File No. 120262

Committee Item No._____
Board Item No. 36

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee_____ Date_____

Board of Supervisors Meeting Date May 1, 2012

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☐	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget Analyst Report
☐	☐	Legislative Analyst Report
☐	☐	Introduction Form (for hearings)
☐	☒	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Award Letter
☐	☐	Application
☐	☒	Public Correspondence

OTHER (Use back side if additional space is needed)

☐ ☐ Appeal of Determination of Exemption from Environmental Review 1100 Lombard Street

☐ ☐ _____

☐ ☐ _____

Completed by: Joy Lamug Date April 26, 2012
Completed by:_____ Date_____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

FW: Request for Continuance - 1100 Lombard Street
Shaw, Christa L.
to:
'joy.lamug@sfgov.org'
04/23/2012 11:41 AM
Show Details

2 Attachments

image002.jpg Request for Continuance.pdf

Joy,

No need to return my call from earlier today. Reuben & Junius went ahead and submitted the request.

Thanks.

Christa

From: Cecilia De Leon [mailto:cdeleon@reubenlaw.com]
Sent: Monday, April 23, 2012 11:37 AM
To: David.Chiu@sfgov.org; Board.of.Supervisors@sfgov.org; tina.tam@sfgov.org; joy.lamug@sfgov.org; victor.young@sfgov.org
Cc: James Reuben; David Silverman; Shaw, Christa L.
Subject: Request for Continuance - 1100 Lombard Street

Please see attached request for continuance.

REUBEN & JUNIUS LLP

Cecilia de Leon
Assistant to David Silverman, Esq.
One Bush Street, Suite 600
San Francisco, CA 94104
T. 415-567-9000 ext. 450

F. 415-399-9480
cdeleon@reubenlaw.com
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Request for Continuance - 1100 Lombard Street
Cecilia De Leon
to:
David.Chiu, Board.of.Supervisors, tina.tam, joy.lamug, victor.young
04/23/2012 11:37 AM
Cc:
"James Reuben", "David Silverman", cshaw
Show Details

2 Attachments

image002.jpg Request for Continuance.pdf

Please see attached request for continuance.

REUBEN & JUNIUS LLP

Cecilia de Leon
Assistant to David Silverman, Esq.
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COBLENTZ,
PATCH, DUFFY
& BASS LLP ATTORNEYS AT LAW

One Ferry Building . Suite 200
San Francisco, California
94111-4213

main: 415.391.4800
fax: 415.989.1663
web: www.coblentzlaw.com

Christa L. Shaw
Direct Dial: 415.772.5780
cshaw@coblentzlaw.com

April 23, 2012

VIA EMAIL

President David Chiu and Members
Board of Supervisors
City and County of San Francisco
1 Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Request for Continuance
Board File No. 120262, Appeal of Categorical Exemption Determination
1100 Lombard Street (Assessor's Block 0069, Lot 081)

Dear President Chiu and Members of the Board:

This firm represents the appellant in the above-referenced appeal. With the full concurrence and support of the project sponsor, as indicated by the signature below of counsel for the project sponsor, we are writing to respectfully request a continuance of the Board of Supervisors' hearing on this appeal. The parties have agreed to jointly request and observe this continuance to allow the parties to engage in productive settlement negotiations, and request that the hearing be continued to May 15 or the earliest available date thereafter.

Very truly yours,

COBLENTZ, PATCH, DUFFY & BASS LLP

Christa L. Shaw

Christa L. Shaw

AGREED:

Reuben & Junius LLP
Counsel for Project Sponsor David Blanz

DAVID H. SILVERMAN

11182.001.2037536v1

cc: Angela Calvillo (via email)
Joy Lamug (via email)
Victor Young (via email)

11182.001.2037536v1

BOS - 11
Cfg Atty
COB

SAN FRANCISCO
PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 APR 23 AM 11:55
PBC

MEMO

Categorical Exemption Appeal

1100 Lombard Street

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE:	April 23, 2012
TO:	Angela Calvillo, Clerk of the Board of Supervisors
FROM:	Bill Wycko, Environmental Review Officer – (415) 558-9048
	Tina Tam, Senior Preservation Planner – (415) 558-6325
RE:	BOS File No. 120262 [Building Permit Application No. 201202033472]
	Appeal of Categorical Exemption for 1100 Lombard Street
HEARING DATE:	May 1, 2012
ATTACHMENTS:	A. Categorical Exemption from Environmental Review

PROJECT SPONSOR:	James Reuben on behalf of David Blanz, Property Owner
APPELLANT:	Christa Shaw on behalf of the John Sperling Irrevocable Trust

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Department's (the "Department") issuance of a Categorical Exemption under the California Environmental Quality Act ("CEQA Determination") for a project at 1100 Lombard Street (the "Project").

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a Categorical Exemption for 1100 Lombard Street on February 3, 2012, finding that the proposed project will not have an adverse impact to a historic resource.

The decision before the Board is whether to uphold the Department's categorical exemption determination and deny the appeal, or to overturn the Department's determination and return the project to the Department staff for additional environmental review.

SITE DESCRIPTION & PRESENT USE

The subject property is located at 1100 Lombard Street (mid-block on the north side of the street near Hyde Street) in a RH-3 Zoning District and 40-X Height and Bulk District. The subject lot is approximately 55.83 feet wide by 55.51 feet deep and contains a 3-story multi-family apartment dwelling constructed in 1866.

The subject building is included in the Here Today Survey (Page 274) as well as the Planning Department's 1976 Architectural Survey. The building is considered a Category A property (Known Historic Resource) for the purposes of the Planning Department's CEQA review procedures. The subject property is not a designated San Francisco Landmark nor is it located within a designated local historic district pursuant to Article 10, nor is it listed nor has it been determined eligible for listing on the National or California State register.

PROJECT DESCRIPTION

The scope of work for the subject application is to build a 10-foot tall, 40-foot long fence/firewall in the rear of the subject property (along a portion of the east side property line).

BACKGROUND

December 17, 2008 – Variance Application No. 2008.1329V
The Project Sponsor filed a rear yard variance for a lot line adjustment between Lots 021 (1100 Lombard Street, the subject property) and 006A (1112 Lombard Street – not the Appellant, but the adjacent neighbor to the west of the subject property) in Block 0069. The variance was approved on April 16, 2009. The variance request reconfigured the lots such that they corresponded with the two residential structures on the lots, one of which spanned the two existing lots. A horizontal extension on the east side of the single-family dwelling at 1112 Lombard Street extended across the shared lot line and almost entirely across the width of Lot 021. The reconfigured lot line adjustment created an approximately 9,231 square-foot, L-shaped lot on Lot 006A and an approximately 3,019 square-foot, square-shaped lot on Lot 021 so that each building would occupy its own lot. This variance does not directly impact the subject appeal.

July 27, 2011 - Building Permit Application No. 201107271170
The Project Sponsor received a building permit to expand the parking garage at the ground floor and enlarge the garage door to 10 feet wide. The permit also allowed for the structural strengthening of all floors and provided sound insulation between units. This building permit is not the subject of this CEQA appeal.

September 2, 2011 – Appeal No. 11-098
The Appellant filed an appeal of Building Permit Application No. 201107271170 with the Board of Appeals. On September 8, 2011, complaint No. 201156807 was filed with the Department of Building Inspection for the suspension of Building Permit Application No. 201107271170.

October 26, 2011 – Board of Appeals Hearing on Building Permit No. 201107271170
The Board of Appeals held public hearings for Appeal No. 11-098. The Board of Appeals upheld the permit with conditions; the tenants were not required to vacate their units during construction, based on the permit holder voluntarily agreeing to this condition. Building Permit Application No. 201107271170 was reinstated on December 16, 2011.

February 3, 2012 – Building Permit Application No. 201202033472: Permit Under Current CEQA Appeal ("subject building permit")
The Project Sponsor received the subject building permit to build a new 10-foot high fire rated wall in the rear yard. This permit is the subject of this appeal and concerns the CEQA Categorical Exemption Determination issued at the time of the permit's approval.

February 9, 2012 – Appeal No. 12-012

The Appellant filed an appeal of Building Permit Application No. 201202033472, subject building permit, with the Board of Appeals. On February 10, 2012, complaint No. 201292313 was filed with the Department of Building Inspection and Building Permit Application No. 201202033472, subject building permit, was suspended and remains suspended.

February 14, 2012 – Variance Application No. 12.0146V
The Project Sponsor filed a variance to allow rear yard encroachment for the addition of two (2) rear exit stairs (in galvanized metal), as required by San Francisco Building Code and San Francisco Fire Department in order to allow the removal of the outdated, existing front fire escape system, as well as required by the creation of the new common roof deck. The case is still active and is pending separate environmental review.

March 20, 2012 – CEQA Appeal Filed
The Appellant filed an Appeal of Determination of Exemption from Environmental Review with the Clerk of the Board of Supervisors for Building Permit Application No. 201202033472. On March 23, 2012, The Office of the City Attorney advised the Clerk of the Board of Supervisors that the Environmental Review appeal was timely filed for Building Permit Application No. 201202033472. The Clerk of the Board of Supervisors scheduled the subject appeal for May 1, 2012.

March 21, 2012 – Board of Appeals Hearing on Subject Building Permit
The Board of Appeals held public hearings for Appeal No. 12-012. The Board of Appeals denied the appeal and upheld the permit on the basis that the wall is Code compliant. On April 2, 2012, The Appellant filed a Rehearing Request for Appeal No. 12-012. The Board of Appeals initially scheduled the Rehearing Request for April 18, 2012 but has continued the rehearing until after the BOS renders a decision on the CEQA Appeal (currently scheduled for May 1, 2012).

CEQA GUIDELINES

Categorical Exemptions
Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

CEQA State Guidelines Section 15301 (Existing Facilities), or Class 1, provides an exemption from environmental review for interior or exterior alterations that involve negligible or no expansion of an existing use. It is important to note that CEQA Guidelines Section 15300.2(f) does not allow a categorical exemption to be used for a project that may cause a substantial adverse change in the significance of a historic resource.

CEQA and Historic Resources

With regard to historic resource review under CEQA, the first step in the evaluation process is to determine whether there is a historic resource present. Public Resources Code Section 21084.1 (Historical Resources) and CEQA Guidelines Section 15064.5 (Determining the Significance of Impacts on Historical and Unique Archaeological Resources) detail what qualifies as a historic resource under the Act.

The second step (if necessary) in the CEQA review process is to determine whether the action or project proposed would cause a "substantial adverse change" to the historic resource. Section 15064.5 CEQA defines a substantial adverse change as one may have a significant effect on the environment.

"Substantial adverse change in the significance of an historical resource means the physical demolition, destruction, relocation, or alteration of the resource of its immediate surroundings such that the significance of the historical resource would be materially impaired."

Department CEQA Analysis of 1100 Lombard Street
The scope of the subject building permit application is limited to building a 10-foot tall, 40-foot long fence/firewall in the rear of the subject property. Since the building was determined to be a historic resource, the Planning Department then assessed whether the proposed project would have an adverse impact to the historic resource. As stated in the CEQA Categorical Exemption Determination Form, the Department determined that the proposed project would be consistent with the *Secretary of the Interior's Standards* ("the *Standards*"), and thus not have an adverse impact to the historic resource. This determination was made by a Preservation Planner at the time the permit was approved by the Department.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns related to Building Permit Application No. 201202033472 that are raised in the March 20, 2012 Appeal Letter are cited in a summary below and are followed by the Department's responses.

Issue 1: The subject building permit application was issued in error since the exemption does not reflect the full scope of the project.

Response 1: The scope of the subject building permit application is limited to building a 10-foot tall fence/firewall in the rear of the subject property. There is no requirement that a building permit must include any and all future additional alterations or additions. At the time of the subject permit, there was only documented history of a garage permit, which was upheld by the Board of Appeals, and miscellaneous interior alterations. However, since the subject permit was initially approved, there has been a variance application (to be evaluated separately) to allow exterior front and rear alterations. The work under this Variance will require an Environmental Evaluation application and further preservation review.

Issue 2: The proposed project's "impacts to the adjacent Category A historic resource (2323 Hyde Street) constitute unusual circumstances that preclude eligibility for any categorical exemption."

Response 2: The Department maintains that the project meets the *Standards* and will not adversely impact the subject historic resource or the adjacent property at 2323 Hyde Street's ability to convey its historic significance. The scope of the subject project is limited to building a 10-foot tall fence/firewall in the rear of the subject property. The location of the project (in the rear of the property) is not visible from the public right-of-way and does not impair the historic characteristics of the subject property or the adjacent property at 2323 Hyde Street.

CONCLUSION

The Department has found that work proposed under Building Permit Application No. 201202033472 for the property at 1100 Lombard Street (which is limited to building a 10-foot tall fence/firewall in the rear of the subject property) does not have a significant impact on the environment and is exempt from further environmental review pursuant to CEQA State Guidelines Section 15301 (Existing Facilities). This classification type is intended for projects that involve negligible or no expansion of an existing use. The Appellant has not provided any substantial evidence or expert opinion to refute the conclusions of the Department.

For the reasons stated above categorical exemption complies with the requirements of CEQA. The Department therefore recommends that the Board uphold the Determination of Exemption from Environmental Review and deny the appeal of the CEQA Determination.

CEQA Categorical Exemption Determination

SAN FRANCISCO
PLANNING
DEPARTMENT

Property Information/Project Description

PROJECT ADDRESS	BLOCK/LOT(S)
1100 Lombard Street	0069/081

CASE NO.	PERMIT NO.	PLANS DATED
	2012.02.03.3472	2/3/12

☒ Addition/ Alteration (detailed below) ☐ Demolition (requires HRER if over 50 years old) ☐ New Construction

STEP 1 EXEMPTION CLASS

☒ **Class 1: Existing Facilities**
Interior and exterior alterations; additions under 10,000 sq.ft.; change of use if principally permitted or with a CU.

☐ **Class 3: New Construction**
Up to three (3) single family residences; six (6) dwelling units in one building; commercial/office structures under 10,000 sq.ft.; accessory structures; utility extensions.

NOTE:
If neither class applies, an *Environmental Evaluation Application* is required.

STEP 2 CEQA IMPACTS (To be completed by Project Planner)

If ANY box is initialed below an *Environmental Evaluation Application* is required.

_____ **Transportation:** Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?

_____ **Air Quality:** Would the project add new sensitive receptors (specifically, schools, colleges, universities, day care facilities, hospitals, residential dwellings [subject to Article 38 of the Health Code], and senior-care facilities)?

_____ **Hazardous Materials:** Would the project involve 1) change of use (including tenant improvements) and/or 2) soil disturbance; on a site with a former gas station, auto repair, dry cleaners, or heavy manufacturing use, or on a site with underground storage tanks?
Phase I Environmental Site Assessment required for CEQA clearance (*E.P. initials required*)

_____ **Soil Disturbance/Modification:** Would the project result in the soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in non-archeological sensitive areas?
Refer to: EP ArcMap > CEQA CatEx Determination Layers > Archeological Sensitive Areas

_____ **Noise:** Does the project include new noise-sensitive receptors (schools, colleges, universities, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area?
Refer to: EPArcMap > CEQA CatEx Determination Layers > Noise Mitigation Area

_____ **Subdivision/Lot-Line Adjustment:** Does the project site involve a subdivision or lot-line adjustment on a lot with a slope of 20% or more?
Refer to: EP ArcMap > CEQA CatEx Determination Layers >Topography

NOTE:
Project Planner must initial box below before proceeding to Step 3.

Project Can Proceed With Categorical Exemption Review.

The project does not trigger any of the CEQA impacts and can proceed with categorical exemption review.

GO TO STEP 3

STEP 3 PROPERTY STATUS - HISTORICAL RESOURCE

Property is one of the following: (Refer to: San Francisco Property Information Map)

- [x] Category A: Known Historical Resource GO TO STEP 5
- [ ] Category B: Potential Historical Resource (over 50 years of age) GO TO STEP 4
- [ ] Category C: Not a Historical Resource or Not Age Eligible (under 50 years of age) GO TO STEP 5

STEP 4 PROPOSED WORK CHECKLIST (To be completed by Project Planner)

If condition applies, please initial.

1. ____ **Change of Use and New Construction** (tenant improvements not included).
2. ____ **Interior alterations/interior tenant improvements.** Note: Publicly-accessible spaces (i.e. lobby, auditorium, or sanctuary) require preservation planner review.
3. ____ **Regular maintenance and repair** to correct or repair deterioration, decay, or damage to the building.
4. ____ **Window replacement** that meets the Department's *Window Replacement Standards* (does not includ storefront window alterations).
5. ____ **Garage work,** specifically, a new opening that meets the *Guidelines for Adding Garages and Curb Cuts*, and/or replacement of garage door in an existing opening.
6. AW **Deck, terrace construction, or fences** that are not visible from any immediately adjacent public right-of-way.
7. ____ **Mechanical equipment installation** not visible from any immediately adjacent public right-of-way.
8. ____ **Dormer installation** that meets the requirements for exemption from public notification under *Zoning Administrator Bulletin: Dormer Windows*.
9. ____ **Additions** that are not visible from any immediately adjacent public right-of-way for 150' in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.

NOTE:
Project Planner must check box below before proceeding.

- [ ] Project is **not** listed: GO TO STEP 5
- [ ] Project **does not conform** to the scopes of work: GO TO STEP 5
- [ ] Project involves **4 or more** work descriptions: GO TO STEP 5
- [ ] Project involves **less than 4** work descriptions: GO TO STEP 6

STEP 5 CEQA IMPACTS - ADVANCED HISTORICAL REVIEW (To be completed by Preservation Planner)

If condition applies, please initial.

1. ____ Project involves a **Known Historical Resource (CEQA Category A)** as determined by Step 3 and conforms entirely to Scope of Work Descriptions listed in Step 4. (Please initial scopes of work in STEP 4 that apply.)
2. ____ **Interior alterations to publicly-accessible spaces.**

3. **Window replacement** of original/historic windows that are not "in-kind" but are is consistent with existing historic character. _____

4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features. _____

5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features. _____

6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings. _____

7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right of way and meets the *Secretary of the Interior's Standards for Rehabilitation*. _____

SKC 8. **Other work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties*

Specify: retaining / fire wall at rear

* 9. **Reclassification of property status** to Category C _____

a. Per Environmental Evaluation Evaluation, dated: _____

** Attach Historic Resource Evaluation Report*

b. Other, please specify: _____

** Requires initial by Senior Preservation Planner / Preservation Coordinator*

NOTE:
If ANY box is initialed in STEP 5, Preservation Planner MUST review & initial below.

Further Environmental Review Required.

Based on the information provided, the project requires an *Environmental Evaluation Application* to be submitted.

GO TO STEP 6 _____
Preservation Planner Initials

Project Can Proceed With Categorical Exemption Review.

The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review.

GO TO STEP 6 SKC
Preservation Planner Initials

STEP 6 CATEGORICAL EXEMPTION DETERMINATION (To be completed by Project Planner)

☐ **Further Environmental Review Required.**
Proposed Project does not meet scopes of work in either:

(check all that apply)

☐ Step 2 (CEQA Impacts) or

☐ Step 5 (Advanced Historical Review)

STOP!
Must file *Environmental Evaluation Application.* _____

☒ **No Further Environmental Review Required.** Project is categorically exempt under CEQA.

Planner's Signature: EWatty

Date: 2/3/12

Print Name: Elizabeth Watty

Once signed and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.

Appeal of Determination of Exemption from Environmental Review for Project Located at 1100 Lombard Street

Victor Young to: cshaw 03/23/2012 04:43 PM

Cc: Cheryl Adams, Kate Stacy, Marlena Byrne, Scott Sanchez, Bill Wycko, AnMarie Rodgers, Victor.Pacheco, Tina Tam, Nannie Turrell, Linda Avery, Cynthia.Goldstein, Elizabeth Watty, jreuben,

Dear Ms. Shaw:

The Office of the Clerk of the Board is in receipt of a memorandum dated March 23, 2012, (copy attached) from the City Attorney's Office regarding the timely filing of an appeal of Determination of Exemption from Environmental Review for the property located at 1100 Lombard Street.

The City Attorney has determined that the appeal was filed in a timely manner.

A hearing date has been scheduled on **Tuesday, May 1, 2012, at 4:00 P.M.**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco.

Pursuant to the Interim Procedures 7 and 9, please provide to the Clerk's Office **by**:

8 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing

11 days prior to the hearing: names of interested parties to be notified of the hearing.

Please provide 18 copies of the documentation for distribution, and, if possible, names of interested parties to be notified in label format.

If you have any questions, please feel free to contact Joy Lamug at (415) 554-7712 or Victor Young at (415) 554-7723.

1100 Lombard Determination of Exemption - Appeal.pdf

Victor Young
Assistant Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Pl., Room 244
San Francisco CA 94102
phone 415-554-7723
fax 415-554-7714

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.
http://www.sfgov.org/site/bdsupvrs_form.asp?id=18548

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

March 23, 2012

Christa L. Shaw
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

Subject: Appeal of Determination of Exemption from Environmental Review for Project Located at 1100 Lombard Street

Dear Ms. Shaw:

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If you have any questions, please feel free to contact Joy Lamug at (415) 554-7712 or Victor Young at (415) 554-7723.

Very truly yours,

for

Angela Calvillo
Clerk of the Board

c:
Cheryl Adams, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator
Bill Wycko, Chief, Major Environmental Analysis
AnMarie Rodgers, Manager, Legislative Affairs
Victor Pacheco, Board of Appeals
Tina Tam, Historic Preservation
Nannie Turrell, Major Environmental Analysis
Linda Avery, Planning Commission Secretary
Cynthia Goldstein, Executive Director, Board of Appeals
Elizabeth Watty, Planning Department
James A. Reuben, Project Sponsor

ORIG - Joy, BOS-11, COB, Leg. Dep., City Attorney

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

KATE HERRMANN STACY
Deputy City Attorney

Direct Dial: (415) 554-4617
Email: kate.stacy@sfgov.org

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 MAR 23 AM 10: 17

MEMORANDUM
PRIVILEGED AND CONFIDENTIAL

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Kate H. Stacy
Deputy City Attorney

DATE: March 23, 2012

RE: Appeal of Determination of Exemption from Environmental Review for 1100 Lombard Street

File #120262

You have asked for our advice on the timeliness of an appeal to the Board of Supervisors by Christa Shaw on behalf of the John Sperling Irrevocable Trust, owner of 2323 Hyde Street ("Appellant"), received by the Clerk's Office on March 20, 2012, of the Planning Department's determination that a project located at 1100 Lombard Street is exempt from environmental review under the California Environmental Quality Act ("CEQA"). The proposal would create a new firewall on the 1100 Lombard Street property.

The building permit originally was issued on February 3, 2012 and was suspended on February 9, 2012 at the Board of Appeals' request. Appellants appealed the issuance of the building permit to the Board of Appeals, which upheld the Department of Building Inspection's action approving the building permit on March 21, 2012. Following the Board of Appeals' decision, there is a ten-day period in which Appellants could request a rehearing of the Board of Appeal's action. The Department of Building Inspection records indicate that a building permit has yet to be granted for the project.

Given the above information, it is our view that the appeal is timely. Therefore, the appeal should be calendared before the Board of Supervisors. We recommend that you so advise the Appellant.

Please let us know if we may be of further assistance.

K.H.S.

cc: Rick Caldeira, Deputy Director, Clerk of the Board
Cheryl Adams, Deputy City Attorney
John Rahaim, Director, Planning Department
Scott Sanchez, Zoning Administrator, Planning Department
Bill Wycko, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Elizabeth Watty, Planning Department

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

March 21, 2012

To: Cheryl Adams
Deputy City Attorney

From: Rick Caldeira
Deputy Director

Subject: Appeal of Categorical Exemption Determination from Environmental Review - 1100 Lombard Street

An appeal of categorical exemption determination from environmental review issued for property located at 1100 Lombard Street was filed with the Office of the Clerk of the Board on March 20, 2012, by Christa Shaw of Coblentz, Patch, Duffy & Bass, LLP, on behalf of the John Sperling 1994 Irrevocable Trust, owner of 2323 Hyde Street.

Pursuant to the Interim Procedures of Appeals for Negative Declaration and Categorical Exemptions No. 5, I am forwarding this appeal, with attached documents, to the City Attorney's Office to determine if the appeal has been filed in a timely manner. The City Attorney's determination should be made within three (3) working days of receipt of this request.

If you have any questions, you can contact me at (415) 554-7711.

c: Angela Calvillo, Clerk of the Board
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Bill Wycko, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Tina Tam, Planning Department
Nannie Turrell, Planning Department
Linda Avery, Planning Department
Elizabeth Watty, Planning Department
Cynthia Goldstein, Board of Appeals
Victor Pacheco, Board of Appeals

COBLENTZ, PATCH, DUFFY & BASS LLP ATTORNEYS AT LAW

One Ferry Building . Suite 200
San Francisco, California
94111-4213

main: 415.391.4800
fax: 415.989.1663
web: www.coblentzlaw.com

Christa L. Shaw
Direct Dial: 415.772.5780
cshaw@coblentzlaw.com

March 20, 2012

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 MAR 20 PM 4:46

VIA MESSENGER

President David Chiu and Members
Board of Supervisors
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Appeal of Categorical Exemption Determination
1100 Lombard Street (Assessor's Block 0069, Lot 081)
Building Permit No. 2012.02.03.3472

Dear President Chiu and Members of the Board:

On behalf of the John Sperling 1994 Irrevocable Trust, owner of 2323 Hyde Street, we hereby appeal the Planning Department's Categorical Exemption Determination for Building Permit No. 2012.02.03.3472, issued for a proposed 10-foot firewall at 1100 Lombard Street. A copy of the Planning Department's Categorical Exemption Determination, dated February 3, 2012, is attached.

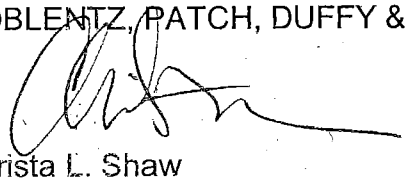
Respectfully, the categorical exemption was issued in error. The exemption determination does not reflect the full scope of the project, because it does not take into consideration the proposed firewall's impacts to 2323 Hyde Street, a Category A historic resource known as the Stevenson House. Furthermore, the proposed project's impacts to the adjacent Category A historic resource constitute unusual circumstances that preclude eligibility for any categorical exemption under the California Environmental Quality Act.

This appeal is ripe and timely. The building permit was issued on February 3, 2012. The permit was appealed to the Board of Appeals, and a hearing is scheduled for March 21.

Thank you for your consideration.

Very truly yours,

COBLENTZ, PATCH, DUFFY & BASS LLP



Christa L. Shaw

Enclosures

cc: Sam Zodeh
David Silverman

CEQA Categorical Exemption Determination

SAN FRANCISCO
PLANNING
DEPARTMENT

Property Information/Project Description

PROJECT ADDRESS	BLOCK/LOT(S)
1100 Lombard Street	0069/081

CASE NO.	PERMIT NO.	PLANS DATED
	2012.02.03.3472	2/3/12

☒ Addition/ Alteration (detailed below) ☐ Demolition (requires HRER if over 50 years old) ☐ New Construction

STEP 1 EXEMPTION CLASS

☒ **Class 1: Existing Facilities**
Interior and exterior alterations; additions under 10,000 sq.ft.; change of use if principally permitted or with a CU.

☐ **Class 3: New Construction**
Up to three (3) single family residences; six (6) dwelling units in one building; commercial/office structures under 10,000 sq.ft.; accessory structures; utility extensions.

NOTE:
If neither class applies, an *Environmental Evaluation Application* is required.

STEP 2 CEQA IMPACTS (To be completed by Project Planner)

If ANY box is initialed below an *Environmental Evaluation Application* is required.

_____ **Transportation:** Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?

_____ **Air Quality:** Would the project add new sensitive receptors (specifically, schools, colleges, universities, day care facilities, hospitals, residential dwellings [subject to Article 38 of the Health Code], and senior-care facilities)?

_____ **Hazardous Materials:** Would the project involve 1) change of use (including tenant improvements) and/or 2) soil disturbance; on a site with a former gas station, auto repair, dry cleaners, or heavy manufacturing use, or on a site with underground storage tanks?
Phase I Environmental Site Assessment required for CEQA clearance (*E.P. initials required*)

_____ **Soil Disturbance/Modification:** Would the project result in the soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in non-archeological sensitive areas?
Refer to: EP ArcMap > CEQA CatEx Determination Layers > Archeological Sensitive Areas

_____ **Noise:** Does the project include new noise-sensitive receptors (schools, colleges, universities, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area?
Refer to: EPArcMap > CEQA CatEx Determination Layers > Noise Mitigation Area

_____ **Subdivision/Lot-Line Adjustment:** Does the project site involve a subdivision or lot-line adjustment on a lot with a slope of 20% or more?
Refer to: EP ArcMap > CEQA CatEx Determination Layers >Topography

NOTE:
Project Planner must initial box below before proceeding to Step 3.

Project Can Proceed With Categorical Exemption Review.

The project does not trigger any of the CEQA Impacts and can proceed with categorical exemption review.

GO TO STEP 3

STEP 3 PROPERTY STATUS - HISTORICAL RESOURCE

Property is one of the following: (Refer to: San Francisco Property Information Map)

- [x] **Category A: Known Historical Resource** GO TO STEP 5
- [ ] **Category B: Potential Historical Resource** (over 50 years of age) GO TO STEP 4
- [ ] **Category C: Not a Historical Resource or Not Age Eligible** (under 50 years of age) GO TO STEP 6

STEP 4 PROPOSED WORK CHECKLIST (To be completed by Project Planner)

If condition applies, please initial.

1. **Change of Use and New Construction** (tenant improvements not included). _____
2. **Interior alterations/interior tenant improvements.** Note: Publicly-accessible spaces (i.e. lobby, auditorium, or sanctuary) require preservation planner review. _____
3. **Regular maintenance and repair** to correct or repair deterioration, decay, or damage to the building. _____
4. **Window replacement** that meets the Department's *Window Replacement Standards* (does not includ storefront window alterations). _____
5. **Garage work,** specifically, a new opening that meets the *Guidelines for Adding Garages and Curb Cuts*, and/or replacement of garage door in an existing opening. _____
6. **Deck, terrace construction, or fences** that are not visible from any immediately adjacent public right-of-way. AW
7. **Mechanical equipment installation** not visible from any immediately adjacent public right-of-way. _____
8. **Dormer installation** that meets the requirements for exemption from public notification under *Zoning Administrator Bulletin: Dormer Windows*. _____
9. **Additions** that are not visible from any immediately adjacent public right-of-way for 150' in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features. _____

NOTE:
Project Planner must check box below before proceeding.

- [ ] Project is **not listed:** GO TO STEP 5
- [ ] Project **does not conform** to the scopes of work: GO TO STEP 5
- [ ] Project involves **4 or more** work descriptions: GO TO STEP 5
- [ ] Project involves **less than 4** work descriptions: GO TO STEP 6

STEP 5 CEQA IMPACTS - ADVANCED HISTORICAL REVIEW (To be completed by Preservation Planner)

If condition applies, please initial.

1. Project involves a **Known Historical Resource (CEQA Category A)** as determined by Step 3 and conforms entirely to Scope of Work Descriptions listed in Step 4. (Please initial scopes of work in STEP 4 that apply.) _____
2. **Interior alterations to publicly-accessible spaces.** _____

_____ 3. **Window replacement** of original/historic windows that are not "in-kind" but are is consistent with existing historic character.

_____ 4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.

_____ 5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.

_____ 6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

_____ 7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right of way and meets the *Secretary of the Interior's Standards for Rehabilitation.*

stc 8. **Other work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties*

Specify: retaining/fire wall at rear

* 9. **Reclassification of property status** to Category C

a. Per Environmental Evaluation Evaluation, dated: _____

** Attach Historic Resource Evaluation Report*

b. Other, please specify: _____

** Requires initial by Senior Preservation Planner / Preservation Coordinator*

NOTE:
If ANY box is initialed in STEP 5, Preservation Planner MUST review & initial below.

Further Environmental Review Required.

Based on the information provided, the project requires an *Environmental Evaluation Application* to be submitted.

GO TO STEP 6 _____ *Preservation Planner Initials*

Project Can Proceed With Categorical Exemption Review.

The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review.

GO TO STEP 6 stc *Preservation Planner Initials*

STEP 6 CATEGORICAL EXEMPTION DETERMINATION (To be completed by Project Planner)

☐ **Further Environmental Review Required.**
Proposed Project does not meet scopes of work in either:

(check all that apply)

☐ Step 2 (CEQA Impacts) or

☐ Step 5 (Advanced Historical Review)

STOP!
Must file *Environmental Evaluation Application.* _____

☒ **No Further Environmental Review Required.** Project is categorically exempt under CEQA.

aWatty
Planner's Signature

2/3/12
Date

Elizabeth Watty
Print Name

Once signed and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: **Tuesday, May 1, 2012**

Time: **4:00 p.m.**

Location: **Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102**

Subject: **File No. 120262. Hearing of persons interested in or objecting to the decision of the Planning Department's determination dated February 3, 2012, that a project located at 1100 Lombard Street (Building Permit Application No. 2012.02.03.3472) is exempt from environmental review under the California Environmental Quality Act (CEQA). The proposal would create a new firewall on the 1100 Lombard Street property (Assessor's Block No. 0069, Lot No. 081). (District 2) (Appellant: Christa Shaw on behalf of the John Sperling 1994 Irrevocable Trust, owner of 2323 Hyde Street) (Filed March 20, 2012).**

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, 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 Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to

Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, April 26, 2012.

Angela Calvillo
Clerk of the Board

MAILED/POSTED: April 20, 2012

Re: Appeal of Determination of Exemption from Environmental Review - 1100 Lombard Street (BPA 2012.02.03.3472)

Joy Lamug to: Elizabeth Watty 03/26/2012 03:35 PM
Cc: Victor Young

Hi Elizabeth,

Thank you. No need to provide the appellant(s) list in excel. I think the project owner has to be noticed too.

Thanks again!
Joy

Joy Lamug
Board of Supervisors
Legislative Division
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Tel: 415.554.7712
Fax: 415.554.7714
Email: joy.lamug@sfgov.org

MONDAY DEADLINE: Departments must submit electronic version of legislation by 9:00 am with original and 4 copies to be submitted by 12:00 noon.

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.
http://www.sfgov.org/site/bdsupvrs_form.asp?id=18548

Elizabeth Watty	Hi Joy, Since this was an over-the-counter appro...	03/26/2012 03:05:29 PM

From: Elizabeth Watty/CTYPLN/SFGOV
To: Joy Lamug/BOS/SFGOV@SFGOV
Cc: anmarie.rodgers@sfgov.org, Tina Tam/CTYPLN/SFGOV@SFGOV
Date: 03/26/2012 03:05 PM
Subject: Re: Appeal of Determination of Exemption from Environmental Review - 1100 Lombard Street (BPA 2012.02.03.3472)

Hi Joy,

Since this was an over-the-counter approval, I think the only person who is required to be noticed is the appellant. I've pasted below the excerpt from our legislative procedures manual, which states that for CEQA appeals, notice needs to go to "appellants and interested organizations/individuals". Since I am not aware of any interested organizations or individuals, I think it's just the appellant.

Would you still like us to put the appellants contact info into excel?

Thanks,

(page 39)
4.Required Hearing Notice:
a. 11 days prior to hearing, notice to be mailed by Clerk's Office.

b. Parties to be noticed:

i. Negative Declarations/Categorical Exemptions:

Must go to appellants and interested organizations/individuals.

Elizabeth Watty, LEED AP
Current Planning, NW and NE Quadrants
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
(t) 415.558.6620
(f) 415.558.6409
www.sfgov.org/planning

Joy Lamug/BOS/SFGOV

Joy Lamug/BOS/SFGOV
03/26/2012 11:48 AM

To Elizabeth Watty/CTYPLN/SFGOV@SFGOV
cc
Subject Appeal of Determination of Exemption from Environmental Review - 1100 Lombard Street (BPA 2012.02.03.3472)

Hi Elizabeth,

The above referenced appeal is scheduled to be heard by the Board of Supervisors on May 1, 2012, at 4:00 p.m.. Please kindly transmit the **mailing list** in excel format by April 2.

Thank you in advance.

Joy

Joy Lamug
Board of Supervisors
Legislative Division
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Tel: 415.554.7712
Fax: 415.554.7714
Email: joy.lamug@sfgov.org