



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

July 11, 2016

Samuel Kwong  
Arcus Architecture & Planning  
61 Walter U. Lum Place, Third Floor  
San Francisco, CA 94108

**Site Address:** 360A West Portal Avenue  
**Assessor's Block/Lot:** 2483/009  
**Zoning District:** NCD, West Portal Neighborhood Commercial District  
**Staff Contact:** Matthew Dito, (415) 575-9164, [matthew.dito@sfgov.org](mailto:matthew.dito@sfgov.org)  
**Record No.:** 2016-007551ZAD

Dear Mr. Kwong:

This letter is in response to your request for a Letter of Determination regarding the property at 360A West Portal Avenue. This property is located within the West Portal Neighborhood Commercial District (NCD) and 26-X Height and Bulk District. The request is to confirm that the subject use (dba Raymond James Financial Services) is eligible for Conditional Use Authorization as a Business or Professional Service. Additionally, the letter requests confirmation that the current use is not a Financial Service or Formula Retail use.

Per Planning Code Section 729.53, a Business or Professional Service Use requires Conditional Use Authorization on the first story, is principally permitted on the second story, and is not permitted on the third story and above within the West Portal NCD. Additionally, if there are more than seven total financial uses and/or stock brokerages within the district, then financial uses and/or stock brokerages shall not be permitted. Planning Code Section 790.108 defines a Business or Professional Service as a "retail use which provides to the general public, general business or professional services, including but not limited to, architectural, management, clerical, accounting, legal, consulting, insurance, real estate brokerage, and travel services."

Per Planning Code Section 729.49, Financial Services are not permitted in the West Portal NCD. Planning Code Section 790.110 defines a Financial Service as a "retail use which provides banking services and products to the public, such as banks, savings and loans, and credit unions, when occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Any applicant for a financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California."

In your request, the subject use is described as follows: "The proposed use provides a professional meeting space for an established, home-based wealth management practice previously located in the West Portal neighborhood (380 Santa Ana Avenue). The practice provides a variety of services including

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Suite 400  
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CA 94103-2479

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360A West Portal Avenue

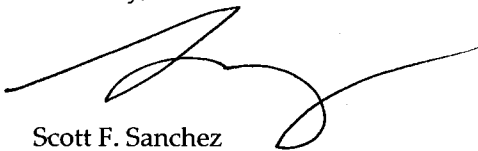
tax, estate, and retirement planning, risk management, objective financial counsel, trusteeship, lifestyle management, coordination of professionals, investment advice, and foundation management. The practice is completely independent and therefore an objective provider of advice that places the interests of their clients first.”

Based on the information provided, Raymond James Financial Services is determined to be a Business or Professional Service under Planning Code Section 790.108. Raymond James Financial Services does not offer banking services or products to the public, and therefore is not considered a Financial Service under Planning Code Section 790.110. Additionally, while the use offers investment consulting and other related services, the primary use is not considered to be a stock brokerage. As such, it is eligible to pursue Conditional Use Authorization on the first floor of the subject property under Planning Code Section 729.53. Further, Raymond James Financial Services is not considered to be a Formula Retail Use because Business/Professional Services are not subject to Formula Retail controls, pursuant to Planning Code Section 303.1(c).

**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.**

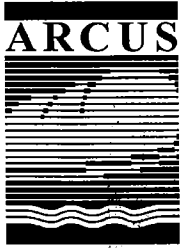
**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please 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 Owner  
Neighborhood Groups  
BBN Requestor (if any)



June 6<sup>th</sup>, 2016

Mr. Scott Sanchez, Zoning Administrator  
San Francisco City Planning Department  
1650 Mission Street, Suite 400  
San Francisco CA 94103-2479

R# 2016-007551ZAD  
CK # 566 \$ 645  
D WASHINGTON (SW)

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94108-1801 USA  
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**Subject: Request for Letter of Determination**

Site Address: 360-A West Portal Ave., San Francisco, CA 94127

Reference: Block: 2483 Lot: 009

Zoning District: NCD, West Portal Neighborhood Commercial District

Mr. Sanchez:

This request for clarification of the items described below will enable the applicant to explain to the surrounding neighborhood business the current business operation of West Portal Financial Group, LLC (dba Raymond James Financial Services) and to seek letters of support for the Conditional Use Application that is being applied concurrently.

**Project Background**

The Planning Department issued a Notice of Complaint dated June 16, 2015 after the Planning Department received a complaint alleging that one or more violations of the Planning Code exist on the above-referenced property. On July 24, 2015, a Notice of Enforcement was issued and on October 1, 2015, a Notice of Violation (NOV) was issued, alleging violation of code Sections 174, 729.53 (Unauthorized Business or Professional Services). Pursuant to Planning Code Section 729.53, a Conditional Use Authorization is required for a Business or Professional Service use to operate on the first floor in the West Portal Ave Neighborhood Commercial Zoning District.

A Zoning Administrator's Hearing was conducted on November 10, 2015. The Zoning Administrator cited Planning Code Section 102 definition of First Story. Since the floor plane is less than 6'-0" at the center line of the property, the subject property is considered First Story under the current Planning Code. A Notice of Violation and Penalty Decision was issued on January 27, 2016 citing violations of Code Sections 729.53 (Unauthorized Business or Professional Services) and 604(f) (Unpermitted Signage).

An appeal on the Zoning Administrator's decision was filed and hearing conducted on May 11 2016. The applicant appealed the Zoning Administrator's determination of First Floor location of subject property based on original building permit indicated a 2-story building without basement, as well as general appearance of the subject property. The appeal was denied and a Conditional Use Application will be filed in accordance with Planning requirements.

On behalf for the Owner and Tenant of 360 West Portal Avenue Suite A, We request clarification of the following items for West Portal Financial Group, LLC. (dba Raymond James Financial Services).

**1. Conformance of Use Classification as Business or Professional Services, Section 790.108 of the Planning Code**

Given the nature of the business operation (financial planning, wealth management, retirement planning, investment consulting, portfolio management and insurance as primary uses), please confirm that the business operation of West Portal Financial Group, LLC (dba Raymond James Financial Services) is in conformance of Section 790.108 of the Planning Code (Business or Professional Services).

**2. West Portal Financial Group (dba Raymond James Financial Services) does not meet the definition of a Stock Brokerage per Section 729.52 of the Planning Code**

According to Section 729 of the Planning Code governing the West Portal Avenue Neighborhood Commercial District, no new Financial Services are permitted and there is a limit on the proliferation of stock brokerage companies in the neighborhood. We request a determination that the current business operation is a "Business or Professional Service" and not subjected to the controls under stock brokerage as the transactions undertaken are accessory in nature.

**3. The project is not "Financial Services" as defined in Section 790.110 of the Planning Code and therefore not subject to moratorium in the West Portal Avenue Neighborhood Commercial District.**

Planning Code Section 790.110 defines a "Financial Service" use as a "retail use which provides banking services and products to the public, such as banks, savings and loans, and credit unions." This project is clearly not "Financial Services"; please confirm that the moratorium does not apply.

**4. Does the dba Raymond James have to change?**

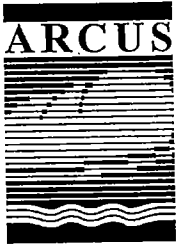
The business owners, Ellen Ching and Peter Chen, hold out "Raymond James" as the name of their practice because a recognized brand helps establish credibility for their small start-up. Furthermore, a pre-existing logo design helps mitigate costs associated with designing a new one. There is no legal or financial requirements to use the name "Raymond James", for Ellen and Peter are independent business owners and they are not employees of Raymond James. Please clarify if the namesake creates confusion of a formula retail and if another dba should be used.

We have attached the Conditional Use Application form as additional support documents for your evaluation. If you need additional information or if you have questions, please contact me by calling 415-391-3313 or by email to [samkwong-arcus@pacbell.net](mailto:samkwong-arcus@pacbell.net).

Very Truly Yours,



Samuel Kwong  
Principal



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94108-1801 USA  
(415) 391 - 3313  
(Fax) 391 - 3649

Date: June 6th 2016

Business Name: (dba)Raymond James Financial Services  
Ownership name: West Portal Financial Group, LLC(WPFG)  
Address: 360 West Portal Avenue Suite A  
San Francisco CA 94127  
Block: 2483 Lot: 009

Zoning District: NCD, West Portal Neighborhood Commercial District

## New Application Conditional Use Findings

### Project Background

The Planning Department issued a Notice of Complaint dated June 16, 2015 after the Planning Department received a complaint alleging that one or more violations of the Planning Code exist on the above-referenced property. On July 24, 2015, a Notice of Enforcement was issued and on October 1, 2015, a Notice of Violation (NOV) was issued, alleging violation of code Sections 174, 729.53 (Unauthorized Business or Professional Services). Pursuant to Planning Code Section 729.53, a Conditional Use Authorization is required for a Business or Professional Service use to operate on the first floor in the West Portal Ave Neighborhood Commercial Zoning District.

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### Proposed Conditional Use

- A Conditional Use is necessary for the following:
1. Business or Professional Services on the First Floor in the West Portal Avenue NCD

### Compatibility with surrounding Neighborhood and Project Justification

- 1) *The proposed project use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary, or desirable for, and*

*compatible with, the neighborhood or the community; and*

**Business and Professional Services Use, Code Section 790.108(Financial Advisors)**

The proposed project provides a professional meeting space for an established, home-based wealth management practice previously located in the West Portal neighborhood (380 Santa Ana Ave.). The practice provides a variety of services including tax, estate, and retirement planning, risk management, objective financial counsel, trusteeship, lifestyle management, coordination of professionals, investment advice, and foundation management. The practice is completely independent and therefore an objective provider of advice that places the interests of their clients first.

The practice currently supports approximately 40 families; most of them (80%+) are elderly retirees from the West Portal neighborhood. Many of them have mobility issues due to advanced age. They require a location close to home to enable frequent meetings. They are also accustomed to the fact that their wealth advisor will show up at their doorstep in 5 minutes whenever there's a need.

The West Portal Avenue NCD does not currently have any independent wealth management practice similar to West Portal Financial Group, LLC (WPFG). Firms that specialize in high-touch, comprehensive, and independent wealth management services in San Francisco are generally located in the financial district. Once upon a time, there was a wealth management practice similar to WPFG in the West Portal Avenue NCD. The practice was called "West Portal Investment Group, LLC" located at 26 West Portal Ave., Suite One. This business relocated to the financial district several years ago to better capture business opportunities and had since rebranded themselves as WP Advisors, LLC. Allowing the establishment of WPFG at the proposed location fills a void left behind by WP Advisors, LLC.

The business owners of WPFG, Ellen Ching and Peter Chen, are long time residents of the West Portal neighborhood. They are interconnected with local businesses and clients and are committed to stay and serve the local communities.

The 360 West Portal building has a non-conventional, split-level design with 3 suites on each level. The lower level is below grade, while the upper level is above grade. The entrance to each suite can only be accessed by going up or down the staircases, and are set-back between 16' to 20' from the sidewalk. The building is in an inverted U shape with long and narrow sides. There is a central courtyard and an outdoor elevator in the middle. The units on each side have only 4' of retail frontage. The proposed location, Suite A, has approximately 1,103 sq ft of space and is 5'10" above grade. This is above the eye level of most individual; therefore, even with street frontage, this unit can't be seen from the sidewalk. This design is best suited for a tenant that does not require optimal retail frontage. A professional service establishment such as WPFG is therefore a good fit for this location.

The 360 West Portal Ave. building is currently occupied by 2 additional tenants. Artworks, an art school for children, occupies 4 units. Suki Sushi, a Japanese restaurant,

occupies the 5<sup>th</sup>. The owners of WPPG have been sending their daughter to Artworks for 10 years and know the business owner well. They also have excellent relationship with the owners of Suki Sushi. They employ the same janitorial service for their perspective suites, and they share the maintenance of common areas, such as the courtyard, walkways, and sidewalk. The new business has proven to be highly compatible with the neighbors and enjoys an excellent and cooperative relationship.

2) *That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*

a) *Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;*

No modifications are proposed to the project site, including the project's size, shape, and the arrangement of the structure on the property.

b) *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;*

Due to the very limited scope of this project, it is not expected to impact the accessibility and traffic patterns for persons working and residing in the vicinity. Off-street parking and loading are not required. West Portal Avenue have angled metered parking on both sides of the street and a SFMTA public parking lot is located on West Portal Avenue and 14<sup>th</sup> Avenue which has 19 metered spaces. West Portal Avenue is well served by MUNI K, L and M lightrail.

c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*

The project is not expected to generate noxious or offensive emissions.

d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;*

The project does not propose any landscaping improvements to the streetscape or the project site. Sidewalk already has trees.

3) *That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.*

The proposed project complies with the applicable provisions of the Planning Code and is consistent with the objectives and policies of the General Plan:

- Maintain and strengthen viable neighborhood commercial areas easily accessible to city residents.
- Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts
- Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

### Priority General Plan Policies Findings

1. *That existing neighborhood-serving retail uses be preserved and enhanced and future Opportunities for resident employment in and ownership of such business enhanced;*

The existing space was previously occupied by a Chiropractor, a Professional Service Use, for the preceding 5 years. The proposed project will continue the professional service use. This project allows the business owners to offer a more comfortable and convenient meeting space for existing West Portal clients, who are mostly elderly individuals. They will also provide their services to additional West Portal residents who previously did not have easy access to unbiased and independent wealth management services. This project ensures that a local, small business stays in the community, and its continued growth and success will most definitely create employment opportunities for local residents down the road.

2. *That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of the neighborhoods;*

The project has no affect on housing or will change the character of the existing neighborhood.

3. *That the City's supply of affordable housing be preserved and enhanced;*

The project has no affect on affordable housing.

4. *That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;*

This area is well served by MUNI public transit. And due to the small scale of the professional office, it has minimal impact on neighborhood parking. Metered parking is readily available in front and a public parking garage is close by too.

5. *That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;*

The building is designed as a commercial building, there is no displacement of industrial and service sector work being displaced. This is a "mom and pop" small local business, they are not a formula retail establishment.

6. *That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;*

The project does not impact the existing building structure and will not weaken the structural integrity of the building.

7. *That landmark and historic building be preserved; and*

The project has no effect on any landmark or historic building as work will be interior in nature.

8. *That our parks and open space and their access to sunlight and vista be protected from development.*

There is no impact to adjacent open space or access or sunlight or vistas from the project.





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Project Title:

360 WEST PORTAL AVE.  
SUITE A  
CONDITIONAL USE

Consultants:

JOB NO. 2015-21

Date: 06/06/16  
Checked By: SK  
Drawn By: YK, SK

ISSUANCES & REVISIONS:

No.	Date	Description

Stamp:

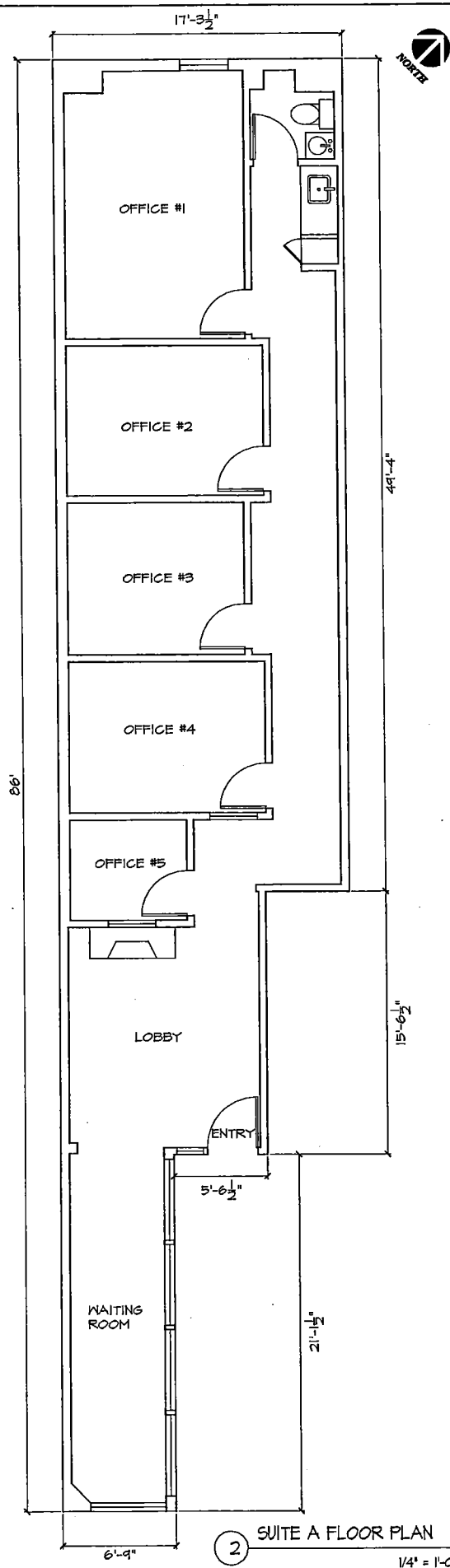


Sheet Title

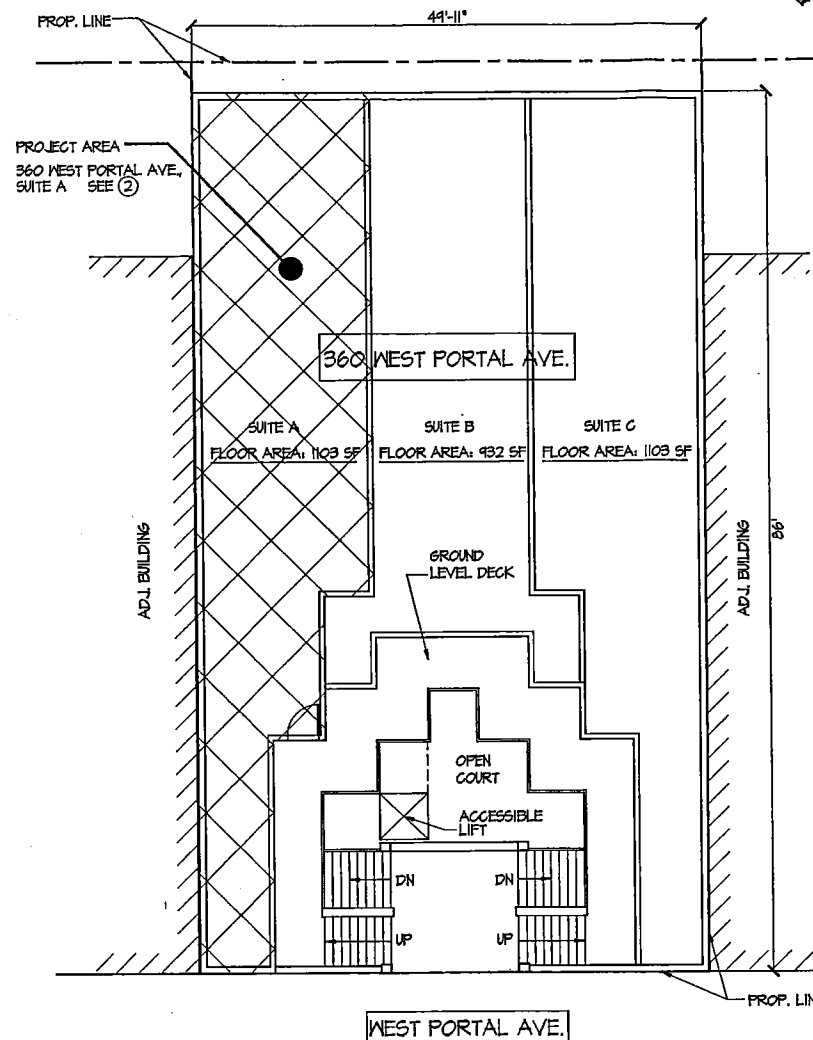
**SITE PLAN  
EXISTING  
FLOOR PLANS,  
ELEVATION**

Sheet No.

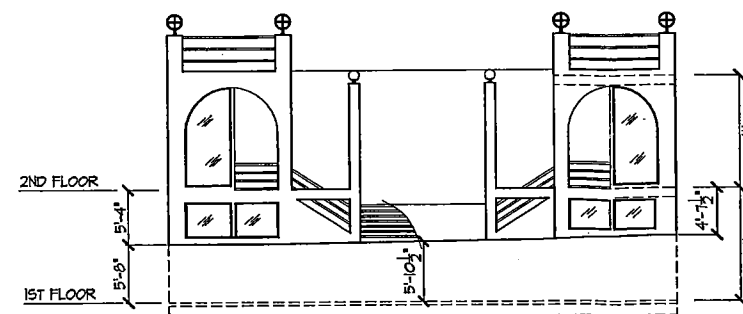
**A-1**



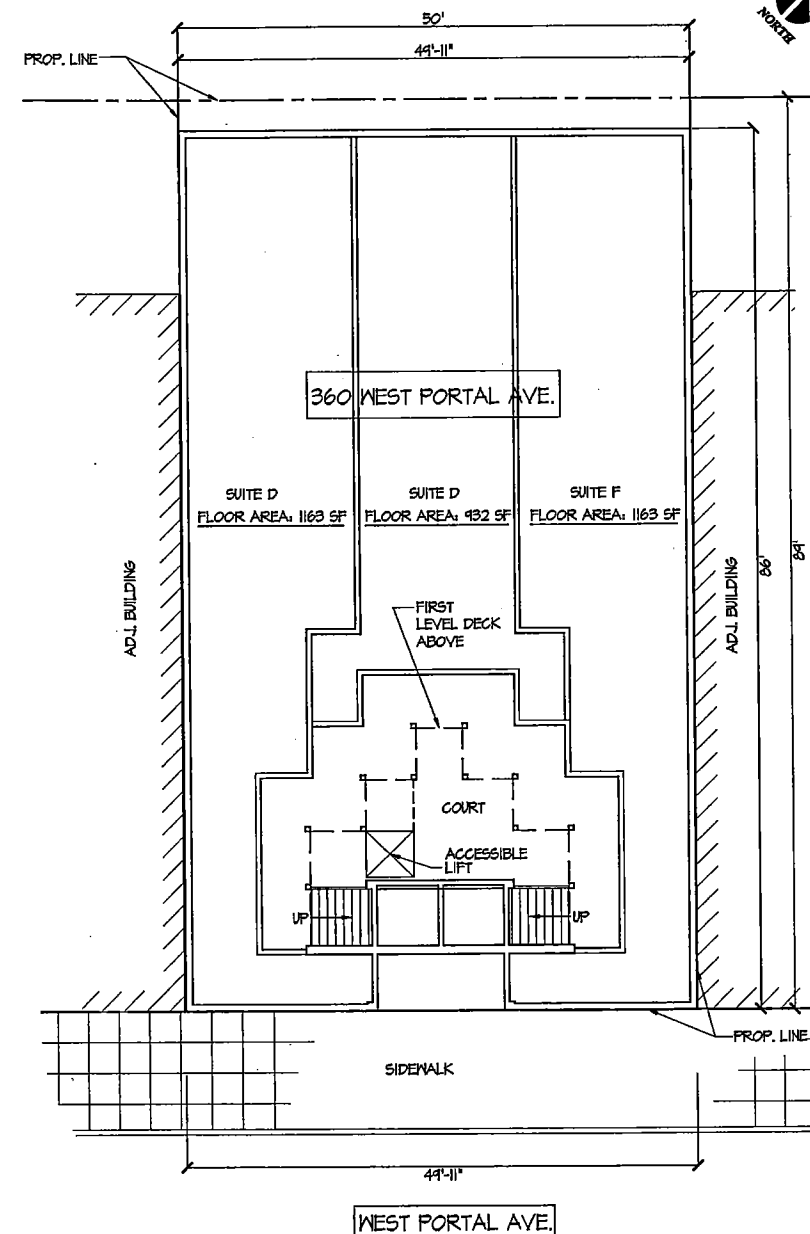
2 SUITE A FLOOR PLAN  
1/4" = 1'-0"



1 FIRST FLOOR PLAN (PLANNING DEFINITION)  
1/8" = 1'-0"



4 WEST PORTAL AVE. ELEVATION  
1/8" = 1'-0"



3 BASEMENT FLOOR PLAN (PLANNING DEFINITION)  
1/8" = 1'-0"

SCOPE OF WORK

CONDITIONAL USE PERMIT FOR BUSINESS OR PROFESSIONAL SERVICE ON 1ST FLOOR OF WEST PORTAL AVENUE, NEIGHBORHOOD COMMERCIAL DISTRICT

FLOOR AREA TABULATION

FLOOR	SUITE #	BUSINESS	FLOOR AREA	USE
1ST FLOOR	A	RAYMOND JAMES FINANCIAL SERVICES	1,103 SF	OFFICE
	B	ARTSWORKS	932 SF	RETAIL
	C	SUSHI SUKI	1,103 SF	RETAIL RESTAURANT
BASEMENT	D	ARTSWORKS	1,163 SF	RETAIL
	E	ARTSWORKS	1,103 SF	RETAIL
	F	ARTSWORKS	1,163 SF	RETAIL
TOTAL			5,243 SF	