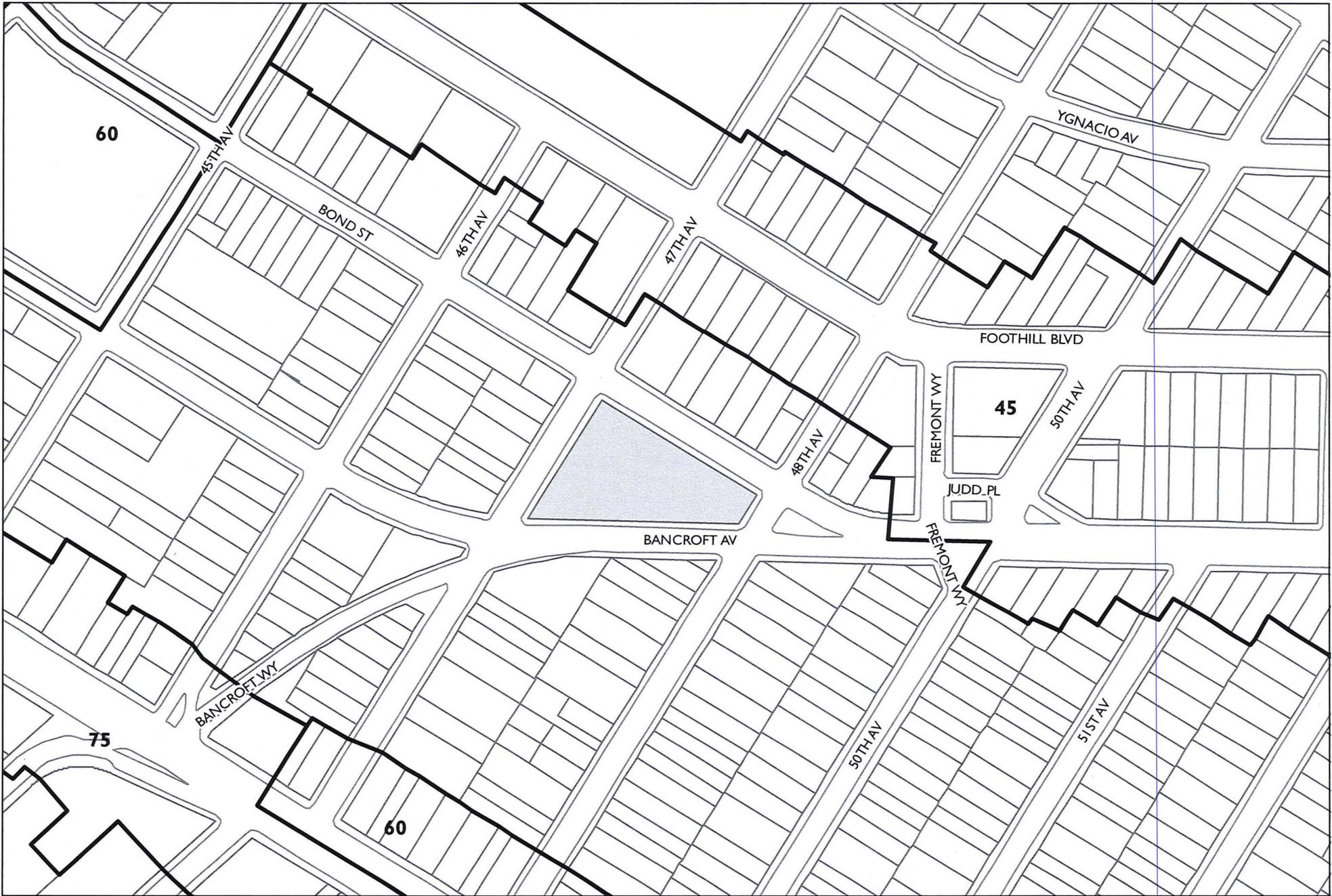


# Proposed Zoning

## 1638 - 47th Avenue

Planning & Building Department  
March 16, 2016



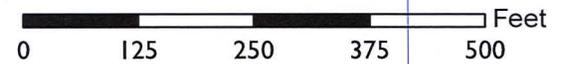


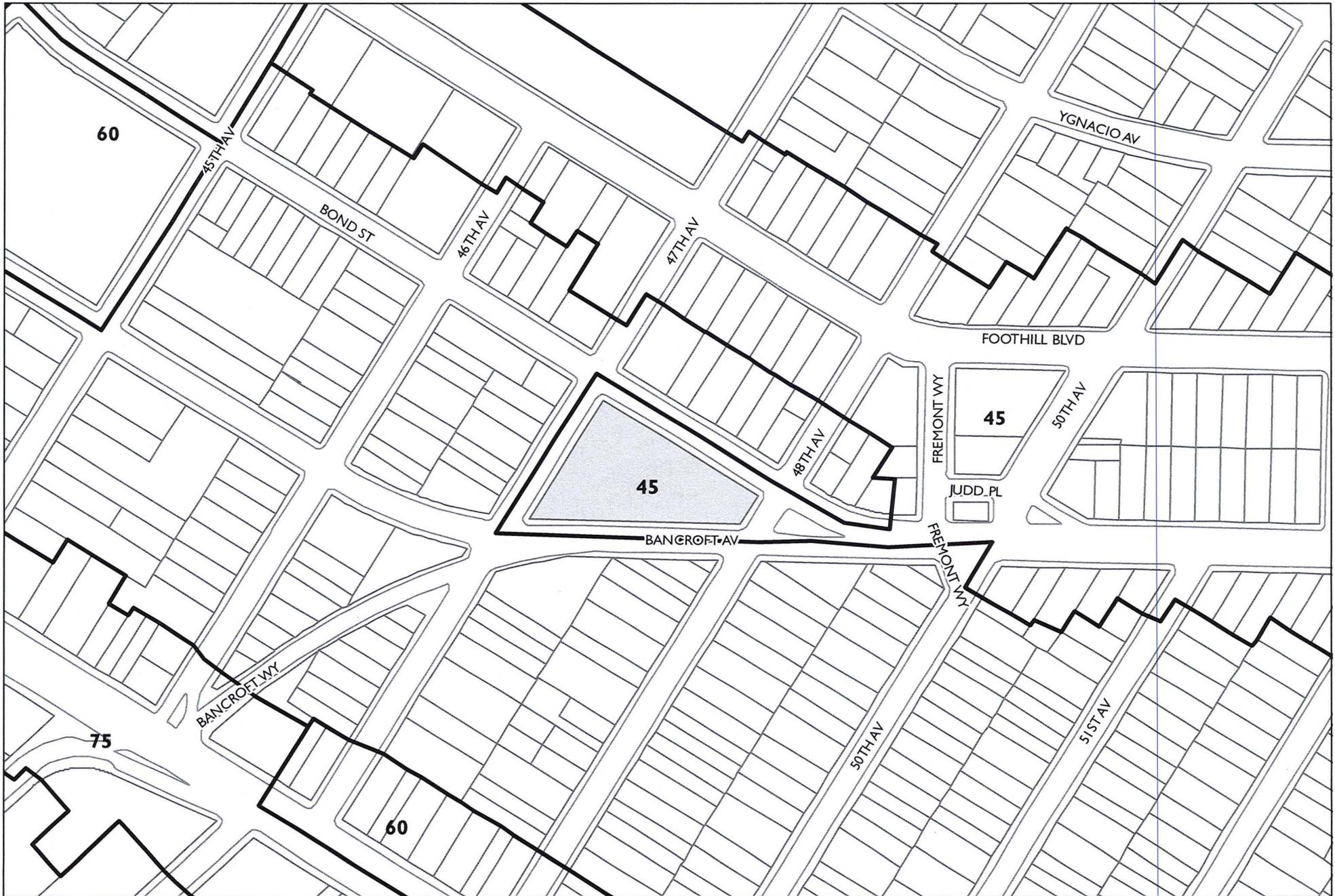
Planning & Building Department  
March 16, 2016



# Existing Height Limits (ft)

1638 - 47th Avenue





# Proposed Height Limits (ft)

1638 - 47th Avenue

Planning & Building Department  
March 16, 2016

