

File No. 141046

Committee Item No. _____

Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____
Board of Supervisors Meeting

Date _____
Date November 25, 2014

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Appeal Letter - 10/06/2014
- Appellant Letter - 11/17/2014
- Project Sponsor Letter - 11/17/2014
- Planning Memo - 10/31/2014
- Appellant Letter - 10/30/2014
- Application for Dwelling Unit Removal
- Application for Conditional Use Authorization
- Planning Commission Motion No. 19229
- Clerical Documents: Hearing Notice

Completed by: John Carroll Date November 20, 2014

Completed by: _____ Date _____

**NOTICE TO BOARD OF SUPERVISORS OF APPEAL
FROM ACTION OF THE CITY PLANNING COMMISSION**

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at 395 26th Ave. aka 2500 Clement Street.

September 4, 2014
Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

October 6, 2014
Appeal Filing Date

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BOARD OF SUPERVISORS
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The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. _____.

The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. _____.

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2013.0205CEKSV.

The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. _____.

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

Conditional Use Authorization pursuant to Planning Code Sections 303 and 317 for the demolition of two or more residential units.

b) Set forth the reasons in support of your appeal:

See Attached

Person to Whom
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

(same)

Name

Stephen M. Williams

Name

Address

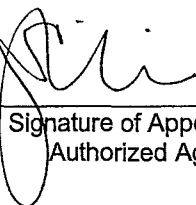
1934 Divisadero Street, SF CA 94115

Address

Telephone Number

(415) 292-3656

Telephone Number



Signature of Appellant or
Authorized Agent



David Chiu, President
San Francisco Board of Supervisors
City Hall, #1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

October 6, 2014

RE: **STATEMENT OF APPEAL-CONDITIONAL USE AUTHORIZATION**
395 26th Avenue (AKA 2500-02-06-08 Clement & 381-83-87 26th Avenue)
2013.0205CEKV & 2013.0205CEKV—Project Includes:
Demolition of Sound Affordable Rent-Controlled Housing;
Request for Conditional Use Authorization;
Subdivision of Existing Development Lot;
Building Permits for Two New 45'+ Buildings,
Rear Yard Variances and Other Code Exceptions

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President Chiu and Members of the Board:

This Statement is submitted in support of the appeal of the conditional use authorization granted by the Planning Commission (4-3 vote) on September 4, 2014. We have previously submitted to Planning a Petition signed by 171 immediate neighborhood residents opposing the project as incompatible with the neighborhood and an improper use of the conditional use procedure. With this appeal, we submit the signatures of 73 property owners within 300 feet of the subject lot.

1. The Project is Demolition of TWO Sound, Affordable Rent-Controlled Units

A conditional use authorization is required for the demolition of sound affordable rent-controlled housing. The Commission decision was in error and it mistakenly found that demolition of this housing is *"necessary and desirable"* for the community. The decision is directly contrary to all controlling public policy—and is a slap in the face of the public in the middle of an affordability crisis.

Retention of this type of affordable rent controlled housing is the highest priority policy and a keystone to every plan to fight the affordability crisis in SF. The decision is contrary to the Mayor's Executive Directives, contrary to the General Plan and contrary to the controlling policies of the Housing Element all of which mandate the retention of the existing building. There is no policy (as opined by the Dept and endorsed by the Planning Commission) that allows this type of sound affordable housing to be demolished and "exchanged" for new, market rate luxury condominium housing. Once this type of housing is demolished, it is gone forever. There is a finite supply of this type of housing and the policies of the City Demand its retention.

2. The Project Does Not Meet the Mandatory Criterion for a Demolition

The Project meets only six of the eighteen criteria for granting a demolition permit under Planning Code Section 317. The proposal to remove and replace two "naturally affordable" units is contrary to the priority principle of rent-controlled housing unit

retention. The current housing affordability crisis creates an exceptional and extraordinary circumstance such that the Commission should have denied the project and preserved the existing units. The Commission ignored this controlling fact and it is up to the Board of Supervisors to correct this error in judgment.

3. UDAT requested a Project With a 25% Rear Yard—The Developer Proposes 10%; The Developer REFUSED to comply with Dept directives for a project WITHOUT Variances; The Requested Variances Hurt the Neighbors and Are Not Justified from an “Exceptional and Extraordinary” Hardship

UDAT Reviewed the Project and Requested a Project Without Variances—the Developer Refused. The Variances hurt and negatively impact surrounding housing and long term residents and are directly contrary to law and policy. Granting variances for vacant, flat, rectangle shaped lots makes no sense and it contrary to all legal authority. The **ONLY** “hardship” cited as creating the need for variances by the developer is the “*unusual configuration of the lots.*” These new lots, of course, are being created by the developer to achieve 90% lot coverage. One cannot create a “hardship” and then claim a need for a variance to build on those same lots. Such a result is directly contrary to law and policy.

4. The Project Requests a Parking Variance For a Transit Corridor and Fails to Even Build to the Prescribed Density for the New Project

This is a project that gets it all wrong. In addition to the destruction of affordable rent-controlled housing, it requests a variance in order to construct parking within the Clement Street Neighborhood Commercial District. If approved as requested, the project would violate the most important policies of the City---destruction of sound, affordable rent-controlled housing and “over-parking” in a transit corridor. These buildings are pure luxury condos. The Dept also has the density INCORRECT. The Dept originally claimed that the prescribed density is three dwelling units per lot... Their math was WRONG and it was corrected at the hearing after appellants pointed out the error (which had existed for more than one year). The density would allow four units per lot. (Lot A 2,200s.f. divided by 600= 3.67 and Lot B 2,146s.f. divide by 600=3.58) The present lot, without subdivision, would permit seven units (4,346 divided by 600 = 7.27) and the approval is for SIX luxury condos.

Introduction

This office was retained to represent the surrounding neighbors of the proposed project including the owners and occupants of the two adjacent buildings on Clement Street and on 26th Avenue. The Neighbors object to the proposed project because it will impose unfair burdens and impacts on numerous surrounding homes. At a community meeting organized by the neighbors on February 6, the feeling of the surrounding community was made clear---They want the existing building preserved to maintain affordability in the neighborhood. This was a consensus in the meeting. Not a single neighbor supports the project as it is out of character with the neighborhood and it violates numerous priority policies in favor of creating new luxury condominiums at the top of the market. The decision by the Commission is another example of the “tone deafness” of a Planning Commission completely out of touch with the regular citizens of the City.

Project Setting and Proposal

The subject lot is one of two lots on the north side of Clement Street which falls under the Outer Clement Neighborhood Commercial District zoning. These are the *only lots* on this particular block that are zoned under the NCD.

The subject lot has on it two-units of “naturally affordable”, middle-class, and rent-controlled housing (a fact only discovered by the Dept after it approved the project) and is surrounded by such housing. The Official 3R Report confirms the building is legal two units, it is also rent-controlled. The fact that this lot is the only one of two lots with this NCD zoning is a usual circumstance requiring special design consideration and care to avoid disproportionate negative impacts to surrounding existing housing. The analysis from the Department makes no mention at all of this unusual fact and no design consideration is extended to the adjacent housing---The Project is proposed at far beyond maximum development. The adjacent housing will be dwarfed by the new building. No setbacks are employed in the project and it is proposed far BEYOND the maximum building envelope for the site.

The proposed project is very ambitious. The proposal is to demolish the existing building which fronts on Clement Street, *subdivide* the existing development lot which has been part of the development pattern of the neighborhood for more than 100 years and create two new odd smaller lots.

The proposal is to construct two very tall (for the neighborhood) apartment buildings of 3-units each with variances and exceptions so that the minimal rear yards are substantially reduced again. The existing 2-unit building which fronts on Clement Street would be demolished and replaced with a 47.5' foot tall building (to the top of the parapet)---with stair pent house and roof top deck approximately 55' feet with three residential units and retail on the ground floor.

The proposal for the first building (“Lot A”) includes a request for a rear yard variance to *completely remove the required rear yard* at grade and to provide reduced setbacks for the remaining three floors and a variance to allow parking. The second building (“Lot B”) would be constructed in what is currently the required rear yard and would be placed on a development lot just 37 feet deep. This building is 40' feet to the top of the parapet and has a roof top penthouse and roof deck. It also seeks a variance so that the minimum required rear yard area and green space shared with the surrounding residential units can be completely eliminated.

Review of the planning file reveals some interesting facts. First, the Dept asked for a minimum 25% rear yard for both new lots and the developers simply said “NO” and filed a variance request. Second, the ONLY justification asserted for the rear yard variances is ***the unusual configuration of the new lots!*** A classic self-made hardship that cannot be used to grant exceptions and variances.

A Conditional Use Authorization Cannot be Granted for the Demolition of Sound, Rent-Controlled, Affordable Units –The Mayor’s Executive Directives Mandate the Preservation of the Existing, Naturally Affordable Rent Controlled Housing Stock

San Francisco’s highest Priority Policies are enumerated in the General Plan. Further, to the extent some policies may clash with others, (for example—the creation of new housing vs. retention of existing housing---such as here) the two policies that are to be given primacy are:

- That the City's supply of affordable housing be preserved and enhanced.
- That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

This directive is also found in the Housing Element of the General Plan and these two polices form the basis upon which inconsistencies in the Housing Element and in other parts of the General Plan are to be resolved. Approval of this project violates numerous crucial and primary policies.

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 3: PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.3

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

POLICY 3.4

Preserve “naturally affordable” housing types such as smaller and older ownership units.

The two units to be demolished here are considered to be “naturally affordable” as described in policy 3.4 of the General Plan’s Housing Element as being smaller rent controlled dwelling units. These units are subject to the Rent Stabilization and Arbitration Ordinance, as the building was constructed prior to 1979 and is not a condominium.

The proposed project would eliminate two naturally affordable units that are subject to rent control and replace them with 3 large single-family market rate units that would not be subject to the Rent Stabilization and Arbitration Ordinance contrary to the policies and directives from the Mayor's Office to address the city's housing crisis. The proposed

project is inconsistent with the objectives and policies of the General Plan and does nothing to protect affordability of the existing housing stock especially rental units and does nothing to maintain the balance of affordability or for moderate ownership opportunities---quite the opposite.

The elimination of two functional “naturally affordable” rent controlled dwelling units is contrary to the General Plan as well as to the Department’s and the City’s priority to preserve existing sound housing and to protect naturally affordable dwelling units. The proposed loss of the two dwelling units is counter to the Mayor’s executive directive, which calls for the protection of existing housing stock. The Mayor has directed the Department to adopt policies and practices that encourage the preservation of existing housing stock.

The proposal to remove and replace two naturally affordable units is contrary to the priority principle of housing unit retention. The current housing affordability crisis creates an exceptional and extraordinary circumstance such that the Commission should deny the project and preserve the existing units.

The General Plan and the Priority Policies make it clear that the Dept cannot “trade” the existing rent controlled housing on the site for additional units of market rate housing. The Dept’s analysis is deeply flawed and repeatedly states that it is recommending approval of the project because losing two rent controlled existing units is somehow offset by gaining six new market rate units. This is incorrect and is contrary to the manner in which the policies are to be applied. In fact, because the developer is building luxury style housing with abundant packing, the housing opportunity is NOT be maximized at the site. The zoning for the area would allow up to seven units on the existing lot---subdividing the lot actually reduces the housing allowed by the zoning.

First, since the project contemplates creating two new development lots, the “exchange” on proposed Lot A is the loss of two rent controlled units for only three new market rate units. Second, if the existing building is retained and units are added to it as an alteration, it would be possible to create seven units of rent-controlled housing while saving the existing units.

To bolster this already clear policy objective, the Mayor on February 6, 2014, that he would implement recommendations resulting from a Mayoral Executive Directive to accelerate housing production and *preserve existing housing stock*. The announcement by the Mayor’s Office followed earlier directives in December to help retain the existing housing stock. On August 11, 2014, the Mayor implemented this plan.

The project approved by the Commission violates these policies and initiatives to protect the existing housing stock. The requested conditional use authorization cannot be granted in the face of this overwhelming policy mandate. The destruction of two units of existing rent-controlled housing and the permanent loss of the opportunity to create more such housing cannot possibly be “necessary and desirable” in the City of San Francisco at this time.

October 6, 2014

At a minimum, the project should be returned to the Dept for review in the face of these new mandates. A project that retains the existing housing and perhaps adds new units to the existing building is far more in line with the housing needed in the City and with the directives and policies already in place as well as the new housing policy priorities announced by the Mayor.

The Project Violates a Super Majority of the Mandatory Criteria Under Section 317 For Demolition and Tenants Were Displaced for This Project Prior to the Sale

As declarations under penalty of perjury submitted to the Planning Commission and testimony from long-term neighbors clearly showed that just prior to the sale of the subject property, it was occupied by tenants. As is often the case, in order to make the building more attractive for sale the owner, wanted to deliver the building vacant. The prior tenants were offered a cash buy-out and departed the subject property in late 2012 just prior to the purchase by the developer Mary Tom and her husband in January 2013.

As noted above, the Dept's analysis of the net result of the project is simply incorrect. "Lot A" is losing two affordable rent-controlled units and a commercial unit and is being replaced by a new commercial unit and three new market rate units. "Lot B" is a proposed separate development lot and is unrelated to the development on "Lot A." In other words, the existing building could be retained and "Lot B" could still be developed.

The Dept's analysis under Section 317 is equally flawed. The Project fails to meet even a bare majority of the criteria for approving the demolition of rent-controlled existing housing. The Dept concludes that "on balance" the project complies with the criteria of section 317 (See Planning Commission motion page 7). However, no explanation of how this conclusion is reached was provided.

Contrary to the unsupported conclusion, a review of the criteria enumerated in the Demolition Application and as required under section 317 positively leads to the conclusion that the project *does not* meet the criteria for a demolition under that Section. As set forth in the Demolition Application and in the Dept's motion, (pages 7-9) the criteria to be satisfied under Section 317 are as follows:

Existing Value and Soundness .

1. Whether the Project Sponsor has demonstrated that the building is unsound or is not affordable or financially accessible housing.

The project sponsor has not submitted a soundness report and no claim is made that the buildings is unsound; because it was recently and continuously occupied by tenants it is presumed to be sound. DOES NOT Meet Criterion to Approve a Demolition.

2. Whether the housing is found to be unsound at the 50 percent threshold.

The building is not unsound. DOES NOT Meet Criterion to Approve a Demolition.

3. Whether the property is free of a history of serious, continuing code violations.

There is no history of code violations at the site. DOES NOT Meet Criterion to Approve a Demolition.

4 Whether the housing has been maintained in a decent safe and sanitary condition.

Yes the housing has been so maintained. DOES NOT Meet Criterion to Approve a Demolition.

5. Whether the property is a historical resource under CEQA.

The project was not found to be a historic resource. Meets Criterion

6. Whether the removal of the resource will have a substantial adverse impact under CEQA. **Not Applicable**

The Project satisfied only two of the six criteria under the above section to approve a demolition.

Rental Protection

7. Whether in the project converts rental housing to other forms of tenure or occupancy.

Yes, the new units will no longer be under Rent Control and may be sold as condos or rented at Market Rate. DOES NOT Meet Criterion to Approve a Demolition.

8. Whether the project removes rental units subject to the rent stabilization and arbitration ordinance.

Yes the project removes at least the two units subject to rent control DOES NOT Meet Criterion to Approve a Demolition.

9. Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity.

The project removes 2 sound affordable rent controlled units. DOES NOT Meet Criterion to Approve a Demolition.

10. Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity.

The project does not conserve neighborhood character and does not preserve neighborhood cultural and economic diversity by replacing the rent controlled units with market rate housing. DOES NOT Meet Criterion to Approve a Demolition.

11. Whether in the project protects the relative affordability of existing housing .

The project does not protect the relative affordability of existing housing and replaces the affordable rent controlled units with market rate housing. DOES NOT Meet Criterion to Approve a Demolition.

12. Whether the project increases the number permanently affordable units is governed by section 415 .

Project does not provide and permanently affordable units. DOES NOT Meet Criterion to Approve a Demolition.

The Project does not meet any of the above six criteria for approving a demolition and only satisfies 2 of the first 12 criteria.

Replacement Structure

13. Whether the project located in fill housing on appropriate sites in established neighborhoods .

If a project requires the destruction of sound affordable rent controlled housing, the site is NOT appropriate. DOES NOT Meet Criterion to Approve a Demolition.

14. Whether the project creates quality, new family housing.

The Project creates new large unit housing. Meets Criterion

15. Whether the project creates new supportive housing.

No supportive housing is created by the project. DOES NOT Meet Criterion to Approve a Demolition.

16. Whether the project promotes construction of well-designed housing to enhance existing neighborhood character.

Although the neighbors do not believe the project fits in with the existing neighborhood character, we can concede this point for the sake of argument. Meets Criterion

17. Whether the project increases the number of on-site dwelling units.

Project creates six new units on two new development lots. Meets Criterion

David Chiu, President
San Francisco Board of Supervisors

October 6, 2014

18. Whether the project increases the number of on-site bedrooms.

Project creates six new units on two new development lots with 18 bedrooms. Meets Criterion

The project satisfies 4-5 of the above criteria. Overall, the Project *does not* satisfy even a bare majority of the needed criteria for a demolition and only meets 6 out of 18 of the above criterion. Further, when the Priority Policies are reviewed, the Sections of the Demolition Application for preserving Sound Affordable Rent Controlled Housing must take priority over the criteria for the replacement structure. The Dept's unexplained conclusion that the Project somehow "on balance" meets the criteria of Section 317 and the General Plan Priority Policies is simply incorrect. The Project does not satisfy the requirements of Section 317 and the demolition must be denied.

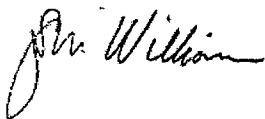
The Proposed Garage is Incompatible with the City's Transit First Policies, Incompatible with the NCD and Fails to Even Build to the Prescribed Density

This is a transit rich neighborhood with numerous bus lines just steps away. The project gives the impression of changing and demolishing the housing from rent controlled family housing to luxury condominiums ---with parking on a transit line. A type of housing that is completely out of character with the neighborhood and the City's policies. Further, the motion submitted to the Commission is simply wrong on the math. The project as subdivided would allow for eight units of housing not six (Lot A 2,200s.f.divided by 600= 3.67 and Lot B 2,146s.f. divide by 600=3.58) and the lot without the subdivision would support seven units under the zoning allowing one unit per 600 square feet. (4,346 divided by 600 = 7.27).

Conclusion

The Proposed Project violates numerous priority policies which mandate the decision to save affordable, rent controlled housing. The proposed construction is simply too much for a single development lot. The requested height and bulk of the buildings will overwhelm the lot size and the neighbors in this residential neighborhood. The neighbors request that the Board overturn the Planning Commission decision and deny the demolition permit and direct the developer to explore options to retain the existing housing (with or without a subdivision and new development at the rear).

VERY TRULY YOURS,



STEPHEN M. WILLIAMS

Received 17 pages of signatures

City Planning Commission
CASE NO. 2013.0205CEKSV

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	366-27th AVE	1407-027	JACQUILINE SVEVO	<i>J. Svevo</i>
2.	366-27th Ave	1407-027	ROCCO SVEVO	<i>Rocco</i>
3.	343-27 th AVE	1406-008	ANTHONY ERBA	<i>Anthony Erba</i>
4.	363-27 th Ave	1406-013	Lily Fillmore	<i>Lily Fillmore</i>
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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. 2428-2430 Clement St.	1408-017	SHE H HSIEN	<i>[Signature]</i>
2. 345-26 AVE	1407-009	ALFRED POON	<i>[Signature]</i>
3. 372 26 th Ave	1408-023	JUDITH GRAY	<i>[Signature]</i>
4. 2410 Clement St	1408-014	PING-ai KANG	<i>[Signature]</i>
5. 338-27 th Ave	1407-035	BIN CHEN	<i>[Signature]</i>
6. 395-25 th Ave	1408-013	Willie Wong	<i>[Signature]</i>
7. 290-27 th Ave	1407-023A	<i>[Signature]</i>	<i>[Signature]</i>
8. 326-26 th Ave	1408-034	ACRIVOULA ARKYES	<i>[Signature]</i>
9. 209 26 th Ave	1386-075	Richard Bedino	<i>[Signature]</i>
10. 2443 Clement St	1457-059	Leonard Lyao	<i>[Signature]</i>
11. 369-26 th Ave	1407-014	Malam Lee	<i>[Signature]</i>
12. 351-27 th Ave	1406-010	Ram Bhai	<i>[Signature]</i>
13. 378 27 th Ave	1407-024	<i>[Signature]</i>	<i>[Signature]</i>
14. 366 26 th Ave	1408-059	STEPHANE DEWANT	<i>[Signature]</i>
15. 410-26 th Ave	1457-033	<i>[Signature]</i>	<i>[Signature]</i>
16. 427-26 th Ave	1458-051	<i>[Signature]</i>	<i>[Signature]</i>
17. 2420 Clement St	1408-016	COITERA NORRIS	<i>[Signature]</i>
18. _____	_____	_____	_____
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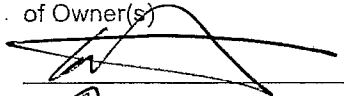
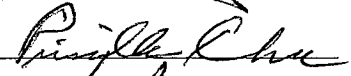

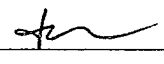
	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	373-26 th Ave #2	1407-052	MAIRE FLEMING	<i>Maire Fleming</i>
2.	338-26 th Ave	1408-032	Fong 1991 TRUST	<i>Fong 1991 Trust</i>
3.	350-27th Ave	1408-031	Kwong Chieh Chuen	<i>Kwong Chieh Chuen</i>
4.	350-27 Ave	1407-032	WANDA CHINN	<i>Wanda Chinn</i>
5.	359-27 Ave	1406-012	KIM CHANG	<i>Kim Chang</i>
6.	2506 th - Clement	1407-021	Nicholas Tadeschi	<i>Nicholas Tadeschi</i>
7.	343-25 th Ave	1408-007	JU, CHEW GAUY	<i>Ju, Chew Gauy</i>
8.	361-26 th Ave	1407-012	Annie chow	<i>Annie chow</i>
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2510-2512 CLEMENT ST.	1407-018	WENDY WAN-LI CHEN	
2.	375-27 th Ave.	1406-016	PRISCILLA CHU	
3.	401-26 Ave apt 2	1458-043	IGOR DUBROVSKY	
4.	2510-2512 CLEMENT	1407-018	JAMES MO-TAI CHAN	
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CASE NO. 2013.0205CEKSV

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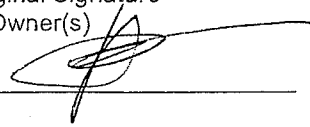
	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
✓ 1.	2535 Clement St	1454 036	Goodwin Family Trust James W & Susan H Goodwin TRUSTEES	Swan M. Goodwin
2.	355 - 27 th AVE.	1406 - 011	JAMES MO-TAI CHAN	<i>[Signature]</i>
3.	355 - 27 th AVE.	1406 - 011	WENDY WAN-LI CHEN	<i>[Signature]</i>
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City Planning Commission
CASE NO. 2013.0205CEKSV

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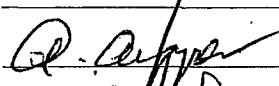
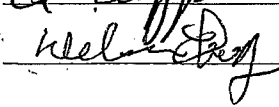
	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	377-26 th AVE	1407-016	ANTHONY LEE	
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	1000 25th Ave		XXXXXXXXXX	XXXXXXXXXX
2.	350-26 th Ave	1408-029	ACRIBOVA ARKHRES	
3.	356-20 th Ave	1408-027	Wilson EW03	
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	401 26 th Ave #4	1458/045	KATHRYN-WALDEN	
2.	1411 26th Ave	1458/045	Ming Lee	
3.	369-26 th Ave #2	1417-014	Ming Lee	
4.	338 27 th Ave	1407-035	Ben Chen	
5.	351-353-27 th Ave	1407-010	S Ann Petrell	
6.	434-26 th Ave	1457-0300	Yvonrice	
7.	382 27 th Ave	1407-033C	Elizabeth Ahlstrand	
8.	382 27 th Ave	1407-023L	William M. Ahlstrand	
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Kathryn Walden


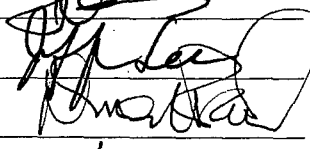
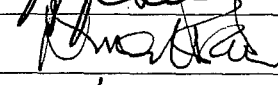
Note: Not opposed to construction or gentrification but height + # of units added to small space (subdividing lot) is a major concern. Intersection will need a stop sign too. Blockage of light to other properties nearby is also not in the zoning laws for bldg ht.

City Planning Commission

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. 2475			
2. 427-26 th Ave #3	S.F. CA 94121	Kate Lee	
3. 410-26 th Ave	S.F. CA 94121	JEFFERSON LBB	
4. 427 26th Ave #2	S.F. CA 94121	Nina Louise Frankel	
5. 401-26 th Ave #1	S.F. CA 94121	P. Huen	P. Huen
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	427 26 th Ave #3	1458-051 S.F. CA. 94121	Donald T Lee	
2.	410 26 th Ave	1457-033 S.F. CA 94121	Joanna Lee	JOANNA LEE
3.	427 26th Ave. #1	1458-049 S.F. CA	RACHEL CHENG	
4.	427 26th Ave. #1	1458-049 S.F. CA	GANBING WANG	
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2410 clement st	1408-014	YU JUAN LIANG	<i>Yu Juan Liang</i>
2.	2428 clement st	1408-017	SHE H HSIEN	<i>She-hsi hsien Tsai</i>
3.	266 26th #2	1408-058	CHRISTINE BIRCH	<i>[Signature]</i>
4.	366 26th #2	1408-058	TONY FERRELLI	<i>[Signature]</i>
5.	367 26th			
6.	390-27th	1407-023A	Melinda Choy	<i>Melinda Choy</i>
7.	356-20th	1408-027	WIRETEL	<i>Walter Choy</i>
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City Planning Commission
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	Street Address, property owned.	Assessor's Block & Lot.	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	386 27 th AVE	1407-023B	TSUI WING KAI LIANG trust SCOTT TSUI	
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City Planning Commission

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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	371 25 th Ave #2	1408-045	John Hatten	<i>John Hatten</i>
2.	371 26 th Ave #2	1408-045	Shirley Hatten	<i>Shirley Hatten</i>
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	390-27 th AVE.	1407-023A	WILSON CHOY Wilson	Wilson Choy
2.	357-25 th AVE	1408-008A	YUE CHANG	YUE CHANG
3.	343-25 th AVE	1408-007	YUE C. JU	Yue C. Ju
4.	414-26 th AVE.	1457-031	LULU TSAO	Lulu Tsao
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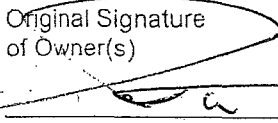
Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1. 2608-2610 clement St.	Block # 7214 Lot # 603A	WING LI & ELANE LI	<i>Wing Li Elane Li</i>
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	414 - 26th Ave	1457/031	TSAO-WU EDDIE & LUCY	
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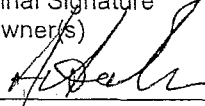
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	401 - 26 ave	1458 043	ANNA DUBROUSKY	
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September 4, 2014

SAN FRANCISCO PLANNING COMMISSION

Meeting Minutes

Commission Chambers, Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Thursday, September 4, 2014
12:00 p.m.
Regular Meeting

12a. 2013.0205CEKSV

(C.

LAMORENA: (415) 575-9085)

395 26th AVENUE - northwest corner of Clement Street and 26th Avenue; Lot 017 in Assessor's Block 1407 - **Request for Conditional Use Authorization** pursuant to Planning Code Sections 303 and 717.39 to allow the demolition of an existing two-story mixed-use building containing two dwelling units with ground floor commercial space and construct two buildings, a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space and a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and three residential parking spaces within the Outer Clement Street Neighborhood Commercial Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.

Preliminary Recommendation: Approve with Conditions
(Continued from Regular Meeting of April 24, 2014)

SPEAKERS: + Jeremy Shaw – Project presentation
+ Alice Barkley – Variances
+ Mary Tom – Sponsor presentation
+ George – Support from 4-star theater

- + Edwin Lui – Support
- + David Fong – Support, for housing and rental
- + Brian Kano – Support, housing shortage
- + Felix – Housing shortage
- + Martin – Better use of land
- + Hector Lee – People leave garbage at site
- + Andy Chen – Housing inventory
- + Mathew Lambert – Housing, rent controlled units

unoccupied

- Karen Horning – Day light
- Sola Brines – Affordable housing replaced with luxury condos
- Julian – Too big
- Alex Powell – Preserve rent-controlled housing
- Wendy Chan – Too big and tall
- Tony Lee – Affordable housing
- Katherine Robbins – Bad precedent
- Steven Williams – Housing directive

ACTION: Approved with Conditions as Amended, to eliminate the rear bump out on Lot B and reduce the parking to two spaces.

AYES: Fong, Antonini, Hillis, Johnson

NAYES: Wu, Moore, Richards

MOTION: 19229



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

19229

Planning Commission Motion Draft Motion HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: 2013.0205CEKSV
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
 Gabriel Ng & Architects, Inc.
 1360 9th Avenue, Suite 210
 San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE REMOVAL OF TWO OR MORE RESIDENTIAL UNITS.

PREAMBLE

On February 26, 2013, Gabriel Ng of Gabriel Ng & Architects, Inc. (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish two residential units at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On January 16, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C. The Commission continued the item from January 16, 2014 to February 20, 2014, and then to April 4, 2014 and lastly to September 4, 2014.

On September 4, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C.

On August 26, 2014 the Project was determined by the Department to be categorically exempt from environmental review under Case No. 2013.0205E. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0205C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

3. **Site Description and Present Use.** The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor

commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

4. **Surrounding Properties and Neighborhood.** The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.
5. **Public Comment.** The Department has received the following public comment:
 - a. 112 letters and petitions in support of the project
 - b. An online petition (www.change.org) with 171 persons opposed to the project
 - c. Petitions with 137 signatures of persons opposed to the project
 - d. One email and five phone calls opposed to the project
 - e. Two phone calls with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove two or more residential units in the Outer Clement Street NCD. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317 have been incorporated as findings in this Motion. See Item 7, "Additional Findings pursuant to Section 317" below.
 - B. **Lot Size.** Planning Code Section 121 requires a lot size of 1,750 square feet for lots within 125 feet of an intersection.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 2,200 square feet and the 26th Avenue lot with frontage on 26th Avenue would measure 2,146 square feet.
 - C. **Residential Density.** Planning Code Section 717.91 permits a density ratio of one dwelling unit for each 600 square feet of lot area.

Up to three dwelling units are permitted on each of the subdivided lots. The proposed unit count of three dwelling units each comply with the prescribed density.

- D. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth at grade level and at each succeeding level or story of the building in the Outer Clement Street NCD.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 60 feet deep and the 26th Avenue lot with frontage on 26th Avenue would measure 37 feet deep. The required rear yard for the Clement Street lot is 15 feet; however, the project proposes full lot coverage on the ground floor with a roof deck above. The required rear yard for the 26th Avenue lot is also 15 feet; however, the project proposes a partial rear yard on the ground floor at a depth of 13 feet with a portion of the garage and a roof deck extending into required rear yard. Therefore, the Project Sponsor is seeking a rear yard modification for the project.

- E. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

For the Clement Street building, the project proposes 340 square feet of common open space on the proposed roof deck where 212.8 square feet are required and 519 square feet of private open space on a rear deck where 80 square feet are required. For the 26th Avenue building, the project proposes 1,044 square feet of private open space in a rear yard, rear deck, and roof deck where 240 square feet are required.

- F. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Above-Grade Parking Setback.** Off-street parking at street grade on a development lot must be set back at least 25 feet from the front of the development on the ground floor.

The project proposes parking at the property line along 26th Avenue, not set back 25 feet. The Project Sponsor is requesting a variance from this section of the Planning Code.

2. **Parking and Loading Entrances.** No more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress.

The proposed parking entrance for the Clement Street building is 16 feet wide and the proposed parking entrance for the 26th Avenue building is 12 feet wide. Two curb cuts along 26th Avenue, each 10 feet wide, are proposed.

3. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be

provided within the first 25 feet of building depth on the ground floor from any façade facing a street at least 30 feet in width.

Active ground floor uses (commercial use at the Clement Street building and residential use at the 26th Avenue building) are proposed within the first 25 feet of the building depth on the ground floor of each building.

4. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for both buildings would be a minimum of ten feet tall.

5. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The proposed active uses and residential lobbies are designed along the property lines of the subject lot.

6. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed commercial use in the Clement Street building contains approximately 911 square feet of exterior ground floor wall area. Approximately 550 square feet of wall area would be dedicated to glazing, which is equivalent to approximately 60 percent transparency.

7. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- G. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

The project proposes seven parking spaces for the six replacement dwelling units.

- H. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use.

The project proposes six Class 1 bicycle parking spaces that satisfy the bicycle parking requirements. The two Class 2 spaces are provided with a bike rack on Clement Street.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit. Planning Code Section 263.20 allows for a special height exemption of five feet for active ground floor uses.

The project proposes two replacement buildings. The Clement Street building is proposed at 45 feet tall, utilizing the five-foot height exemption for an active ground floor use as a commercial space. The 26th Avenue building is proposed to be 40 feet tall.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. While the project proposes demolition of two units, the proposed density of six units distributed into two, three-unit buildings is more desirable in terms of compatibility with the surrounding housing density and the Outer Clement Street NCD. The replacement buildings are also designed to be consistent with the existing development pattern and the neighborhood character. Both new buildings are four-story buildings; however, the building fronting on 26th Avenue proposes a design and massing that respects the predominant pattern of three-story residential facades along both sides of 26th Avenue.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project is designed to be compatible with the surrounding neighborhood and specifically with the adjacent buildings. The proposed size, shape and arrangement of the project are in keeping with the development pattern of the block. The 26th Avenue building is set back at the rear and side to respect a single-family noncomplying structure in the adjacent lot at 2510-2512 Clement Street and property line windows in the adjacent lot at 377 26th Avenue.

- ii. 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;

The Planning Code requires six parking spaces for the replacement buildings. Seven spaces are proposed, where currently there are three surface lot spaces provided for the existing building.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project is primarily residential in nature with approximately 867 square feet of commercial space, which is an increase in floor area from the existing 464 square feet. The proposed residential density and commercial intensity are not anticipated to produce noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement buildings have been appropriately selected to be harmonious with the existing surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code except for rear yard and street frontage and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the Outer Clement Street NCD.

The proposed project is consistent with the stated purpose of the Outer Clement NCD. The NCD allows for up to one dwelling unit per 600 square feet of lot area. With proposed lot areas of 2,200 square feet and 2,146 square feet after the lot subdivision, six dwelling units would be permitted. The project proposes six dwelling units.

- 8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where *soundness* is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The *soundness factor* for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion.

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion.

Although the existing structures are more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion.

Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion.

The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion.

The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion.

The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion.

The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

*Project does not meet criterion.
The project does not create supportive housing.*

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

*Project meets criterion.
The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.*

- xvi. Whether the Project increases the number of on-site dwelling units;

*Project meets criterion.
The project would increase the number of on-site units with a net gain of four units.*

- xvii. Whether the Project increases the number of on-site bedrooms.

*Project meets criterion.
The project proposes 18 bedrooms. The existing building contains three bedrooms.*

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1:

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

The project proposes demolition of two dwelling units with the construction of six dwelling units.

URBAN DESIGN

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

The project proposes demolition of the existing building. Similar to other existing structures on the block face, both proposed buildings contain garages at the ground floor that are to be constructed to the front lot line with residential uses above.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The four-story replacement building at the corner of Clement Street and 26th Avenue is consistent with the pattern of three- and four-story buildings found along the block face. The four-story replacement building fronting 26th Avenue reinforces the existing pattern of three-story buildings found on both sides of the street, as the proposed fourth floor is designed to create the appearance of a three-story structure at the front façade and along the block face.

OBJECTIVE 2:

**CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE,
CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.**

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The massing of the replacement buildings' main front façades have been designed to be compatible with the prevailing street wall height, particularly the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Existing neighborhood-serving retail uses would be enhanced as the project proposes to expand the ground floor commercial use on Clement Street from 464 square feet to 897 square feet. The additional bedrooms in the replacement buildings would house more individuals to patronize the existing neighborhood-serving retail uses.

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

While the existing housing is proposed to be demolished, the new replacement buildings conserve the number of dwelling units in the existing buildings while providing a net gain of four units.

- C. That the City's supply of affordable housing be preserved and enhanced,

While the affordability of the existing units is not preserved since they are proposed to be demolished, the units are not considered "affordable housing" per Planning Code Section 415 and/or the Mayor's Office of Housing. The proposal to construct six family-sized units at the project site enhances the "affordability" of the units more than if a fewer number of dwelling units were proposed.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing seven off-street parking spaces, where three spaces currently exist.

- E. 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 project is a mixed-use project in the Outer Clement Street NCD; therefore the project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The replacement structures would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

A shadow study was prepared and the project's shadow does not reach any parks or open space under the jurisdiction of the Department of Recreation and Parks. The project will have no negative effect on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0205C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17820. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 4, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSED:

ADOPTED: September 4, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of two residential units located at 395 26th Avenue pursuant to Planning Code Section(s) 303 and 317 within the Outer Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated October 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0305C and subject to conditions of approval reviewed and approved by the Commission on September 4, 2014 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 16, 2014 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
9. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
10. **Subdivision.** The Project Sponsor shall submit a lot subdivision application proposing to subdivide the lot into two lots prior to Planning approval of the building permit application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than eight bicycle parking spaces (six Class 1 spaces for the residential portion of the Project and two Class 2 spaces for the commercial portion of the Project).
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
12. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide six off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

14. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
15. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

16. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when

being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

17. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

18. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



David Chiu, President
San Francisco Board of Supervisors
City Hall, #1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

November 17, 2014

RE: **SUPPLEMENTAL STATEMENT IN SUPPORT OF APPEAL-
CONDITIONAL USE AUTHORIZATION**
395 26th Avenue (AKA 2500-02-06-08 Clement & 381-83-87 26th Avenue)
2013.0205CEKV & 2013.0205CEKV
Appeal of Conditional Use Authorization Permitting the
Demolition of Sound Affordable Rent-Controlled Housing

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 NOV 17 PM 4:04

President Chiu and Members of the Board:

This Statement is submitted as a supplement to the prior materials in support of the appeal of the conditional use authorization granted by the Planning Commission (4-3 vote) on September 4, 2014. We have previously submitted to Planning a Petition signed by 171 immediate neighborhood residents opposing the project as incompatible with the neighborhood and an improper use of the conditional use procedure. With this appeal, we submitted the signatures of 73 property owners within 300 feet of the subject lot. NOT A SINGLE RESIDENT OF THE BLOCK SUPPORTS THE PROJECT.

1. **The Dept's (and the Developer's) Response and Analysis Completely Ignores the Priority Policies and the Manner in Which They are to be Enforced--To Preserve Existing Affordable Rent-Controlled Housing Above All Else**

The Dept's response Memo and the letter from the Developer's attorney's (and the granting of the conditional use authorization itself) *completely ignores* (as in, does not address it at all!) the most important issue before the Board. The enforcement of the PRIORITY POLICIES of the General Plan. San Francisco's highest Priority Policies are enumerated in the General Plan and stem directly from a voter mandate.

It has long been established housing policy in San Francisco that the demolition of sound affordable housing is not permitted accept under the most extraordinary circumstances even when it means the creation of additional housing. This policy has been the only stopgap saving our existing neighborhoods from destruction and exploitation by professional developers. That is the issue here in the case before the Board.

By the statements from the Planning Dept and the Commission and the way this case has been handled it seems the Commission and the Dept believes the policies are flexible enough to allow for the demolition of sound affordable rent-controlled housing if it is for more units or larger units. If so, then that is a dramatic sea change in the Dept's view of housing policy and the General Plan /Priority Policies. Three Commissioners, including President Cindy Wu voted against the proposed project based on these important policies.

The General Plan is intended to be an integrated, internally consistent and compatible statement of objectives and policies and its objectives, and policies are to be construed in a manner that achieves that intent. Sec. 101.1(b) of the Planning Code, which was added by Proposition M, November 4, 1986, provides as follows:

The following Priority Policies are hereby established. They shall be included in the preamble to the General Plan and shall be the basis upon which inconsistencies in the General Plan are resolved (emphasis added)

1. *That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;*
2. **That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;**
3. **That the City's supply of affordable housing be preserved and enhanced;**
4. *That commuter traffic not impede Muni transit services or overburden our streets or neighborhood parking;*
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;*
6. *That the City achieve the greatest possible preparedness to protect against injury and the loss of life in an earthquake.*
7. *That landmarks and historic buildings be preserved; and*
8. *That our parks and open space and their access to sunlight and vistas be protected from development.*

So, as spelled out in the Priority Policies and the over-arching General Plan mandate, to the extent some policies may clash with others, (for example—the creation of new housing vs. retention of existing housing---such as in the case before the Board) the two policies that are to be given primacy over those sited by the Dept are:

- **That the City's supply of affordable housing be preserved and enhanced.**
- **That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.**

This case is governed by controlling priority policy (#2 of 8) which can only be overcome by satisfying a preponderance of the other remaining seven *priority* policies. This is not possible in this case. No other of the priority policies are satisfied by the project—There is no priority policy that says it is a General Plan priority to provide for new and larger units in preference to existing sound affordable rent-controlled housing---in fact, the policy is exactly the opposite. Random policies pulled from other parts of the General Plan and cited in the Dept's Memo and the Developers brief are NOT sufficient to overcome the priority policies.

The Housing Element and the General Plan make clear that the top goal, the *priority* goal is the retention of the existing housing, especially with rent-controlled units. As a matter of reality, this "naturally affordable" housing is the only housing within reach of a vast majority of the City residents.

There is no provision as imagined by the Dept that allows the destruction of existing sound affordable rent controlled housing if a greater unit count is achieved or if the new market rate units are larger....That will happen in every case and if allowed, will create an except to swallow the rule.

Under the priority policies, sound affordable rent-controlled housing may not be destroyed for new market rate housing even if the developer claims the new market rate housing is for "families" or that a greater number of the market rate units will result. Such tradeoffs are in fact forbidden and would obviously create an atmosphere where all affordable rent-controlled housing will be at risk for the much more valuable market rate housing. This is the very point and objectives of the policies, to protect this incredibly valuable and endangered commodity.

The Introduction to the Housing Element makes this clear as do the majority of policies in the Housing Element:

1. *Prioritize permanently affordable housing.* Across the City, participants acknowledged that the cost of housing in San Francisco was an issue affecting everyone, from working families to the very poor. Thus the Housing Element focuses on creating the right type of housing, to meet the financial, physical and spatial needs of all of our residents who cannot afford market-rate housing. This requires not only creating new housing, but addressing the numerous housing types needed for San Francisco's diverse population, and preserving and maintaining the existing housing stock, which provides some of the City's most affordable units. (emphasis added)

HOUSING ELEMENT--Objectives and Policies

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

The majority of San Francisco's housing stock is over 60 years old – it is an important cultural and housing asset that the City must protect for future generations. Nearly all of San Francisco households will make their home in existing housing – RHNA goals for new housing represent less than one percent of the existing housing stock. Therefore, conserving and improving the existing stock is critical to San Francisco's long term housing strategy. Retaining existing housing reduces the needs for resources to build new housing. Policies and programs under this objective facilitate conservation and improvement of the variety of unit types physical conditions.

Housing maintenance includes routine maintenance, major repair projects, and preventive care – especially seismic work. The health of the existing housing stock requires that all types of maintenance be pursued to the extent possible, while not overburdening low-income groups. The seismic sustainability of the existing stock is of particular local concern.

POLICY 2.1

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

Demolition of existing housing often results in the loss of lower-cost rental housing units. Even if the existing housing is replaced, the new units are generally more costly. Demolition can result in displacement of residents, causing personal hardship and need to relocate. Older housing stock should only be considered for demolition and replacement when the resulting project results in a significant increase in unit affordability.

There are environmental and natural resources considerations when demolishing housing stock that is physically sound. Therefore, a determination of 'sound housing' should be based on physical condition, not economic value. San Francisco's Planning Code and Planning Commission guidelines require public hearing and deliberation for demolition of units, discourage the demolition of sound housing stock, especially historically significant structures, and require that replacement projects be entitled before demolition permits are issued. The City should continue these policies.

OBJECTIVE 3

**PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK,
ESPECIALLY RENTAL UNITS.**

San Francisco is a city of renters – which enables incredible diversity of age, income, and household type. Students, young professionals, artists, new families, low income households, and many others rely on the availability of rental housing to live in San Francisco. The City's market-rate rental units generally provide moderately priced housing options, while rent controlled units and permanently affordable rental units meet needs at lower income levels. Thus the availability of sound and affordable rental housing is of major importance to meet the City's housing needs.

Regulations protecting the affordability of the existing housing stock have traditionally focused on rental housing, such as rent control and its associated tenants rights laws, and condominium conversion limits. Both rent control and condominium conversion limits evoke an impassioned public discussion around housing rights, private property rights, and quality of life in San Francisco, and property owners continue to emphasize the negative effects of rent control policies on the supply of housing. This discussion warrants continued public engagement in the ongoing effort to provide a balance of housing opportunities to support San Francisco's diverse population.

POLICY 3.1

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

Sixty-two percent of San Francisco's residents are renters. In the interest of the long term health and diversity of the housing stock the City should work to preserve this approximate ratio of rental units. The City should pay particular attention to rent control units which contribute to the long term existence and affordability of the City's rental housing stock without requiring public subsidy, by continuing their protection and supporting tenant's rights laws. Efforts to preserve rental units from physical deterioration include programs that support landlord's efforts to maintain rental housing such as: maintenance assistance programs, programs to support and enhance property management capacity, especially for larger companies, and programs to provide financial advice to landlords.

POLICY 3.4

Preserve "naturally affordable" housing types, such as smaller and older ownership units.

A review of current sales prices reveals that new homes are priced considerably higher than existing, older housing stock. This is particularly true of smaller units, such as the mid-century construction in certain lower density residential neighborhoods. These housing units provide a unique homeownership opportunity for new and smaller households. While higher density housing generally results in more shared costs among each unit, the pre-existing investment in lower density housing generally outweighs the benefits of higher density in terms of housing affordability. To the extent that lower density older housing units respond to this specific housing need, without requiring public subsidy, they should be preserved. Strategies detailed under Objective 2, to retain existing housing units, and promote their life-long stability, should be used to support this housing stock.

2. The Department's Analysis is Faulty---The Policies and Objectives Cited by the Dept in the Planning Dept Response FULLY SUPPORT THE APPEAL!

The Dept's response dated October 31, 2014, is either confused or dishonest. It misstates the policies of the City and cites policies and objectives that actually fully support the Appeal and require this Board to set aside the Planning Commission's decision.

On page 6 of the Department's response to the appeal the Department cites General Plan policies found in the Housing Element which it claims supports the granting of the conditional use authorization to demolish two affordable rent controlled units. A close reading of these objectives reveals that they are not applicable to the project proposed and that the policies actually fully support the appeal and require that this Board enforce the objectives and policies of the General Plan and the Housing Element and grant the appeal.

The Dept cites the following as supportive of its position: (Dept 10/31/14 Memo, p.6)

"OBJECTIVE 2: RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1 Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.(emphasis added)"

The Dept is either confused or trying to deceive the Board. THE PROPOSED PROJECT HAS NO AFFORDABILITY! The proposed project destroys existing affordable housing contrary to this policy AND does not result in a net increase in affordable housing. The project *destroys* naturally affordable rent controlled units and is directly contrary to the policy cited by the Dept.

3. The Project "Trades" Three Luxury Condos (NOT six) For Two Affordable Rent-controlled Units in Violation of the Highest Priority Policies and Common Sense---Once this Type of Housing is Destroyed it is Gone Forever

The two units to be demolished here are "naturally affordable" as described in policy 3.4 of the General Plan's Housing Element above. These are smaller rent controlled dwelling units. These units are subject to the Rent Stabilization and Arbitration Ordinance, as the building was constructed prior to 1979 and is not a condominium.

The proposed project would eliminate two naturally affordable units that are subject to rent control and replace them with three large single-family market rate units that would not be subject to the Rent Stabilization and Arbitration Ordinance contrary to the policies and directives from the Mayor's Office to address the City's housing crisis.

The Dept falsely states repeatedly that the two units of affordable rent-controlled housing are being replaced by *six* units. But, this is clearly not true. Because the proposal is to sub-divide the lot into two separate lots and build three units on each lot, The affordable rent-controlled units are on proposed "Lot A" and are proposed to be replaced by a three unit building. "Lot B" is separate and will add three additional units.

4. **Allowing Professional Developers to Speculate in Our Residential Neighborhoods Puts ALL Affordable Rent-Controlled Housing At Risk**

Just prior to the sale of the subject property, tenants occupied it. To make the building more attractive for sale, the owner, wanted to deliver the building vacant. The prior tenants were offered a cash buy-out and departed the subject property in late 2012 just prior to the purchase by the developers Philip and Mary Tom in January 2013.

Allowing demolition of sound, affordable rent controlled housing in order to construct market rate condominiums is contrary to all over-riding housing policies at the City and State levels. The Dept's analysis attempts to rational this violation of policy by stating that additional units of market rate housing will be created and that the new larger market rate units are "family" sized. These arguments are faulty and present false dichotomies.

5. **The Planning Dept's Refusal to Enforce the Priority Policies is a Root Cause of the Affordability Crisis in San Francisco**

Demolishing sound, affordable, rent-controlled housing will, in nearly every instance, result in greater density and unit size---the faulty rationale used by the Dept to justify its completely incorrect decision. San Francisco is in the midst of an affordability crisis. We are all feeling the impact as the rising cost of housing threatens to drive away the diversity that makes this city so special.

All commentators and policy makers, even those that are pro-development agree that the a number one priority to address the affordability crisis is to **protect the existing rent controlled housing stock**. Even SPUR lists this as NUMBER ONE on its suggested housing agenda to make the City more affordable (SPUR policy proposal "8 Ways to Make San Francisco More Affordable."February 11, 2014). Below is an excerpt for the SPUR Report:

1.) Protect the existing rent controlled housing stock.

San Francisco has roughly 172,000 units of rent controlled housing. Rent control is the city's core tenant protection, allowing many people to stay here. The first thing the city needs to do is to make sure we don't lose those units.

As housing prices go up, there is ever more incentive for owners of rental units to find a way to get out of the landlord business and sell the units. One of the most often abused mechanisms is California's Ellis Act, a state law that gives landlords the unconditional right to evict tenants to "go out of business." Tenant groups in San Francisco developed a set of proposals to make it more difficult for landlords to use the Ellis Act as a tool to evict people. One of the proposed reforms that makes sense is to discourage the practice of buying rent-controlled units for the purpose of converting to tenancy-in-common units (TICs) or condos by requiring landlords to actually have been in the landlord business for a period of time before using the Ellis Act to "leave the business." There is a social compact in San Francisco that needs to be upheld: Rent-controlled units should stay under rent control while ownership opportunities should come from new construction.

The Mayor has made the retention of sound affordable rent-controlled housing one of his top priorities to address the affordability crisis. In his Seven Point Housing Plan, the protection of existing rent-controlled housing is listed as the number two item:

2. Stabilize and protect at-risk rent-controlled units, through rehabilitation loans and a new program to permanently stabilize rent conditions in at-risk units.

Supervisor Scott Wiener states on his blog:

HOUSING

It's no secret that San Francisco is a wonderful place to live. To address the constant and growing demand for housing, we need to find ways to encourage both market-rate and below-market-rate housing in San Francisco, as well as different kinds and sizes of housing. For years, due to a laborious entitlement process and short-sighted political decisions, our housing production has failed to keep track with our population growth, which has led to sky high rents and exceedingly expensive real estate prices. We also need to stabilize and protect our existing rent-controlled units through eviction protections. Through these two mechanisms - encouraging growth and ensuring housing stability - San Francisco can continue to grow as a city for all.

The Sierra Club and all other public interest groups strongly oppose the demolition of sound affordable housing in San Francisco. Attached hereto as Exhibit 1 is a letter from the Sierra Club directed to the Planning Commission opposing the Project because it is demolition of rent-controlled housing.

Everyone on both sides of the aisle agrees and the City's policies MANDATE the retention of sound affordable rent controlled housing.

6. The Dept's Analysis is Completely at Odds with the Policy for Loss of Units by Merger and There are No Extraordinary or Exceptional Circumstances to Justify the Demolition of Sound Affordable Rent Controlled Housing

Along with production of new housing, the Mayor's Executive Directives have made clear that a top priority to address the affordability crisis is to retain the existing rental housing units in the City. Mayor's Executive Directive 13-01 dated December 18, 2013 is attached as Exhibit 2---note that page 2 states that the Dept and the Commission must review cases with a "special attention paid to preserving exiting rental stock."

For all merger applications where at least one of the units is valued under \$1.506 million, the loss of a unit by administrative merger process is not available and the Department automatically recommends that the Commission deny the merger application at the required hearing. In response to the Mayor's directive, the Planning Dept issued *Draft Director's Bulletin No. 5*, which states that the new policy reflects the "exceptional and extraordinary circumstance" created by the current housing affordability crisis.

When the mayor issued his housing directive in 2013, he made it clear that demolishing existing rental housing should only be allowed in unusual circumstances, "with special attention paid to preserving existing rental stock." In response, the Planning Department has in the past year or more, repeatedly refused to approve projects that involve a loss of rental units. At a July 24, 2014 Planning Commission hearing, a proposal to merge two small rental units into one larger apartment was rejected by planning staff at 344 3rd Avenue, because "the mayor has directed the Department to adopt policies which encourage the preservation of existing housing stock." (Dept's analysis attached as Exhibit 3)

A similar case at 812 Green Street; was also rejected because the planners said it wasn't okay to merge two units into one because preserving existing rental housing under rent control was the city's highest priority and counter to the Mayor's directive to retain existing rental housing. The Dept's analysis of the 812-814 Green Street Case from August 14, 2014 is attached as Exhibit 4.

If a family had purchased the two units in this case, the Dept would have refused to allow the units to be merged together based on the "exceptional and extraordinary circumstances" created by the housing affordability crisis. Allowing such unit to be demolished but not merged makes no sense whatsoever.

7. The Existing Units May be Expanded to Create Additional Rent Controlled Housing of Family Sized Units Under Rent Control

The existing units can be remolded into larger units and have additional units added to the building to save and expand the rent controlled units. If new units are added to the building, it can be done in a manner that assures the rent controlled units will be preserved and that new units also fall under the Rent Ordinance. The Dept should have made it clear to the developers from the beginning that the sound affordable rent

David Chiu, President
San Francisco Board of Supervisors

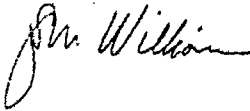
November 17, 2014

controlled units could not be destroyed and that any project at the site would require the retention of this valuable commodity.

Conclusion

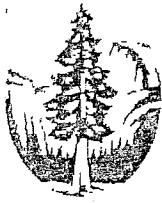
The Proposed Project violates numerous priority policies which mandate the policy to save affordable, rent controlled housing---especially in the face of the current "affordability crisis." The neighbors request that the Board overturn the Planning Commission decision and deny the demolition permit and direct the developer to explore options to retain the existing housing (with or without a subdivision and new development at the rear).

VERY TRULY YOURS,



STEPHEN M. WILLIAMS

EXHIBIT 1



SIERRA
CLUB
FOUNDED 1892

San Francisco Group
SF Bay Chapter

2120 Clement Street, Apartment 10
San Francisco, CA 94121
(415) 668-3119
September 2, 2014

Cindy Wu
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2414

Dear Commission President Wu:

The Sierra Club strongly opposes the demolition of rent-controlled housing in San Francisco. Rent-controlled housing allows residents of all incomes to live in transit-rich, walkable communities with neighborhood serving businesses, frequently near their jobs. The preservation of rent-controlled units in San Francisco helps prevent displacement of low- to moderate- income residents to auto-centric suburbs, often greatly lengthening their commutes.

Affordable housing in San Francisco comes in different forms, including Section 8 and Housing Authority units, but rent-controlled housing is the largest portion of affordable housing. However, annual reports from the San Francisco controller note that the number of rent-controlled units is eroding. According to the *Annual Year-End Performance Measure Report of 2009-2010*, San Francisco had 175,337 rent-controlled units in 2007-2009. By 2012-2013, the controller's *City Services Performance Measure Report* noted that the number of rent-controlled units had dropped by 4,032 to 171,609. State law prohibits the regulation by rent control of any residential buildings constructed after 1978; therefore, lots on which units have been demolished or removed from rent control are removed forever from the ranks of lots regulated by local rent-control law.

We urge you to oppose proposals to demolish rent-controlled units for the reasons described above.

Sincerely,
Susan Vaughan
San Francisco, CA

CC: Cindy Wu,
Rodney Fong, planning@rodneymfong.com
Michael Antonini, wordweaver21@aol.com
Rich Hillis, richhillissf@yahoo.com
Kathrin Moore, mooreurban@aol.com
Christine D. Johnson, christine.d.johnson@sfgov.org
Jonas P. Ionin, Commissions.Secretary@sfgov.org
Supervisor Eric L. Mar, Eric.L.Mar@sfgov.org

EXHIBIT 2



Executive Directive 13-01
Housing Production & Preservation of Rental Stock
December 18, 2013

Through this Executive Directive, I hereby direct all municipal departments that have the legal authority over the permitting or mapping of new or existing housing to prioritize in their administrative work plans the construction and development of all net new housing, including permanently affordable housing.

The directive should be understood to prioritize 100% permanently affordable developments and moderate-income residential developments based on the proportion of permanently affordable units produced onsite or offsite through the city's inclusionary housing program as set forth in Section 415 of the San Francisco Planning Code. The Departments shall follow existing requirements in establishing such priorities.

I also request that Department Heads form a Working Group, with three primary tasks:

- (1) making recommendations to the Mayor for City policies and administrative actions that could be implemented to preserve and promote rental housing in San Francisco;
- (2) implementing a process to have the Planning Commission consider Discretionary Review hearings when a loss of housing is proposed; and
- (3) serving as an advisory body to municipal departments with permitting authority and as a clearinghouse for code compliance checks for buildings that are being withdrawn from the rental market under Residential Rent Stabilization and Arbitration Ordinance sections 37.9(a)(8), 37.9(a)(9), 37.9(a)(10) and 37.9(a)(13), or a Notice of Intent to Withdraw units from the residential market under Section 37.9(a).

The membership of the Working Group shall be:

- Director, Department of Building Inspection
- Director, Planning Department
- Chief, Fire Department
- Director, Rent Board
- Director, Mayor's Office of Housing

As needed:

- Representative from the Department of Public Works
- Representative from the Office of Community Investment & Infrastructure
- Representative from the San Francisco Public Utilities Commission
- Representative from City Attorney's Office
- Representative of Property Owner Organization
- Representative of Tenant Organization
- Representative of a Non-Profit Housing Organization
- Representative of Other Housing Organization

Task (1): Recommendations to the Mayor

I task department heads to prioritize any administrative policies that lead to direct building of more affordable housing or that provide the proper market incentives to foster private development of rental units, including infill housing or small-scale residential with affordable units. Equally important is the preservation of the existing stock. As such, I request that the Department Heads listed above convene and gather any feedback, materials, or research they need to make recommendations to me about potential legislative or citywide strategies to preserve rental units in San Francisco. These recommendations can be forwarded on a rolling basis as ideas arise, and do not need to be formally adopted by the working group.

Task (2): Discretionary Review for Loss of Housing Units

Any DBI permit form for a building larger than two units must include a box about whether said permit will result in the removal or loss of a rental housing unit, the removal or loss of a unit that is currently being used for housing, or results in the displacement of any tenant from their home. If this box is checked "yes," the permit would not be approved over the counter but would instead be referred to the Planning Commission for a hearing under existing Discretionary Review regulations. DBI staff would request all relevant information from the applicant, so it can be forwarded to Planning staff. The Planning Commission could then consider the reasons for the reduction in housing units, with special attention paid to preserving existing rental stock. . This section would not apply to any already approved development agreements and/or current or future planned HOPE SF developments.

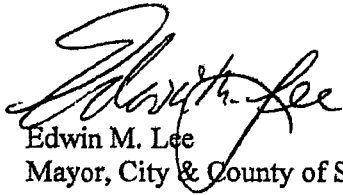
Task (3): Planning and Building Approvals & Notification

When a building owner files with the Rent Board a Notice of Termination of Tenancy under Rent Ordinance Sections 37.9(a)(8), 37.9(a)(9), 37.9(a)(10) and 37.9(a)(13), or a Notice of Intent to Withdraw units from the residential market under Section 37.9A, the Rent Board shall refer the notice to the Planning Department and to the Department of Building Inspection so that each agency can perform a site visit and research to verify that there are no Code violations, including life-safety and fire code violations. Any violations shall require compliance with all applicable Code requirements and identify any conflicts with Planning Department or DBI policies regarding preservation of affordable housing. Conflicts with city policies shall be forwarded to the Working Group to determine if that the establishment of new discretionary determinations would preserve or enhance the supply of affordable housing.

The Planning Department shall additionally notify the building owner in writing of any future restrictions or prohibitions on demolition, conversion, or mergers of units due to no-fault evictions performed under the above mentioned Rent Ordinance code sections. The building owner filing the notice of intent to withdraw units shall pay time and materials for all inspections, staff work and public hearings as described above as permitted under existing laws.

Department Heads may designate staff members to serve in their place. All relevant Department Directors should provide a plan to me by February 1st on how their departments plan to operationalize this directive, including recommending any specific administrative changes that are discussed under Task (1) above.

This Executive Directive will take effect immediately and will remain in place until rescinded by future written communication. This Executive Directive cannot override any relevant code sections including those governing no-fault evictions and does not invalidate any legal rights of property owners or tenants, or impair any existing contracts.

A handwritten signature in black ink, appearing to read "Edwin M. Lee". The signature is fluid and cursive, with the first name being the most prominent.

Edwin M. Lee
Mayor, City & County of San Francisco

EXHIBIT 3

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

BASIS FOR RECOMMENDATION

- The Project will result in a net loss of one dwelling unit.
- The Project will eliminate two existing sound, smaller dwelling-units to create one larger, less affordable home, which is inconsistent with the General Plan.
- The RM-1 Zoning District allows three dwelling-units on this lot. This District is intended to accommodate a greater density than what currently exists, and several of the surrounding properties reflect this ability to accommodate the maximum density.
- The proposed loss of a dwelling unit is counter to the Mayor's Executive Directive, which calls for the protection of existing housing stock. The Mayor has directed the Department to adopt policy practices that encourage the preservation of existing housing stock. The proposed dwelling unit removal and replacement of "naturally affordable" units is contrary to the priority principle of housing unit retention.
- The current housing affordability crisis creates an "exceptional and extraordinary" circumstance such that the Commission should deny the project and preserve the existing dwelling units.

RECOMMENDATION: Take Discretionary Review and Disapprove

Attachments:

Parcel Map
Sanborn/Dwelling Unit Map
Zoning Map
Aerial Photographs
Section 311 Notice
Reduced Plans
Sponsor's Brief
Letters of Support

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EXHIBIT 4

... the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption. A Planning Commission approval will constitute the Approval Action for the Project for the purposes of CEQA, pursuant to San Francisco's Administrative Code Section 31.04(h).

BASIS FOR RECOMMENDATION

- The Project will result in a net loss of one dwelling unit.
- The Project will eliminate two existing sound, smaller dwelling-units to create one larger, less affordable unit, which is inconsistent with the General Plan.
- The proposed merger would result in the loss of a dwelling unit in a building that is at the prescribed density as permitted by the Zoning District. The proposed merger would not bring the building closer to conformance with the prescribed zoning.

Discretionary Review Analysis Summary
August 14, 2014

CASE NO. 2013.1620D
812 – 814 Green Street

- The Project is contrary to the intent of Executive Directive 13-01 to retain legal housing units. The Mayor has directed the Department to adopt policy practices that encourage the preservation of existing housing stock. The proposed dwelling unit removal and replacement of "naturally affordable" units is contrary to the priority principal of housing unit retention.
- The current housing affordability crisis creates an "exceptional and extraordinary" circumstance such that the Commission should deny the project and preserve the existing dwelling units.

RECOMMENDATION: Take Discretionary Review and Disapprove

Attachments:

Parcel Map
Sanborn/Dwelling Unit Map
Zoning Map
Aerial Photographs
Site Photographs
Project Sponsor's Submittal
 Response to Dwelling Unit Merger Criteria
 Reduced Plans

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HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 3: PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.1

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

POLICY 3.4

Preserve "naturally affordable" housing types, such as smaller and older ownership units.

The two existing dwelling units do not contain design deficiencies and are sound housing units. The project proposes to eliminate two "naturally affordable" dwelling units that are smaller (one to two bedrooms) and subject to rent control, to be replaced with a less affordable four bedroom dwelling unit. The elimination of two functional "naturally affordable" dwelling units is contrary to the General plan as well as the Department's and the City's priority to preserve existing sound housing and to protect naturally affordable dwelling units.

OBJECTIVE 11: SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

POLICY 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

The subject block is zoned RM-2 and the surrounding blocks are zoned RM-2, RM-1 and RH-2, representing a diversity of residential densities. The subject zoning is appropriately designed to encourage a mix of residential density and allows the subject lot to be developed with three dwelling units. The proposed dwelling unit merger is inconsistent with the prescribed zoning, General Plan and the City's policies to address the current housing crisis.

SECTION 101.1 PRIORITY POLICIES

Planning Code Section 101.1 establishes eight priority policies and requires review of permits for consistency, on balance, with these policies. The Project does not comply with these policies as follows:

1. Existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The proposal does not affect existing neighborhood-serving retail uses as the site is occupied by a residential use.

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

The proposal would eliminate existing housing and therefore, be contrary to this Priority Policy.

J. 2013
4 Green Street

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Discretionary Review Analysis Summary
2014

CASE NO. 2013.1620D
812 – 814 Green Street

within six months of the application to merger, are not subject to a Mandatory Discretionary Review hearing.

The subject units appraised at \$1.35M each on September 7, 2013, within six months of their application to merge being filed on November 6, 2013. On March 5, 2014 the threshold for determining if a unit is demonstrably not affordable or financially accessible increased from \$1.342M to \$1.506M. The subject units are not demonstrably unaffordable or financially inaccessible.

- 9. The Planning Commission shall not approve an application for merger if any tenant has been evicted pursuant to Administrative Code Sections 37.9(a)(9) through 37.9(a)(14) where the tenant was served with a notice of eviction after December 10, 2013 if the notice was served within ten years prior to filing the application for merger. Additionally, the Planning Commission shall not approve an application for merger if any tenant has been evicted pursuant to Administrative Code Section 37.9(a)(8) where the tenant was served with a notice of eviction after December 10, 2013 if the notice was served within five years prior to filing the application for merger. This Subsection (e)(4) shall not apply if the tenant was evicted under Section 37.9(a)(11) or 37.9(a)(14) and the applicants either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Planning Commission a declaration from the property owner or the tenant certifying that the property owner or the Rent Board notified the tenant of the tenant's right to reoccupy the unit after the temporary eviction and that the tenant chose not to reoccupy it.

The units proposed for merger have not been occupied by tenants that have been evicted after December 10, 2013. Per the Project Sponsor, the building was vacant for five years prior to purchase by the current property owners in September 2013. The ground floor unit, which is not proposed for merger, has been tenant occupied since October 2013 and will continue to be tenant occupied.

EXECUTIVE DIRECTIVE 13-01:

Task 2: Discretionary Review for Loss of Housing Units.

Implementation Measure 2. Mandatory Discretionary Review for the loss of Dwelling Units. For properties with more than two dwelling units, the Planning Department will initiate Discretionary Review for the loss of any dwelling units, legal or otherwise.

The proposal will result in the loss of a legal dwelling unit and is therefore subject to the Mandatory Discretionary Review. Dwelling unit mergers in the subject three-unit building are subject to Mandatory Discretionary Review. The proposed merger would eliminate one rent controlled unit, which is counter to the policy intent of the Mayor's Directive to address the City's housing crisis.

GENERAL PLAN COMPLIANCE:

The Department's Recommendation is consistent with the following Objectives and Policies of the General Plan:

Albany
Atlanta
Brussels
Denver
Los Angeles
Miami
New York

McKenna Long & Aldridge^{LLP}

Spear Tower • One Market Plaza, 24th Floor
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November 17, 2014

VIA E-MAIL AND HAND DELIVERY

David Chiu, President
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place
Legislative Chamber, Room 250
San Francisco, CA 94102

Re: *Conditional Use Authorization Appeal - Respondent's Brief*
395 26th Avenue (Lot 017, Block 1407)
Case No. 2013.0205CEKSV

Dear President Chiu and Members of the Board:

This firm is counsel for Mary Tom, the Project applicant and Respondent herein ("Respondent"). The Respondent has received Conditional Use approval to demolish a vacant two-story building (small ground floor commercial space and two residential units) at 395-26th Avenue (at Clement) in San Francisco (Block 1407, Lot 017), (the "Site"), subdivide the existing lot into two lots ("Lot A" and "Lot B"), and construct two three-unit, four-story buildings thereon (the "Project").

In addition to replacing the small existing commercial space with a larger retail high-ceiling space consistent with the Clement Street corridor, the Project will importantly add four new three-bedroom residential units to the City's family housing stock. The two existing small residential units will be replaced with three-bedroom units more suitable for families with children.

This appeal appears to be based solely on the claimed non-compliance with the criteria in Section 317 of the Planning Code, while ignoring the criteria in Section 303. But, as occurred here, while the Planning Code requires that the Commission find that all of the criteria in Section 303 are met for a Conditional Use approval, Section 317 requires only that the Commission *consider* the appropriate criteria for demolition of the existing second floor residential units on the Site. It is within the discretion of the Commission to determine how to weigh the criteria under Section 317, as occurred here. Thus, there is no proper basis for this appeal.

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For the reasons discussed below, the Conditional Use application (“CU Application”) granted by the Planning Commission meets the criteria of Sections 303 and 317 of the Planning Code. This appeal should be denied¹.

PROJECT SITE

The 4,366 sq. ft. Site is located at the northwest corner of Clement Street and 26th Avenue in the Outer Clement Neighborhood Commercial (“NC”) District and in a 40-X height and bulk District.

The Site is currently improved with a 2,105 sq. ft. two-story building containing an office and two residential units. The ground floor consists of a one-bedroom residential unit and an office. The second floor contains a two-bedroom unit. The existing building currently has off-street parking in a paved open parking area located in the required rear yard.

The existing building was originally constructed in 1945, and the original owner was George Weissen, who resided there with his family until 1968, when the building was sold to Robert and Aileen Mellard. During the Mellard ownership, the ground floor garage was converted to a commercial real estate office. It appears that the ground floor residential unit was never rented, but instead used by members of the Mellard family when they visited the City.

Also during the Mellard ownership, the upper floor unit was rented to John and Agnes Fordemwalt, who resided there until 1996. After the Fordemwalts vacated the unit, it was never again rented and was also used by members of the Mellard family from time to time.

After the death of Robert and Aileen Mellard, the building was left to their daughter, Gail Timko. The building was finally sold in 2013 to the Respondent and Project Applicant Mary Tom.

The Planning Department has reviewed the Historic Resource Evaluation (HRE) Report prepared by Tim Kelley Consulting and concurs with the conclusion that the building is not a historic resource.

Only the Site and the lot to the west is zoned neighborhood commercial. The only ground floor commercial uses on this block are in the existing building and in the two-story building adjacent to the Site on Clement Street.

¹ One of the principal appellants here appears to be Anthony Lee, the owner of the neighboring property at 377 – 26th Avenue, who has been the sole owner of that property since September 22, 2008 upon transfer from his mother, Julie Lee. Mr. Lee’s specific complaint appears to be that the Project will block his property line windows even though the Project was set back 3’ to accommodate those windows. This firm first became aware of Mr. Lee’s status as a principal appellant upon receipt of an August 22, 2014 letter from the appellants’ attorney, in which he advised in pertinent part that: “I am representing Julie Lee, her son Tony Lee and other neighbors regarding a massive project proposed for 2500 Clement Street.”

The Clement Street block face is developed with predominately three-story buildings, ranging from two-units to multi-unit apartment buildings. The 26th Avenue block face is developed with two to four-story buildings, with three-story buildings being predominate. The buildings range from single family homes to apartments. The opposite Clement Street block face is developed with two and three-story buildings with more ground floor retail use. The opposite 26th Avenue block face is developed with two to four-story buildings that range from single family homes to apartment buildings.

THE PROJECT

The Project approved by the Commission is:

1. Demolition of the existing building;
2. Subdivision of the existing lot into two lots with a 60'x37' (2,220 sq. ft.) corner lot at Clement Street and 26th Ave ("Lot A") and a 58'x 37' (2,146 sq. ft.) lot on 26th Avenue ("Lot B");
3. Construction of a 45' high, 7,533 gross square feet (gsf) mixed use building on Lot A with ground floor retail and 4 off-street parking space in stackers; and
4. Construction of a 40' high, 5,667 gsf three-unit residential building with two off-street parking spaces on Lot B.

See photomontages of the proposed building (Sheets A-0.0 – A-0.2 and A-3.0), block face photographs (Sheet A-0.3), site plan, existing and proposed plans, elevations and sections (A-1.0 to A-2.1 and A-3.1 to A-3.3) attached to the Planning Department's response to this appeal.

The Lot A building (2500-2502-2506-2508 Clement Street Building)

The Lot A building is a mixed use building with ground floor retail. The 2,184 sq. ft. ground floor of the Lot A building will have a 851 sq. ft., 14' floor to ceiling height retail space, a garage with four off-street parking spaces in car stackers, three secure class 1 bicycle parking spaces, and an entrance lobby to the 3 residential units above. The retail space will have frontage on both Clement Street and 26th Avenue with a large glazed store front window system to provide pedestrian interest. The upper floors will have bay windows. Access to garage is from 26th Avenue with a 10' curb cut and 16' wide garage door. Two Class 2 bicycle parking spaces will be located on the Clement Street sidewalk in front of the retail space.

The 15' deep rear yard will be at the first residential level, for which a variance has been issued by the Zoning Administrator.

The second floor will be a 1601 sq. ft. three bedroom flat with an approximately 519 sq. ft. deck as private open space. The third and fourth floors will each contain a 1,783 sq. ft. three-bedroom flat and will share a 340 sq. ft. roof deck as their common open space. The exterior material will be wood siding and stucco on the upper floors. The ground floor façade will be slate tile and glazing to form a base for the building.

The Lot B Building (381-387 26th Avenue Building)

The Lot B building is a residential building with three dwelling units – a townhouse unit and two flats. The ground floor will contain the entrance lobby, three class 1 secure bicycle lockers, a garage with two independently accessible parking spaces, and a bedroom that is part of the 1,378 sq. ft. three-bedroom second-floor townhouse unit. Access to the garage is off 26th Avenue.

The approximately 754 sq. ft. at-grade rear yard will be common usable open space to be shared by the townhouse and the third floor unit. The 1,170 sq. ft. fourth floor unit will have three bedrooms with the 316 sq. ft. roof deck as its private usable open space.

The southern two-thirds of the Lot B building is divided into a base, a middle and a top. The base is set back 1'-6" from the front property line and the exterior material will be wood with the recessed base framed in slate tile. The middle portion of the building is stucco with two two-story bay windows. The top of the building (the fourth floor) will have punch windows and the stucco exterior will be a complementing color. The northern portion of the building will have a vertical element created by a two-story bay window, the garage door and wood siding on all floors.

PROJECT HISTORY

The Respondent submitted the Conditional Use Application for the Project on February 26, 2013, seeking approval to demolish the existing second floor residential unit and construct the Project under Planning Code Section 717.37.

On March 13, 2013, the Respondent submitted an environmental review application and the Planning Department issued a Class 3 categorical exemption for the Project on June 18, 2013.

The Conditional Use and Variance hearings were originally scheduled for January 16, 2014 and continued to February 20, 2014 at the request of Supervisor Mar. The February 20, 2014 hearing was then continued at the request of the Respondent and the Planning Department because the Class 3 categorical exemption did not include a discussion of subdivision of the existing lot. The Planning Department then issued a Certificate of Class 32 categorical exemption on August 26, 2014.

The Planning Commission approved the Conditional Use Authorization under Planning Code Sections 303 and 317 at a hearing on September 4, 2014.

Thereafter, on October 24, 2014, the Zoning Administrator issued a Decision Letter granting a rear yard modification pursuant to Planning Code Section 134(e) and a street frontage variance pursuant to Planning Code Section 145.1. A copy of the Variance Decision is attached hereto as **Exhibit 1**. The appeal period for the Variance Decision to the Board of Appeal has expired and became final on November 3, 2014.

In the meantime, this appeal was filed with the Board of Supervisors ("Board") on October 6, 2014. Although originally scheduled for hearing on November 4, 2014, the appeal was rescheduled by mutual consent to November 25, 2014.

DISCUSSION

The Appellants present two major arguments. First, they attack the Commission's approval of the demolition of the existing residential units under Section 317 of the Planning Code, arguing that the Project is the demolition of two sound, affordable rent-controlled units which does not meet the mandatory criterion for a demolition. Second, they attack the decisions of the Zoning Administrator as not justified from an "exceptional and extraordinary" hardship standpoint, and as allowing "over-parking" in a transit corridor.

Below, we first address the second argument regarding the variances, then discuss the Section 317 issues, and conclude with a short discussion of the important Section 303 considerations.

A. The Variance Decisions Are Not Appealable to this Board, and were Properly Granted.

The obvious and fatal flaw in the arguments presented by the Appellants is that the variances granted by the Zoning Administrator are *not appealable* to the Board of Supervisors. San Francisco Charter Section 4.105 and Planning Code Section 308.2 vest appeals of variance decisions within the exclusive jurisdiction of the Board of Appeals. Thus, this Board does not have the jurisdiction to consider appeals of variance decisions. As stated above, the Variance Decision became final on November 3, 2014, in the absence of an appeal to the Board of Appeals.

Here, the variances are: (1) to provide a rear yard at the first residential level and not at grade as required by Section 134(a)(1)(A) for the Lot A building, (2) to provide off-street parking within the first 25' of the street frontage in lieu of active use as required by Section 145.1 for both the Lot A and Lot B buildings, and (3) to provide a 13' rear yard in lieu of 15' for the Lot B building.

In their brief, Appellants confuse the variance from the ground floor active use with a parking variance. The Planning Code requires one off-street parking space per unit. In this case, there are a total of six off-street parking spaces for six units as required by the Planning Code Section 151. Due to the depth of the lot being 37', it is impossible to accommodate off-street parking and active use in the first 25' of the building along the 26th Avenue frontage. Therefore, the Zoning Administrator correctly determined that a variance should be granted for the active use requirement along 26th Avenue.

The rear yard variance for the Lot A building is for location and not the depth of the lot. Specifically, the variance is for allowing the rear yard to be located at the first residential level. For the Lot B building, the variance is to deviate from the 15' minimum rear yard requirement of 25% if the lot depth is less than 15'. In this case, the lot depth is 37' and 25% of the lot depth would be 9.25'. Respondent's letter to the Zoning Administrator, dated August 25, 2014, explained why the rear yard variance requests meet the requirements of Section 305. A copy of this letter is attached hereto as **Exhibit 2** and is incorporated herein by reference.

Appellants also make the odd argument that the allowable density for the Project is seven units, not the six approved by the Commission. How that is legally relevant is unclear. The Planning Code sets forth the maximum allowable density and it is not a requirement that the maximum number of units must be constructed.

B. The Project Meets The Criteria of Planning Code Section 317.

Planning Code Section 317 provides the criteria by which the Planning Commission can approve the demolition of residential buildings. Section 317(d) provides as follows:

- (1) No permit to Demolish a Residential Building in any zoning district shall be issued until a building permit for the replacement structure is finally approved, unless the building is determined to pose a serious and imminent hazard as defined in the Building Code. A Building permit is finally approved if the Board of Appeals has taken final action for approval on an appeal of the issuance or denial of the permit or if the permit has been issued and the time for filing an appeal with the Board of Appeals has lapsed with no appeal filed.
- (2) If Conditional Use authorization is required for approval of the permit for Residential Demolition by other sections of this Code, the Commission shall consider the replacement structure as part of its decision on the Conditional Use application. If Conditional Use authorization is required for the replacement structure by other sections of this Code, the Commission shall consider the demolition as part of its decision on the Conditional Use application. In either case, Mandatory Discretionary Review is not required, although the Commission shall apply appropriate criteria adopted under this Section 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of Conditional Use authorization. If neither permit application is subject to Conditional Use authorization, then separate Mandatory Discretionary Review cases shall be heard to consider the permit applications for the demolition and the replacement structure.

The Site is in an NC zoning district where demolition of the ground floor residential unit is principally permitted and demolition of the upper floor residential unit is conditionally permitted under Planning Code Section 717.37. The Commission is only required to consider the Section 317 criteria in addition to those set forth in Section 303 of the Planning Code. In this case, only the demolition of the second floor two-bedroom unit requires conditional use authorization under Planning Code Section 317(d)(2). In that regard, the Commission is required to balance the criteria of both Planning Code Sections 303 and 317 to determine if the proposed project is necessary or desirable.

However, it is important to note, in contrast to the criteria under Planning Code Section 303, the criteria under Section 317 must only be *considered* by the Commission. The Project need not meet all the criteria, and it is within the purview of the Commission to determine how much weight to give to each. Here, as discussed below, the Commission properly considered each of the criteria and determined that, on balance, the fact this Project will add a net four three-bedroom units to the City's housing stock is more desirable and necessary than preserving a small second floor residential unit that was occupied only occasionally by the previous owners and their family members. As each of these units has three bedrooms, the Project will add to the City's family size housing stock, which need is well documented by the Planning Department. Finally, it should be noted that the Appellant's argument with regard to loss of two rent-controlled units is simply not true. The units have been vacant since 1996, except for the current occupants who are care-takers of the building for the Respondent and who pay no rent.

The Commission, after considering all of the Section 317 and Section 303(c) criteria, properly determined that the Project, on balance, meets the applicable criteria of Section 317 and all the criteria of Section 303(c), and that the Project is more desirable than the loss of a dwelling unit that has not been part of the City's rental housing stock for more than 18 years.

More specifically, Planning Code Section 317(d)(3)(C) specifies that the Planning Commission shall *consider* the following additional criteria in the review of applications to demolish residential upper floor units where permitted under a conditional use authorization:

(i) whether the property is free of a history of serious, continuing Code violations;

The Respondent has not submitted a soundness report or otherwise contended that the building is unsound, although the demolition of a nearly 60 year-old building and the replacement with a new structure will surely be beneficial.

(ii) whether the housing has been maintained in a decent, safe, and sanitary condition;

There is no contention or evidence that the Respondent has not maintained the existing building in proper condition.

(iii) whether the property is an "historical resource" under CEQA;

The Planning Department has reviewed the Historic Resource Evaluation Report prepared by Tim Kelley Consulting and concurs with the conclusion that the existing building is not a historic resource. There is no contention to the contrary.

(iv) whether the removal of the resource will have a substantial adverse impact under CEQA;

Not applicable as the existing building is not a historical resource.

(v) whether the project converts rental housing to other forms of tenure or occupancy;

While the Project will remove one vacant upper floor dwelling unit from the City's housing stock, the Project will replace both the upper floor unit and the ground floor unit (principally allowed to be demolished) with larger three-bedroom family size units, and add a net four three-bedroom units needed by the City. The new units will be condominiums.

(vi) whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

The two units were owner-occupied before the Respondent's purchase. Both units would be subject to the Rent Stabilization and Arbitration Ordinance only if they are returned to the rental market.

(vii) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

Table A-1 of the 2013 Housing Inventory published by the Planning Department showed that of the 1876 market rate housing units completed in the year, only 24 are three bedroom units. Table A-2 of the 2013 Housing Inventory published by the Planning Department also showed that of the 464 affordable housing units completed in the year, only 8 are three bedroom units. Therefore, the addition of six three-bedroom family size market rate condominium units will preserve and enhance the cultural and economic diversity of the neighborhood.

(viii) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

The Lot A and Lot B buildings are similar in scale, height and massing to the existing buildings in the Project vicinity and with similar exterior material. Therefore, the Project will conserve the neighborhood character. The cultural and economic diversity of the neighborhood will be enhanced by providing needed family-sized housing.

(ix) whether the project protects the relative affordability of existing housing;

Inasmuch as the existing units are not part of the rental housing stock but occupied by the owners, these units are not part of the City's affordable housing stock and this criteria is not applicable.

(x) whether the project increases the number of permanently affordable units as governed by Section 415;

Planning Code Section 415 is not applicable to the Project, as the Project has less than ten units.

(xi) whether the project locates in-fill housing on appropriate sites in established neighborhoods;

The Project is located in an established mixed-use neighborhood as evidenced by the issuance of the Class 32 Categorical Exemption.

(xii) whether the project creates quality new family housing;

The Project will provide six units of family-sized housing with three bedrooms. The design, the exterior and interior materials will result in construction of quality residential units.

(xiii) whether the project creates new supportive housing;

The Project does not create supportive housing.

(xiv) whether the project promotes construction of well-designed housing to enhance existing neighborhood character;

The Project's overall scale, design, and materials are consistent with the existing buildings on the block faces and will complement the neighborhood character with a contemporary design. Appellants present no contention or argument to the contrary.

(xv) whether the project increases the number of on-site dwelling units;

The Project will increase the number of on-site units by four units.

(xvi) whether the project increases the number of on-site bedrooms.

The Project will replace the existing three bedrooms with 18 bedrooms.

3. The Project meets the criteria of Section 303 of the Planning Code.

In sharp contrast to the discretionary nature of the Section 317 criteria when applied to demolition of residential units requiring conditional use, the Commission was required to find that the Project meets all of the criteria of Planning Code Section 303(c). It is instructive and telling that the Appellants do not attempt to attack any of the Planning Commission's section 303(c) findings in that regard. By way of short review, the Project meets the criteria of Planning Code Section 303(c) as follows:

1. *The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary and desirable for, and compatible with, the neighborhood or the community.*

The buildings in the vicinity of 26th Avenue and Clement Street range from two units to eighteen units. The Project, with a total of six units, is similar to those on the block. The proposed three-bedroom units are moderately sized, similar in size to the flats in the area. The two demolished units will be replaced with six three-bedroom units which are more suitable for families with children. Therefore, the size and intensity of the Project will be compatible with and is necessary and desirable for the neighborhood and the community.

2. *The proposed uses or features 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 developments in the vicinity.*

- A. The nature of the proposed Site, including its size and shape, and the proposed size, shape and arrangement of structures:

The existing lot is 118' deep. The allowable building depth would be 88.5' if the lot is not divided into two. The adjacent lot on Clement Street is improved with two buildings, with the approximately 60' long main structure (2512 Clement) at the front of the lot and a two-story cottage (2510 Clement) located partly in the required rear yard. By dividing the lot into two, the Lot A building will be shorter than the neighboring 2510-2512 Clement building and the rear cottage will face the at-grade rear yard of the Lot B building. The three bedroom units will range between 1,071 sq. ft. to 1,601 sq. ft., which will be more affordable than if the existing lot is not subdivided and new units in excess of 2,400 sq. ft. each are developed.

The Lot B building has been set back 3' from the north property line so that the property line windows of the 377 - 26th Avenue Building will not have to be closed. Therefore, the proposed size, shape and arrangement of the proposed buildings will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or be injurious to property or improvements.

- 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.

The traffic patterns for persons and vehicles around the Project Site will not be altered. Each of the dwelling units and the retail space will have an off-street parking space. Currently, there are five on-street parking spaces on 26th Avenue and one on Clement in front of the Site. The Project will not change the number of on-street parking spaces in front of the Site. The Environmental Planning section of the Planning Department has determined that the Project will not have an adverse effect on traffic, off-street parking and loading.

- C. The safeguards afforded to prevent noxious or offensive emissions, such as noise, glare, dust and odor.

A Noise Report prepared by Walsh Norris and Associates was requested by and submitted to Environmental Planning. All of the recommendations have been incorporated as part of the Project and the Project will therefore meet all of the City's Noise Ordinance governing noise levels after the buildings are completed.

- D. Treatment given, as appropriate to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.

The three existing street trees (two on Clement Street and one on 26th Avenue) will be retained and four new street trees will be planted on 26th Avenue. All exterior lights will be down lighting to prevent glare to nearby neighbors. The garbage, recycle and compost bins will be located in the garage. Signs will comply with the requirements of Article 6 of the Planning Code.

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 Site is zoned for mixed use development with ground floor retail and residential use on the upper floors. With the rear yard and ground floor active use variances granted, the Project will comply with all applicable Planning Code provisions applicable to the Site.

The Project is consistent with the following objectives and policies of the General Plan:

A. *HOUSING ELEMENT*

Objective 1: Identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing.

Policy 1.8 - Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Policy 1.10 - Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Site is currently under-utilized. While the existing units are not unsound housing, the units' size, design and construction deficiencies are obvious. The Project replaces 2 housing units with 6 housing units in an area easily accessible to public transit.

Objective 2: Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability.

Policy 2.1: Discourage the demolition of sound existing housing unless the demolition results in a net increase in affordable housing.

The residential units to be demolished are not part of the City's affordable housing stock because they are owner-occupied. The Project will result in an increase of four additional units and all the units are three-bedroom units suitable for families with children with usable open space.

Objective 12: Balance housing growth with adequate infrastructure that serves the City's growing population.

Policy 12.1 - Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2 - Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units

Policy 12.3 - Ensure new housing is sustainably supported by the City's public infrastructure systems.

The Site is near public transit, neighborhood services and two of the major open spaces in the City (Golden Gate Park and the Presidio).

Objective 13: Prioritize sustainable development in planning for and constructing new housing.

Policy 13.3 - Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

The Project is located near multiple transit lines and has easy access to all types of neighborhood-serving businesses.

B. COMMERCE AND INDUSTRY ELEMENT

Objective 1: Manage economic growth and change to ensure enhancement of the total City Living and working environment.

Policy 1.2 -Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3 – Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The Site is located in a neighborhood commercial district. The current commercial space on the Site is 410 sq. ft. with 8'-0" high ceiling. The new retail space will have 897 sq. ft. and 14' floor to ceiling height that the City deems desirable and necessary by allowing an additional 5' height limit to achieve quality retail space in the City's commercial districts. Therefore the Project is consistent with and promotes Objective 1, policies 1.2 and 1.3 of this element.

Objective 3: Provide expanded employment opportunities for City residents, particularly the unemployed and economically disadvantaged.

Policy 3.1 – Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The Commerce and Industry element recognizes that the "one employment sector that often serves to be a source of employment opportunity to minorities and low-skilled workers is the small business sector that offers initial employment opportunities for the many low-skilled individuals. These individuals are often from within the community."

When compared to the existing building, where the small office space faces 26th Avenue and does not contribute to the continuing retail frontages on Clement Street, the Project includes a quality retail space at the corner of Clement Street and 26th Avenue that will strengthen and anchor this section of the Outer Clement Street Neighborhood Commercial District.

C. URBAN DESIGN ELEMENT

Objective 2 -- Conservation of resources which provide a sense of nature, continuity with the past, and freedom from overcrowding.

Policy 2.6 - Respect the character of older development nearby in the design of new buildings.

While the design of the new buildings is modern, the design complements the existing character of the area by incorporating bay windows and exterior materials common in the area.

Objective 4 -- Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.

Policy 4.12 - Install, promote and maintain landscaping in public and private areas.

Four new street trees will be planted on 26th Avenue, where only one currently exists.

D. TRANSPORTATION ELEMENT

Objective 11 -- Establish public transit as the primary mode of transportation in San Francisco and as a means through which to guide future development and improve regional mobility and air quality.

Policy 11.3 - Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

Objective 14 -- Develop and implement a plan for operational changes and land use policies that will maintain mobility and safety despite a rise in travel demand that could otherwise result in system capacity deficiencies.

Policy 14.7 - Encourage the use of transit and other alternatives modes of travel to the private automobile through the positioning of building entrances and the convenient location of support facilities that prioritizes access from these modes.

Policy 14.8 - Implement land use controls that will support a sustainable mode split, and encourage development that limits the intensification of automobile use.

The Site is conveniently located near public transit with connection directly or within easy walking or biking distance to large employers such as Kaiser Medical Center, UCSF Mount Zoin Campus, and other major employment centers in the City. The MUNI bus lines (#1, #1AX, #29, #38, #38AX, #38BX and #38L) are within two blocks of the Site and provide easy transfer to public transit serving other parts of the City and to the East Bay and South Bay.

The Project will provide Class 1 off-street secure bicycle parking spaces to encourage the combined use of transit and bicycle to work, for chores and recreation.

Objective 24 -- Improve the ambience of the pedestrian environment.

Policy 24.2 - Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.4 - Preserve pedestrian-oriented building frontages.

Four new street trees will be planted to meet Planning Code Requirements which will enhance the pedestrian environment and the public realm.

Objective 28 -- Provide secure and convenient parking facilities for bicycles.

Policy 28.1 - Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3 - Provide parking facilities which are safe, secure, and convenient.

One secure Class 1 bicycle parking space will be provided for each of the units in the garages of the two new buildings. Two secure Class 2 bicycle parking spaces will be provided on Clement Street for visitors or patrons of the retail business .

E. RECREATION AND OPEN SPACE ELEMENT

Objective 4: Provide opportunities for recreation and the enjoyment of open space in every San Francisco neighborhood.

Policy 4.5 - Require private usable outdoor open space in new residential development.

The Project has more than the Planning Code required usable open space on the Site for the future occupants; four of the units have private usable open spaces and two of the units share a roof deck. The Site is within five blocks of Golden Gate Park and three blocks of the Presidio, two of the major open spaces in the City.

F. AIR QUALITY ELEMENT

Objective 2 -- Reduce mobile sources of air pollution through implementation of the transportation element of the general plan.

Applicable objectives and policies are listed under the Transportation Element and the City's Transit First Policy discussed above.

Objective 3 -- Decrease the air quality impacts of development by coordination of land use and transportation decisions.

Policy 3.9 Encourage and require planting of trees in conjunction with new development to enhance pedestrian environment and select species of trees that optimize achievement of air quality goals.

Four new street trees will be planted where one exists today along the 26th Avenue frontage.

Objective 5 -- Minimize particulate matter emissions from road and construction sites.

Policy 5.1 - Continue policies to minimize particulate matter emissions during road and building construction and demolition.

Policy 5.2 Encourage the use of building and other construction materials and methods which generate minimum amounts of particulate matter during construction as well as demolition.

The Applicant and contractor must and will comply with the City's Building Code provisions governing dust control, including watering of the Site with non-potable water.

G. COMMUNITY SAFETY ELEMENT

Objective 1 -- Reduce structural and non-structural hazards to life safety and minimize property damage resulting from future disasters.

Policy 1.3 - Assure that new construction meets current structural and life safety standards.

The new buildings will be constructed to meet all current Building Code seismic and fire safety standards; whereas the existing building does not meet those standards.

Policy 1.6 - Consider site soils conditions when reviewing projects in areas subject to liquefaction or slope instability.

A Geotechnical Report will be submitted to the Department of Building Inspection for review and approval as part of the building permit process to insure that the buildings' foundations will be designed appropriately.

Policy 1.11 - Continue to promote green stormwater management techniques.

The Project will comply with all City requirements related to stormwater management, the San Francisco Stormwater Management Ordinance, the SFPUC's Stormwater Design Guidelines and the San Francisco Green Building Code. The Project will also comply with

the San Francisco Green Building Requirements related to water use reduction by cutting potable water use by 20%.

H. ENVIRONMENTAL PROTECTION ELEMENT

Objective 1 -- achieve a proper balance among the conservation, utilization, and development of San Francisco's natural resources.

Policy 1.4 - Assure that all new development meets strict environmental quality standards and recognizes human needs.

The Project will comply with the San Francisco Green Building Requirements related to energy efficiency. The Applicant will provide documentation demonstrating that the Project achieves a 15% compliance margin over the 2008 Title 24 Part 6 Energy Standards. The Project will comply with the San Francisco Green Building requirements related to the commissioning of building energy and water systems. Design and construction commissioning will be conducted to verify that energy- and water-using components meet the owner's or owner representative's project requirements.

Objective 4 -- Achieve a proper balance among the conservation, utilization, and development of San Francisco's natural resources.

Policy 4.1 - Support and comply with objectives, policies, and air quality standards of the Bay Area Air Quality Management District.

Prior to issuance of any demolition permit, the Bay Area Air Quality Management District must inform the Department of Building Inspection that all asbestos containing building materials have been removed and disposed of in accordance of applicable state law and regulations.

Objective 5 -- With respect to applications filed pursuant to Article 7 of this Code, that such use or feature will provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District, as set forth in zoning control category 1 of Section 701 through 729 of this Code.

The Site is at the end of the Outer Clement Street NCD, which is located on Clement Street between 19th Avenue and 27th Avenue, with small-scale convenience neighborhood-serving businesses, as well as many restaurants that serve both the neighborhood and Citywide clientele during the evening hours. The Outer Clement Street NCD is developed with many mixed-use buildings with more fully-residential buildings toward 27th Avenue.

Section 717.1 describes the Outer Clement Street NCD District controls as those “designed to promote development that is in keeping with the district’s existing small-scale, mixed-use character. The building standards monitor large-scale development and protect rear yards at all levels. Future commercial growth is directed to the ground story in order to promote more continuous and active retail frontage” and the controls are directed as preventing over-concentration of entertainment and financial services uses and restricts late-night activity, hotels, automobile uses, and drive-up facilities.”

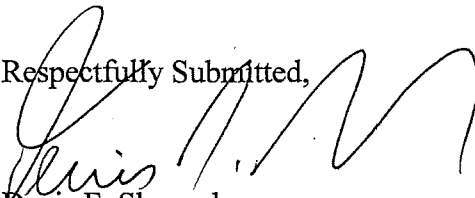
The Project is predominately residential in nature and the 897 sq. ft. ground floor retail space will be more suitable for neighborhood-serving businesses than the current 410 sq. ft. ground floor office space. Therefore, the Project is consistent with the purposes and objective of the Outer Clement Street NCD.

CONCLUSION

The Project will provide six three-bedroom units that are both necessary and desirable in the context of the City’s housing stock. The Project design is contextually appropriate. This mixed use Project, with ground floor commercial and residential units above, is consistent with the purpose and objective of the Outer Clement Street NCD. The size of the ground floor commercial unit at 897 sq. ft. will provide a transition from what is essentially a residential block between 26th and 27th Avenue to the more intense retail uses east of the Site along Clement Street.

The Planning Commission properly applied all of the criteria of Section 303 of the Planning Code in approving the Project. The Commission also properly considered the various criteria of Section 317 of the Planning Code and approved the demolition of the two existing residential units in order to expand the City’s housing stock by four units and fifteen bedrooms. It is respectfully submitted that this Board should deny this appeal.

Respectfully Submitted,



Denis F. Shanagher

DFS

cc: Supervisor John Avalos
Supervisor London N. Breed
Supervisor David Campos
Supervisor Malia Cohen
Supervisor Mark Farrell
Supervisor Jane Kim

Supervisor David Chiu
November 17, 2014
Page 19

Supervisor Eirc Mar
Supervisor Katy Tang
Supervisor Scott Wiener
Supervisor Norman Yee
Angela Calvillo, Clerk of the Board of Supervisors
Stephen Williams, Esq.
Mary Tom
Gabriel Ng

USW 804744030.5



SAN FRANCISCO PLANNING DEPARTMENT

Rear Yard Modification & Variance Decision

Date: October 24, 2014
Case No.: 2013.0205CEKSY
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

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

Reception:
415.558.6378

Fac:
415.558.6409

Planning
Information:
415.558.6377

DESCRIPTION OF REAR YARD MODIFICATION & STREET FRONTAGE VARIANCE SOUGHT:

The proposal is to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces.

Per Section 134 of the Planning Code the subject property is required to maintain a rear yard of approximately 15 feet at all levels. The proposed buildings do not provide the required rear yard depth on the ground floor.

Per Section 145.1 of the Planning Code the subject property is required to set back parking 25 feet from any street frontage. The proposed parking is not set back 25 feet from the 26th Avenue frontage.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 32 categorical exemption. The Certificate of Determination was issued on August 26, 2014.
2. The Zoning Administrator held a public hearing on the requests for Rear Yard Modification and Variance Application No. 2013.0205V on September 4, 2014.
3. Neighborhood Notification required by Planning Code Section 311 for Building Permit Application Nos. 2013.03.05.1498, 2013.03.05.1501, and 2013.03.05.1508 were mailed on December 26, 2013 and expired on January 16, 2014 in conjunction with the Conditional Use Authorization hearing notice (Case No. 2013.0205C).

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Modification and Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Modification and Variance Case Number.

FINDINGS:

REAR YARD MODIFICATION

Planning Code Section 134(e) states that in order to grant a rear yard modification, and in accordance with Section 307(g), the Zoning Administrator must determine that the facts of the case are sufficient to establish each of the following criteria:

CRITERION 1.

Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.

Requirement Met.

- A. The proposed project would provide six new dwelling units and would require a rear yard of approximately 555 square feet for proposed Lot A and 870 square feet for proposed Lot B, equal to 25 percent of the lot area for the respective lots, at all levels. Per Planning Code Section 135,

the project is required to provide 100 square feet of common usable open space for each dwelling unit, 80 square feet of private usable open space, or a combination of the two. On proposed Lot A, the proposed deck would provide 519 square feet of private open space for the second floor unit and the proposed roof deck would provide 340 square feet of common open space for the third and fourth floor units. On proposed Lot B, the proposed rear yard would provide approximately 754 square feet of common open space and the proposed roof deck would provide an additional 316 square feet of common open space for all units. The proposed size and configuration of the decks and rear yard are considered more useable than the otherwise required rear yard for both lots and would exceed the required amount of usable open space for the proposal.

CRITERION 2.

The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.

Requirement Met.

- A. The proposed project is located on a corner lot with massing organized in such a way that does not create significant adverse effects on the adjacent properties. On proposed Lot B, the proposal includes a rear yard depth of approximately 13 feet to allow for access of light and air to an existing noncomplying one-story residential building in the adjacent property's rear yard. Additionally, providing the code-required rear yards would not alter the overall 4-story height of the buildings, and therefore would have little impact on the amount of light, air, and views of adjacent properties.

CRITERION 3.

The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yard of adjacent properties.

Requirement Met.

- A. The subject property is a corner lot, and the adjacent buildings to the north and west separate it from the existing interior block open space. As such, any rear yard provided on the subject property will be stand-alone, and would not contribute to the interior block open space. Therefore, the proposed project would not adversely affect the interior block area.

VARIANCE

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject property is a corner lot with approximately 37 feet of frontage on Clement Street and approximately 118 feet of frontage on 26th Avenue. The proposal would provide off-street parking access to at-grade garages with two 10-foot curb cuts on 26th Avenue while maintaining a pedestrian realm along Clement Street. Additionally, the amount of on-street parking spaces would remain the same.

The existing property has a depth of only 37 feet measured from 26th Avenue. Providing the required 25-foot off-street parking setback of off 26th Avenue would leave only 12 feet of building area to provide off-street parking, which is inadequate. Additionally, due to the narrow nature of the property, locating the required off-street parking deeper into the lot would conflict with the rear yard requirements of Planning Code Section 134. Providing no parking for the project would require a parking modification pursuant to Planning Code 161(j) or a parking variance.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. Based on the subject property's size and shape, strict enforcement Planning Code Section 145.1 would result other noncomplying features for the project, such as a less conforming rear yard, or a significant deficiency in required off-street parking. It could also result in the addition of a curb cut along Clement Street for proposed Lot A, which would limit the amount of active space and non-residential space that could be provided along the Neighborhood Commercial District corridor.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- B. The Outer Clement Street NCD requires a minimum of one off-street parking space per residential dwelling unit. The project meets this provision and employs space-efficient parking techniques so that the ground floor can also accommodate residential lobbies and commercial space (proposed Lot A) or additional residential space (proposed Lot B). The variance is necessary to ensure that the subject property can provide the parking required by the Planning Code in a space efficient manner, which is a substantial property right possessed by other properties in the Outer Clement Street NCD.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. Due to the use of car stackers, granting the variance would result in only one curb cut on 26th Avenue for each of the two proposed properties, which is standard in this and many other parts of the City. This also allows the two proposed buildings to still provide active uses on the ground floors to help ensure a more positive interaction at the street level. As such, granting the variance would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
1. Existing neighborhood retail uses will not be adversely affected by the proposed project. The existing commercial space on the ground floor is small, does not have a traditional storefront system, and generally provides very little transparency to the street. The proposed replacement commercial space will enhance the corner and represent a much more active use.
 2. The proposed project will be in keeping with the existing housing and neighborhood character.
 3. The proposed project will have no effect on the City's supply of affordable housing.
 4. The proposed project does not adversely affect neighborhood parking or public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Rear Yard Modification and Variance Decision
October 24, 2014

CASE NO. 2013.0205CEKSY
395 26th Avenue

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

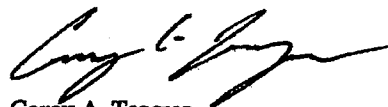
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,



Corey A. Teague
Acting Zoning Administrator

THIS 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.

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Copy to I:\Decision Documents\Variance Decision Letters\2013\2013.0205V - 395 26th Ave - Decision Letter

Albany
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August 25, 2014

Mr. Scott Sanchez
Zoning Administrator
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: **395 – 26th Avenue (Case No. 2013.0205CEKY)**
Request for Rear Yard and Street Frontage Variances

Dear Mr. Sanchez

This firm is counsel for Mary Tom, the Project Applicant (“Applicant”). The Applicant proposes to demolish a vacant two-story building (small ground floor commercial space and two residential units) at 395-26th Avenue in San Francisco (Block 1407, Lot 017 (the “Site”), subdivide the existing lot into two (“Lot A” and “Lot B”), and construct two four-story buildings (the “Project”). For the reasons discussed below, the Variance Application meets the criteria of Section 305(c) of the Planning Code. Therefore, the Planning Commission should approve the requested variances.

PROJECT HISTORY

The Applicant submitted the Variance Application for the Project on February 26, 2013. The Project will require deviation from ground level rear yard, minimum 15’ rear yard depth and active uses on street frontage requirements of the Planning Code.

On March 13, 2013, the Applicant submitted an Environmental Review Application and the Planning Department issued a Class 3 categorical exemption for the Project on June 18, 2013. The Conditional Use and Variance hearings were originally scheduled for January 16, 2014 and continued to February 20, 2014 at the request of Supervisor Eric Mar. The February 20, 2014 hearing was continued at the request of the Planning Department and the Applicant because the Class 3 categorical exemption did not include a discussion of subdividing the existing lot.

Mr. Scott Sanchez
August 25, 2014
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The Planning Department re-issued a Certificate of Class 32 categorical exemption; a copy of which is attached to the Planning Department's updated case report before this Commission.

PROJECT SITE

The 4,366 sq. ft. Project Site is located at the northwest corner of Clement Street and 26th Avenue in the Outer Clement Neighborhood Commercial District ("Outer Clement NCD") and in a 40-X height and bulk District.

The Site is improved with a 2,105 sq. ft. two story building with an office and two residential units originally constructed in 1945. The ground floor contains a one-bedroom residential unit and an office. The second floor contains a residential unit. The building is a lawful non-complying structure in that the off-street parking is located in a paved open parking area located in the required rear yard. A photomontage of the proposed building, block face photographs, existing and proposed plans are attached hereto as **Exhibit 1**. See Sheet A-1.1 of Exhibit 1 for floor plans and elevations of the existing building.

The Planning Department has reviewed the Historic Resource Evaluation (HRE) Report prepared by Tim Kelley Consulting and concurs with the conclusion that the building is not a historic resource.

Although this block is zoned neighborhood commercial, the only ground floor commercial uses are in the Project Site building and in the two-story building adjacent to the Site on Clement Street. The Clement Street block face is developed with predominately three-story buildings, ranging from two-units to multi-unit apartment buildings. The 26th Avenue block face is developed with two to four-story buildings, with three-story buildings being predominate. The buildings range from single family homes to apartments. The opposite Clement Street block face is developed with two and three-story buildings with more ground floor retail use. The opposite 26th Avenue block face is developed with two to four-story buildings that range from single family homes to apartment buildings. See Sheet A-0.3 of the Plans attached to the Case Report.

All the corner buildings in the Outer Clement NCD have either no or minimal rear yards. See **Exhibit 2** for a Site plan showing the rear yard pattern of the corner buildings in Outer Clement NCD.

THE PROJECT

The Project is:

1. Demolition of the existing building;

Mr. Scott Sanchez
August 25, 2014
Page 3

2. Subdivision of the existing lot into two lots with a 60'x37' (2,220 sq. ft.) corner lot at Clement Street and 26th Ave ("Lot A") and a 58'x37' (2,146 sq. ft.) lot on 26th Avenue ("Lot B");
3. Construction of a 45' high, 7,533 gross square feet (gsf) mixed use building on Lot A with ground floor retail and 4 off-street parking space in stackers; and
4. Construction of a 40' high, 5,667 gsf three-unit residential building with three off-street parking spaces on Lot B.

The January 16, 2014 plans have been revised as follows:

1. The bay windows of both Lot A and Lot B buildings facing the rear yards have been eliminated;
2. The ground floor office space of the Lot B building has been incorporated into the second floor unit;
3. Each unit in the Lot B building has private usable open space;
4. One of the stair penthouses was eliminated from the Lot B building; and
5. One additional street tree is proposed for 26th Avenue, for a total of seven street trees for the Project.

The Lot A building (2500-2502-2520-2528 Clement Street)

The Lot A building is a mixed use building with ground floor retail. The ground floor will have a 851 sq. ft., 14' floor to ceiling height retail space, a garage with four off-street parking spaces in car stackers, three secure class 1 bicycle parking spaces, and an entrance lobby to the 3 residential units above. The retail space will have frontage on both Clement Street and 26th Avenue with a large glazed store front window system to provide pedestrian interest. The upper floors will have bay windows. Access to garage is from 26th Avenue with a 10' curb cut and 16' wide garage door. Two Class 2 bicycle parking spaces will be located on the Clement Street sidewalk in front of the retail space.

The 15' deep rear yard will be at the first residential level, which will require a variance. See Exhibit 1, Sheet A-2.0 and A.2.1. The rear yard will be the private open space for the second floor unit. The units on the third and fourth floors will share a 476 sq. ft. roof deck as common usable open space.

The Lot B Building (381-383-387 26th Avenue)

The Lot B building is a residential building with three dwelling units – a townhouse unit and two flats. The ground floor will contain the entrance lobby, three Class 1 secure bicycle lockers, a garage with three independently accessible parking spaces, and a bedroom that is part of the three-bedroom second-floor townhouse unit. Access to the garage is off 26th Avenue.

The 13' rear yard does not meet the Planning Code requirement of a minimum 15' rear yard, and only 37'-9" of the rear yard will be at grade, which is adjacent to the ground floor residential use. The approximately 235 sq. ft. deck will be the private open space for the townhouse unit. The third floor unit will have private access to the approximately 493 sq. ft. at-grade portion of the rear yard, and the fourth floor unit will have three bedrooms with private access to the 316 sq. ft. roof deck as its open space. See Sheet A-2.1 of plans attached to Case Report. Therefore, private usable open spaces in excess of Planning Code requirement will be provided to each of the proposed units.

REQUESTED VARIANCE

This Variance Application seeks relief from the rear yard and street frontage requirements (Planning Code sections 134 and 145.1). Specifically, the requested variances are as follow:

A. Lot A (2500 to 2508 Clement Street)

The proposed 2500-2508 Clement Street building would require variances to:

1. Provide a rear yard at the first residential level and not at grade level as required by Section 134(a)(1)(A).
2. Provide off-street parking spaces within the first 25' of the street frontage in lieu of active use as required by Section 145.1

B. Lot B (381-383 and 387 26th Avenue)

The proposed 381-383 and 397 26th Avenue building would require variances to:

1. Provide a 13' deep rear yard that is less than the required 15' under the Planning Code;
2. Provide the northern portion of the rear yard, measuring 13'x 19'-11" at the first residential level, and not at grade level as required by Section 134(a)(1)(A).
3. Provide a garage for off-street parking spaces within the first 25' of the street frontage in lieu of active use on 26th Avenue.

THE REQUIREMENTS OF PLANNING CODE SECTION 305 ARE MET:

The ground level rear yard locations for both Lots A and B, the deviation of 2' for the rear yard depth for a 37' deep lot (Lot B) and the street frontage variance from active use are warranted as discussed below:

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;

The Site is a corner lot located in the Outer Clement Street NCD, which requires the rear yard be located at grade level. Lot A is 2,220 sf. ft. and lot B is 2,146 sq. ft.; both lots comply with the Planning Code lot size requirement. (Code Section 121(d) and (e)(2).) The entire Clement Street frontage is devoted to active use as defined Code Section 145.1((b)(2), thereby requiring access to code required off-street parking from 26th Avenue. See Sheet A-0.2 of Exhibit 1. Additional Building and Planning Code requirements resulted in non-active use fronting on 26th Avenue for second means of egress and off-street parking.

With Lot A being only 37' x 60', 100% lot coverage at the ground level is necessary to accommodate acceptable square footage for a neighborhood serving business, the residential lobby and off-street parking. Similarly, Lot B being only 37' x 58' with access only from 26th Avenue, the proposed 76% lot coverage is necessary at the ground level to accommodate residential use, the residential lobby, a second means of egress, and required off-street parking.

With a 13' deep rear yard, the Lot B building is 24' deep inclusive of the exterior wall, which allows for two means of egress, a bath and a hall way on the west side and leaving room for the master bedroom and two minimum sized bedrooms on the side facing 26th Avenue. A rear yard that complies with the required 15' minimum depth rear yard would result in bedrooms that are 7'10" x 10' 6". Therefore the depth of the lot at 37' is an exceptional and extraordinary circumstance.

A survey of the corner lots along Clement Street between 24th and 27th Avenue clearly shows that *all* of the corner lot buildings either have 100% lot coverage or a rear yard that is substantially less than 15'. See Exhibit 3 for photographs of corner buildings in the Outer Clement NCD. Therefore, exceptional circumstances apply to this property and the intended ground floor uses that do not apply to other properties or uses in the same district.

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2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the Applicant or the owner of the property;

With only a 37' x 60' lot, it is infeasible to comply with the street frontage requirements regardless where the entrance to off-street parking is located off 26th Avenue. Compliance with the street frontage requirements, which requires setting back the off-street parking 25' from the street, allows only 12' for parking and two means of egress. Based on the exceptional and extraordinary circumstances described above, it is impossible to have active uses along 26th Avenue, whether the existing lot remains as one lot or is subdivided into two lots.

As discussed above, 100% ground level coverage is necessary to provide a ground floor retail space as well as a garage for the Code required parking for the 2500 Clement Building. For the 381-383-387 building, a partial variance from the ground level rear yard is required to accommodate the code required off-street parking spaces. Therefore, the exceptional or extraordinary circumstances create practical difficulty or unnecessary hardship that were not created by and cannot be attributed to the Applicant and current owners of the property.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

As can be seen in the Exhibit 3 photographs, none of the existing corner buildings meet the street frontage active use requirements of Section 145.1, and Exhibit 2. Therefore, granting the requested variances is necessary to preserve the property rights of other property similarly situated in the same class of district.

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and

The block face photographs shown on Sheet A-0.2 of Exhibit 1 demonstrate that this block is the last block of the Outer Clement NCD and, except for the small existing ground floor commercial on the Site and in the building immediately west of Site, the character of the block is overwhelmingly residential. On 26th Avenue, only the two corner buildings with frontage on Clement Street contain commercial/retail uses, with the remaining development on the block being entirely residential.

The Project has been set back three feet from the north property line to preserve the non-required lot line windows of the 377 – 26th Avenue building. The rear of the proposed buildings connect with the interior court and rear yard of the 2510 and 2512 Clement Street buildings. Therefore, the granting of the requested variances will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Mr. Scott Sanchez
August 25, 2014
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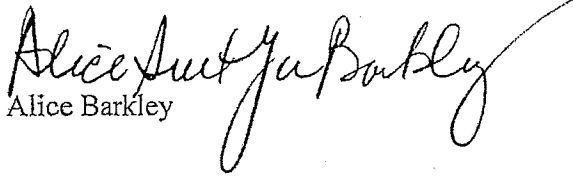
5. *That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.*

For the sake of brevity, see the analysis of the Project's compliance with the City's General Plan Elements in the Applicant's letter to the Commission, pp. 4 to 14, attached hereto as **Exhibit 4**.

CONCLUSION

Based on the foregoing, it is respectfully submitted that the Project meets the requirements of Section 305(c) for granting the requested variances. Please contact me if you have any questions.

Respectfully Submitted,


Alice Barkley

cc: Christine Lamorena (via messenger and via e-mail)
Mary Tom (via e-mail)
Gabriel Ng (via e-mail)
Jeremy Schaub (via e-mail)

Mr. Scott Sanchez
August 25, 2014
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TABLE OF EXHIBITS

Exhibit 1	Existing and proposed plans
Exhibit 2	Site plan showing the rear yard pattern of the corner buildings in Outer Clement NCD
Exhibit 3	Photographs of corner buildings in the Outer Clement NCD and location map
Exhibit 4	August 25, 2014 Applicant's Letter to the Planning Commission in support of Conditional Use Application

USW 804640367.4

EXHIBIT 1

Aerial Photo – looking north



SUBJECT PROPERTY



Aerial Photo – looking west



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

Site Photo



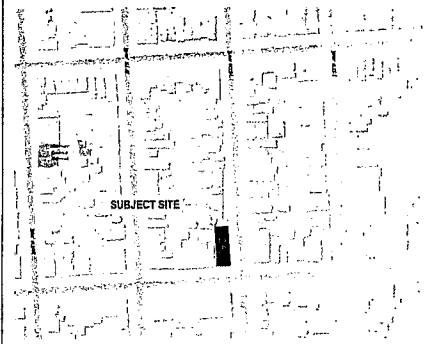
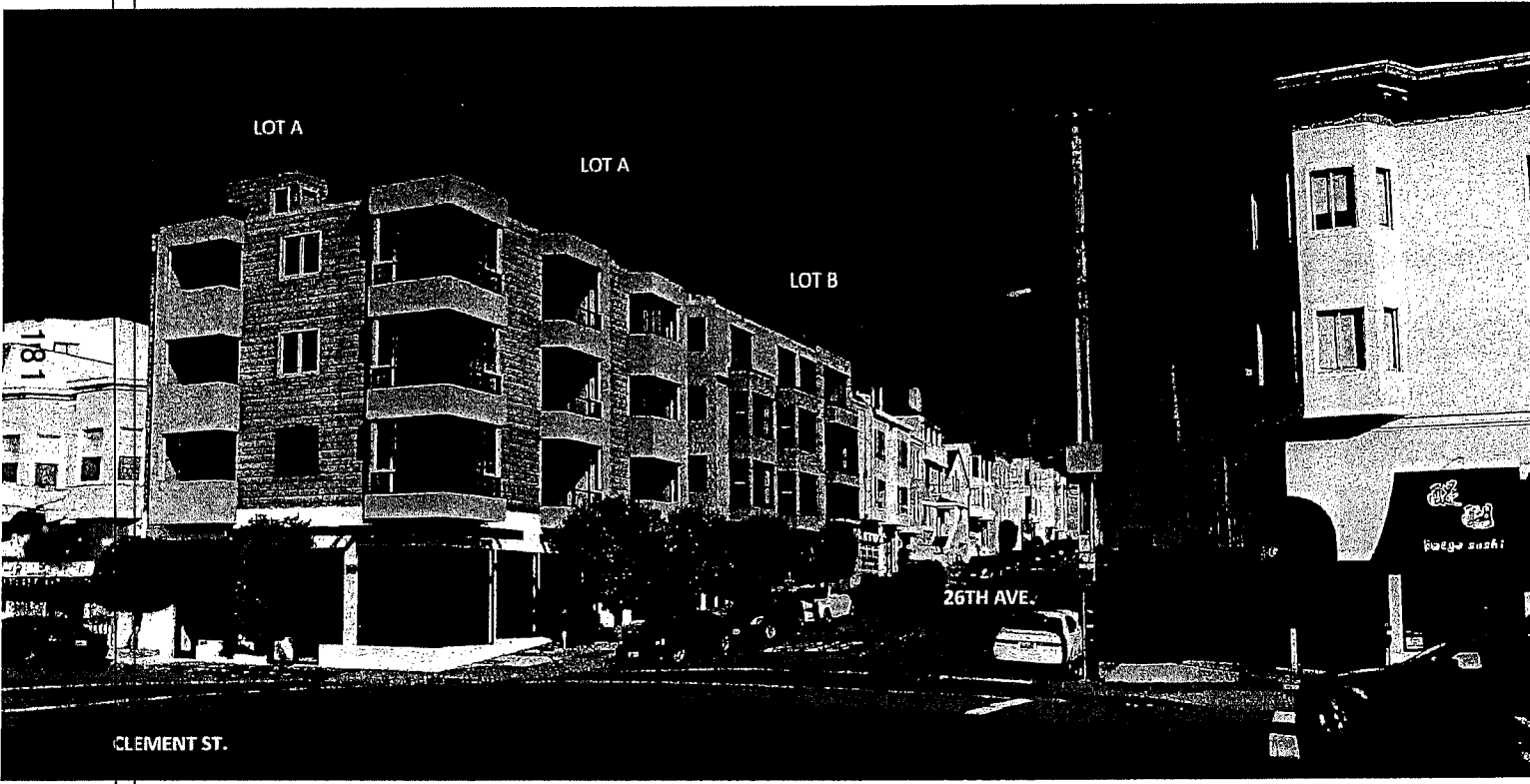
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

SHEET INDEX

- A-0.0 RENDERING FROM CLEMENT STREET & 26TH AVENUE
- A-0.1 RENDERING FROM 26TH AVE LOOKING SOUTH
- A-0.2 RENDERING FROM CLEMENT STREET LOOKING NORTH
- A-0.3 CONTEXT PHOTOS
- A-1.0 SITE PLAN / PROJECT INFORMATION
- A-1.1 EXISTING / DEMO FLOOR PLANS & ELEVATIONS
- A-2.0 2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS
- A-2.1 381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS
- A-3.0 ELEVATIONS WITH FINISH MATERIALS
- A-3.1 ELEVATIONS
- A-3.2 SIDE ELEVATIONS
- A-3.3 SECTIONS



VICINITY MAP



GABRIEL NG + ARCHITECTS INC.
 1360 9TH AVENUE, SUITE 210
 SAN FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM CLEMENT STREET & 26TH AVENUE

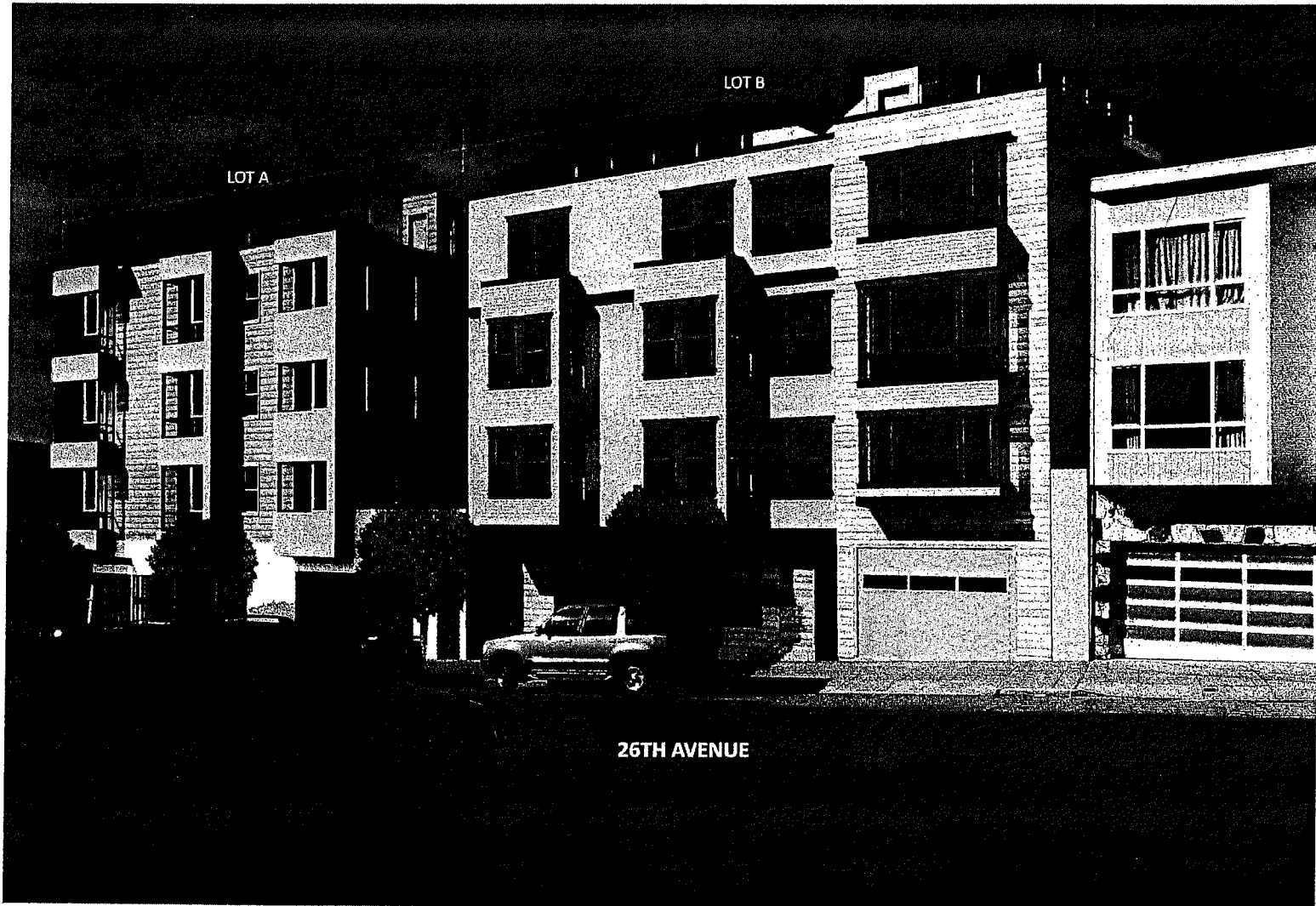
SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ/MT.	MML

A-0.0

2182



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
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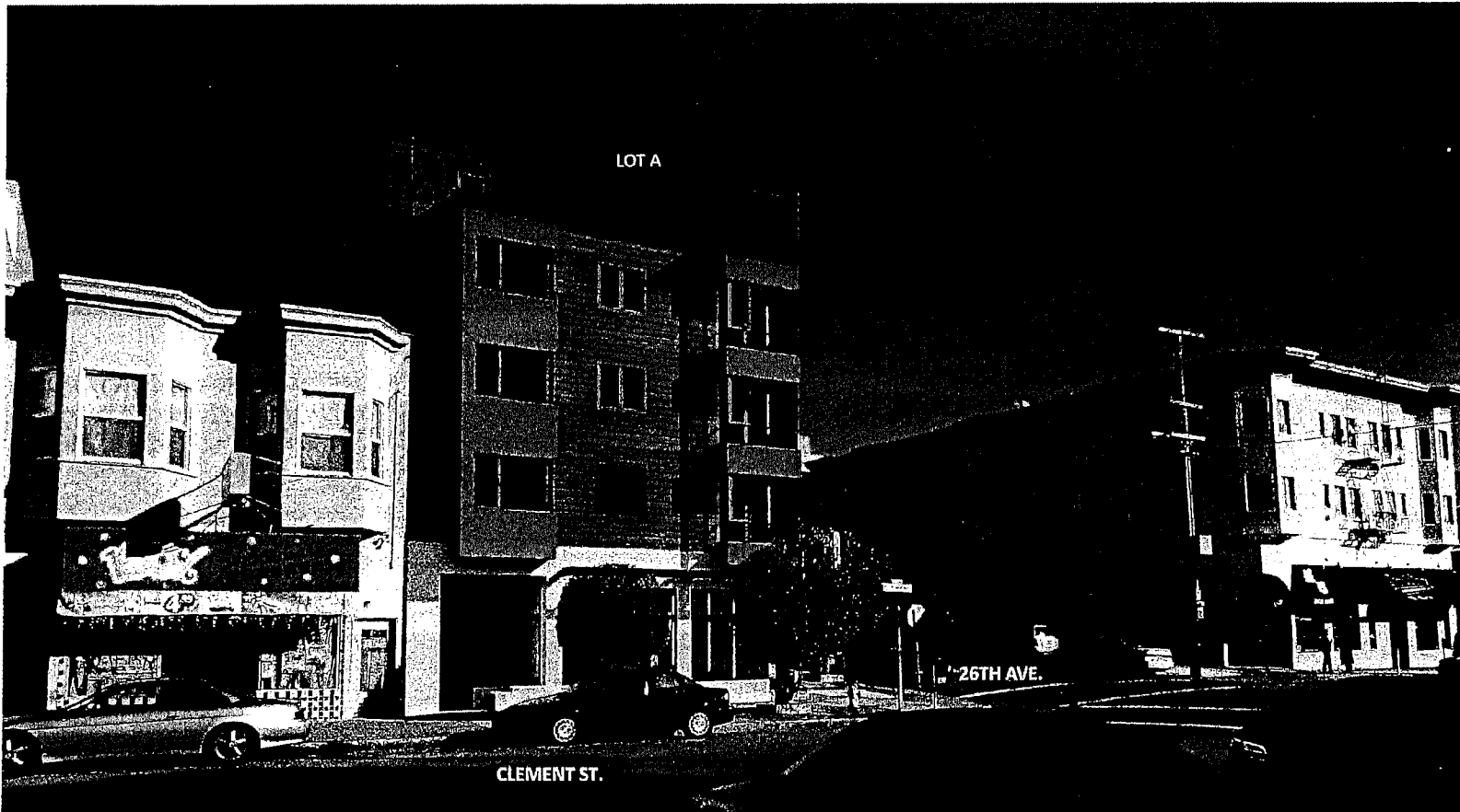
RENDERING FROM 26TH AVE LOOKING SOUTH

SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-0.1



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
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 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM CLEMENT STREET LOOKING NORTH
 SCALE:

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-0.2

SUBJECT SITE



1 SUBJECT AND ADJACENT BUILDINGS ON CLEMENT STREET



2 BUILDINGS ACROSS THE STREET ON CLEMENT STREET

SUBJECT SITE



3 SUBJECT AND ADJACENT BUILDINGS ON 26TH AVENUE



4 BUILDINGS ACROSS THE STREET ON 26TH AVENUE



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
SAN FRANCISCO, CA 94121

CONTEXT PHOTOS

SCALE:

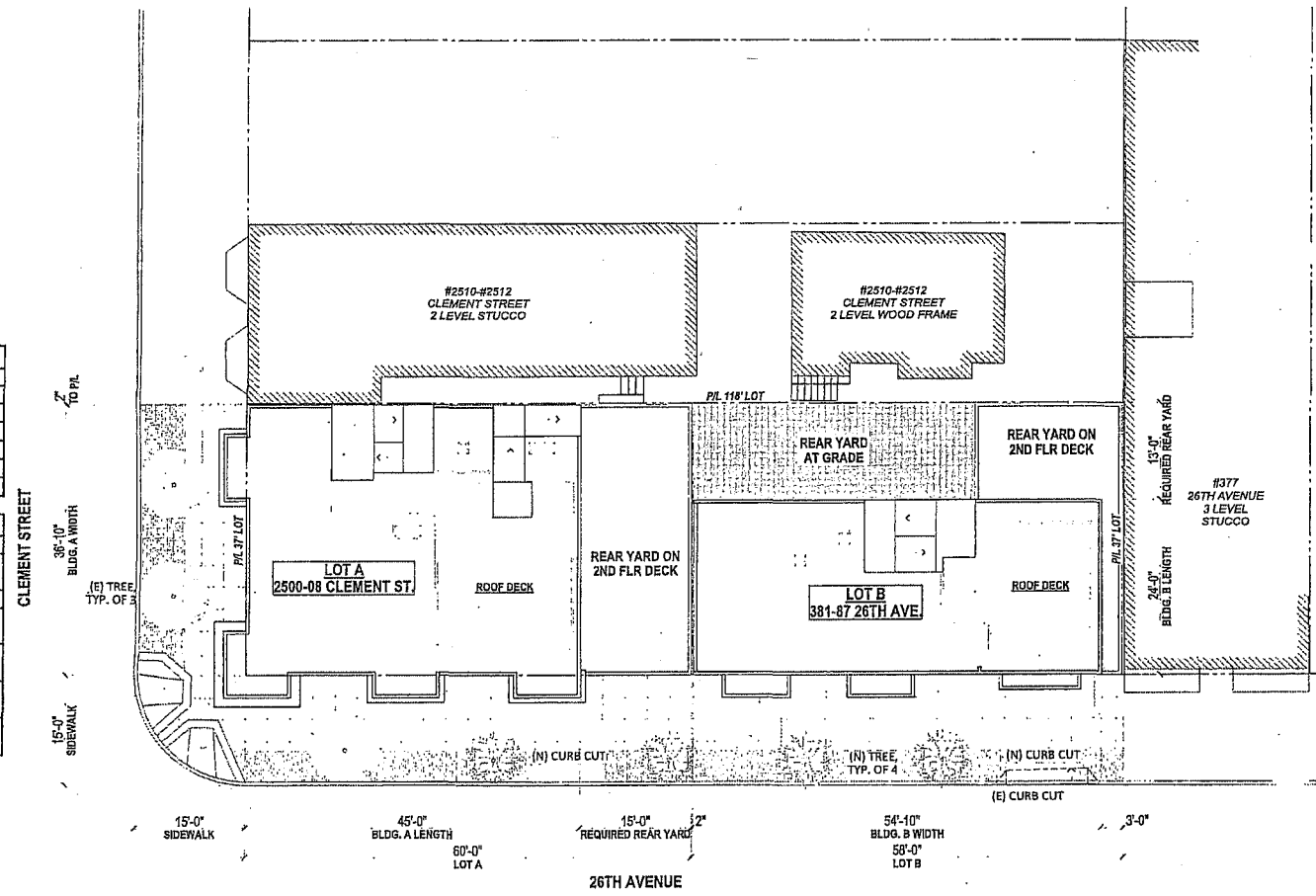
9/16/13 YIP
10/24/13 YIP
2/28/14 YIP
3/12/14 YIP
5/23/14 - ADD STC REQ'MT. MML

A-0.3

PROPERTY INFORMATION	
	EXISTING
ADDRESS	395 26TH AVE.
BLOCK / LOT	1407 / 017
LOT SIZE	118' x 37'
LOT AREA	4,366 S.F.
# OF RESIDENTIAL UNITS	2
# OF OFFICE SPACES	1

PROJECT PROPOSAL INFORMATION		
	LOT A	LOT B
ADDRESS	2500-02-06-08 CLEMENT ST.	381-83-87 26TH AVE.
LOT SIZE BY SUBDIVISION	60' x 37'	58' x 37'
LOT AREA	2,220 S.F.	2,146 S.F.
# OF RESIDENTIAL UNITS	3	3
# OF RETAIL SPACES	1	0
BUILDING HEIGHT	45'	40'

ZONING INFORMATION		
ZONING	OUTER CLEMENT ST. NCD	§717
HEIGHT LIMIT	40'-X, ADDITIONAL 5' FOR PARCELS WITH ACTIVE USES	§263.20(b)(2)(B)
RESIDENTIAL DENSITY	1 UNIT PER 600 S.F.	§207.4
VARIANCE REQUESTED	REQUIRED REAR YARD AT GROUND & 2ND - 4TH LEVELS PARKING WITHIN 25' OF STREET FRONTAGE	§134(a) & (e) §145.1(c)(1)(C)
CONDITIONAL USE REQUESTED	DWELLING UNIT REMOVAL ON 2ND FLOOR	§717.39
SHADOW STUDY	BUILDINGS EXCEEDING 40' IN HEIGHT	§295



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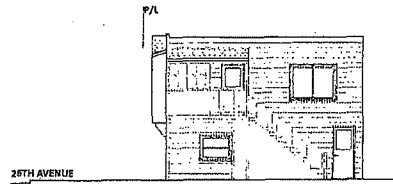
TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

SITE PLAN / PROJECT INFORMATION
 SCALE: 1/16" = 1'-0"

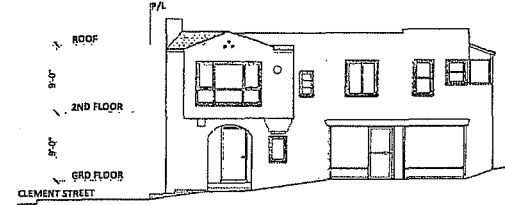
9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-1.0

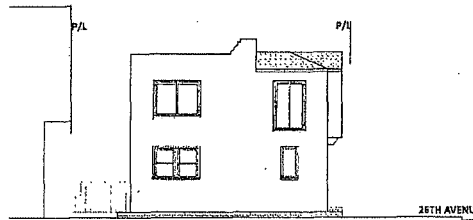
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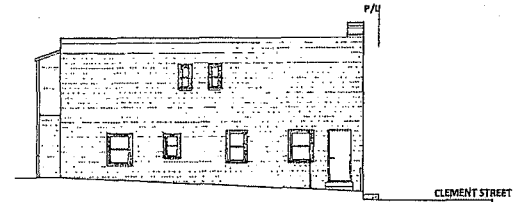
(E) NORTH ELEVATION



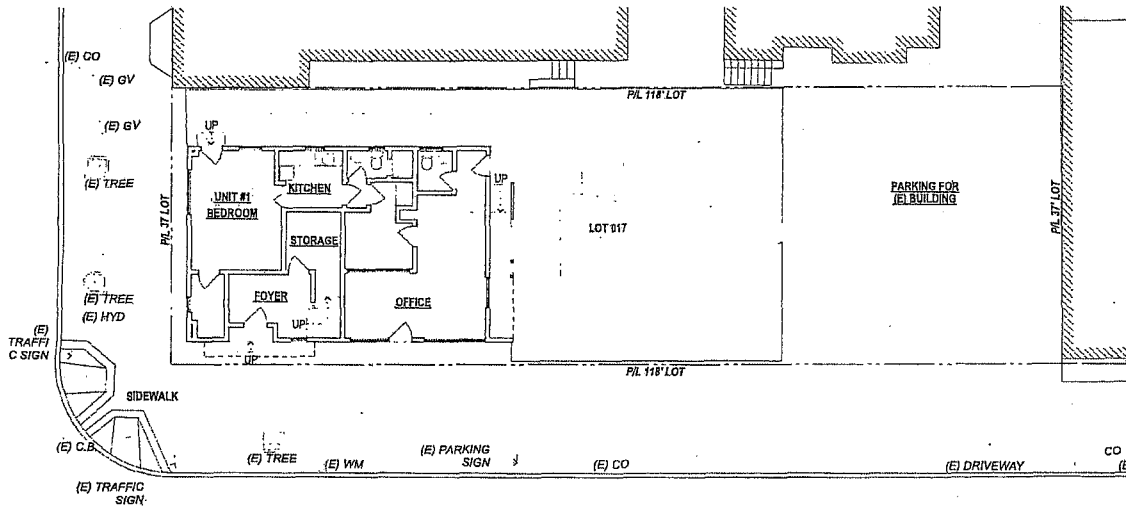
(E) EAST ELEVATION



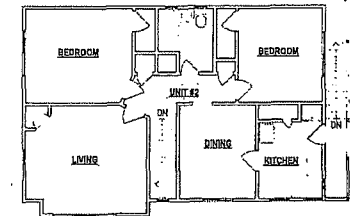
(E) SOUTH ELEVATION



(E) WEST ELEVATION



EXISTING GROUND FLOOR PLAN



EXISTING SECOND FLOOR PLAN



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

EXISTING / DEMO FLOOR PLANS & ELEVATIONS

SCALE: 1/16" = 1'-0"



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-1.1

2500-02-06-08 Clement St. Lot A

Area Calculation (in square feet):

	2500 (Retail)	2502	2505	2508	Common Area	Garage	Total
4th Floor				1,601	182		1,783
3rd Floor			1,601		182		1,783
2nd Floor		1,601			182		1,783
Ground Floor	851				645	688	2,184
Total	851	1,601	1,601	1,601	645	688	7,533

Total Living Area for all Units = 4,803 S.F.
 Total Retail = 851 S.F.
 Total Common & Garage Area = 1,879 S.F.
 Total Gross Area = 7,533 S.F.

Open space calculation (in square feet) per §135(d):

	Required	Proposed
Common	212.8 (80x1.33x2)	340
Private	80 (2nd floor)	519
292.8 total	859 total	

Off-street Parking Requirement per §151:

	Required	Proposed
Car	3 total (1 per each residential unit)	4 total (3 Res & 1 Retail)

Bicycle Parking Requirement per §155.5:

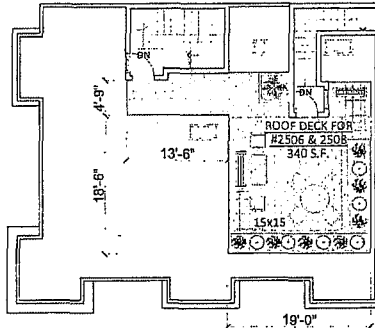
	Required	Proposed
Class 1	3 total (1 per each residential unit)	3 total
Class 2	2 per each commercial	2 total

Ground Floor Glazing Area Calculation

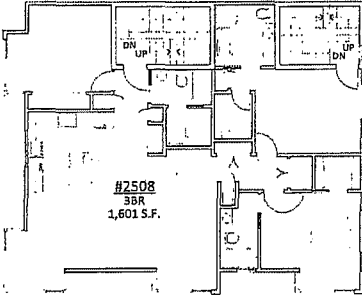
Wall area calculation	Wall width (ft.)	Ceiling ht. (ft.)	Wall area (s.f.)
Clement St. frontage	36.83	13.5	497.21
26th Ave. frontage	30.67	13.5	414.05
Total wall area			911.25

Glazing area calculation	Glazing area (s.f.)
Clement St. frontage	302.00
26th Ave. frontage	248.00
Total glazing area	550.00

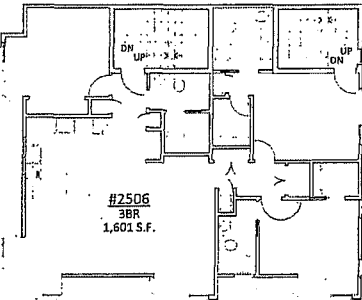
Glazing = 550.00
 Wall = 911.25 x100 = 60.4%



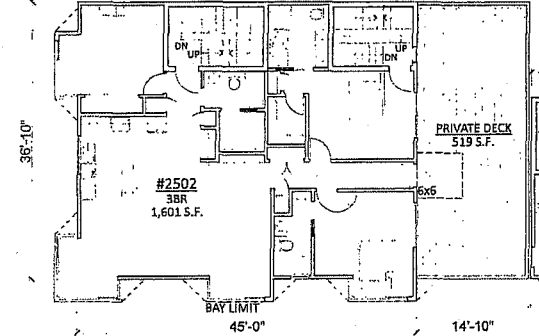
ROOF PLAN



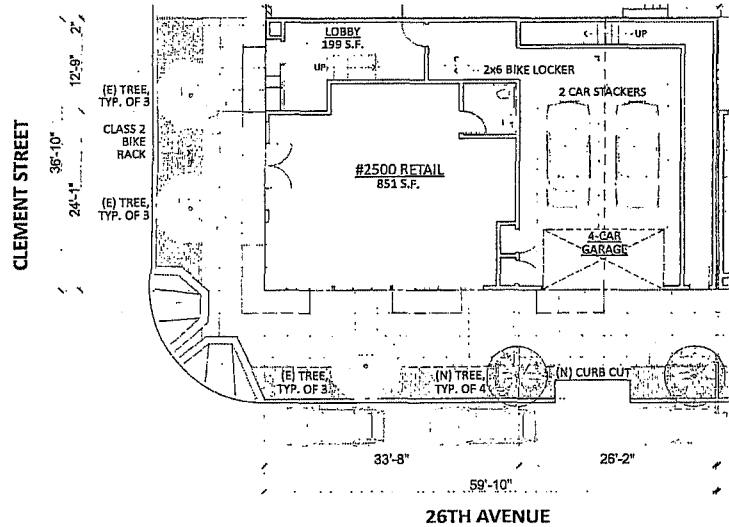
FOURTH FLOOR PLAN



THIRD FLOOR PLAN



SECOND FLOOR PLAN



GROUND FLOOR PLAN



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS

SCALE: 1/16" = 1'-0"

9/16/13 YIP
 10/24/13 YIP
 2/28/14 YIP
 3/12/14 YIP
 5/23/14 - ADD STC REQ/MT. MML



A-2.0

381-83-87 26th Ave. Lot B
Area Calculation (in square feet):

	381	383	387	Common Area	Garage	Total
4th Floor			1,170	146		1,316
3rd Floor		1,190		202		1,392
2nd Floor	1,190			202		1,392
Ground Floor	341			354	872	1,567
Total	1,531	1,190	1,170	904	872	5,667

Total Living Area for all Units = 3,891 S.F.
 Total Common & Garage Area = 1,776 S.F.
 Total Gross Area = 5,667 S.F.

Open space calculation (in square feet) per §135(d):

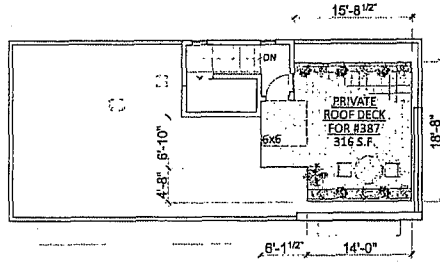
	Required	Proposed
Private	240 (80/unit x 3)	1044 total

Off-street Parking Requirement per §151:

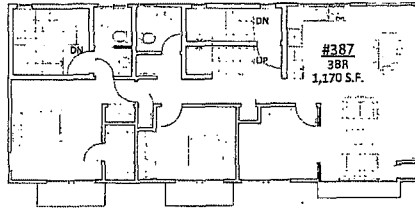
	Required	Proposed
Car	3 total (1 per each residential unit)	3 total

Bicycle Parking Requirement per §155.5:

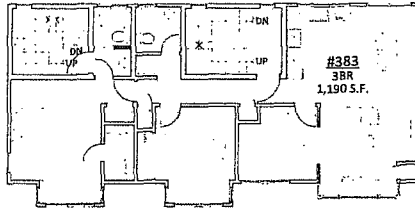
	Required	Proposed
Class 1	3 total (1 per each residential unit)	3 total



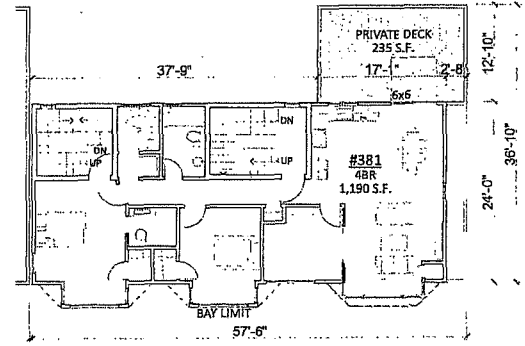
ROOF PLAN



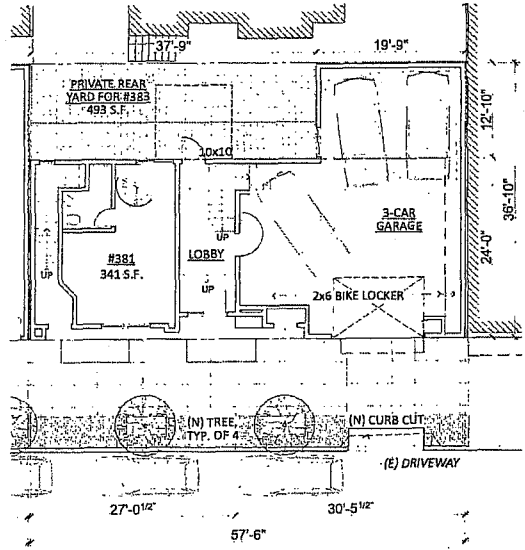
FOURTH FLOOR PLAN



THIRD FLOOR PLAN



SECOND FLOOR PLAN



26TH AVENUE

GROUND FLOOR PLAN



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 1360 9TH AVENUE, SUITE 210
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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

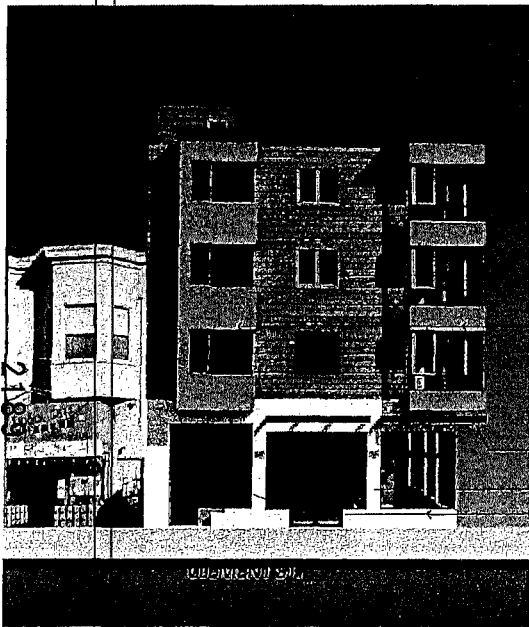
381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS

SCALE: 1/16" = 1'-0"



9/16/13 YIP
 10/24/13 YIP
 2/28/14 YIP
 3/12/14 YIP
 5/23/14 - ADD STC REQ'MT. MML

A-2.1



WD. CORNIC

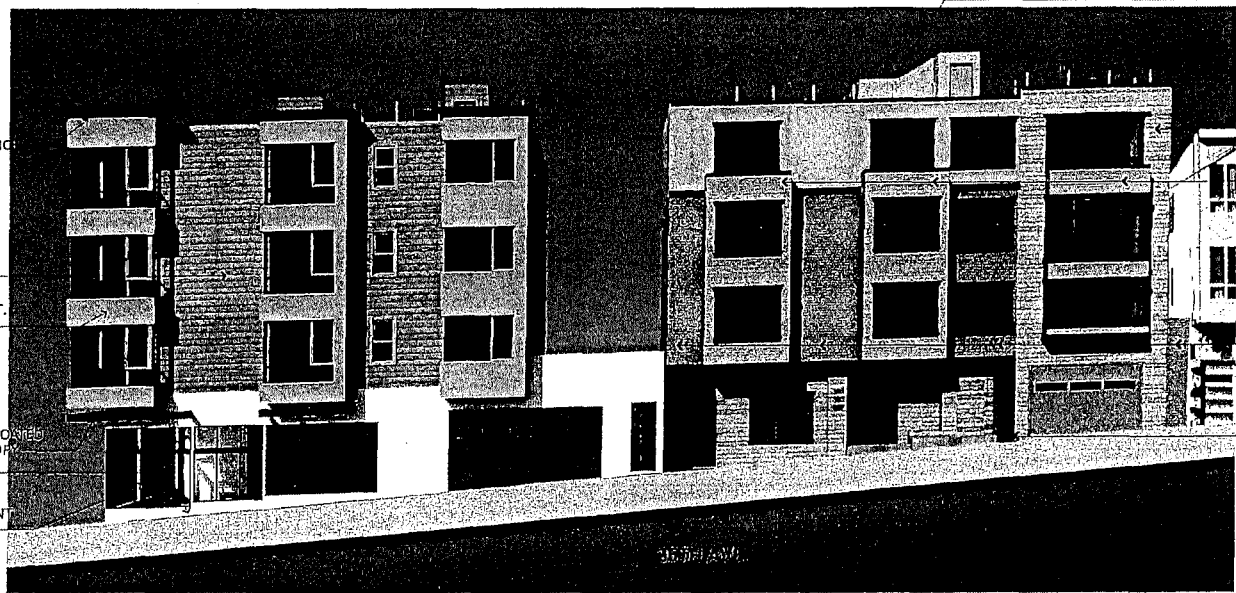
WOOD SIDING

3-COAT EXT. STUCCO

POWDER-COATED MET. CANOPY

SLATE TILE

ALUM. STOREFRONT SYSTEM



STAIR PENTHOUSE

GLASS GUARDRAIL

WOOD SIDING

WOOD SIDING

3-COAT EXT. STUCCO

SLATE TILE FRAME



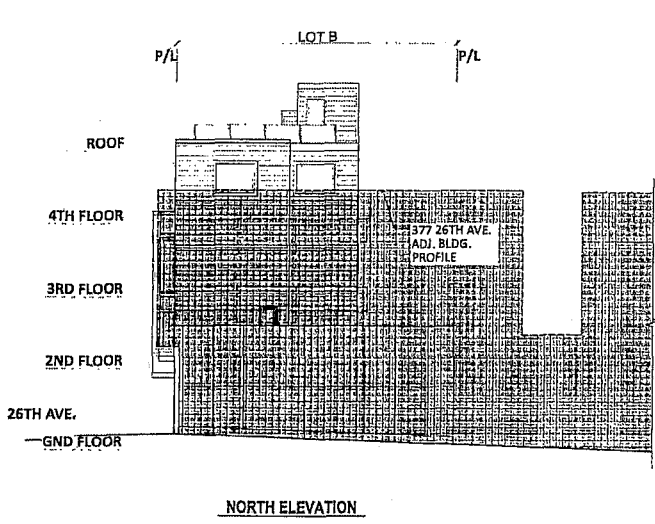
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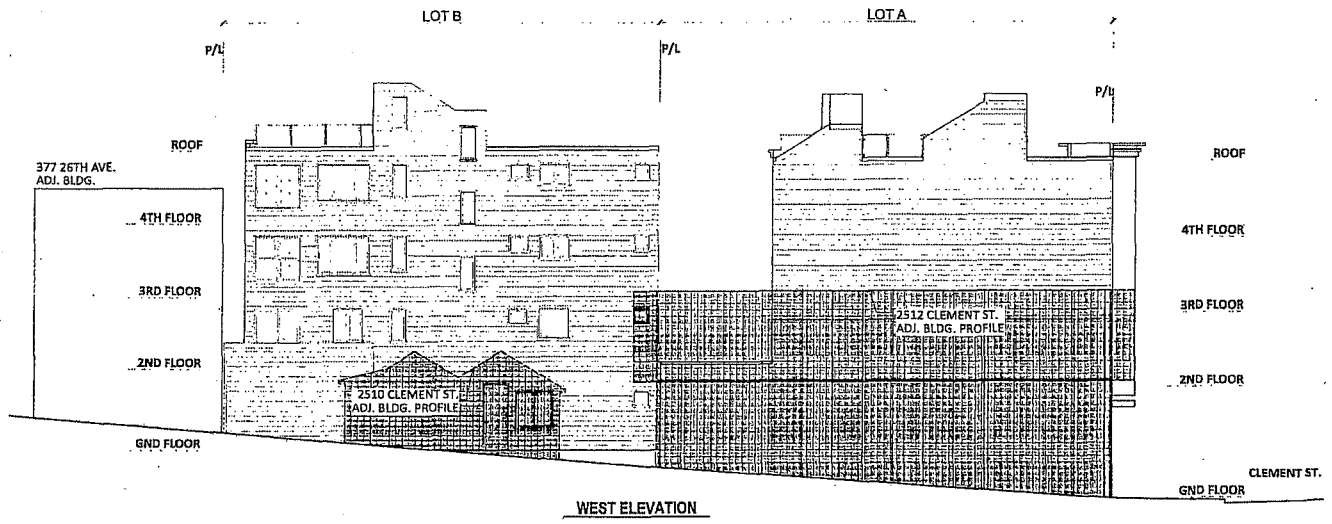
ELEVATIONS WITH FINISH MATERIALS
 SCALE: N.T.S.

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10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

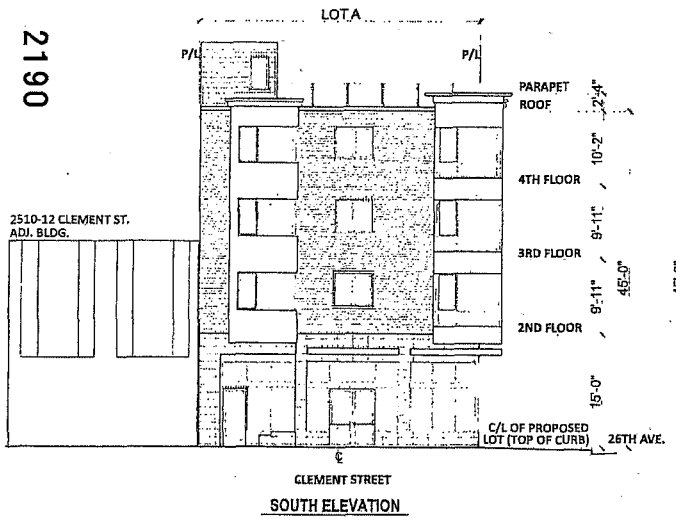
A-3.0



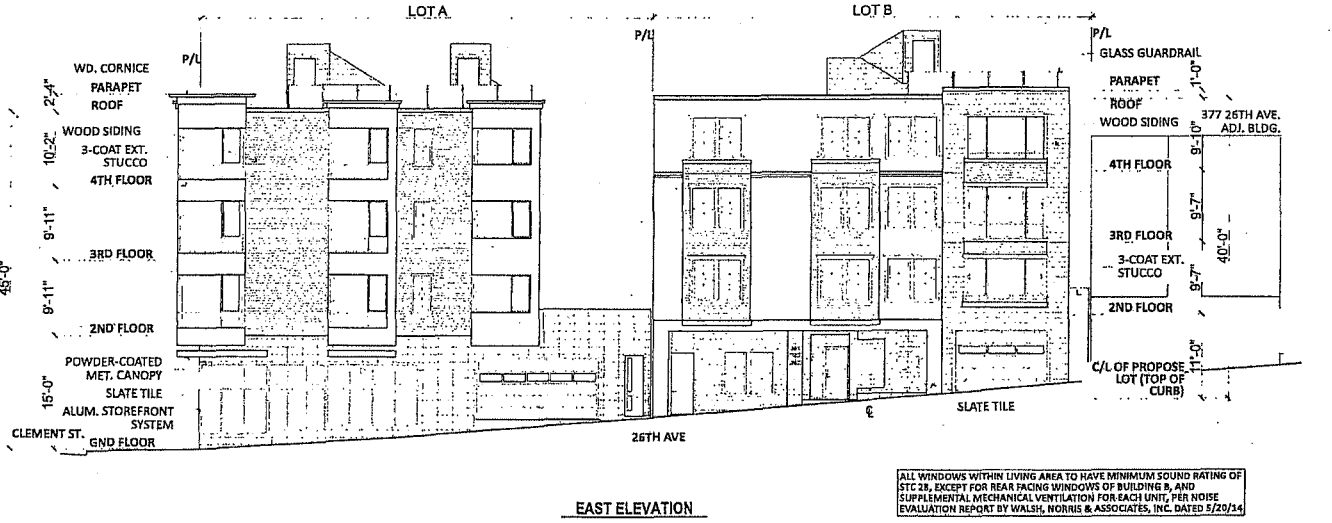
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

ALL WINDOWS WITHIN LIVING AREA TO HAVE MINIMUM SOUND RATING OF STC 28, EXCEPT FOR REAR FACING WINDOWS OF BUILDING B, AND SUPPLEMENTAL MECHANICAL VENTILATION FOR EACH UNIT, PER NOISE EVALUATION REPORT BY WALSH, NORRIS & ASSOCIATES, INC. DATED 5/20/14

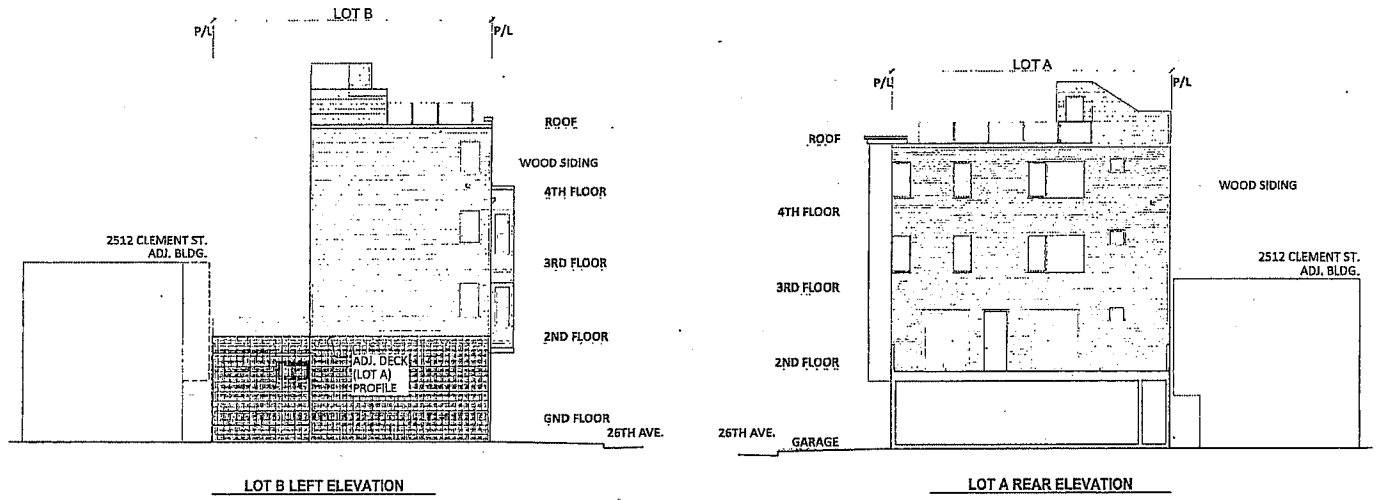
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ELEVATIONS
 SCALE: 1/16" = 1'-0"

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-3.1



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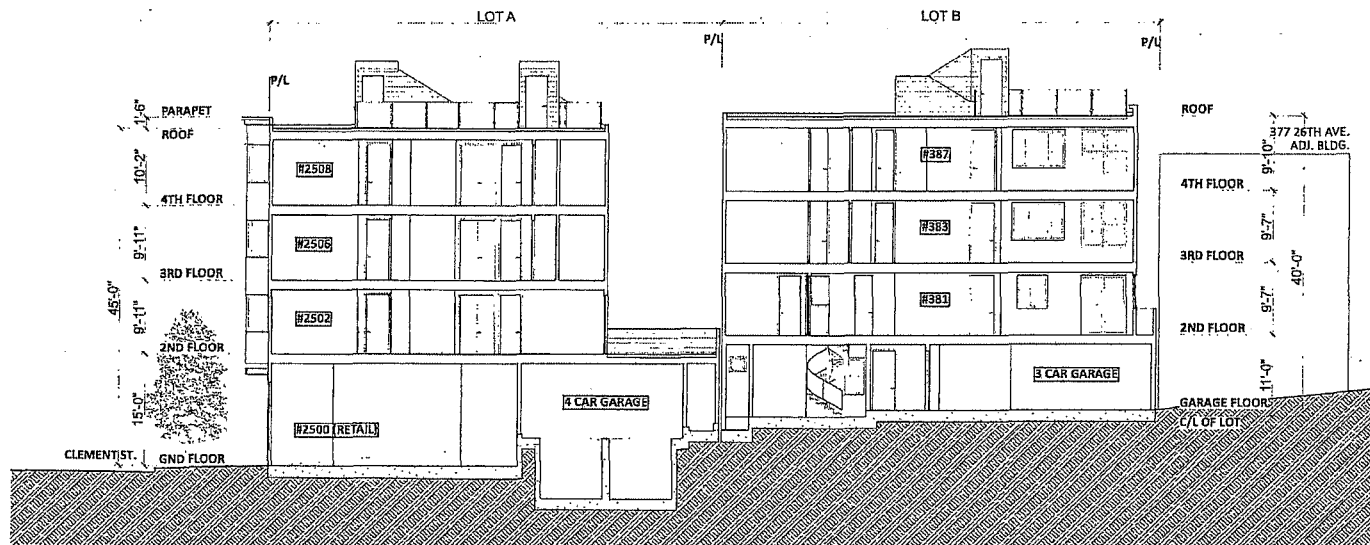
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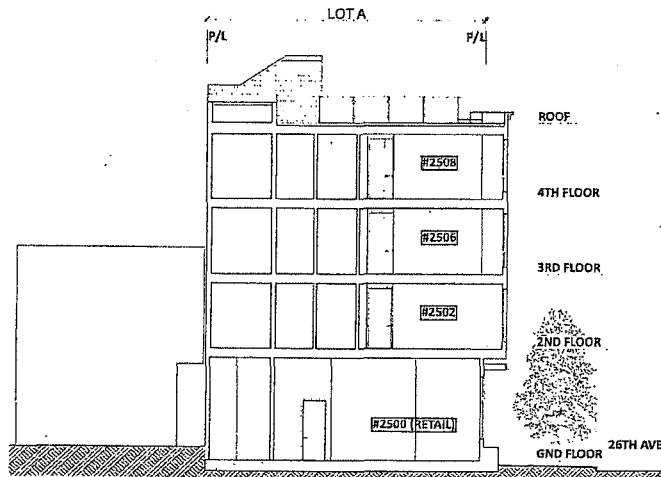
SIDE ELEVATIONS
 SCALE: 1/16" = 1'-0"

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10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

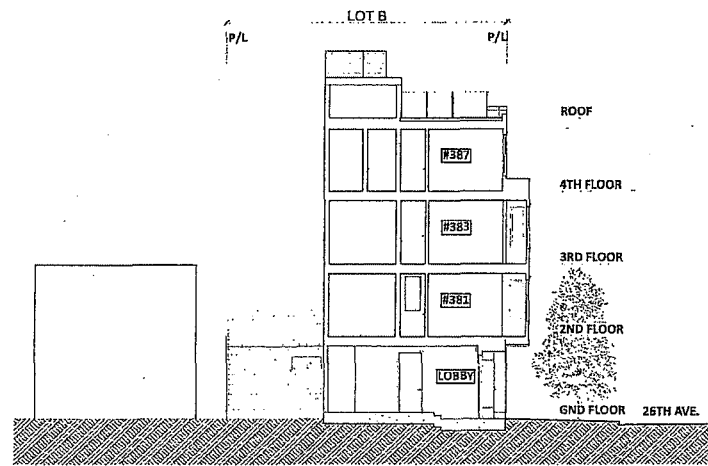
A-3.2



LONGITUDINAL SECTION



BUILDING A - CROSS SECTION



BUILDING B CROSS SECTION

2192



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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
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BLOCK 1407, LOT 017
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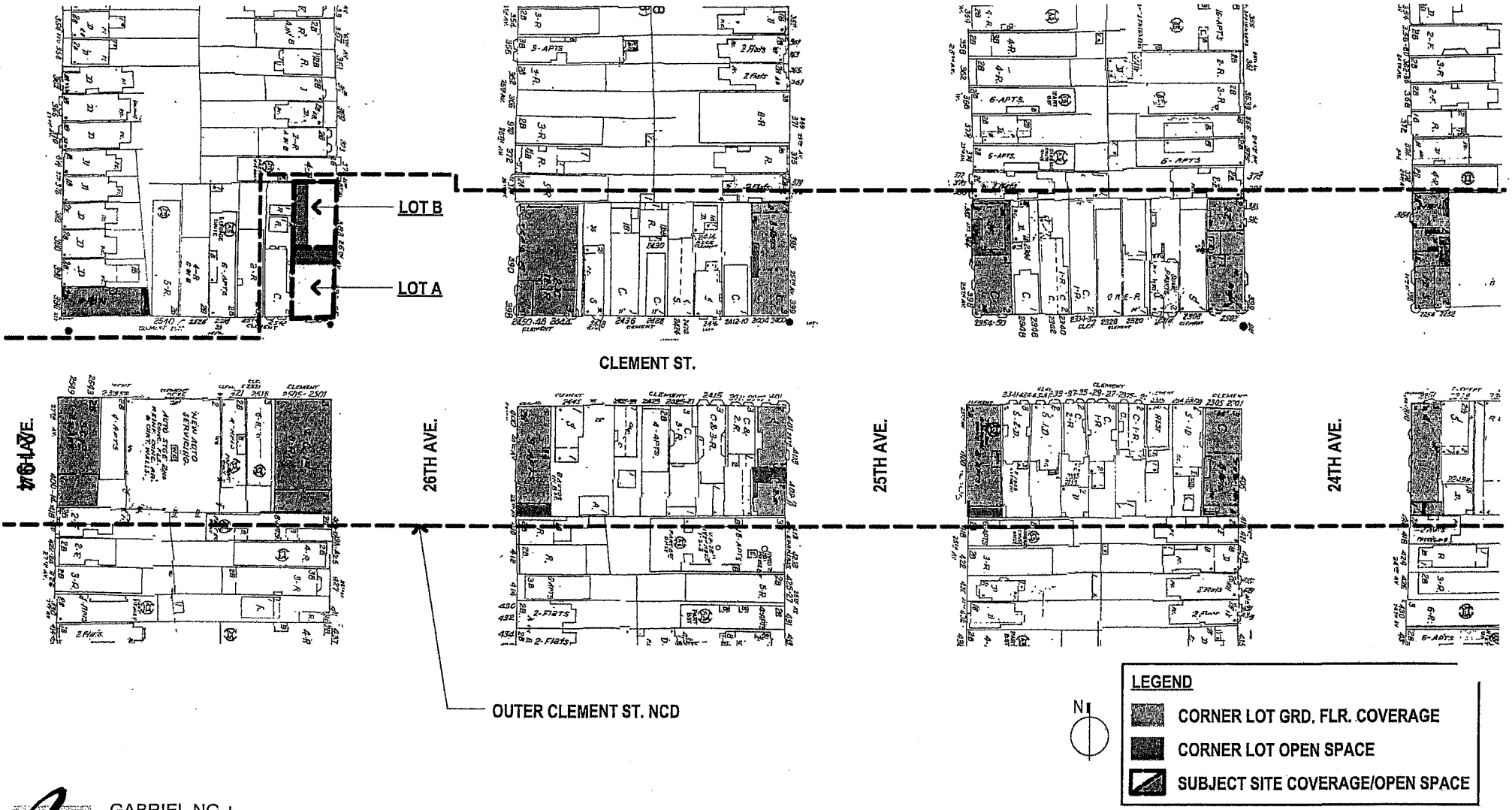
SECTIONS

SCALE: 1/16" = 1'-0"

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-3.3

EXHIBIT 2

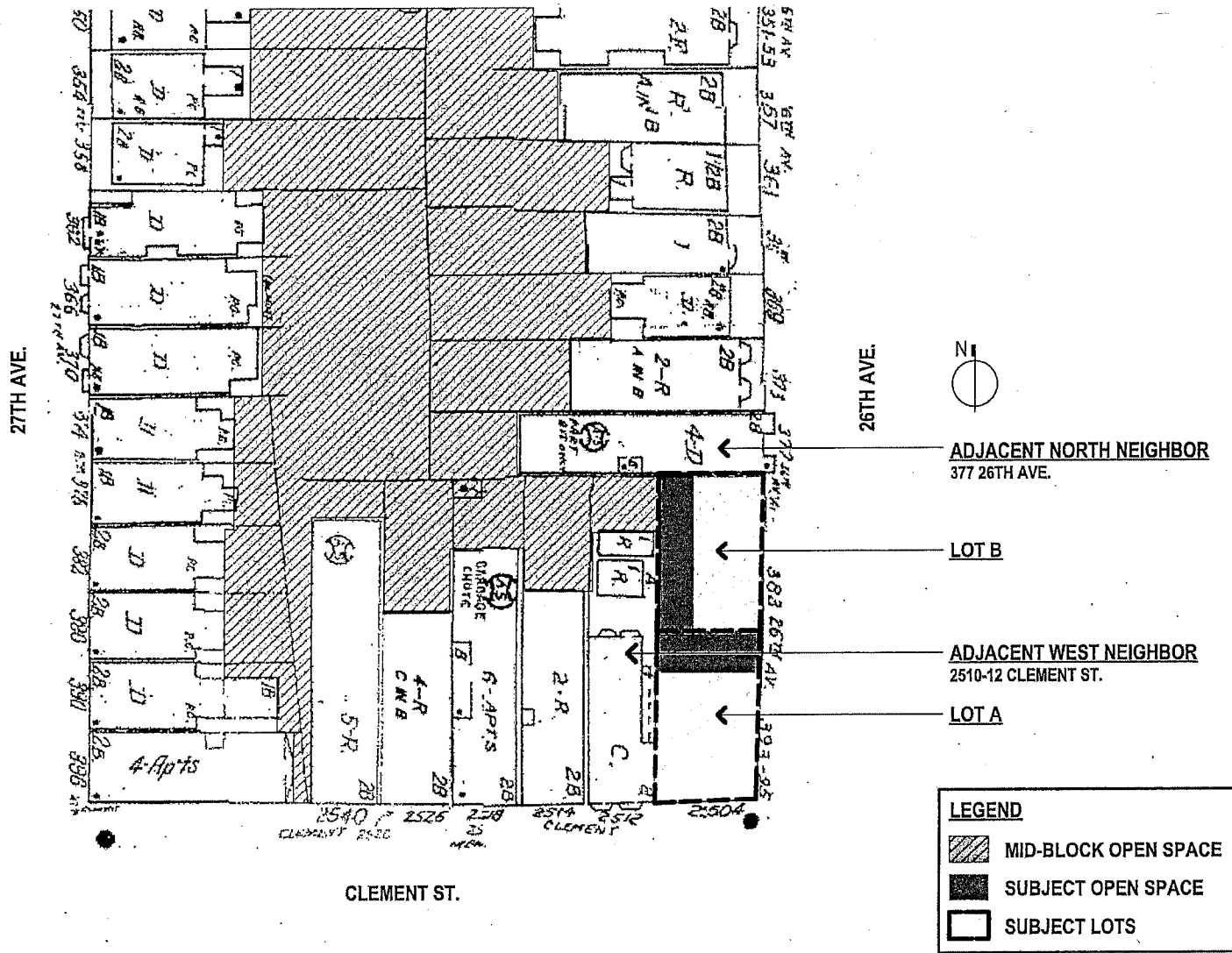


GABRIEL NG + ARCHITECTS INC.

1360 9TH AVENUE, SUITE 210
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**REAR YARD PATTERN OF CORNER LOTS IN OUTER CLEMENT ST. NCD
 TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE, BLOCK 1407 / LOT 017, SAN FRANCISCO CA 94121**

**EXHIBIT #1
 9/16/13**

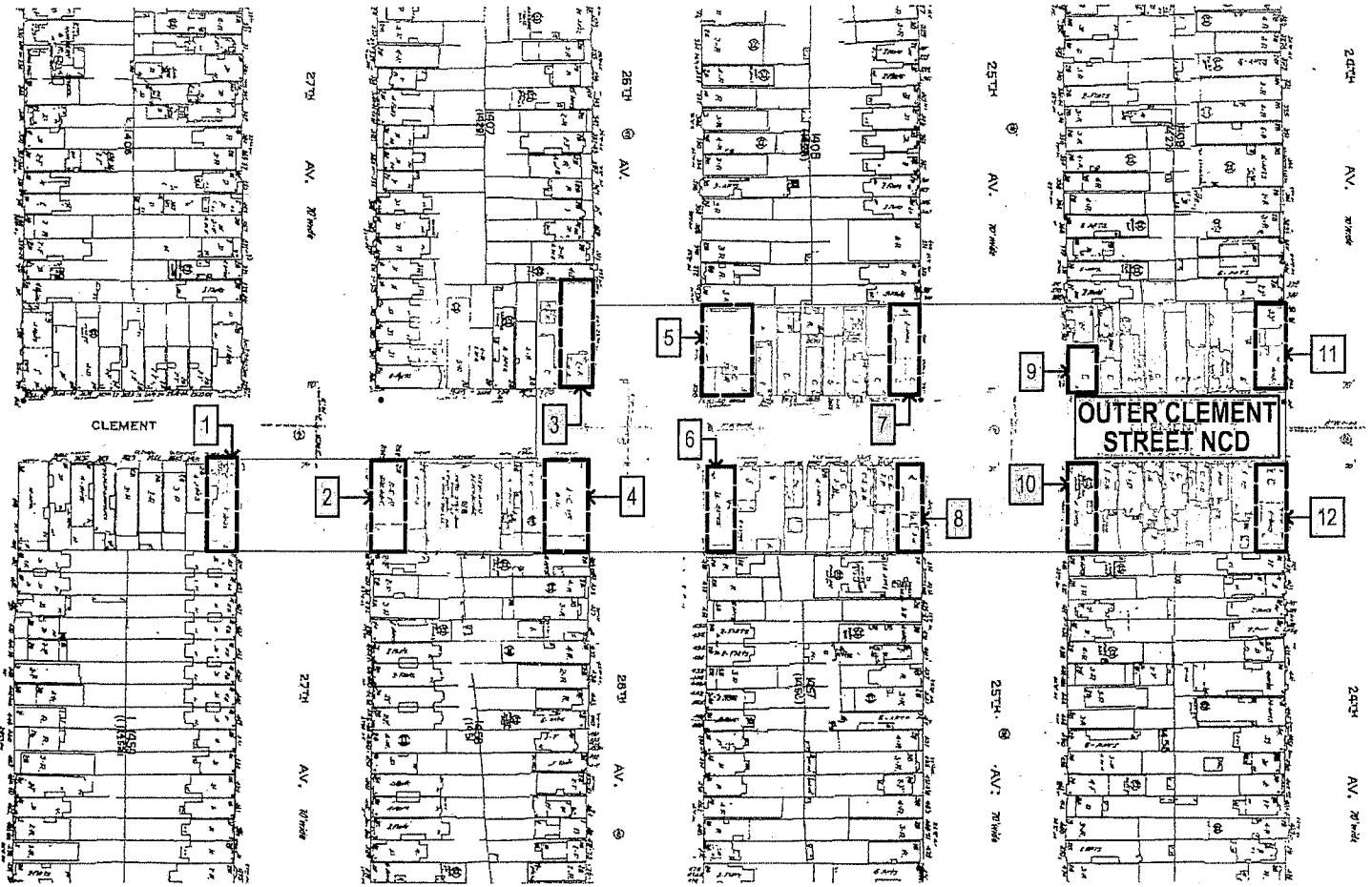


GABRIEL NG + ARCHITECTS INC.
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MID-BLOCK OPEN SPACE OF SUBJECT BLOCK
TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE, BLOCK 1407 / LOT 017, SAN FRANCISCO CA 94121

EXHIBIT #2
 9/16/13

EXHIBIT 3



CORNER BUILDINGS NEARBY IN OUTER CLEMENT STREET NCD
 395 26TH AVENUE, SAN FRANCISCO, CA 94121

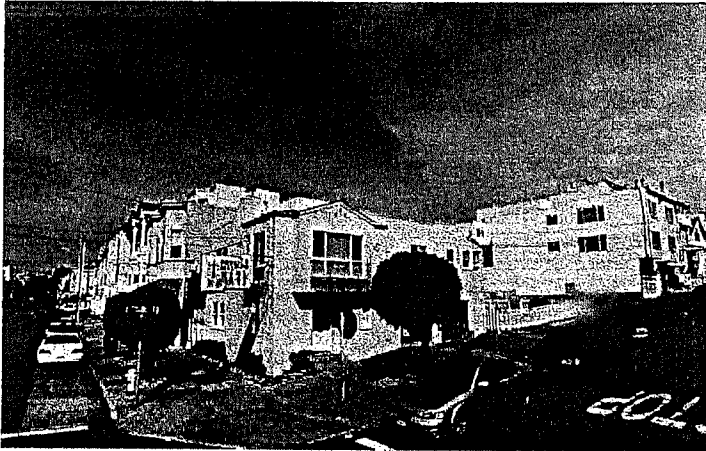
8-20-14



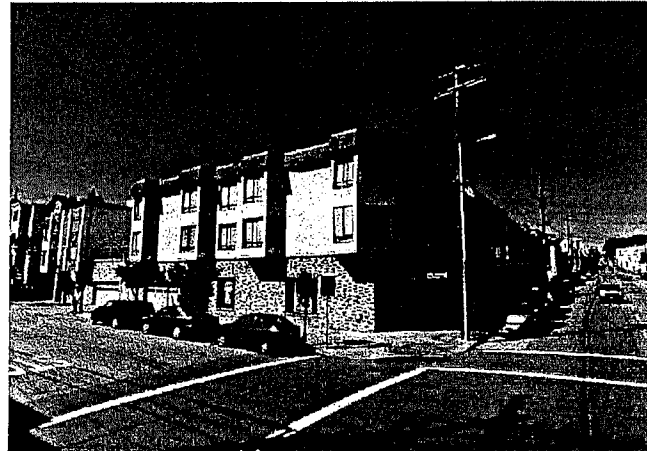
1. 405 27TH AVE



2. 400 27TH AVE



3. 395 26TH AVE

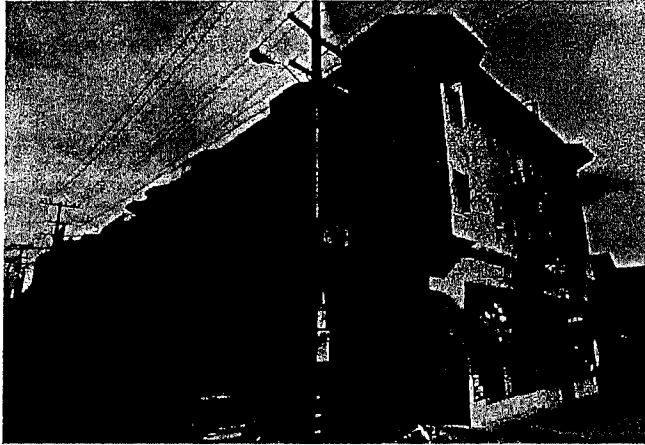


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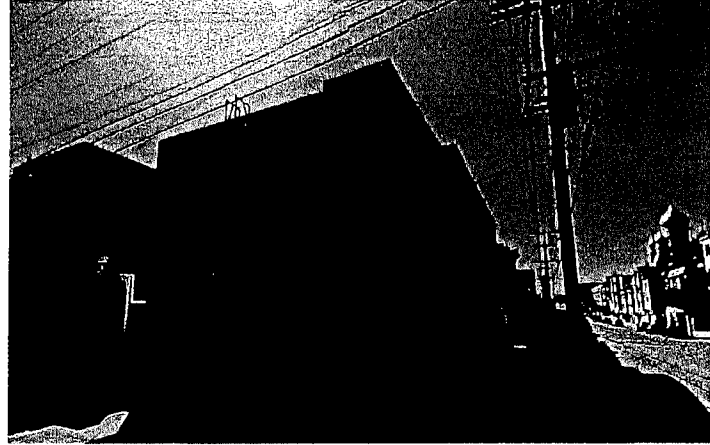


CORNER BUILDINGS NEARBY IN OUTER CLEMENT STREET NCD
395 26TH AVENUE, SAN FRANCISCO, CA 94121

8-20-14



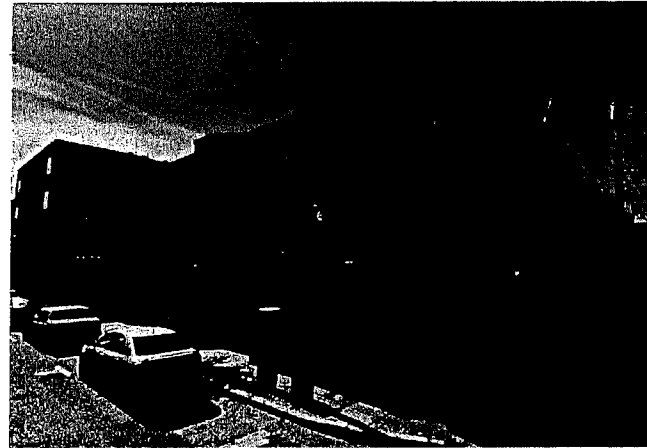
5. 390 26TH AVE



6. 400 26TH AVE



7. 395 25TH AVE



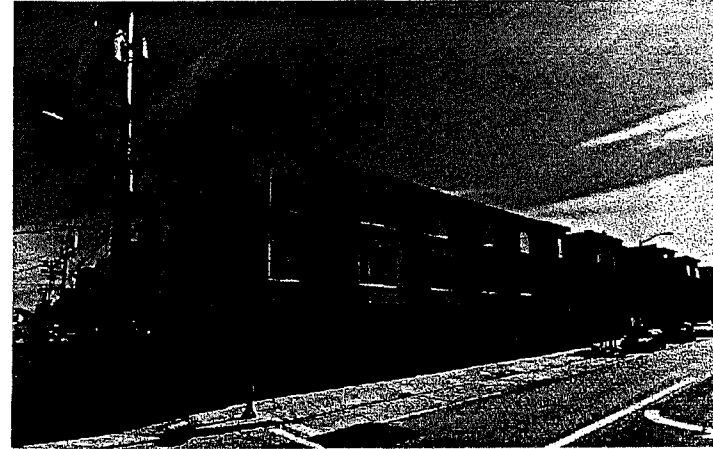
8. 2401 CLEMENT ST



CORNER BUILDINGS NEARBY IN OUTER CLEMENT STREET NCD
395 26TH AVENUE, SAN FRANCISCO, CA 94121



9. 2350 CLEMENT ST



10. 400 25TH AVE



11. 2300 CLEMENT ST



12. 2301 CLEMENT ST



CORNER BUILDINGS NEARBY IN OUTER CLEMENT STREET NCD
395 26TH AVENUE, SAN FRANCISCO, CA 94121

EXHIBIT 4

Albany
Atlanta
Brussels
Denver
Los Angeles
Miami
New York

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August 25, 2014

Commissioner Cindy Wu
President, Planning Commission
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 395 – 26th Avenue, San Francisco
Conditional Use Application (Case No. 2013.0205CEKV)

Dear Commissioner Wu:

This firm is counsel for Mary Tom, the Project applicant (“Applicant”). Here, the Applicant proposes to demolish a vacant two-story building (small ground floor commercial space and two residential units) at 395-26th Avenue in San Francisco (Block 1407, Lot 017), (the “Site”), subdivide the existing lot into two (“Lot A” and “Lot B”), and construct two four-story buildings (the “Project”). For the reasons discussed below, the Conditional Use application (“CU Application”) meets the criteria of Section 303(c) and Section 317 of the Planning Code. Therefore, the Planning Commission should approve the CU Application.

PROJECT HISTORY

The Applicant submitted the CU Application for the Project on February 26, 2013. The Project will require a Conditional Use approval for demolition of the existing second floor residential unit and will require variances from the rear yard requirements and ground floor active use in a neighborhood commercial district.

On March 13, 2013, the Applicant submitted an environmental review application and the Planning Department issued a Class 3 categorical exemption for the Project on June 18, 2013. The 26th Avenue building originally included a 263 sq. ft. retail space. The Planning Department suggested that this small retail space be eliminated and converted to part of the residential use and that the Applicant lower the height of the building on Lot B to 40’.

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The Conditional Use and Variance hearings were originally scheduled for January 16, 2014 and continued to February 20, 2014 at the request of Eric Mar. The February 20, 2014 hearing was then continued at the request of the Applicant and the Planning Department because the Class 3 categorical exemption did not include a discussion of subdivision of the existing lot. In advance of this hearing, the Planning Department re-issued a Certificate of Class 32 categorical exemption on, a copy of which is attached to the Planning Department's updated case report before this Commission.

PROJECT SITE

The 4,366 sq. ft. Project Site is located at the northwest corner of Clement Street and 26th Avenue in the Outer Clement Neighborhood Commercial District and in a 40-S height and bulk District. An additional 5' above the height limit is allowed for ground floor retail space.

The Site is improved with a 2,105 sq. ft. two story building with an office and two residential units originally constructed in 1945. The ground floor contains a one-bedroom residential unit and an office. The second floor contains a two-bedroom unit. The building is a lawful non-complying structure in that the off-street parking is located in a paved open parking area located in the required rear yard. A photomontage of the proposed building, block face photographs, existing and proposed plans are attached to the Case Report; see Sheet A-1.1 of Exhibit 1 for floor plans and elevations of the existing building.

The Planning Department has reviewed the Historic Resource Evaluation (HRE) Report prepared by Tim Kelley Consulting and concurs with the conclusion that the building is not a historic resource.

Although this block is zoned neighborhood commercial, the only ground floor commercial uses are in the Project Site building and in the two-story building adjacent to the Site on Clement Street. The Clement Street block face is developed with predominately three-story buildings, ranging from two-units to multi-unit apartment buildings. The 26th Avenue block face is developed with two to four-story buildings, with three-story buildings being predominate. The buildings range from single family homes to apartments. The opposite Clement Street block face is developed with two and three-story buildings with more ground floor retail use. The opposite 26th Avenue block face is developed with two to four-story buildings that range from single family homes to apartment buildings. See Sheet A-0.3 of the Plans attached to the Case Report.

THE PROJECT

The Project is:

1. Demolition of the existing building;

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2. Subdivision of the existing lot into two lots with a 60'x37' (2,220 sq. ft.) corner lot at Clement Street and 26th Ave ("Lot A") and a 58'x37' (2,146 sq. ft.) lot on 26th Avenue ("Lot B");
3. Construction of a 45' high, 7,533 gross square feet (gsf) mixed use building on Lot A with ground floor retail and 4 off-street parking space in stackers; and
4. Construction of a 40' high, 5,667 gsf three-unit residential building with three off-street parking spaces on Lot B.

The plans before this Commission have been revised from those prepared for the originally-scheduled January 16, 2014 hearing as follows:

1. The bay windows of both the Lot A and Lot B buildings facing the rear yards have been eliminated;
2. The ground floor room of the Lot B building has been incorporated into the second floor unit;
3. Each unit in the Lot B building has private usable open space;
4. One of the stair penthouses was eliminated from the Lot B building; and
5. One additional street tree is proposed for 26th Avenue, for a total of seven street trees for the Project.

The Lot A building (2500-2502-2506-2008 Clement Street Building)

The Lot A building is a mixed use building with ground floor retail. The 2,184 sq. ft. ground floor of the Lot A building will have a 851 sq. ft., 14' floor to ceiling height retail space, a garage with four off-street parking spaces in car stackers, three secure class 1 bicycle parking spaces, and an entrance lobby to the 3 residential units above. The retail space will have frontage on both Clement Street and 26th Avenue with a large glazed store front window system to provide pedestrian interest. The upper floors will have bay windows. Access to garage is from 26th Avenue with a 10' curb cut and 16' wide garage door. Two Class 2 bicycle parking spaces will be located on the Clement Street sidewalk in front of the retail space.

The 15' deep rear yard will be at the first residential level, which will require a variance. See Sheet A-2.0 and A.2.1 of the plans attached to the Case Report.

The second floor will be a 1,783 sq. ft. three bedroom flat with an approximately 519 sq. ft. private open space. The third and fourth floors will each contain a 1,783 sq. ft. three-bedroom

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flat and will share the 340 sq. ft. roof deck as their common open space. See Sheet A-2.0. The exterior material will be wood siding and stucco on the bay on the upper floors. The ground floor façade will be slate tile and glazing to form a base for the building. See Sheet A-3.0 and A-3.1 for the proposed elevations.

The Lot B Building (381-382-397 26th Avenue Building)

The Lot B building is a residential building with three dwelling units – a townhouse unit and two flats. The ground floor will contain the entrance lobby, three class 1 secure bicycle lockers, a garage with three independently accessible parking spaces, and a bedroom that is part of the 1,190 sq. ft. three-bedroom second-floor townhouse unit. Access to the garage is off 26th Avenue.

The approximate 235 sq. ft. deck will be the private open space for the townhouse unit. The 1,190 sq. ft. third floor unit will have private access to the approximately 493 sq. ft. at-grade rear yard, and the 1,170 sq. ft. fourth floor unit will have three bedrooms with private access to the 316 sq. ft. roof deck as its open space. See Sheet A-2.1 of plans attached to Case Report.

The southern two-thirds of the building is divided into a base, a middle and a top. The base is set back 1'-6" from the front property line and the exterior material will be wood with the recessed base framed in slate tile. The middle portion of the building is stucco with two bay windows. The top of the building (the fourth floor) will have punch windows and the stucco exterior will be a complementing color. The northern portion of the building will have a vertical element created by a two-story bay window, the garage door and wood siding on all floors. See Sheets A-3.0 and A-3.1 of Plans attached to Case Report for elevation.

THE PROJECT MEETS THE CRITERIA OF §303(c)

The Project meets the criteria of Planning Code Section 303(c) in that:

1. ***The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary and desirable for, and compatible with, the neighborhood or the community.***

The buildings in the vicinity of 26th Avenue and Clement Street range from two units to 18 units. The Project, with a total of six units, is similar to those on the block. The proposed three-bedroom units are moderately sized, similar in size to the flats in the area. See Sheet A-0.3 of the Plans attached to Case Report. The Project will add four new residential units to the City's housing stock. The two demolished units will be replaced with three-bedroom units which are more suitable for families with children. Therefore, the size and intensity of the Project will be compatible with and is necessary and desirable for the neighborhood and the community.

2. *The proposed uses or features 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 developments in the vicinity.*

A. The nature of the proposed Site, including its size and shape, and the proposed size, shape and arrangement of structures:

The existing lot is 118' deep. The allowable building depth would be 88.5' if the lot is not divided into two. The adjacent lot on Clement Street is improved with two buildings, with the main structure (2512 Clement) at the front of the lot approximately 60' long and a two-story cottage (2510 Clement) located partly in the required rear yard. See Sheet A-1.0 of the Plans attached to the Case Report. By dividing the lot into two, the Lot A building will be shorter than the neighboring 2510-2512 Clement building and the rear cottage will face the at-grade rear yard of the Lot B building. The three bedroom units will range between 1,170 sq. ft. to 1,601 sq. ft., which will be more affordable than if the existing lot is not subdivided and new units in excess of 2,400 sq. ft. each are developed.

The Lot B building has been set back 3' from the north property line so that the non-required property line windows of the 377 - 26th Avenue Building do not have to be closed. See Exhibit 1 for a sketch of the 26th Avenue Building plans from the Department of Building Inspection microfilms showing that these property line windows are "non-required". Therefore, the proposed size, shape and arrangement of the proposed buildings will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or be injurious to property or improvements.

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.

The traffic patterns for persons and vehicles around the Site will not be altered. Each of the dwelling units and the retail space will have an off-street parking space. Currently, there are five on-street parking spaces on 26th Avenue and one on Clement in front of the Site. The Project will not change the number of on-street parking spaces in front of the Site. The Environmental Planning section of the Planning Department has determined that the Project will not have an adverse effect on traffic, off-street parking and loading.

- C. The safeguards afforded to prevent noxious or offensive emissions, such as noise, glare, dust and odor.

A Noise Report prepared by Walsh Norris and Associates was requested by and submitted to Environmental Planning. All of the recommendations have been incorporated as part of the Project and the Project will therefore meet all of the City's Noise Ordinance governing noise levels after the buildings are completed.

Construction of the Project will temporarily increase noise and vibration levels in the vicinity. Construction noise and vibration will fluctuate depending on the construction phase, equipment type, duration of use, and distance between the source and the listener. However, construction noise and vibration will be intermittent and limited to the construction period of the Project. Noise from construction activities is regulated by the San Francisco Noise Ordinance.

- D. Treatment given, as appropriate to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.

The three existing street trees (two on Clement Street and one on 26th Avenue) will be retained and four new street trees will be planted on 26th Avenue. All exterior lights will be down lighting to prevent glare to nearby neighbors. The garbage, recycle and compost bins will be located in the garage. Signs will comply with the requirements of Article 6 of the Planning Code.

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.*

Plans and Policies

The Site is zoned for mixed use development with ground floor retail and residential use on the upper floors. With the rear yard and ground floor active use variances granted, the Project will comply with all applicable Planning Code provisions applicable to the Site. See Sheet A-1.0.

The Project is consistent with the following objectives and policies of the General Plan:

A. HOUSING ELEMENT

Objective 1: Identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing.

Policy 1.8 - Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Policy 1.10 - Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Site is under-utilized. The Case Report points out that while the existing units are not unsound housing, the units' size, design and construction deficiencies are obvious. The Project replaces 2 housing units with 6 housing units in an area easily accessible to public transit.

Objective 2: Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability.

Policy 2.1: Discourage the demolition of sound existing housing unless the demolition results in a net increase in affordable housing.

The residential units proposed to be demolished are not part of the City's housing stock because they are owner-occupied. The Project will result in an increase of four additional units and all the units are three bedroom units suitable for families with children with usable open space.

Objective 12: Balance housing growth with adequate infrastructure that serves the City's growing population.

Policy 12.1 - Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2 - Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units

Policy 12.3 - Ensure new housing is sustainably supported by the City's public infrastructure systems.

The Project Site is near public transit, neighborhood services and two of the major open spaces in the City (Golden Gate Park and the Presidio).

Objective 13: Prioritize sustainable development in planning for and constructing new housing.

Policy 13.3 - Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

The Project is located near multiple transit lines and has easy access to all types of neighborhood-serving businesses.

B. COMMERCE AND INDUSTRY ELEMENT

Objective 1: Manage economic growth and change to ensure enhancement of the total City Living and working environment.

Policy 1.2 -Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3 – Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The Project Site is located in a neighborhood commercial district. The current commercial space on the Project Site is 410 sq. ft. with 8'-0" high ceiling. The new retail space will have 897 sq. ft. and 14' floor to ceiling height that the City deems desirable and necessary by allowing an additional 5' height limit to achieve quality retail space in the City's commercial districts. Therefore the Project is consistent with and promotes Objective 1, policies 1.2 and 1.3 of this element.

Objective 3: Provide expanded employment opportunities for City residents, particularly the unemployed and economically disadvantaged.

Policy 3.1 – Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The Commerce and Industry element recognizes that the "one employment sector that often serves to be a source of employment opportunity to minorities and low-skilled workers is the small business sector that offers initial employment opportunities for the many low-skilled individuals. These individuals are often from within the community."

When compared to the existing building, where the small office space faces 26th Avenue and does not contribute to the continuing retail frontages on Clement Street, the Project includes a quality retail space at the corner of Clement Street and 26th Avenue that will strengthen and anchor this section of the Outer Clement Street Neighborhood Commercial District.

C. URBAN DESIGN ELEMENT

Objective 2 -- Conservation of resources which provide a sense of nature, continuity with the past, and freedom from overcrowding.

Policy 2.6 - Respect the character of older development nearby in the design of new buildings.

While the design of the new buildings are modern, the design complements the existing character of the area by incorporating bay windows and exterior materials common in the area.

Objective 4 -- Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.

Policy 4.12 - Install, promote and maintain landscaping in public and private areas.

Four new street trees will be planted on 26th Avenue, where only one currently exists.

D. TRANSPORTATION ELEMENT

Objective 11 -- Establish public transit as the primary mode of transportation in San Francisco and as a means through which to guide future development and improve regional mobility and air quality.

Policy 11.3 - Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

Objective 14 -- Develop and implement a plan for operational changes and land use policies that will maintain mobility and safety despite a rise in travel demand that could otherwise result in system capacity deficiencies.

Policy 14.7 - Encourage the use of transit and other alternatives modes of travel to the private automobile through the positioning of building entrances and the convenient location of support facilities that prioritizes access from these modes.

Policy 14.8 - Implement land use controls that will support a sustainable mode split, and encourage development that limits the intensification of automobile use.

As will be fully discussed below, the Site is conveniently located near public transit with connection directly or within easy walking or biking distance to large employers such as Kaiser Medical Center, UCSF Mount Zion Campus, and other major employment centers in the City. The MUNI bus lines (#1, #1AX, #29, #38, #38AX, #38BX and #38L) are within two blocks of the Site and provide easy transfer to public transit serving other parts of the City and to the East Bay and South Bay.

The Project will provide Class 1 off-street secure bicycle parking spaces to encourage the combined use of transit and bicycle to work, for chores and recreation.

Objective 24 – Improve the ambience of the pedestrian environment.

Policy 24.2 - Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.4 - Preserve pedestrian-oriented building frontages.

Four new street trees will be planted to meet Planning Code Requirements which will enhance the pedestrian environment and the public realm.

Objective 28 – Provide secure and convenient parking facilities for bicycles.

Policy 28.1 - Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3 - Provide parking facilities which are safe, secure, and convenient.

One secure Class 1 bicycle parking space will be provided for each of the units in the garages of the two new buildings. Two secure Class 2 bicycle parking spaces will be provided on Clement Street for visitors or patrons of the retail business.

E. RECREATION AND OPEN SPACE ELEMENT

Objective 4: Provide opportunities for recreation and the enjoyment of open space in every San Francisco neighborhood.

Policy 4.5 - Require private usable outdoor open space in new residential development.

The Project has more than the Planning Code required usable open space on the Site for the future occupants; four of the units have private usable open spaces and two of the

units share a roof deck. The Site is within five blocks of Golden Gate Park and three blocks of the Presidio, two of the major open spaces in the City.

F. AIR QUALITY ELEMENT

Objective 2 – Reduce mobile sources of air pollution through implementation of the transportation element of the general plan.

Applicable objectives and policies are listed under the Transportation Element and the City's Transit First Policy discussed above.

Objective 3 – Decrease the air quality impacts of development by coordination of land use and transportation decisions.

Policy 3.9 Encourage and require planting of trees in conjunction with new development to enhance pedestrian environment and select species of trees that optimize achievement of air quality goals.

Four new street trees will be planted where one exists today along the 26th Avenue frontage.

Objective 5 – Minimize particulate matter emissions from road and construction sites.

Policy 5.1 - Continue policies to minimize particulate matter emissions during road and building construction and demolition.

Policy 5.2 Encourage the use of building and other construction materials and methods which generate minimum amounts of particulate matter during construction as well as demolition.

The Applicant and contractor must comply with the City's Building Code provisions governing dust control, including watering of the Site with non-potable water.

G. COMMUNITY SAFETY ELEMENT

Objective 1 – Reduce structural and non-structural hazards to life safety and minimize property damage resulting from future disasters.

Policy 1.3 - Assure that new construction meets current structural and life safety standards.

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August 25, 2014
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The new buildings will be constructed to meet all current Building Code seismic and fire safety standards; whereas the existing building does not meet those standards.

Policy 1.6 - Consider site soils conditions when reviewing projects in areas subject to liquefaction or slope instability.

A Geotechnical Report will be submitted to the Department of Building Inspection for review and approval as part of the building permit process to insure that the buildings' foundations will be designed appropriately.

Policy 1.11 - Continue to promote green stormwater management techniques.

The Project will comply with all City requirements related to stormwater management, the San Francisco Stormwater Management Ordinance, the SFPUC's Stormwater Design Guidelines and the San Francisco Green Building Code. The Project will also comply with the San Francisco Green Building Requirements related to water use reduction by cutting potable water use by 20%.

H. ENVIRONMENTAL PROTECTION ELEMENT

Objective 1 -- achieve a proper balance among the conservation, utilization, and development of San Francisco's natural resources.

Policy 1.4 - Assure that all new development meets strict environmental quality standards and recognizes human needs.

The Project will comply with the San Francisco Green Building Requirements related to energy efficiency. The Applicant will provide documentation demonstrating that the Project achieves a 15% compliance margin over the 2008 Title 24 Part 6 Energy Standards. The Project will comply with the San Francisco Green Building requirements related to the commissioning of building energy and water systems. Design and construction commissioning will be conducted to verify that energy- and water-using components meet the owner's or owner representative's project requirements.

Objective 4 -- Achieve a proper balance among the conservation, utilization, and development of San Francisco's natural resources.

Policy 4.1 - Support and comply with objectives, policies, and air quality standards of the Bay Area Air Quality Management District.

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Prior to issuance of any demolition permit, the Bay Area Air Quality Management District must inform the Department of Building Inspection that all asbestos containing building materials have been removed and disposed of in accordance of applicable state law and regulations.

Objective 5 – With respect to applications filed pursuant to Article 7 of this Code, that such use or feature will provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District, as set forth I zoning control category .1 of Section 701 through 729 of this Code.

The Site is at the end of the Outer Clement Street NCD, which is located on Clement Street between 19th Avenue and 27th Avenue, with small-scale convenience neighborhood serving businesses, as well as many restaurants that serve both the neighborhood and Citywide clientele during the evening hours. The Outer Clement Street NCD is developed with many mixed-use buildings with more fully residential buildings toward 27th Avenue.

Section 717.1 describes the Outer Clement Street NCD District controls as those “designed to promote development that is in keeping with the district’s existing small-scale, mixed-use character. The building standards monitor large-scale development and protect rear yards at all levels. Future commercial growth is directed to the ground story in order to promote more continuous and active retail frontage” and the controls are directed as preventing over-concentration of entertainment and financial services uses and restricts late-night activity, hotels, automobile uses, and drive-up facilities.”

The Project is predominately residential in nature and the 897 sq. ft. ground floor retail space will be more suitable for neighborhood serving businesses than the current 410 sq. ft. ground floor office space. Therefore, the Project is consistent with the purposes and objective of the Outer Clement Street NCD.

THE PROJECT MEETS THE ADDITIONAL CRITERIA OF §317:

The Applicant concurs with the findings in the Case Report and Draft Motion before this Commission. The existing residential units on the Site are not rental or affordable units, but occupied by the owners and their family when they are in San Francisco. The Project will increase the number of residential units at the Site and the new three-bedroom units will be family sized units.

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CONCLUSION

The Project will provide six three-bedroom units that are both necessary and desirable in the context of the City's housing stock. The Project design is contextually appropriate. While it is taller than the adjacent building, the taller height is appropriate for a corner lot. This mixed use Project, with ground floor commercial and residential units above, is consistent with the purpose and objective of the Outer Clement Street NCD. The size of the ground floor commercial at 897 sq. ft. will provide a transition from what is essentially a residential block between 26th and 27th Avenue to the more intense retail uses east of the Site along Clement Street. Therefore, it is respectfully submitted that this Commission should grant the Conditional Use Application.

Respectfully Submitted,


Alice Suet Yee Barkley

ASYB

cc: Commissioner Rodney Fong
Commissioner Michael J. Antonini
Commissioner Christine D. Johnson
Commissioner Rich Hillis
Commissioner Kathrin Moore
Commissioner Dennis Richards
Jonas P. Ionin, Commission Secretary
Scott Sanchez, Zoning Administrator
Christine Lamorena (via e-mail)
Mary Tom (via e-mail)
Gabriel Ng (via e-mail)
Jeremy Schaub (via e-mail)


USW 804639277.4

(BOS)

From: Calvillo, Angela (BOS)
Sent: Thursday, October 30, 2014 5:37 PM
To: Rodgers, AnMarie (CPC)
Cc: BOS Legislation (BOS); Lamorena, Christine (CPC); Givner, Jon (CAT); Byrne, Marlana (CAT); smw@stevewilliamsllaw.com
Subject: RE: Planning Transmittal [BF 141046] 395-26th Avenue Conditional Use Appeal
Categories: 141046

A gracious good afternoon Ms. Rodgers,
We have received your communication and it will be placed in the file.
Thank you!
Angela

Angela Calvillo
Clerk of the Board

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Rodgers, AnMarie (CPC)
Sent: Thursday, October 30, 2014 5:24 PM
To: Calvillo, Angela (BOS)
Cc: BOS Legislation (BOS); BOS-Legislative Aides; BOS-Supervisors; Lamorena, Christine (CPC); Givner, Jon (CAT); Byrne, Marlana (CAT); smw@stevewilliamsllaw.com
Subject: Planning Transmittal [BF 141046] 395-26th Avenue Conditional Use Appeal

Dear Honorable Members of the Board of Supervisors and Clerk Calvillo,

The attached memorandum is our Department's response to the letter of appeal to the Board of Supervisors regarding the Planning Commission's approval of the application for Conditional Use Authorization to demolish two residential units and to construct two new buildings with a total of six dwelling units, six off-street parking spaces, and approximately 851 square feet of retail space at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District. This response addresses the appeal to the Board filed on October 6, 2014 by Stephen Williams, representing neighbors in opposition to the project. The Appeal Letter referenced the proposed project in Planning Case No. 2013.0205C.

These materials are being transmitted for the November 4, 2014 hearing date. Hardcopies will be delivered tomorrow morning and can be made available upon request.

nMarie Rodgers
Senior Policy Advisor

Planning Department | City and County of San Francisco
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Direct: 415.558.6395 | Fax: 415.558.6409
Email: anmarie@sfgov.org
Web: <http://www.sf-planning.org/Legislative.Affairs>
Property Info Map: <http://propertymap.sfplanning.org/>



YATT]



SAN FRANCISCO PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
CIVIL DIVISION

OCT 31 2014
AK

MEMO

APPEAL OF CONDITIONAL USE AUTHORIZATION 395 26th Avenue

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: October 31, 2014

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
Christine Lamorena, Case Planner – Planning Department (415) 575-9085

RE: File No. 141046, Planning Case No. 2013.0205C - Appeal of the approval of Conditional Use Authorization for 395 26th Avenue

HEARING DATE: November 4, 2014

ATTACHMENTS:

- A. Planning Commission Staff Report (Executive Summary, Exhibits, & Final Motion)
- B. Rear Yard Modification and Variance Decision Letter (October 24, 2014)
- C. Project Sponsor Drawings

PROJECT SPONSOR: Gabriel Ng, 1360 9th Avenue, Suite 210, San Francisco, CA 94122

APPELLANT: Stephen Williams, 1934 Divisadero Street, San Francisco, CA 94115

INTRODUCTION:

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors ("Board") regarding the Planning Commission's ("Commission") approval of the application for Conditional Use Authorization under Planning Code Sections 303 (Conditional Use Authorization) and 317 (Loss of Dwelling Units through Demolition, Merger, and Conversion), to demolish two residential units at 395 26th Avenue within the Outer Clement Street NCD (Neighborhood Commercial District) and 40-X Height and Bulk District ("the Project").

This response addresses the appeal ("Appeal Letter") to the Board filed on October 6, 2014 by Stephen Williams, representing neighbors in opposition to the project. The Appeal Letter referenced the proposed project in Case No. 2013.0205C.

The decision before the Board is whether to uphold or overturn the Planning Commission's approval of Conditional Use Authorization to demolish two residential units at 395 26th Avenue.

SITE DESCRIPTION & PRESENT USE:

The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

The existing two-story building currently contains two vacant dwelling units and ground floor commercial space constructed in 1945. A rear portion of the lot is used as surface parking for the two dwelling units.

SURROUNDING PROPERTIES AND NEIGHBORHOOD:

The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.

PROJECT DESCRIPTION:

The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, six (6) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,414 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) dwelling units (flats), four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), two (2) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space. The six (6) proposed dwelling units range in size from 1,071 sf to 1,601 sf and each contain three (3) bedrooms.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

BACKGROUND:

2013 – Conditional Use Authorization, Rear Yard Modification and Variance Applications Filed

On February 16, 2013, the project sponsor conducted a mandatory Pre-Application Meeting with adjacent neighbors and neighborhood organizations to present the project and receive initial feedback.

On February 26, 2013, the project sponsor submitted a Conditional Use Authorization application and Variance application.

On March 13, 2013, the Environmental Planning division of the Planning Department ("Department") found the project to be categorically exempt from environmental review per Class 3 of the California Environmental Quality Act (Case No. 2013.0205E).

2014 – Conditional Use Authorization and Variance hearings

On January 3, 2014, the Department prepared a shadow fan in accordance with Planning Code Section 295 and determined that the project would not cast shadow onto Recreation and Park properties (Case No. 2013.0205K).

At the January 16, 2014 hearings, the Planning Commission and Zoning Administrator continued the project cases to February 20, 2014 at the request of Supervisor Eric Mar and neighboring opposition to allow for the Project Sponsor and neighboring opposition to meet and discuss the project. The project was then continued from February 20, 2014 to April 4, 2014 and finally from April 4, 2014 to September 4, 2014 at the Project Sponsor's request.

On January 29, 2014, a meeting between the Project Sponsor and Stephen Williams, representing the immediately adjacent neighbors in opposition to the project, occurred at Supervisor Mar's office. At the meeting, the Project Sponsor further discussed and clarified the project while the opposition proposed alternatives to the original submittal. No changes to the project were made as a result of this meeting.

On February 6, 2014, a meeting organized by those in opposition to the project was held at the Guang Ci Clinic at 2408 Clement Street. At the meeting, the Project Sponsor presented the project and discussed concerns.

On March 24, 2014, the Project Sponsor submitted an application for lot subdivision (Case No. 2013.0205S).

On May 27, 2014, the Project Sponsor submitted revisions to the Conditional Use and Variance applications and associated building permit applications. The following modifications were made:

1. All proposed bay windows facing the rear yard were eliminated;
2. Each of the units in the Lot B Building will have private usable open space;
3. One of the proposed stair penthouses in the Lot B Building was removed as a result of dedicating the roof deck as private open space;
4. In lieu of a "community room" on the ground floor of the Lot B Building, that space is now connected to the second floor unit with the rear yard as its private usable open space;
5. One additional street tree is proposed for 26th Avenue, for a total of seven (7) street trees for the project.

On August 26, 2014, the Environmental Planning division of the Department found the project to be categorically exempt from environmental review per Class 32 of the California Environmental Quality Act (Case No. 2013.0205E) and the Class 3 exemption was rescinded.

At the September 4, 2014 Commission hearing, the Commission approved Conditional Use Authorization pursuant to Planning Code Sections 303 and 317 to demolish the existing mixed-use building containing two dwelling units and construct two new four-story, three dwelling unit buildings with amendments to eliminate a proposed rear bump-out on Lot B and reduce the parking on Lot B from three spaces to two spaces.

On October 24, 2014, the Zoning Administrator issued the Rear Yard Modification and Variance Decision Letter granting a rear yard modification pursuant to Planning Code Section 134(e) and a street frontage variance pursuant to Planning Code Section 145.1 (Case No. 2013.0205V).

CONDITIONAL USE AUTHORIZATION REQUIREMENTS:

Planning Code Section 303 establishes criteria for the Commission to consider when reviewing all applications for Conditional Use approval. To approve the project, the Commission must find that these criteria have been met:

1. That the proposed 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
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. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - 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;
 - c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan.

In addition, Planning Code Section 317 establishes criteria for the Commission to consider when reviewing applications to demolish or convert residential buildings. These criteria apply to all applications to demolish or convert residential buildings. Unlike the Section 303 findings above which must be met, the Section 317 criteria must only be considered by the Commission. It is within the Commission's discretion to decide how to weigh these criteria for each project.

1. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where soundness is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The soundness factor for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.
2. Whether the property is free of a history of serious, continuing Code violations;
3. Whether the housing has been maintained in a decent, safe, and sanitary condition;
4. Whether the property is an "historical resource" under CEQA;
5. Whether the removal of the resource will have a substantial adverse impact under CEQA;
6. Whether the project converts rental housing to other forms of tenure or occupancy;
7. Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or affordable housing;
8. Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
9. Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
10. Whether the project protects the relative affordability of existing housing;

11. Whether the project increases the number of permanently affordable units as governed by Section 415;
12. Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
13. Whether the project increases the number of family-sized units on-site;
14. Whether the project creates new supportive housing;
15. Whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;
16. Whether the project increases the number of on-site dwelling units;
17. Whether the project increases the number of on-site bedrooms.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The concerns raised in the Appeal Letter are cited in a summary below and are followed by the Department's response:

ISSUE #1: The Project is for demolition of two sound, affordable rent-controlled units.

RESPONSE #1a: The Project would demolish two dwelling units (3 bedrooms total) to be replaced with six dwelling units (18 bedrooms total), a net increase of four dwelling units. Although the two existing dwelling units are subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building, constructed before June 13, 1979, the units are currently vacant and not rented. Furthermore, if the two units were to be rented, the Rent Ordinance does not regulate the initial rent for new tenancies. Therefore, each unit could be rented at market rate (CA Civil Code Section 1954.53). While the units could become affordable overtime, the units are currently vacant and would be rented at market rate if placed on the market.

The Appellant claims that the Commission's approval was in error and contrary to all controlling public policy. Motion No. 19229, Findings 7, 8, 9 and 10 indicate that the project is, on balance, consistent with Conditional Use findings per Planning Code Section 303, Dwelling Unit Removal findings per Planning Code Section 317, Objectives and Policies of the General Plan findings, and the Priority Planning policies per Planning Code Section 101.1. Findings of consistency require a balancing of policies and a determination of overall consistency. In preparing proposed findings for the Commission's consideration, the Department identified those criteria, objectives, and policies that were most applicable to the Project, as is its practice, and the Commission, in approving the motion, agreed with the Department and embraced the findings as their own.

Discussion between Commissioners at the hearing regarding Mayor's Executive Directive 13-01¹ acknowledged the challenge between encouraging housing production versus retaining existing housing. Commissioners noted that although the project would remove two vacant units, the project would result in the addition of six larger, well-designed units and a net gain of four units. In addition to the quantity of units, the project also provides "family-sized" units, which is also prioritized in the General Plan. The Commission ultimately voted (+4 -3) to approve the project.

RESPONSE #1b: Contrary to the Appellant's statement, the Commission's approval is not "contrary to all controlling public policy." The General Plan policies both encourage the retention of existing housing as

¹ The Mayor released this executive directive, known as the Housing Production & Preservation of Rental stock, on December 18, 2013. This directive both sought to prioritize the building of new housing as well as to retain the existing housing stock.

well as the production of new housing. It is a rare project that is consistent with the General Plan in its entirety. Therefore, the question remains is the project, on balance, consistent with the Plan. In this case, the answer is yes. In addition to Finding 9 of Motion No. 19229, the project would be consistent with the following General Plan policies in the Housing Element:

- **OBJECTIVE 1: IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.**
 - **POLICY 1.10:** Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.
- **OBJECTIVE 2: RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.**
 - **POLICY 2.1:** Discourage the demolition of sound existing housing, *unless the demolition results in a net increase in affordable housing.* (Emphasis added)
- **OBJECTIVE 4: FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.**
 - **POLICY 4.1:** Develop new housing, and encourage the remodeling of existing housing, *for families with children.* (Emphasis added)
- **OBJECTIVE 12: BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.**
 - **POLICY 12.1:** Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.
 - **POLICY 12.2:** Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.
 - **POLICY 12.3:** Ensure new housing is sustainably supported by the City's public infrastructure systems.

ISSUE #2: The Project does not meet the mandatory criterion for a demolition.

RESPONSE #2: Contrary to the Appellant's submittal, the project meets 13 of the 17 criteria per Planning Code Section 317. The criteria are as follows:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound...

Project does not meet criterion. The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion. A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion. The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion. Although the existing structure is more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion. Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion. The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion. The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion. Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion. The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion. The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion. The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion. The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion. The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion. The project does not create supportive housing.

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Project meets criterion. The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion. The project would increase the number of on-site units with a net gain of four units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion. The project proposes 18 bedrooms. The existing building contains three bedrooms.

ISSUE #3: UDAT (Urban Design Advisory Team) requested a Project with a 25% rear yard – the developer proposes 10%; the developer refused to comply with Department directives for a project without variances; the requested variances hurt the neighbors and are not justified from an “exceptional and extraordinary” hardship.

RESPONSE #3: In raising this issue, the Appellant challenges the Zoning Administrator (“ZA”) determination on a variance for the proposed project. As the Board is aware, the ZA’s decision to grant a Rear Yard Modification and Street Frontage Variance is appealable to the Board of Appeals per Planning Code Section 308.2. Thus, the following response is provided for informational purposes for the Board and public.

The Appellant claims that the Project proposes a 10% rear yard where a 25% rear yard is required. This is incorrect. Overall, the Project requires 25% rear yard, but in no case less than 15 feet at all levels for each proposed lot. On proposed Lot A, the Project partially meets the rear yard requirement by providing a 15-foot rear yard depth at all levels except for the ground level. On proposed Lot B, the Project partially meets the rear yard requirement by providing an approximately 13-foot rear yard at all levels where a 15-foot rear yard depth at all levels is required. In addition, the Project proposes a comparable amount of usable open space per Planning Code Section 135 on a proposed deck and roof decks.

Planning Code Section 134(e)(1) allows for modification of the rear yard requirement for properties in NC Zoning Districts if three criterion are met. In the Decision Letter, the ZA identified those criteria, determined that all three requirements were met, and granted the modification.

Furthermore, the Appellant mistakenly confuses the findings required to grant a modification versus those findings required to grant a variance. The three criteria required to grant a modification do not include findings demonstrating an "exceptional and extraordinary" hardship.

ISSUE #4: The Project requests a parking variance for a transit corridor and fails to even build to the prescribed density for the new project.

RESPONSE #4a: As previously noted, the ZA's decision to grant a Rear Yard Modification and Street Frontage Variance is appealable to the Board of Appeals per Planning Code Section 308.2. Thus, the following response is provided for informational purposes for the Board and the public.

The Appellant claims that a parking variance is being sought. This is incorrect. As explained in the ZA's Decision Letter, the Project includes the granting of a Street Frontage Variance per Planning Code Section 145.1 for not setting back the required parking 25 feet from the street frontage on 26th Avenue.

It should also be noted that the proposal includes the minimum number of required off-street parking spaces and does not propose to "over-park". Planning Code Section 151 requires a minimum of one off-street parking space per dwelling unit and one off-street parking space per 500 square feet of occupied floor area for commercial spaces, where the occupied floor area exceeds 5,000 square feet. The Project originally proposed seven off-street parking spaces (six required spaces for the six dwelling units and one space for the commercial unit, though not required). The Project was revised to reduce the parking to six off-street spaces for the residential dwelling units as directed by the Commission at the September 4, 2014 hearing. In spite of this reduction, the project continues to meet the minimum parking requirement.

RESPONSE #4b: Neither the Planning Code nor the General Plan prescribe minimum density. While some other jurisdictions may require a minimum density in transit-rich areas, San Francisco does not. Instead, San Francisco establishes maximum density for this area but does not require that the project achieve maximum density. Furthermore, the Housing Element of the General Plan includes Policy 4.1 (see Response #1b), which encourages that housing be developed for families with children, acknowledging that the need for family housing is growing as larger, extended families increase and as more and more households desire to stay in the City as they have children.

With respect to the Appellant's concern regarding density, the Appellant is correct in that up to four dwelling units are permitted as-of-right on each proposed lot. However, it is not uncommon for a project to propose less than the prescribed density given the multitude of other Planning Code requirements a Project Sponsor must consider when developing a project and given the fact that the Project proposes family-sized units, each with three-bedrooms, a trade-off supported by Policy 4.1. Lastly, although the Project proposes less than the maximum density with six proposed dwelling units where eight are

Appeal of Conditional Use Authorization
Hearing Date: November 4, 2014

File No. 141046
Planning Case No. 2013.0205C
395 26th Avenue

permitted, the Project would bring the property into closer conformity with the maximum residential density allowed in the Outer Clement NCD.

CONCLUSION:

For the reasons stated above, the Department recommends that the Board uphold the Commission's decision in approving the Conditional Use authorization for the demolition of the two-story, mixed-use building, construction of the two new four-story, three-unit buildings, and deny the Appellant's request for appeal.



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use / Residential Demolition HEARING DATE: SEPTEMBER 4, 2014

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: August 28, 2014
Case No.: 2013.0205CEKSV
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org
Recommendation: Approval with Conditions

BACKGROUND

At the January 16, 2014 hearing, the Planning Commission continued the project to February 20, 2014 at the request of Supervisor Eric Mar and neighboring opposition to allow for the Project Sponsor and neighboring opposition to meet and discuss the project. The project was then continued from February 20, 2014 to April 4, 2014 and most recently from April 4, 2014 to September 4, 2014 at the Project Sponsor's request.

PROJECT DESCRIPTION

The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

Pursuant to Planning Code 317 (c), "where an application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use Authorization by other sections of this Code, the application for a replacement building or alteration permit shall also be subject to Conditional Use requirements." This report includes findings for Conditional Use Authorization in addition to Demolition Criteria established in Planning Code Section 317.

DEMOLITION APPLICATION		NEW BUILDING APPLICATION	
Demolition Case Number	2013.0205C	New Building Case Number	2013.0205C
Recommendation	Approve w/ Conditions	Recommendation	Approve w/ Conditions
Demolition Application Number	2013.03.05.1498	New Buildings Application Numbers	2013.03.05.1501 2013.03.05.1508
Number Of Existing Units	2	Number Of New Units	6
Existing Parking	3 (surface lot at rear)	New Parking	7 (at-grade garages)
Number Of Existing Bedrooms	3	Number Of New Bedrooms	18
Existing Building Area	±1,955 Sq. Ft.	New Building Area	±7,533 Sq. Ft. (Lot A) ±5,667 Sq. Ft. (Lot B)

SITE DESCRIPTION AND PRESENT USE

The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.

REPLACEMENT STRUCTURES

New construction of a four-story, three-unit building with approximately 851 square feet of ground floor commercial space, and a four-car garage is proposed at the corner of Clement Street and 26th Avenue (Lot A). The three upper floors of the building would each contain three-bedroom units. Residential and commercial entries would be on Clement Street while the garage entry would be on 26th Avenue. The proposed garage would utilize stackers for the four spaces.

New construction of a four-story, three-unit building with a three-car garage is proposed on 26th Avenue (Lot B). The three upper floors of the building would each contain three-bedroom units. All entrances into the building would be on 26th Avenue.

ENVIRONMENTAL REVIEW

On August 26, 2014, the Environmental Planning division of the Planning Department found the project to be categorically exempt from environmental review per Class 32 per the California Environmental Quality Act (CEQA).

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	20 days	December 27, 2013	December 27, 2013	20 days
Mailed Notice	20 days	December 27, 2013	December 27, 2013	20 days
Ad Notice	20 days	December 27, 2013	December 27, 2013	20 days

The proposal requires a public notice per Planning Code Section 312 and the related variance request, which was conducted in conjunction with the Conditional Use Authorization process.

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	0	3	0
Other neighbors on the block or directly across the street	6	6	0
Neighborhood groups	0	0	0

To date, the Department has received the following public comment:

- o 112 letters and petitions in support of the project
- o An online petition (www.change.org) with 171 persons opposed to the project
- o Petitions with 137 signatures of persons opposed to the project
- o One email and five phone calls opposed to the project
- o Two phone calls and two emails with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

ISSUES AND OTHER CONSIDERATIONS

- On January 3, 2014, per Case No. 2013.0205K, the Department prepared a shadow fan in accordance with Planning Code Section 295 and determined that the project would not cast shadow onto Recreation and Park properties.
- The Project Sponsor is seeking a rear yard modification pursuant to Planning Code Section 134(e) and a street frontage variance pursuant to Planning Code Section 145.1. The Zoning Administrator will hold a Variance hearing (Case No. 2012.0205V) for the project concurrent with the Conditional Use hearing.
- The following events have taken place since the January 16, 2014 hearing:
 - *Draft Motion Amended.* The Draft Motion contains criteria for the Planning Commission to consider when reviewing applications to demolish residential buildings pursuant to Planning Code Section 317. Criteria #7, which describes whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance has been amended to acknowledge that although both units remain vacant under the current property owner (purchased in January 2013), the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building, constructed before June 13, 1979 (see attached Draft Motion).
 - *Meeting with Supervisor Mar.* On January 29, 2014, a meeting between the Project Sponsor and Stephen Williams, representing the immediately adjacent neighbors in opposition to the project, occurred at Supervisor Mar's office. At the meeting, the Project Sponsor further discussed and clarified the project while the opposition proposed alternatives to the original submittal. No changes to the project were made as a result of this meeting.
 - *Neighborhood Meeting.* On February 6, 2014, a meeting organized by those in opposition to the project was held at the Guang Ci Clinic at 2408 Clement Street. At the meeting, the Project Sponsor presented the project and discussed concerns.
 - *Subdivision Application Submitted.* On March 24, 2014, the Project Sponsor submitted an application for lot subdivision (Case No. 2013.0205S).
 - *Plan Revisions Submitted.* On May 27, 2014, the Project Sponsor submitted revisions to the Conditional Use and Variance applications and associated building permit applications. The following modifications were made:
 1. All the bay windows facing the rear yard were removed;
 2. Each of the units in the Lot B Building will have private usable open space;
 3. One of the stair penthouses in the Lot B Building was removed as a result of dedicating the roof deck as private open space;
 4. In lieu of a "community room" on the ground floor of the Lot B Building, that space is now connected to the second floor unit with the rear yard as its private usable open space;
 5. One additional street tree is proposed for 26th Avenue, for a total of seven (7) street trees for the project.

- *Categorical Exemption, Class 32 Issued.* On August 27, 2014, the Planning Department issued a Certificate of Class 32 categorical exemption (State CEQA Guidelines Section 15332), which supersedes the Class 3 categorical exemption originally issued for the project.

URBAN DESIGN ADVISORY TEAM REVIEW

The requests for demolition and new construction were reviewed by the Department's Urban Design Advisory Team (UDAT). UDAT's comments include:

- For both buildings
 - Provide Code-complying rear yards at grade.
 - Program the ground floor with active uses and set back parking at least 25 feet.
 - Minimize parking ingress/egress.
 - Locate bike parking to be as close as possible to the lobby or garage entrance.
 - Refine window and bay proportions.
- For the Clement Street building:
 - Differentiate the base of the building from the body of the building.
- For the 26th Avenue building:
 - Better express the residential entrance and transition along 26th Avenue.
 - Further differentiate the uppermost floor to achieve a more harmonious transition by removing the eyebrow cornice.
 - Wrap the front façade materials to the northern wide wall.
 - Increase the height of the bulkhead below the windows on the ground floor.
 - Revising the fenestration to a more residential scale.

The Project Sponsor made the above changes to the proposal per UDAT comments and UDAT supports the project, with the exception of the rear yard and parking setback comments subject to the variance request.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization as the project proposes to demolish two dwelling units pursuant to Planning Code Sections 303 and 317.

BASIS FOR RECOMMENDATION

The Department recommends that the demolition of the existing building containing two dwelling units and the construction of two new four-story, three-unit buildings be approved. The project is consistent with the Objectives and Policies of the General Plan and complies with the Planning Code (except for the rear yard and street frontage requirements). The project meets the criteria set forth in Planning Code Section 101.1 and 317 of the Planning Code in that:

- The project will result in a net gain of 15 bedrooms.
- The project will create six family-sized dwelling units, each with three bedrooms.

- Given the scale of the project, there would be no significant impact on the existing capacity of the local street system or MUNI.
- The replacement buildings would be consistent with the size and density of the immediate neighborhood. The project is therefore an appropriate in-fill development.
- Although the existing structure proposed for demolition is more than 50 years old, the Historic Resource Evaluation resulted in a determination that the existing building is not a historic resource or landmark.

In addition, the Department believes this project is necessary and/or desirable under Planning Code Section 303 for the following reasons:

- The project replaces existing units with more functional, family-sized housing.
- The project appropriately in-fills the site with development that is compatible with the neighborhood character of Clement Street and 26th Avenue.
- The project would bring the unit density into closer conformity with the Outer Clement NCD.
- The project area is well served by transit and the project proposes the required number of parking spaces; therefore the project should not affect traffic or MUNI.
- The project meets all applicable requirements of the Planning Code (except for the rear yard and street frontage requirements).

RECOMMENDATION: Approval with Conditions
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Attachments:

Parcel Map
Sanborn Map
Zoning Map
Aerial Photographs
Site Photograph
Conditional Use Application
Dwelling Unit Removal Application
Environmental Evaluation / Historic Resources Information
Public Comment Emails

Project Sponsor Submittal:

- Cover Letter from Alice Barkley, dated August 25, 2014
- Exhibit 1
- Letter from Mary Tom, dated August 25, 2014
- Support Letter & Petitions

Opposition Submittal:

- Cover Letter from Stephen Williams, dated August 26, 2014
- Exhibits 1-10

Renderings
Revised Drawings

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Context Photos | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Site Photos | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| | <input checked="" type="checkbox"/> Environmental Determination |

Exhibits above marked with an "X" are included in this packet

CL _____

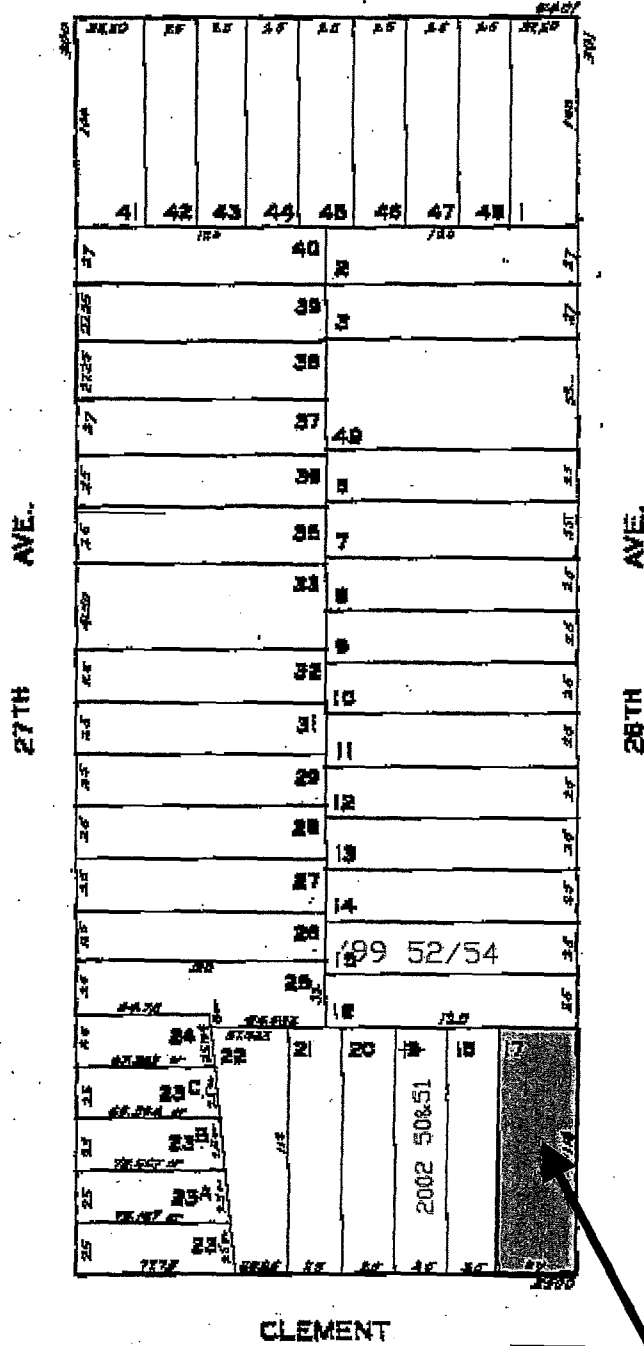
Planner's Initials

CL: G:\DOCUMENTS\2013\ICU\2013.0205\395 26th Ave - Executive Summary 082814.doc

Parcel Map

599 roll
102 roll

CALIFORNIA



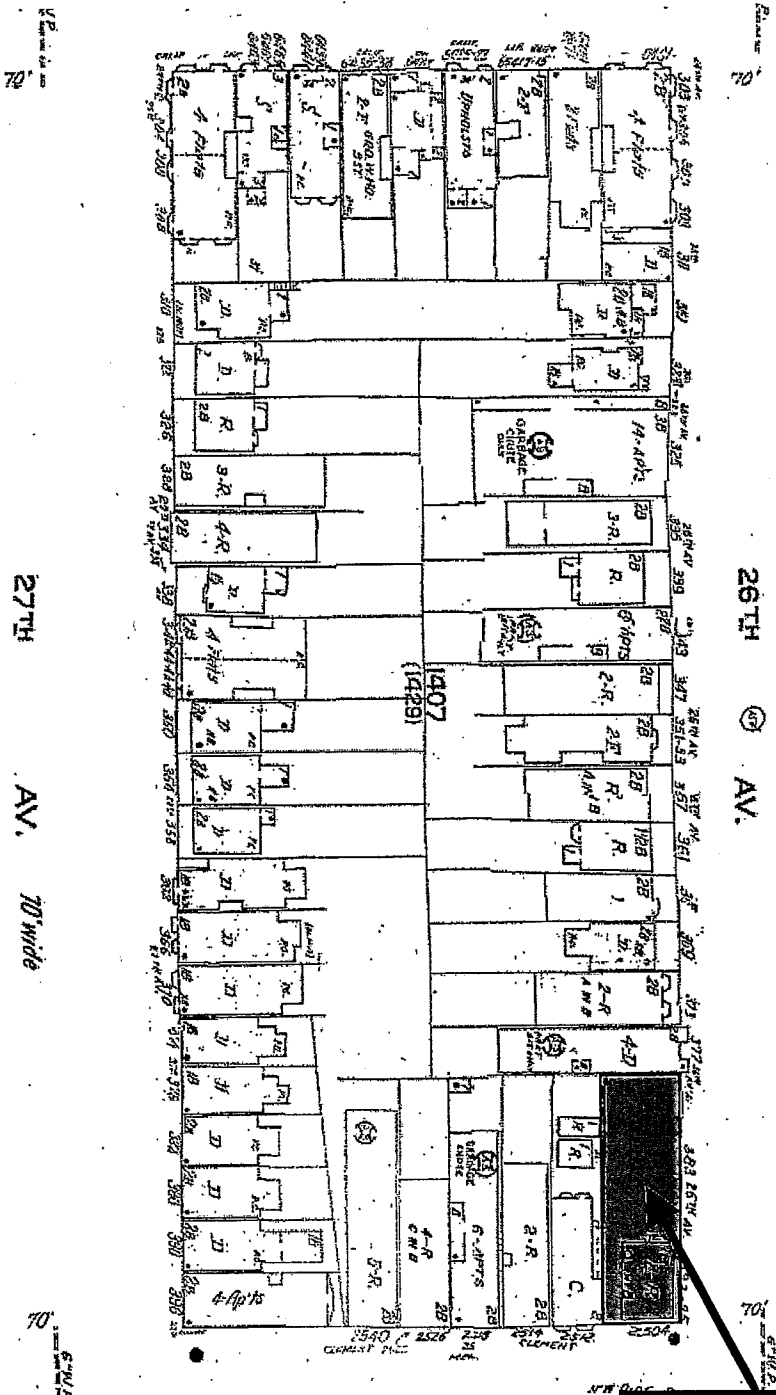
SUBJECT PROPERTY

CLEMENT

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017



Sanborn Map*



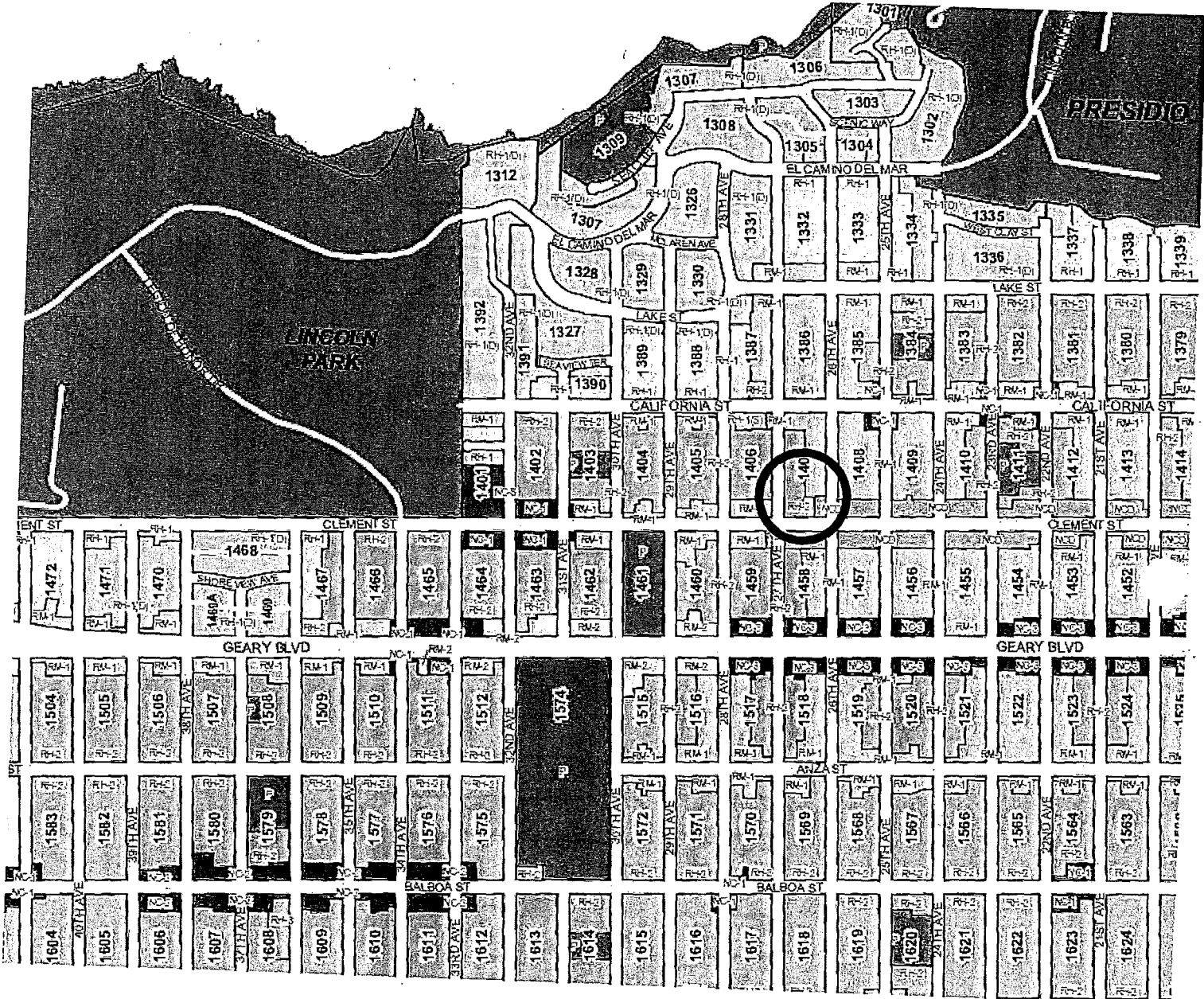
SUBJECT PROPERTY

*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
 Case Number 2013.0205CEKSV
 395 26th Avenue
 Block 1407 Lot 017

Zoning Map



Conditional Use Hearing
 Case Number 2013.0205CEKSV
 395 26th Avenue
 Block 1407 Lot 017

Aerial Photo – looking north



SUBJECT PROPERTY



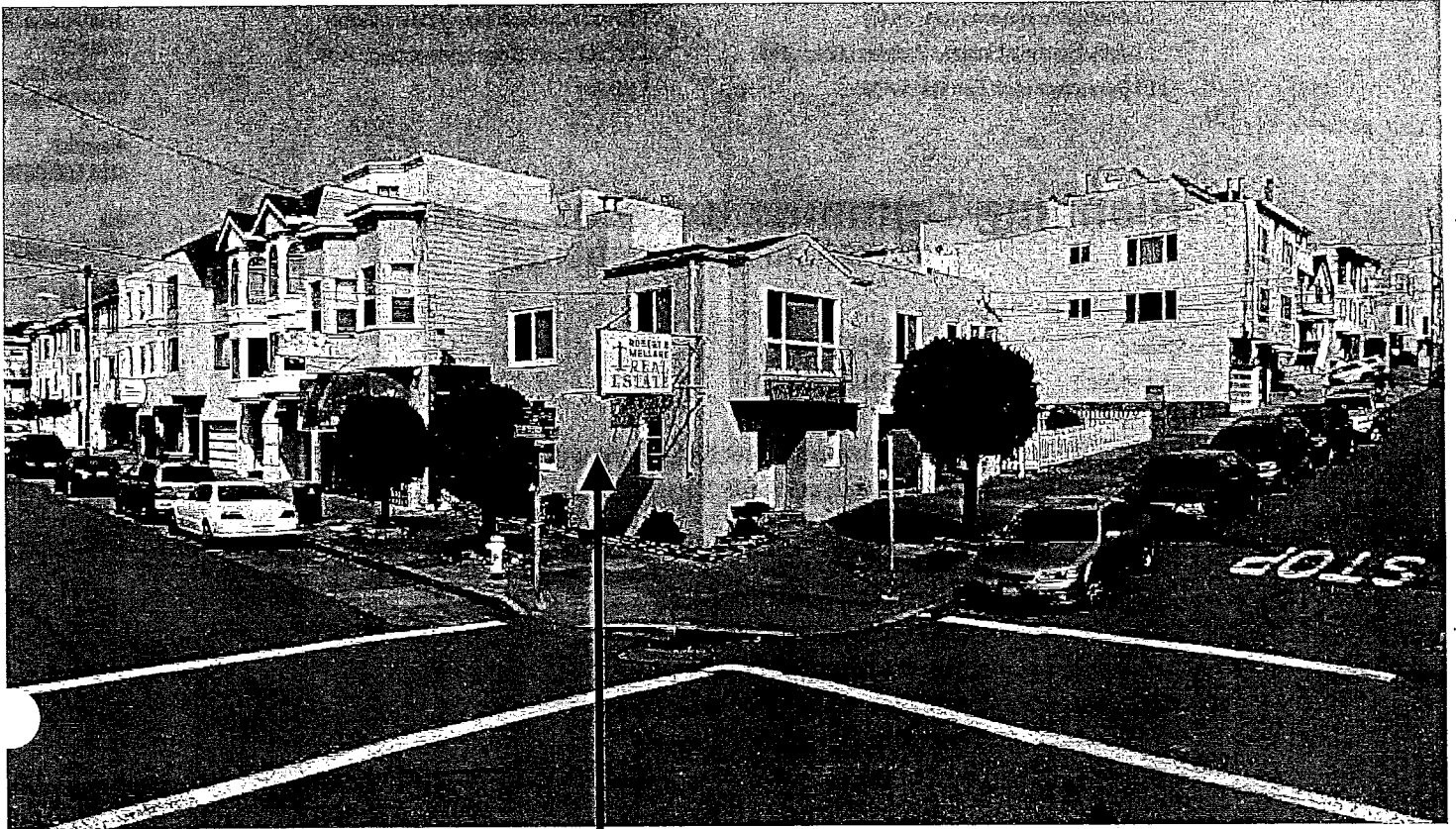
Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

Aerial Photo – looking west



SUBJECT PROPERTY

Site Photo



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

1650 Mission St.
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CA 94103-2479

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Planning
Information:
415.558.6377

Planning Commission Motion No. 19229

HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: 2013.0205CEKSV
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
 Gabriel Ng & Architects, Inc.
 1360 9th Avenue, Suite 210
 San Francisco, CA 94122
Staff Contact: Christine Lamorena -- (415) 575-9085
christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE REMOVAL OF TWO OR MORE RESIDENTIAL UNITS.

PREAMBLE

On February 26, 2013, Gabriel Ng of Gabriel Ng & Architects, Inc. (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish two residential units at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On January 16, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C. The Commission continued the item from January 16, 2014 to February 20, 2014, and then to April 4, 2014 and lastly to September 4, 2014.

On September 4, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C.

On August 26, 2014 the Project was determined by the Department to be categorically exempt from environmental review under Case No. 2013.0205E. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0205C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

3. **Site Description and Present Use.** The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor

commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

4. **Surrounding Properties and Neighborhood.** The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.
5. **Public Comment.** The Department has received the following public comment:
 - a. 112 letters and petitions in support of the project
 - b. An online petition (www.change.org) with 171 persons opposed to the project
 - c. Petitions with 137 signatures of persons opposed to the project
 - d. One email and five phone calls opposed to the project
 - e. Two phone calls with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove two or more residential units in the Outer Clement Street NCD. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317 have been incorporated as findings in this Motion. See Item 7, "Additional Findings pursuant to Section 317" below.
 - B. **Lot Size.** Planning Code Section 121 requires a lot size of 1,750 square feet for lots within 125 feet of an intersection.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 2,200 square feet and the 26th Avenue lot with frontage on 26th Avenue would measure 2,146 square feet.
 - C. **Residential Density.** Planning Code Section 717.91 permits a density ratio of one dwelling unit for each 600 square feet of lot area.

Up to four dwelling units are permitted on each of the subdivided lots. The proposed unit count of three dwelling units each complies with the prescribed density.

- D. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth at grade level and at each succeeding level or story of the building in the Outer Clement Street NCD.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 60 feet deep and the 26th Avenue lot with frontage on 26th Avenue would measure 37 feet deep. The required rear yard for the Clement Street lot is 15 feet; however, the project proposes full lot coverage on the ground floor with a roof deck above. The required rear yard for the 26th Avenue lot is also 15 feet; however, the project proposes a partial rear yard on the ground floor at a depth of 13 feet with a portion of the garage and a roof deck extending into required rear yard. Therefore, the Project Sponsor is seeking a rear yard modification for the project.

- E. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

For the Clement Street building, the project proposes 340 square feet of common open space on the proposed roof deck where 212.8 square feet are required and 519 square feet of private open space on a rear deck where 80 square feet are required. For the 26th Avenue building, the project proposes 1,044 square feet of private open space in a rear yard, rear deck, and roof deck where 240 square feet are required.

- F. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Above-Grade Parking Setback.** Off-street parking at street grade on a development lot must be set back at least 25 feet from the front of the development on the ground floor.

The project proposes parking at the property line along 26th Avenue, not set back 25 feet. The Project Sponsor is requesting a variance from this section of the Planning Code.

2. **Parking and Loading Entrances.** No more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress.

The proposed parking entrance for the Clement Street building is 16 feet wide and the proposed parking entrance for the 26th Avenue building is 12 feet wide. Two curb cuts along 26th Avenue, each 10 feet wide, are proposed.

3. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be

provided within the first 25 feet of building depth on the ground floor from any façade facing a street at least 30 feet in width.

Active ground floor uses (commercial use at the Clement Street building and residential use at the 26th Avenue building) are proposed within the first 25 feet of the building depth on the ground floor of each building.

4. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for both buildings would be a minimum of ten feet tall.

5. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The proposed active uses and residential lobbies are designed along the property lines of the subject lot.

6. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed commercial use in the Clement Street building contains approximately 911 square feet of exterior ground floor wall area. Approximately 550 square feet of wall area would be dedicated to glazing, which is equivalent to approximately 60 percent transparency.

7. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- G. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

The project proposes seven parking spaces for the six replacement dwelling units.

- H. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use.

The project proposes six Class 1 bicycle parking spaces that satisfy the bicycle parking requirements. The two Class 2 spaces are provided with a bike rack on Clement Street.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit. Planning Code Section 263.20 allows for a special height exemption of five feet for active ground floor uses.

The project proposes two replacement buildings. The Clement Street building is proposed at 45 feet tall, utilizing the five-foot height exemption for an active ground floor use as a commercial space. The 26th Avenue building is proposed to be 40 feet tall.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. While the project proposes demolition of two units, the proposed density of six units distributed into two, three-unit buildings is more desirable in terms of compatibility with the surrounding housing density and the Outer Clement Street NCD. The replacement buildings are also designed to be consistent with the existing development pattern and the neighborhood character. Both new buildings are four-story buildings; however, the building fronting on 26th Avenue proposes a design and massing that respects the predominant pattern of three-story residential facades along both sides of 26th Avenue.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project is designed to be compatible with the surrounding neighborhood and specifically with the adjacent buildings. The proposed size, shape and arrangement of the project are in keeping with the development pattern of the block. The 26th Avenue building is set back at the rear and side to respect a single-family noncomplying structure in the adjacent lot at 2510-2512 Clement Street and property line windows in the adjacent lot at 377 26th Avenue.

- ii. 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;

The Planning Code requires six parking spaces for the replacement buildings. Seven spaces are proposed, where currently there are three surface lot spaces provided for the existing building.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project is primarily residential in nature with approximately 867 square feet of commercial space, which is an increase in floor area from the existing 464 square feet. The proposed residential density and commercial intensity are not anticipated to produce noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement buildings have been appropriately selected to be harmonious with the existing surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code except for rear yard and street frontage and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the Outer Clement Street NCD.

The proposed project is consistent with the stated purpose of the Outer Clement NCD. The NCD allows for up to one dwelling unit per 600 square feet of lot area. With proposed lot areas of 2,200 square feet and 2,146 square feet after the lot subdivision, six dwelling units would be permitted. The project proposes six dwelling units.

- 8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where *soundness* is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The *soundness factor* for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion.

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion.

Although the existing structures are more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion.

Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion.

The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion.

The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion.

The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion.

The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

*Project does not meet criterion.
The project does not create supportive housing.*

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

*Project meets criterion.
The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.*

- xvi. Whether the Project increases the number of on-site dwelling units;

*Project meets criterion.
The project would increase the number of on-site units with a net gain of four units.*

- xvii. Whether the Project increases the number of on-site bedrooms.

*Project meets criterion.
The project proposes 18 bedrooms. The existing building contains three bedrooms.*

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:
RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1:
Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

The project proposes demolition of two dwelling units with the construction of six dwelling units.

URBAN DESIGN

OBJECTIVE 1:
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

The project proposes demolition of the existing building. Similar to other existing structures on the block face, both proposed buildings contain garages at the ground floor that are to be constructed to the front lot line with residential uses above.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The four-story replacement building at the corner of Clement Street and 26th Avenue is consistent with the pattern of three- and four-story buildings found along the block face. The four-story replacement building fronting 26th Avenue reinforces the existing pattern of three-story buildings found on both sides of the street, as the proposed fourth floor is designed to create the appearance of a three-story structure at the front façade and along the block face.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The massing of the replacement buildings' main front façades have been designed to be compatible with the prevailing street wall height, particularly the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Existing neighborhood-serving retail uses would be enhanced as the project proposes to expand the ground floor commercial use on Clement Street from 464 square feet to 897 square feet. The additional bedrooms in the replacement buildings would house more individuals to patronize the existing neighborhood-serving retail uses.

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

While the existing housing is proposed to be demolished, the new replacement buildings conserve the number of dwelling units in the existing buildings while providing a net gain of four units.

- C. That the City's supply of affordable housing be preserved and enhanced,

While the affordability of the existing units is not preserved since they are proposed to be demolished, the units are not considered "affordable housing" per Planning Code Section 415 and/or the Mayor's Office of Housing. The proposal to construct six family-sized units at the project site enhances the "affordability" of the units more than if a fewer number of dwelling units were proposed.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing seven off-street parking spaces, where three spaces currently exist.

- E. 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 project is a mixed-use project in the Outer Clement Street NCD; therefore the project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The replacement structures would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

A shadow study was prepared and the project's shadow does not reach any parks or open space under the jurisdiction of the Department of Recreation and Parks. The project will have no negative effect on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0205C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17820. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on September 4, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson

NAYS: Moore, Richards, Wu

ABSENT: None

RECUSED: None

ADOPTED: September 4, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of two residential units located at 395 26th Avenue pursuant to Planning Code Section(s) 303 and 317 within the Outer Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated October 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0305C and subject to conditions of approval reviewed and approved by the Commission on September 4, 2014 under Motion No 19229. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 16, 2014 under Motion No 19229.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19229 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. **Subdivision.** The Project Sponsor shall submit a lot subdivision application proposing to subdivide the lot into two lots prior to Planning approval of the building permit application.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than eight bicycle parking spaces (six Class 1 spaces for the residential portion of the Project and two Class 2 spaces for the commercial portion of the Project).
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
12. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide six off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

14. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
15. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

16. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when

being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

17. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

18. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



SAN FRANCISCO PLANNING DEPARTMENT

Rear Yard Modification & Variance Decision

Date: October 24, 2014
Case No.: 2013.0205CEKSY
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DESCRIPTION OF REAR YARD MODIFICATION & STREET FRONTAGE VARIANCE SOUGHT:

The proposal is to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces.

Per Section 134 of the Planning Code the subject property is required to maintain a rear yard of approximately 15 feet at all levels. The proposed buildings do not provide the required rear yard depth on the ground floor.

Per Section 145.1 of the Planning Code the subject property is required to set back parking 25 feet from any street frontage. The proposed parking is not set back 25 feet from the 26th Avenue frontage.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 32 categorical exemption. The Certificate of Determination was issued on August 26, 2014.
2. The Zoning Administrator held a public hearing on the requests for Rear Yard Modification and Variance Application No. 2013.0205V on September 4, 2014.
3. Neighborhood Notification required by Planning Code Section 311 for Building Permit Application Nos. 2013.03.05.1498, 2013.03.05.1501, and 2013.03.05.1508 were mailed on December 26, 2013 and expired on January 16, 2014 in conjunction with the Conditional Use Authorization hearing notice (Case No. 2013.0205C).

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Modification and Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Modification and Variance Case Number.

FINDINGS:

REAR YARD MODIFICATION

Planning Code Section 134(e) states that in order to grant a rear yard modification, and in accordance with Section 307(g), the Zoning Administrator must determine that the facts of the case are sufficient to establish each of the following criteria:

CRITERION 1.

Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.

Requirement Met.

- A. The proposed project would provide six new dwelling units and would require a rear yard of approximately 555 square feet for proposed Lot A and 870 square feet for proposed Lot B, equal to 25 percent of the lot area for the respective lots, at all levels. Per Planning Code Section 135,

the project is required to provide 100 square feet of common usable open space for each dwelling unit, 80 square feet of private usable open space, or a combination of the two. On proposed Lot A, the proposed deck would provide 519 square feet of private open space for the second floor unit and the proposed roof deck would provide 340 square feet of common open space for the third and fourth floor units. On proposed Lot B, the proposed rear yard would provide approximately 754 square feet of common open space and the proposed roof deck would provide an additional 316 square feet of common open space for all units. The proposed size and configuration of the decks and rear yard are considered more useable than the otherwise required rear yard for both lots and would exceed the required amount of usable open space for the proposal.

CRITERION 2.

The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.

Requirement Met.

- A. The proposed project is located on a corner lot with massing organized in such a way that does not create significant adverse effects on the adjacent properties. On proposed Lot B, the proposal includes a rear yard depth of approximately 13 feet to allow for access of light and air to an existing noncomplying one-story residential building in the adjacent property's rear yard. Additionally, providing the code-required rear yards would not alter the overall 4-story height of the buildings, and therefore would have little impact on the amount of light, air, and views of adjacent properties.

CRITERION 3.

The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yard of adjacent properties.

Requirement Met.

- A. The subject property is a corner lot, and the adjacent buildings to the north and west separate it from the existing interior block open space. As such, any rear yard provided on the subject property will be stand-alone, and would not contribute to the interior block open space. Therefore, the proposed project would not adversely affect the interior block area.

VARIANCE

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject property is a corner lot with approximately 37 feet of frontage on Clement Street and approximately 118 feet of frontage on 26th Avenue. The proposal would provide off-street parking access to at-grade garages with two 10-foot curb cuts on 26th Avenue while maintaining a pedestrian realm along Clement Street. Additionally, the amount of on-street parking spaces would remain the same.

The existing property has a depth of only 37 feet measured from 26th Avenue. Providing the required 25-foot off-street parking setback of off 26th Avenue would leave only 12 feet of building area to provide off-street parking, which is inadequate. Additionally, due to the narrow nature of the property, locating the required off-street parking deeper into the lot would conflict with the rear yard requirements of Planning Code Section 134. Providing no parking for the project would require a parking modification pursuant to Planning Code 161(j) or a parking variance.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. Based on the subject property's size and shape, strict enforcement Planning Code Section 145.1 would result other noncomplying features for the project, such as a less conforming rear yard, or a significant deficiency in required off-street parking. It could also result in the addition of a curb cut along Clement Street for proposed Lot A, which would limit the amount of active space and non-residential space that could be provided along the Neighborhood Commercial District corridor.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- B. The Outer Clement Street NCD requires a minimum of one off-street parking space per residential dwelling unit. The project meets this provision and employs space-efficient parking techniques so that the ground floor can also accommodate residential lobbies and commercial space (proposed Lot A) or additional residential space (proposed Lot B). The variance is necessary to ensure that the subject property can provide the parking required by the Planning Code in a space efficient manner, which is a substantial property right possessed by other properties in the Outer Clement Street NCD.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. Due to the use of car stackers, granting the variance would result in only one curb cut on 26th Avenue for each of the two proposed properties, which is standard in this and many other parts of the City. This also allows the two proposed buildings to still provide active uses on the ground floors to help ensure a more positive interaction at the street level. As such, granting the variance would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
1. Existing neighborhood retail uses will not be adversely affected by the proposed project. The existing commercial space on the ground floor is small, does not have a traditional storefront system, and generally provides very little transparency to the street. The proposed replacement commercial space will enhance the corner and represent a much more active use.
 2. The proposed project will be in keeping with the existing housing and neighborhood character.
 3. The proposed project will have no effect on the City's supply of affordable housing.
 4. The proposed project does not adversely affect neighborhood parking or public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

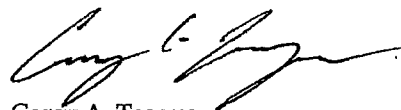
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,



Corey A. Teague
Acting Zoning Administrator

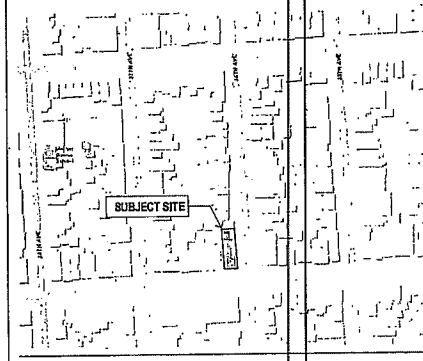
THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

CL: G:\DOCUMENTS\2013\Vs\2013.0205\395 26th Ave - Variance Decision Letter.doc
Copy to I:\Decision Documents\Variance Decision Letters\2013\2013.0205V - 395 26th Ave - Decision Letter



SHEET INDEX

- A-0.0 RENDERING FROM CLEMENT STREET & 26TH AVENUE
- A-0.1 RENDERING FROM 26TH AVE LOOKING SOUTH
- A-0.2 RENDERING FROM CLEMENT STREET LOOKING NORTH
- A-0.3 CONTEXT PHOTOS
- A-1.0 SITE PLAN / PROJECT INFORMATION
- A-1.1 EXISTING / DEMO FLOOR PLANS & ELEVATIONS
- A-2.0 2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS
- A-2.1 381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS
- A-3.0 ELEVATIONS WITH FINISH MATERIALS
- A-3.1 ELEVATIONS
- A-3.2 SIDE ELEVATIONS
- A-3.3 SECTIONS



VICINITY MAP

2267



GABRIEL NG + ARCHITECTS INC.
 109 9TH AVENUE, SUITE 210
 FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM CLEMENT STREET & 26TH AVENUE

SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	
3/12/14	
5/23/14 - ADD STC REQ'M.	AL

A-0.0



2268



GABRIEL NG + ARCHITECTS INC.
 1360 9TH AVENUE, SUITE 210
 SAN FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

**TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE**

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM 26TH AVE LOOKING SOUTH

SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A=-0.1



2269



GABRIEL NG + ARCHITECTS INC.

100 9TH AVENUE, SUITE 210
 FRANCISCO CA 94122
 682-8060 eFax 510-281-1359

**TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE**

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

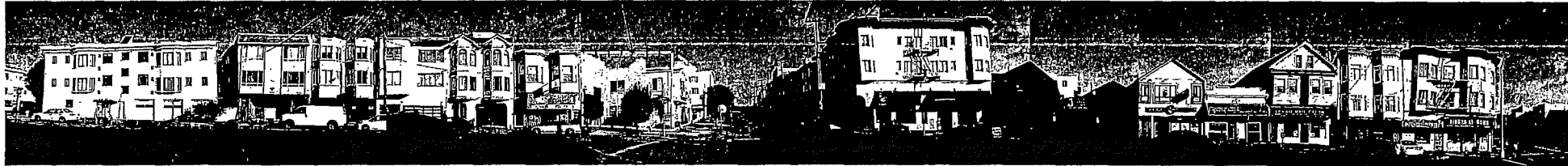
RENDERING FROM CLEMENT STREET LOOKING NORTH

SCALE:

9/16/13	YIP
10/24/13	YIP
2/28/14	
3/12/14	
5/23/14 - ADD STC REQ'M	AL

A-0.2

SUBJECT SITE



1 SUBJECT AND ADJACENT BUILDINGS ON CLEMENT STREET



2 BUILDINGS ACROSS THE STREET ON CLEMENT STREET

22

SUBJECT SITE



3 SUBJECT AND ADJACENT BUILDINGS ON 26TH AVENUE



4 BUILDINGS ACROSS THE STREET ON 26TH AVENUE



GABRIEL NG + ARCHITECTS INC.
1360 9TH AVENUE, SUITE 210
SAN FRANCISCO CA 94122
415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
BLOCK 1407, LOT 017
SAN FRANCISCO, CA 94121

CONTEXT PHOTOS

SCALE:

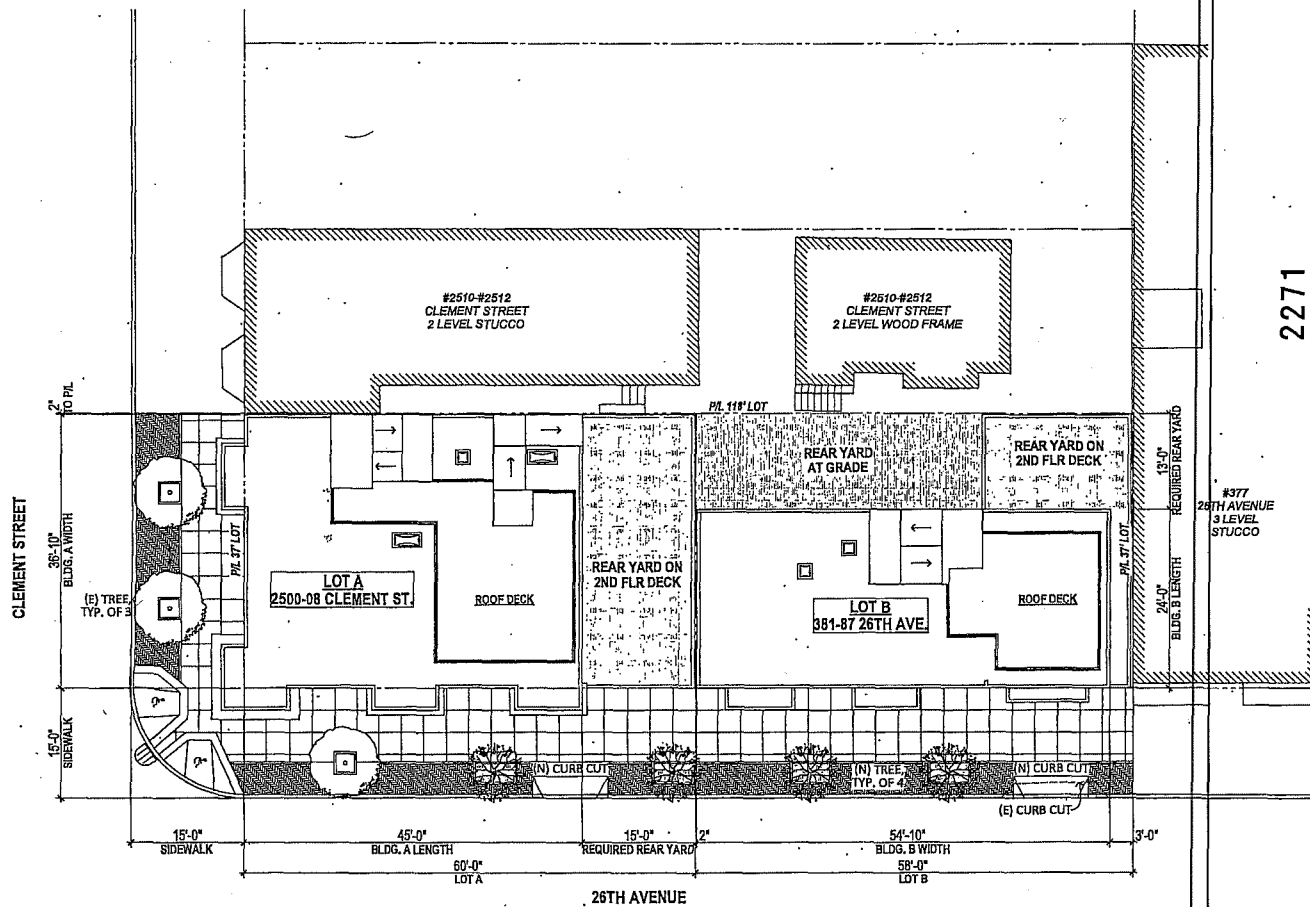
9/16/13 YIP
10/24/13 YIP
2/28/14 YIP
3/12/14 YIP
5/23/14 - ADD STC REQ'MT. MML

A-0.3

PROPERTY INFORMATION	
ADDRESS	EXISTING
BLOCK / LOT	395 26TH AVE.
LOT SIZE	1407 / 017
LOT AREA	118' x 37'
# OF RESIDENTIAL UNITS	4,366 S.F.
# OF OFFICE SPACES	2
	1

PROJECT PROPOSAL INFORMATION		
	LOT A	LOT B
ADDRESS	2500-02-06-08 CLEMENT ST.	381-83-87 26TH AVE.
LOT SIZE BY SUBDIVISION	60' x 37'	58' x 37'
LOT AREA	2,220 S.F.	2,146 S.F.
# OF RESIDENTIAL UNITS	3	3
# OF RETAIL SPACES	1	0
BUILDING HEIGHT	45'	40'

ZONING INFORMATION		CODE SECTION
ZONING	OUTER CLEMENT ST, NCD	\$717
HEIGHT LIMIT	40'-X, ADDITIONAL 5' FOR PARCELS WITH ACTIVE USES	\$263.20(b)(2)(B)
RESIDENTIAL DENSITY	1 UNIT PER 600 S.F.	\$207.4
VARIANCE REQUESTED	REQUIRED REAR YARD AT GROUND & 2ND - 4TH LEVELS PARKING WITHIN 25' OF STREET FRONTAGE	\$134(a) & (e) \$145.1(c)(1)(C)
CONDITIONAL USE REQUESTED	DWELLING UNIT REMOVAL ON 2ND FLOOR	\$717.39
SHADOW STUDY	BUILDINGS EXCEEDING 40' IN HEIGHT	\$295



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 709 9TH AVENUE, SUITE 210
 FRANCISCO CA 94122
 682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

SITE PLAN / PROJECT INFORMATION

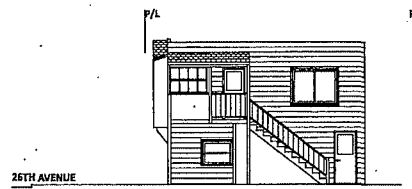
SCALE: 1/16" = 1'-0"



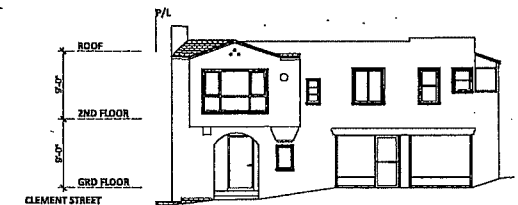
9/16/13 YIP
 10/24/13 YIP
 2/28/14
 3/12/14
 5/23/14 - ADD STC REQ'M.

A-1.0

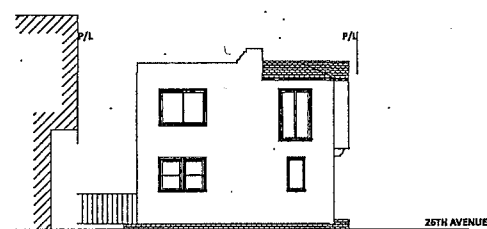
2271



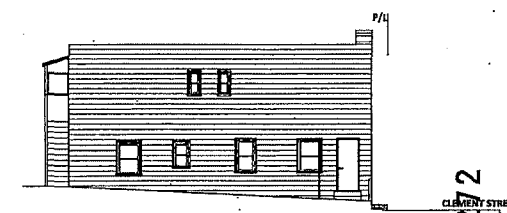
(E) NORTH ELEVATION



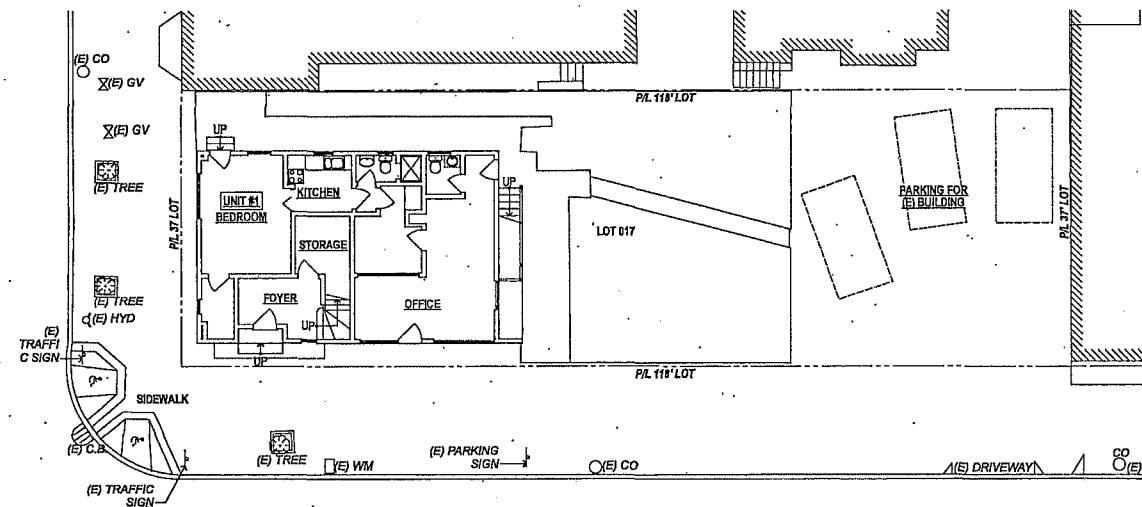
(E) EAST ELEVATION



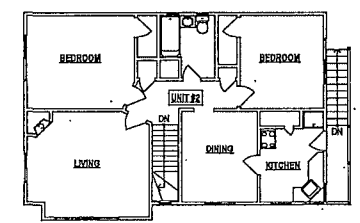
(E) SOUTH ELEVATION



(E) WEST ELEVATION



EXISTING GROUND FLOOR PLAN



EXISTING SECOND FLOOR PLAN

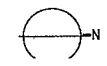
22/2



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 SAN FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

EXISTING / DEMO FLOOR PLANS & ELEVATIONS
 SCALE: 1/16" = 1'-0"



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-1.1

2500-02-06-08 Clement St. Lot A

Area Calculation (in square feet):

	2500 (Retail)	2502	2506	2508	Common Area	Garage	Total
4th Floor				1,601	182		1,783
3rd Floor			1,601		182		1,783
2nd Floor		1,601			182		1,783
Ground Floor	851				645	688	2,184
Total	851	1,601	1,601	1,601	1,191	688	7,533

Total Living Area for all Units = 4,803 S.F.
 Total Retail = 851 S.F.
 Total Common & Garage Area = 1,879 S.F.
 Total Gross Area = 7,533 S.F.

Open space calculation (in square feet) per 5135(d):

	Required	Proposed
Common	212.8 (80x1.33x2)	340
Private	80 (2nd floor)	519
Total	292.8 total	859 total

Off-street Parking Requirement per 5151:

	Required	Proposed
Car	3 total (1 per each residential unit)	4 total (3 Res & 1 Retail)

Bicycle Parking Requirement per 5155.5:

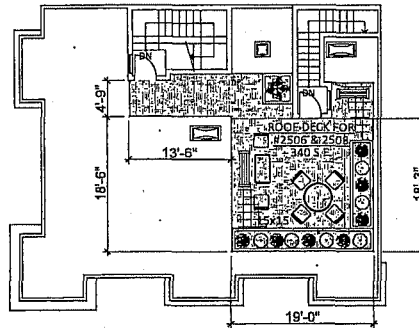
	Required	Proposed
Class 1	3 total (1 per each residential unit)	3 total
Class 2	2 per each commercial	2 total

Ground Floor Glazing Area Calculation

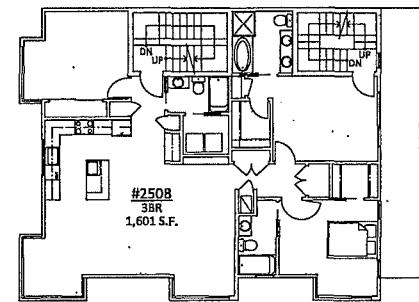
Wall area calculation	Wall width (ft.)	Ceiling ht. (ft.)	Wall area (s.f.)
Clement St. frontage	36.83	13.5	497.21
26th Ave. frontage	30.67	13.5	414.05
Total wall area			911.25

Glazing area calculation	Glazing area (s.f.)
Clement St. frontage	302.00
26th Ave. frontage	248.00
Total glazing area	550.00

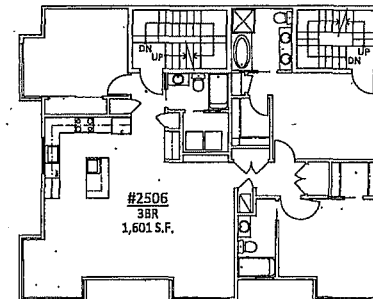
Glazing = 550.00
 Wall = 911.25 x100 = 60.4%



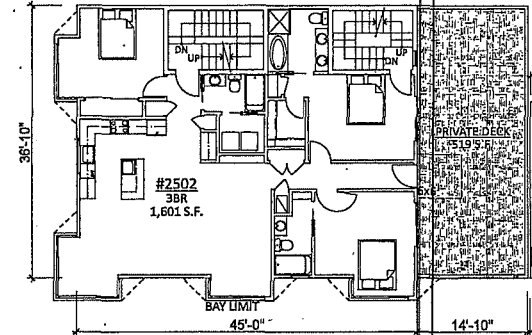
ROOF PLAN



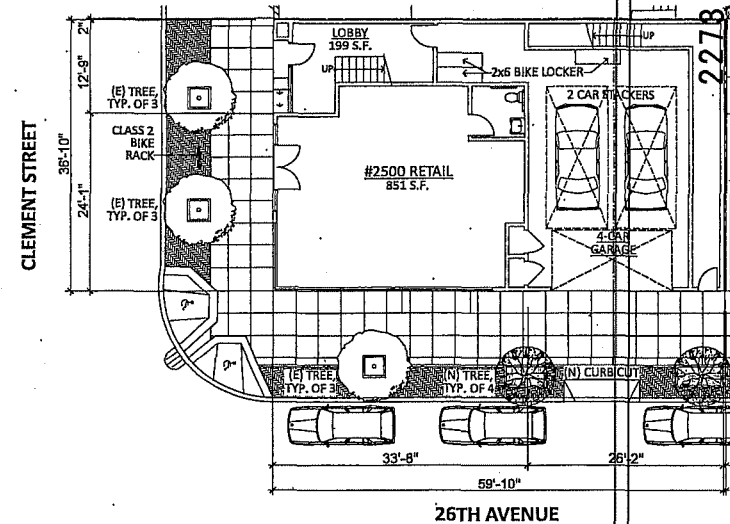
FOURTH FLOOR PLAN



THIRD FLOOR PLAN



SECOND FLOOR PLAN



GROUND FLOOR PLAN



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 709TH AVENUE, SUITE 210
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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

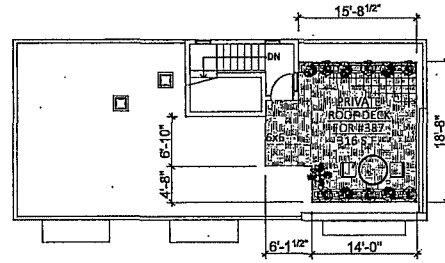
BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS

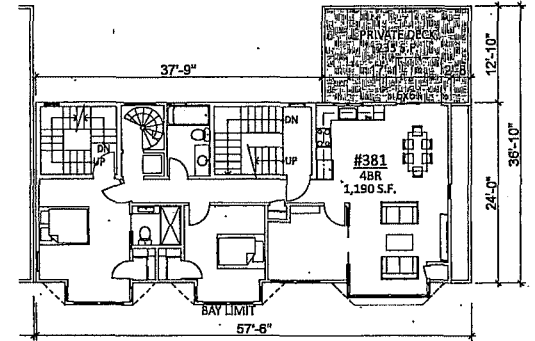
SCALE: 1/16" = 1'-0"



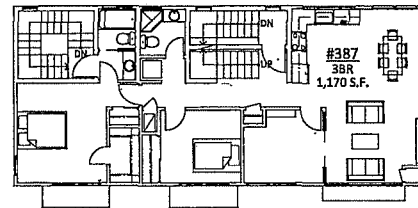
9/16/13 YIP
 10/24/13 YIP
 2/28/14
 3/12/14
 5/23/14 - ADD STC REQ/MT. JL



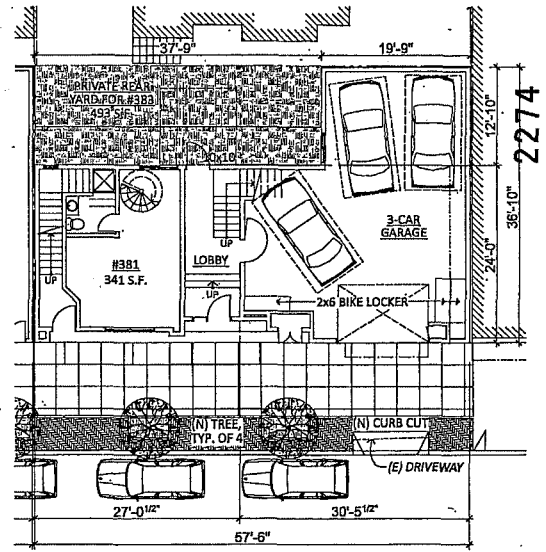
ROOF PLAN



SECOND FLOOR PLAN

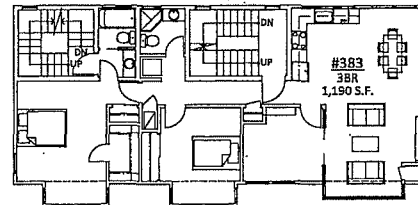


FOURTH FLOOR PLAN



26TH AVENUE

GROUND FLOOR PLAN



THIRD FLOOR PLAN

381-83-87 26th Ave. Lot B

Area Calculation (in square feet):

	381	383	387	Common Area	Garage	Total
4th Floor			1,170	146		1,316
3rd Floor		1,190		202		1,392
2nd Floor	1,190		202			1,392
Ground Floor	341			354	872	1,567
Total	1,531	1,190	1,170	904	872	5,667

Total Living Area for all Units = 3,891 S.F.
 Total Common & Garage Area = 1,776 S.F.
 Total Gross Area = 5,667 S.F.

Open space calculation (in square feet) per §195(d):

	Required	Proposed
Private	240	1044 total
(80/unit x 3)		

Off-street Parking Requirement per §151:

	Required	Proposed
Car	3 total	3 total
(1 per each residential unit)		

Bicycle Parking Requirement per §155.5:

	Required	Proposed
Class 1	3 total	3 total
(1 per each residential unit)		



GABRIEL NG + ARCHITECTS INC.

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 415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

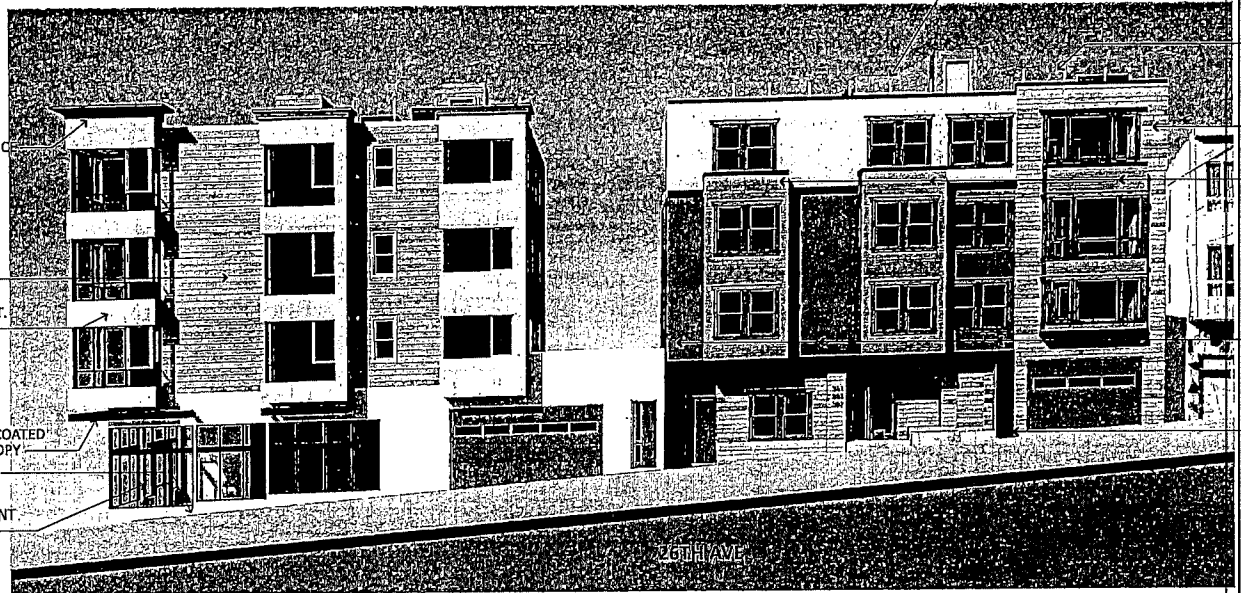
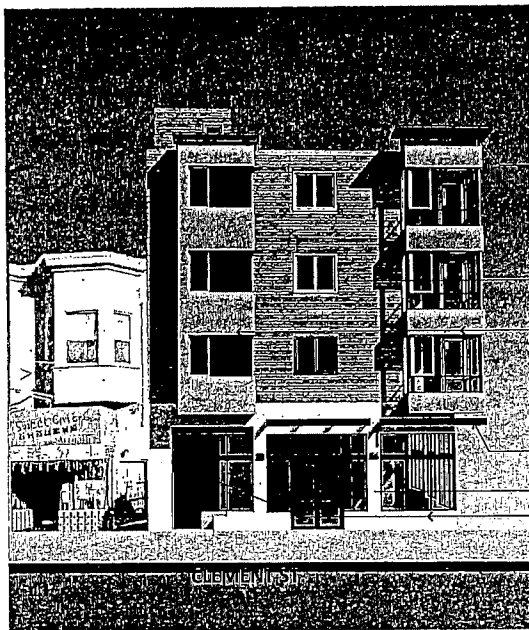
381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS

SCALE: 1/16" = 1'-0"



9/16/13 YIP
 10/24/13 YIP
 2/28/14 YIP
 3/12/14 YIP
 5/23/14 - ADD STC REQ'MT. MML

A-2.1



WD. CORNIC
WOOD SIDING
3-COAT EXT. STUCCO
POWDER-COATED MET. CANOPY
SLATE TILE
ALUM. STOREFRONT SYSTEM

STAIR PENTHOUSE
GLASS GUARDRAIL
WOOD SIDING
WOOD SIDING
3-COAT EXT. STUCCO
SLATE TILE FRAME

275



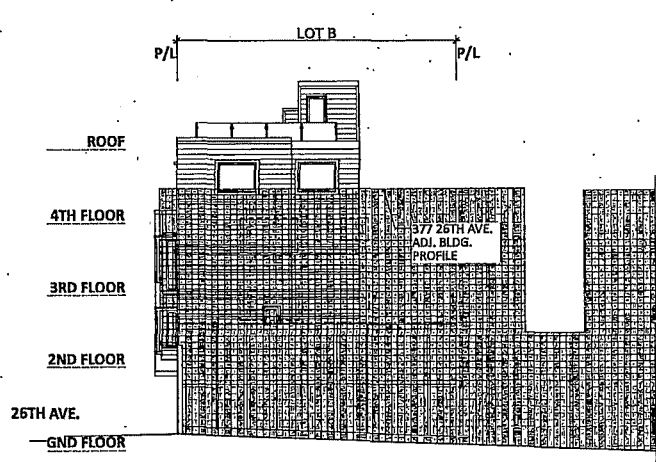
GABRIEL NG + ARCHITECTS INC.
109TH AVENUE, SUITE 210
SAN FRANCISCO CA 94122
682-8060 eFax 510-281-1359

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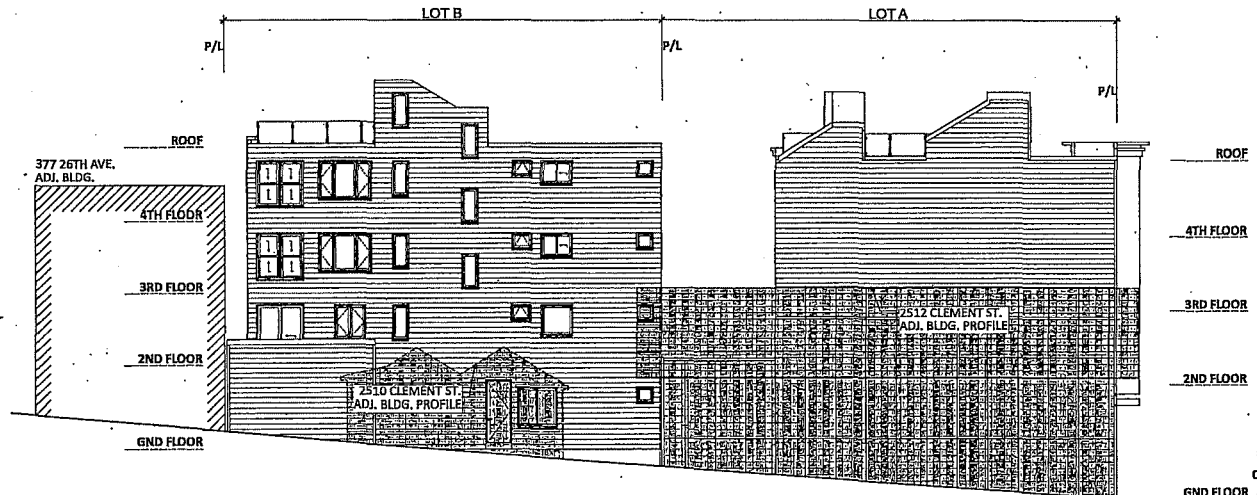
ELEVATIONS WITH FINISH MATERIALS
SCALE: N.T.S.

9/16/13 YIP
10/24/13 YIP
2/28/14
3/12/14
5/23/14 - ADD STC REQ'M.

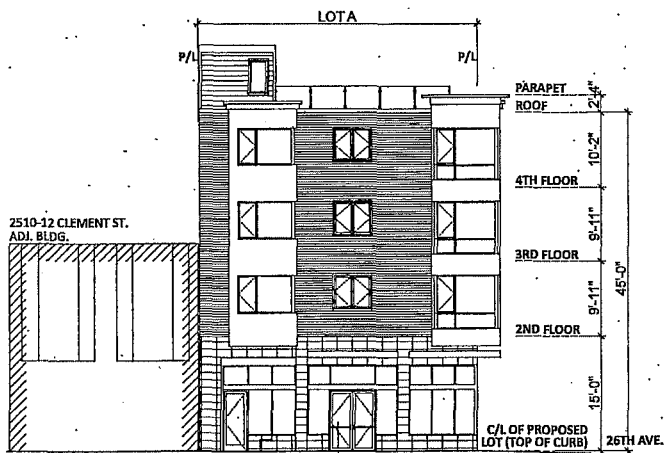
A-3.0



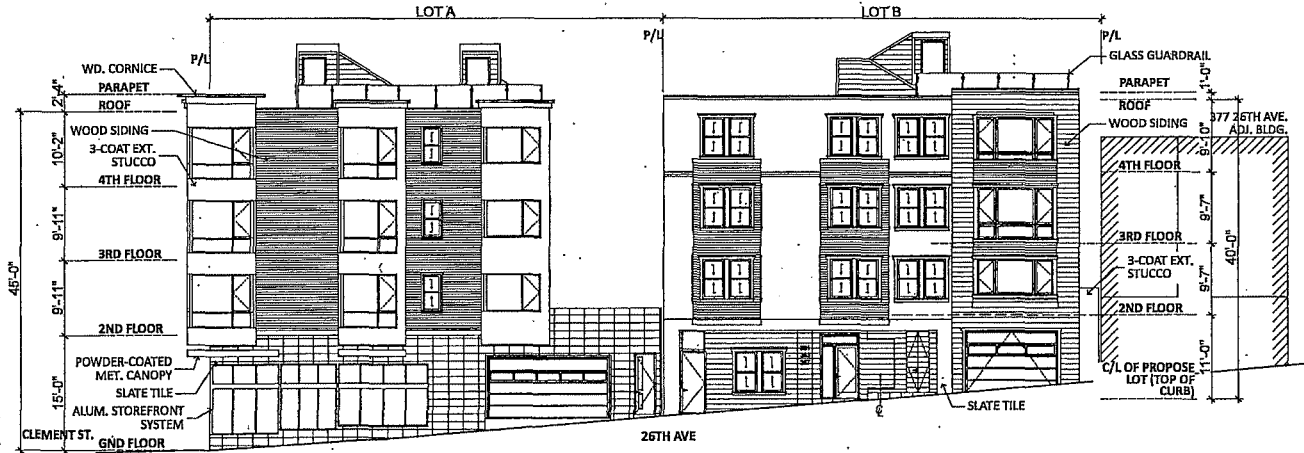
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

ALL WINDOWS WITHIN LIVING AREA TO HAVE MINIMUM SOUND RATING OF STC 28, EXCEPT FOR BEAR FACING WINDOWS OF BUILDING 8, AND SUPPLEMENTAL MECHANICAL VENTILATION FOR EACH UNIT, PER NOISE EVALUATION REPORT BY WALSH, NORRIS & ASSOCIATES, INC. DATED 5/20/14

226



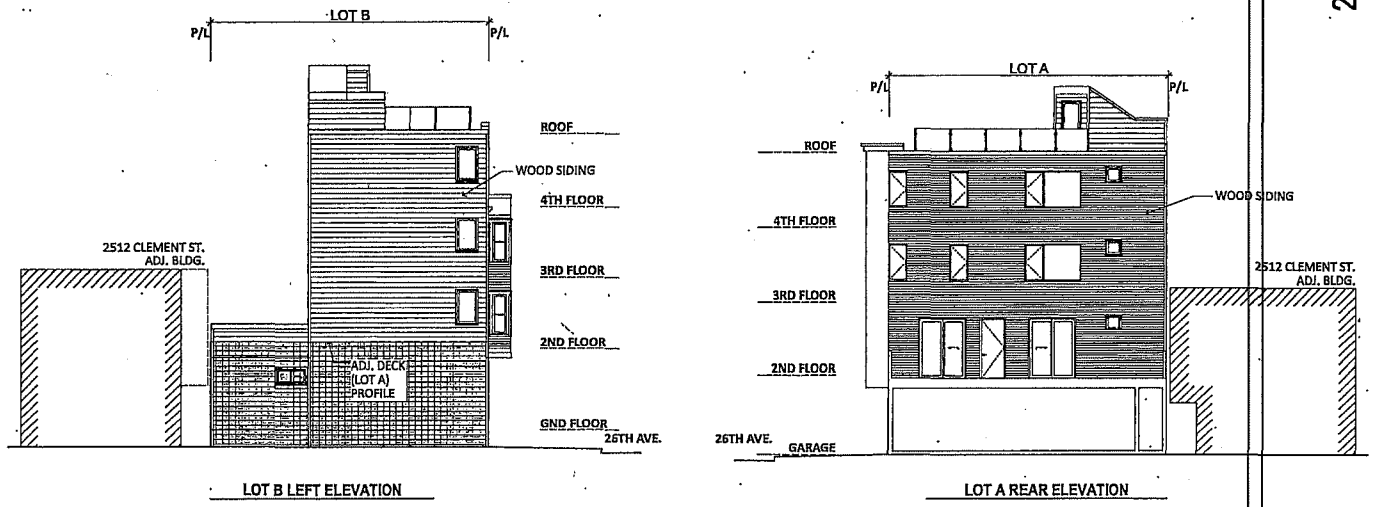
GABRIEL NG + ARCHITECTS INC.
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 SAN FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
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 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

ELEVATIONS
 SCALE: 1/16" = 1'-0"

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-3.1



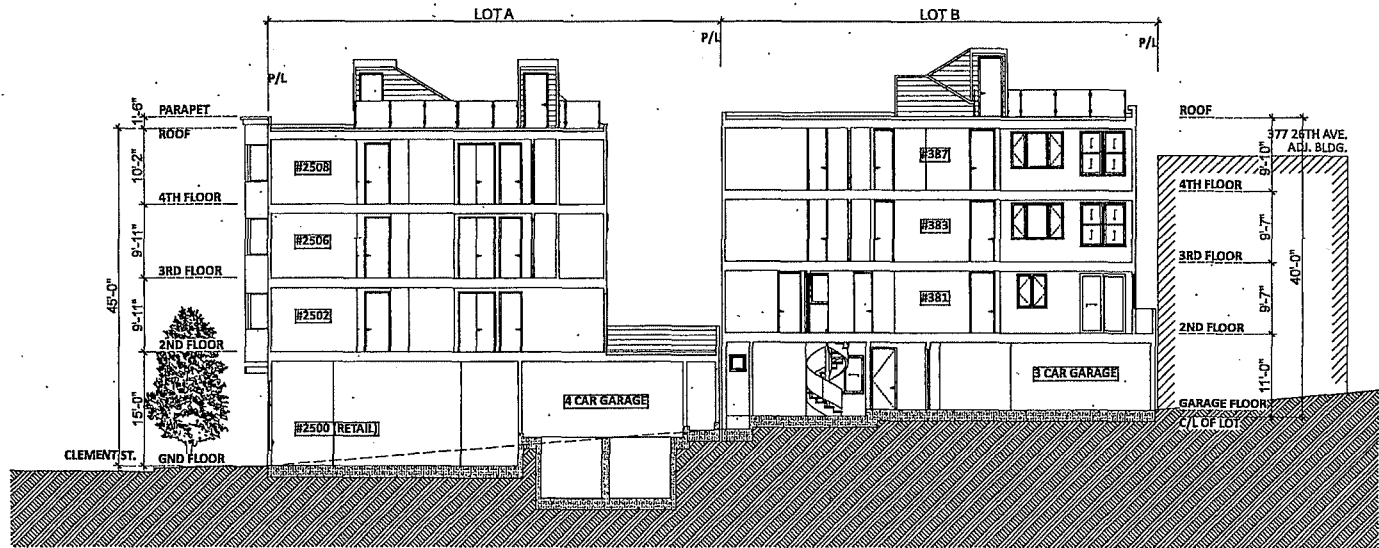
ALL WINDOWS WITHIN LIVING AREA TO HAVE MINIMUM SOUND RATING OF STC 28, EXCEPT FOR REAR FACING WINDOWS OF BUILDING B, AND SUPPLEMENTAL MECHANICAL VENTILATION FOR EACH UNIT, PER NOISE EVALUATION REPORT BY WALSH, NORRIS & ASSOCIATES, INC. DATED 5/20/14

GABRIEL NG + ARCHITECTS INC.
 90 9TH AVENUE, SUITE 210
 FRANCISCO CA 94122
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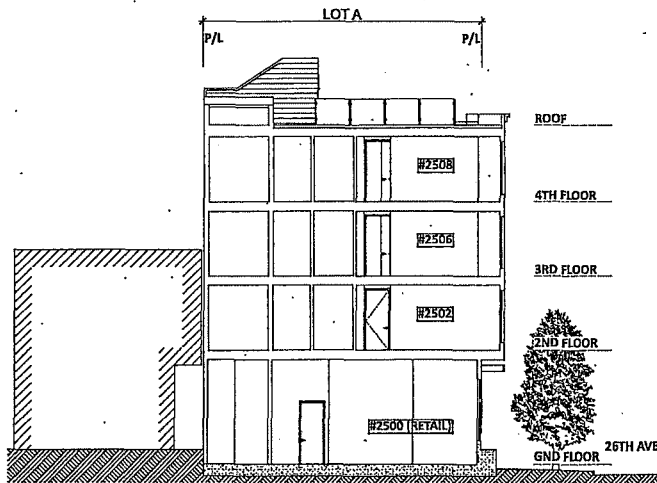
TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

SIDE ELEVATIONS
 SCALE: 1/16" = 1'-0"

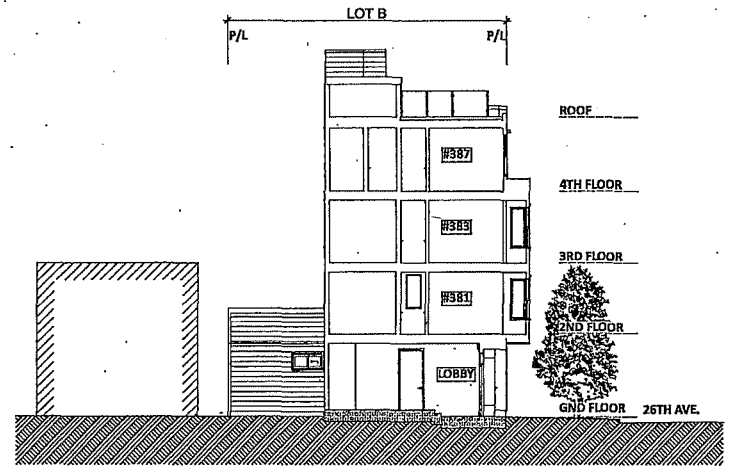
9/16/13	YIP
10/24/13	YIP
2/28/14	
3/12/14	
5/23/14 - ADD STC REQ'M.	ML



LONGITUDINAL SECTION



BUILDING A - CROSS SECTION



BUILDING B CROSS SECTION

2278



GABRIEL NG + ARCHITECTS INC.

1360 9TH AVENUE, SUITE 210
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2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE

BLOCK 1407, LOT 017
SAN FRANCISCO, CA 94121

SECTIONS

SCALE: 1/16" = 1'-0"

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-3.3

From: Caldeira, Rick (BOS)
Sent: Thursday, October 30, 2014 5:01 PM
To: Barkley, Alice
Cc: Stephen M. Williams; True, Judson; Lamug, Joy; Shanagher, Denis; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS); Chiu, David (BOS)
Subject: Re: Conditional Use Appeal hearing - 395 - 26th Avenue

Ms. Barkley,
Mall of these items will be appropriately referred and incorporated into the file. Rick

On Oct 30, 2014, at 4:53 PM, Barkley, Alice <ABarkley@mckennalong.com> wrote:

Mr. Calderia

The project sponsor agrees to continue the subject hearing from November 4 to November 25, 2014.

Alice Barkley

Alice Barkley | Contract Attorney
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor | San Francisco, CA 94105
Tel: 415.356.4635 | Fax: 415.356.3888 | ABarkley@mckennalong.com

Albany | Atlanta | Brussels | Denver | Los Angeles | Miami | New York | Northern Virginia
Orange County | Rancho Santa Fe | San Diego | San Francisco | Seoul | Washington, DC



Please consider the environment before printing this e-mail

From: Caldeira, Rick (BOS) [<mailto:rick.caldeira@sfgov.org>]
Sent: Thursday, October 30, 2014 4:44 PM
To: Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Shanagher, Denis; Barkley, Alice; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Thank you Mr. Williams,
Your letter shall be placed in the file. Rick.

From: Stephen M. Williams [<mailto:smw@stevewilliamsllaw.com>]
Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

Steve Williams

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115
Phone: (415) 292-3656
Fax: (415) 776-8047

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From: Barkley, Alice [ABarkley@mckennalong.com]
Sent: Thursday, October 30, 2014 4:53 PM
To: Caldeira, Rick (BOS); Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Shanagher, Denis; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Mr. Calderia

The project sponsor agrees to continue the subject hearing from November 4 to November 25, 2014.

Alice Barkley

Alice Barkley | Contract Attorney
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor | San Francisco, CA 94105
Tel: 415.356.4635 | Fax: 415.356.3888 | ABarkley@mckennalong.com

Albany | Atlanta | Brussels | Denver | Los Angeles | Miami | New York | Northern Virginia
Orange County | Rancho Santa Fe | San Diego | San Francisco | Seoul | Washington, DC



Please consider the environment before printing this e-mail

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Sent: Thursday, October 30, 2014 4:44 PM
To: Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Shanagher, Denis; Barkley, Alice; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Thank you Mr. Williams,
Your letter shall be placed in the file. Rick.

From: Stephen M. Williams [<mailto:smw@stevewilliamslaw.com>]
Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

Steve Williams

Stephen M. Williams
Law Offices of Stephen M. Williams
.934 Divisadero Street
San Francisco, CA 94115
~~Phone: (415) 292-3656~~
Fax: (415) 776-8047

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Lamug, Joy

From: Caldeira, Rick (BOS)
Sent: Thursday, October 30, 2014 4:44 PM
To: Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Thank you Mr. Williams,
Your letter shall be placed in the file. Rick.

From: Stephen M. Williams [<mailto:smw@stevewilliamsllaw.com>]
Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

Steve Williams

Stephen M. Williams

aw Offices of Stephen M. Williams
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Phone: (415) 292-3656
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Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue
Attachments: 395 26th Ave Letter to the BOS October 30 2014.pdf

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

Steve Williams

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115
Phone: (415) 292-3656
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AW OFFICES OF
STEPHEN M. WILLIAMS

1934 Divisadero Street | San Francisco, CA 94115 | TEL: 415.292.3656 | FAX: 415.776.8047 | smw@stevewilliamsllaw.com

October 30, 2014

David Chiu, President
San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Attn: Clerk of the Board, Angela Calvillo

RE: Request for Continuance of Public Hearing on Appeal of Conditional Use
Authorization -395 26th Avenue; ##141046; 141047; 141048 & 141049
Hearing Date: November 4, 2014; Special Order—Agenda Items 13-16

President Chiu and Madam Clerk:

This office represents the Appellants in the above-noted matter. I am writing to confirm the Appellants' consent and agreement to continue the current hearing date of November 4, 2014, to November 25, 2014. Appellants are happy to accommodate the request from Supervisor Mar's Office because of the interest in Election Day and the necessity for many Supervisors to attend to duties related to the many races in the City and elsewhere.

Very Truly Yours,

Stephen M. Williams

CC: Nick Pagoulatos, Legislative Aide to Supervisor Mar
Judson True, Legislative Aide to President Chiu
Alice Barkley, Attorney for Developers
Clients

Carroll, John (BOS)

From: Caldeira, Rick (BOS)
Sent: Friday, October 31, 2014 9:24 AM
To: BOS Legislation (BOS)
Subject: FW: Conditional Use Appeal hearing - 395 - 26th Avenue

Categories: 141046

For file.

From: Barkley, Alice [<mailto:ABarkley@mckennalong.com>]
Sent: Thursday, October 30, 2014 4:53 PM
To: Caldeira, Rick (BOS); Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Shanagher, Denis; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Mr. Calderia

The project sponsor agrees to continue the subject hearing from November 4 to November 25, 2014.

Alice Barkley

Alice Barkley | Contract Attorney
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor | San Francisco, CA 94105
Tel: 415.356.4635 | Fax: 415.356.3888 | ABarkley@mckennalong.com

Albany | Atlanta | Brussels | Denver | Los Angeles | Miami | New York | Northern Virginia
Orange County | Rancho Santa Fe | San Diego | San Francisco | Seoul | Washington, DC

 Please consider the environment before printing this e-mail

From: Caldeira, Rick (BOS) [<mailto:rick.caldeira@sfgov.org>]
Sent: Thursday, October 30, 2014 4:44 PM
To: Stephen M. Williams
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Shanagher, Denis; Barkley, Alice; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS); Calvillo, Angela (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Thank you Mr. Williams,
Your letter shall be placed in the file. Rick.

From: Stephen M. Williams [<mailto:smw@stevewilliamslaw.com>]
Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

Steve Williams

Stephen M. Williams

Law Offices of Stephen M. Williams

1934 Divisadero Street

San Francisco, CA 94115

Phone: (415) 292-3656

Fax: (415) 776-8047

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Carroll, John (BOS)

From: Caldeira, Rick (BOS)
Sent: Thursday, October 30, 2014 4:43 PM
To: BOS Legislation (BOS)
Cc: Somera, Alisa (BOS)
Subject: FW: Conditional Use Appeal hearing - 395 - 26th Avenue
Attachments: 395 26th Ave Letter to the BOS October 30 2014.pdf

Categories: 141046

For file.

From: Stephen M. Williams [<mailto:smw@stevewilliamslaw.com>]
Sent: Thursday, October 30, 2014 4:28 PM
To: Calvillo, Angela (BOS); Caldeira, Rick (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; 'Shanagher, Denis'; 'Barkley, Alice'; Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Subject: RE: Conditional Use Appeal hearing - 395 - 26th Avenue

Please find attached correspondence on behalf of Appellants consenting to the requested continuance of this matter to November 25, 2014.

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Fax: (415) 776-8047

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LAW OFFICES OF
STEPHEN M. WILLIAMS

1934 Divisadero Street | San Francisco, CA 94115 | TEL: 415.292.3656 | FAX: 415.776.8047 | smw@stevewilliamsllaw.com

October 30, 2014

David Chiu, President
San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Attn: Clerk of the Board, Angela Calvillo

RE: Request for Continuance of Public Hearing on Appeal of Conditional Use
Authorization -395 26th Avenue; ##141046; 141047; 141048 & 141049
Hearing Date: November 4, 2014; Special Order—Agenda Items 13-16

President Chiu and Madam Clerk:

This office represents the Appellants in the above-noted matter. I am writing to confirm the Appellants' consent and agreement to continue the current hearing date of November 4, 2014, to November 25, 2014. Appellants are happy to accommodate the request from Supervisors Mar's Office because of the interest in Election Day and the necessity for many Supervisors to attend to duties related to the many races in the City and elsewhere.

Very Truly Yours,

Stephen M. Williams

CC: Nick Pagoulatos, Legislative Aide to Supervisor Mar
Judson True, Legislative Aide to President Chiu
Alice Barkley, Attorney for Developers
Clients

Carroll, John (BOS)

From: Caldeira, Rick (BOS)
Sent: Thursday, October 30, 2014 3:55 PM
To: BOS Legislation (BOS)
Subject: FW: Continuance of Appeal of Conditional Use for 395 26th Ave from 11/4 to 11/25

For file.

From: Barkley, Alice [<mailto:ABarkley@mckennalong.com>]
Sent: Thursday, October 30, 2014 3:54 PM
To: Mar, Eric (BOS); Pagoulatos, Nickolas (BOS)
Cc: Daivd.Chiu@sfgov.org; Londn.Breed@sfgov.org; Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Tang, Katy (BOS); Wiener, Scott; Yee, Norman (BOS); Calvillo, Angela (BOS); Rick; Lamug, Joy; Gabriel Ng (gabriel@gabrielngarchitects.com)
Subject: Continuance of Appeal of Conditional Use for 395 26th Ave from 11/4 to 11/25

Nikolas,

After receipt of your e-mail to Gabriel Ng, the architect, asking if the project sponsor of the subject project is willing to continue the subject conditional use appeal to a later date based on your discussion with Stephen Williams, the Appellant. My office contacted Mary Tom, the project sponsor. I communicated to you via e-mails and telephone calls that Ms. Tom agrees to continue the hearing from November 4 to November 25. During our last phone conversation, you were going to communicate to the Clerk of the Board that the project sponsor has agreed to continue the matter since 11/4/ is election date and that we would submit our letter opposing the conditional use the week by November 17, 2014.

We understand that Supervisor Mar will make a motion to continue the matter next Tuesday. Please confirm.

Alice Barkley

Alice Barkley | Contract Attorney
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor | San Francisco, CA 94105
Tel: 415.356.4635 | Fax: 415.356.3888 | ABarkley@mckennalong.com

Albany | Atlanta | Brussels | Denver | Los Angeles | Miami | New York | Northern Virginia
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Carroll, John (BOS)

From: Caldeira, Rick (BOS)
Sent: Wednesday, October 29, 2014 3:23 PM
To: BOS Legislation (BOS)
Cc: Pagoulatos, Nickolas (BOS)
Subject: FW: Conditional Use Appeal hearing - 395 - 26th Avenue

For file

From: Barkley, Alice [<mailto:ABarkley@mckennalong.com>]
Sent: Friday, October 24, 2014 2:36 PM
To: Pagoulatos, Nickolas (BOS); Mar, Eric (BOS)
Cc: Daivd.Chiu@sfgov.org; True, Judson; Lamug, Joy; Calvillo, Angela (BOS); Caldeira, Rick (BOS); Shanagher, Denis; Stephen M. Williams (smw@stevewilliamsllaw.com)
Subject: Conditional Use Appeal hearing - 395 - 26th Avenue

Nikolas,


Per your request on behalf of Supervisor Mar to continue the subject hearing because November 4 is election day. I have spoken with the property owner and she agrees to the continuance to November 25, 2014. You also told me that the Board has cancelled its November 11 meeting.

Accordingly, the brief to the Board opposing the conditional use appeal will not be due until November 17, 2014. Please let me know if my understanding is incorrect.

Alice Barkley

Alice Barkley | Contract Attorney
McKenna Long & Aldridge LLP
One Market Plaza, Spear Tower, 24th Floor | San Francisco, CA 94105
Tel: 415.356.4635 | Fax: 415.356.3888 | ABarkley@mckennalong.com

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Orange County | Rancho Santa Fe | San Diego | San Francisco | Seoul | Washington, DC

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Allen Kwong
401 26th Ave
San Francisco, CA 94121
10/27/14

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

BOS-11

File 141046

2014 OCT 29 PM 2:51

Leg. Clerk

AK

Board of Supervisors of the City and County of San Francisco
City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Cpage

Dear Angela Calvillo,

I am writing to you in regards to File No. 141046 (Motion No. 19229, Conditional Use Authorization No. 2013.0205CEKSV), to voice my opposition to this project. As a resident of the neighborhood, it is my opinion that the proposed structure would negatively affect the neighborhood in several different respects: a four-story residential structure would add to an already densely packed neighborhood, contribute to a scarcity in street parking availability, and change the personality of the neighborhood.

San Francisco is a densely populated city and the Richmond district is mainly residential. Apart from a few concentrations of restaurants and shops, most streets are dominated by residential lots. A large structure that houses a significantly increased amount of people will only add to the congestion in the nearby area. I question whether the infrastructure is adequate to withstand such an increase; water consumption, trash/recycle collection, and electricity consumption are essentials but generally taken for granted as being available for all. Would the ecosystem be able to withstand a larger structure and not reducing those of any other residents?

Traffic and parking are concerns that I have for the specific location of this structure. Consider that there is consistent difficulty to find parking both during the day and at night even though there are parking meters on both sides of 26th Ave through to 24th Ave on Clement St. I do not have the statistics, but I think a study would show that the amount of accidents and traffic complaints on the intersection of 26th Ave and Clement Street are comparable to the highs of any location in the city. This development without question would add to the level of traffic in this intersection.

A nouveau designed, taller building could also change the complexion of the neighborhood. When walking through the Richmond one can see that every house in the surrounding area are all of the same basic type. As a resident and in conversations with longer term residents, there is a personality and feel of the neighborhood that is at risk of changing. If everything is working fine and the majority of the neighborhood is happy, why risk making a change that could change it?

Finally, I question what an approval would mean for the future of the neighborhood. We do not operate in a vacuum so I conclude that allowing this structure to be constructed will then lead to other new buildings being constructed in a similar style and/or new floors being added to existing structures. It is simply naïve to think that this one approval has no effect on other projects and opportunities to invest capital. I greatly value the neighborhood as it exists now and am concerned that this project will change the dynamics in a negative way.

Thank you for the opportunity to express my concerns.

Regards,

A handwritten signature in black ink, appearing to read "Allen Kwong". The signature is written in a cursive, flowing style.

Allen Kwong

Carroll, John (BOS)

From: Lamorena, Christine (CPC)
Sent: Thursday, October 16, 2014 2:02 PM
To: Lamug, Joy
Cc: Carroll, John (BOS); BOS Legislation (BOS)
Subject: RE: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street) Case No. 2013.0205CEKSV
Attachments: 2013.0205D-395 26th Avenue-Application.pdf
Categories: 141046

Hi Joy – Please also see the Dwelling Unit Removal Application for this project.

Thanks,

Christine Lamorena, LEED AP
Manager of Commission Affairs

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9085 **Fax:** 415-558-6409
Email: christine.lamorena@sfgov.org
Web: www.sfplanning.org

Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org
Property Information Map (PIM): <http://propertymap.sfplanning.org>

From: Lamorena, Christine (CPC)
Sent: Wednesday, October 15, 2014 1:56 PM
To: Lamug, Joy
Cc: Carroll, John (BOS); BOS Legislation (BOS)
Subject: RE: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street) Case No. 2013.0205CEKSV

Hi Joy – Please see attached.

Christine Lamorena, LEED AP
Manager of Commission Affairs

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9085 **Fax:** 415-558-6409
Email: christine.lamorena@sfgov.org
Web: www.sfplanning.org

Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org
Property Information Map (PIM): <http://propertymap.sfplanning.org>

From: Lamug, Joy
Sent: Tuesday, October 14, 2014 1:05 PM
To: Lamorena, Christine (CPC)
Cc: Carroll, John (BOS); BOS Legislation (BOS)
Subject: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street) Case No. 2013.0205CEKSV

Hi Christine,

The above referenced appeal is tentatively scheduled to be heard by the Board of Supervisors on November 4, 2014, at 3:00 p.m. Per Public Works initial count on Friday, October 10, the appeal has exceeded the minimum 20% requirement. We are just waiting for the official letter (due back today, Oct. 14) from Public Works on the final count.

Kindly provide the following documents if possible by tomorrow, Oct. 15:

- 1) Planning Final Motion
- 2) Application Form
- 3) Distribution list in excel format

Please email or call me if any questions.

Thank you in advance.

Joy Lamug

Legislative Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Direct: (415) 554-7712 | Fax: (415) 554-5163

Email: joy.lamug@sfgov.org

Web: www.sfbos.org

PLEASE complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

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APPLICATION FOR Dwelling Unit Removal Merger, Conversion, or Demolition

1. Owner/Applicant Information

PROPERTY OWNER'S NAME Mary Tom	
PROPERTY OWNER'S ADDRESS 1559B Sloat Boulevard #468 San Francisco, CA 94132	TELEPHONE: (415) 272-4901
	EMAIL: maryntom@gmail.com

APPLICANT'S NAME: <div style="text-align: right;">Same as Above <input checked="" type="checkbox"/></div>	
APPLICANT'S ADDRESS:	TELEPHONE: ()
	EMAIL:

CONTACT FOR PROJECT INFORMATION Gabriel Ng, Gabriel Ng + Architects, Inc.	
Same as Above <input type="checkbox"/>	
ADDRESS: 1360 9th Avenue, Suite #210 San Francisco, CA 94122	TELEPHONE: (415) 682-8060
	EMAIL: gabriel@gabrielngarchitects.com

COMMUNITY LIAISON FOR PROJECT (PLEASE REPORT CHANGES TO THE ZONING ADMINISTRATOR)	
Same as Above <input type="checkbox"/>	
ADDRESS:	TELEPHONE: ()
	EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT 395 26th Avenue		<small>Parcel ID</small> 94121
CROSS STREETS: Clement Street		

ASSESSORS BLOCK/LOT: 1407 / 017	LOT DIMENSIONS: 37'x118'	LOT AREA (SQ. FT): 4,366	ZONING DISTRICT: NCD - Outer Clement	HEIGHT BULK DISTRICT: 45-X
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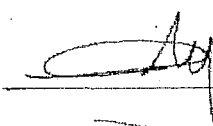
	PROPOSED/PROPOSEDLY	EXISTING	DIFFERENCE	NET CHANGE
1	Total number of units	2	6	+4
2	Total number of parking spaces	0	7	+7
3	Total gross habitable square footage	1,955	7,682	+5,727
4	Total number of bedrooms	3	15	+12
5	Date of property purchase	January 31st, 2013	-	-
6	Total number of rental units	0	TBD	TBD
7	Number of bedrooms rented	0	TBD	TBD
8	Number of units subject to rent control	2	0	-2
9	Number of bedrooms subject to rent control	3	0	-3
10	Number of units currently vacant	2	-	-
11	Was the building subject to the Ellis Act within the last decade?	No	-	-
12	Number of owner-occupied units	2	TBD	TBD

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____



Date: _____

2/24/13

Print name, and indicate whether owner, or authorized agent:

Authorized Agent

Owner / Authorized Agent (circle one)

Loss of Dwelling Units Through Demolition

(FORM A - COMPLETE IF APPLICABLE)

Pursuant to Planning Code Section 317(d), the demolition of residential dwellings not otherwise subject to a Conditional Use Authorization shall be either subject to a Mandatory Discretionary Review hearing or will qualify for administrative approval. Administrative approval only applies to (1) single-family dwellings in RH-1 Districts proposed for Demolition that are not affordable or financially accessible housing (valued by a credible appraisal within the past six months to be greater than 80% of combined land and structure value of single-family homes in San Francisco); or (2) residential buildings of two units or fewer that are found to be unsound housing. Please see website under Publications for Loss of Dwelling Units Numerical Values.

The Planning Commission will consider the following criteria in the review of applications to demolish Residential Buildings. Please fill out answers to the criteria below:

Existing Value and Soundness

1. Whether the Project Sponsor has demonstrated that the value of the existing land and structure of a single-family dwelling is not affordable or financially accessible housing (above the 80% average price of single-family homes in San Francisco, as determined by a credible appraisal within six months);

N/A - See CU Application for 2nd Floor dwelling unit removal in NCD - Outer Clement (Section 717.38).

2. Whether the housing has been found to be unsound at the 50% threshold (applicable to one- and two-family dwellings).

N/A

3. Whether the property is free of a history of serious, continuing code violations;

N/A

Existing Building (continued)

4. Whether the housing has been maintained in a decent, safe, and sanitary condition;
Only one of the two existing dwelling units is inhabitable

5. Whether the property is a *historical resource* under CEQA;
Subject building is not an historical resource under CEQA per HRE by Tim Kelley Consulting, LLC, dated January 2013.

6. If the property is a historical resource, whether the removal of the resource will have a substantial adverse impact under CEQA;

N/A

Rental Protection

7. Whether the Project converts rental housing to other forms of tenure or occupancy;

Existing dwellings are currently vacant.

8. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

The two existing units were owner occupied before the project sponsor acquired the building in January 2013, and are currently vacant.

Priority Policies

9. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;
 The project will remove two small units and create 6 new family sized units.

10. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

The project conserves neighborhood character within the extent of the Outer Clement NCD. The additional ground floor commercial space will enhance the vibrancy of the commercial corridor.

11. Whether the Project protects the relative affordability of existing housing;

The project provides for 6 new family sized units, which are in low supply in San Francisco. Additional units will help add to the inventory and therefore help create affordability city-wide.

12. Whether the Project increases the number of permanently affordable units as governed by Section 415;

The project does not contain any permanently affordable housing.

Replacement Structure

13. Whether the Project located in-fill housing on appropriate sites in established neighborhoods;

The project is located in the well established Outer Clement Neighborhood Commercial District, on an under-developed corner lot.

Replacement Structure

14. Whether the Project creates quality, new family housing;

The project would create 6 new family sized dwellings, 2-3 bedrooms each.

15. Whether the Project creates new supportive housing;

Supportive housing is not part of this project.

16. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Two new contemporary style mixed-use buildings would replace a small under-sized building, subject to the Planning Department's design review.

17. Whether the Project increases the number of on-site dwelling units;

The number of dwelling units would increase from 2 to 6

18. Whether the Project increases the number of on-site bedrooms.

The number of bedrooms would increase from 3 to 15.

Priority General Plan Policies – Planning Code Section 101.1

(APPLICABLE TO ALL PROJECTS SUBJECT TO THIS APPLICATION)

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed alterations and demolitions are consistent with eight priority policies set forth in Section 101.1 of the Planning Code. These eight policies are listed below. Please state how the Project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. If a given policy does not apply to your project, explain why it is not applicable.

Please respond to each policy; if it's not applicable explain why.

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

Neighborhood-serving retail uses will be expanded by more than double the amount of square footage, in two locations. These spaces will be handicapped accessible and completely code conforming.

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

The existing vacant housing will be removed, but the mixed-character of the neighborhood will be enhanced by the addition of two new contemporary buildings.

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

The existing vacant housing will make way for six new market rate dwellings.

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

The new dwelling units will each have off-street parking, and will not impede street parking or MUNI.

Please respond to each policy. If it is not applicable explain why.

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;

Industrial and Service sector jobs will not be affected by this project.

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

The existing 1945 building will be removed to construct two new buildings. These buildings will meet or exceed all the requirements of the most recent seismic safety regulations.

7. That landmarks and historic buildings be preserved; and

No landmarks or historical buildings are located on the site.

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

No parks or open spaces will be affected by this project.

APPLICATION FOR Conditional Use Authorization

1 Owner/Applicant Information

PROPERTY OWNER'S NAME: Mary Tom	
PROPERTY OWNER'S ADDRESS: 1559B Sloat Boulevard #468 San Francisco, CA 94132	TELEPHONE: (415) 272-4901 EMAIL: maryntom@gmail.com

APPLICANT'S NAME: <div style="text-align: right;">Same as Above <input checked="" type="checkbox"/></div>	
APPLICANT'S ADDRESS:	TELEPHONE: () EMAIL:

CONTACT FOR PROJECT INFORMATION: Gabriel Ng, Gabriel Ng + Architects, Inc. <div style="text-align: right;">Same as Above <input type="checkbox"/></div>	
ADDRESS: 1360 9th Avenue, Suite #210 San Francisco, CA 94122	TELEPHONE: (415) 682-8060 EMAIL: gabriel@gabrielingarchitects.com

COMMUNITY LIAISON FOR PROJECT (PLEASE REPORT CHANGES TO THE ZONING ADMINISTRATOR) <div style="text-align: right;">Same as Above <input type="checkbox"/></div>	
ADDRESS:	TELEPHONE: () EMAIL:

2 Location and Classification

STREET ADDRESS OF PROJECT: 395 26th Avenue	ZIP CODE: 94121
CROSS STREETS: Clement Street	

ASSESSORS BLOCK/LOT: 1704 / 017 1407	LOT DIMENSIONS: 37'x118'	LOT AREA (SQ FT): 4,366	ZONING DISTRICT: NCD - Outer Clement	HEIGHT/BULK DISTRICT: 45-X
--	-----------------------------	----------------------------	---	-------------------------------

13.0205 C

3. Project Description

(Please check all that apply) <input type="checkbox"/> Change of Use <input type="checkbox"/> Change of Hours <input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Alterations <input checked="" type="checkbox"/> Demolition <input type="checkbox"/> Other Please clarify	ADDITIONS TO BUILDING: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Height <input type="checkbox"/> Side Yard	PRESENT OR PREVIOUS USE: Two story 2 dwelling with commercial
		PROPOSED USE: Two new 4 story mixed use buildings
		BUILDING APPLICATION PERMIT NO.: DATE FILED:

4. Project Summary Table

If you are not sure of the eventual size of the project, provide the maximum estimates.

	EXISTING USES	EXISTING USES TO BE DEMOLISHED	NEW CONSTRUCTION (NEW ADDITION)	PROFESSIONALS
PROJECT FEATURES				
Dwelling Units	2	0	6	6
Hotel Rooms	0		0	
Parking Spaces	0		7	7
Loading Spaces	0		0	
Number of Buildings	1	0	2	2
Height of Building(s)	21'-6"		45'-0"	45'-0"
Number of Stories	2		4	4
Bicycle Spaces	0		4	4
GROSS SQUARE FOOTAGE (GSF)				
Residential	1,491	0	7,682	7,682
Retail	0	0	1,163	1,163
Office	464	0	0	0
Industrial/PDR <i>Production, Distribution, & Repair</i>	N/A			
Parking	0	0	1,503	1,503
Other (Specify Use)		Common Area:	2,889	2,889
TOTAL GSF	1,955		13,264	13,264

Please describe any additional project features that are not included in this table:
 (Attach a separate sheet if more space is needed)

The ground floor dwelling unit was added to the office space in 1954.

5. Action(s) Requested (Include Planning Code Section which authorizes action)

Demolition of 2nd story dwelling unit in NCD - Outer Clement (Section 717.38)

Conditional Use Findings

Pursuant to Planning Code Section 303(c), before approving a conditional use authorization, the Planning Commission needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. That the proposed 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
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) The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - (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;
 - (c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - (d) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan.

1. The demolition of the existing dwelling is both necessary and desirable, to bring the density of the subject lot into greater conformity with the surrounding neighborhood.

2. The existing corner lot is under-utilized, with a large surface parking area on 26th Avenue. The proposed project would provide for continuity of the NCD storefronts and building heights, and the elevations will be sculpted to provide an active streetscape along Clement Street. The new commercial spaces would be fully accessible, with generous residential lobbies. New off-street vehicle and bicycle parking would be located on 26th Avenue, with lower traffic volumes. No offensive or noxious emissions will be emitted from the project.

3. New 45' height limits in the NCD - Outer Clement were recently approved to spur this type of development. This new code provision positively affects the Master Plan, providing for more housing and retail opportunities, as well as larger corner features and commercial streetscapes.

Priority General Plan Policies Findings

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed projects and demolitions are consistent with eight priority policies set forth in Section 101.1 of the City Planning Code. These eight policies are listed below. Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

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

Neighborhood-serving retail uses will be expanded by more than double the amount of square footage, in two locations. These spaces will be handicapped accessible and completely code conforming.

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

The existing vacant housing will be removed, but the mixed-character of the neighborhood will be enhanced by the addition of two new contemporary buildings.

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

The existing vacant housing will make way for six new market rate dwellings.

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

The new dwelling units will each have off-street parking, and will not impede street parking or MUNI.

- 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;

Industrial and Service sector jobs will not be affected by this project.

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

The existing 1945 building will be removed to construct two new buildings. These buildings will meet or exceed all the requirements of the most recent seismic safety regulations.

- 7. That landmarks and historic buildings be preserved; and

No landmarks or historical buildings are located on the site.

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

No parks or open spaces will be affected by this project.

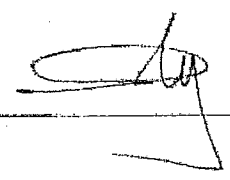
13.0205 6

Estimated Construction Costs

TYPE OF APPLICATION: Form 2 - Two New Type 5 Buildings	
OCCUPANCY CLASSIFICATION: R-2 / M	
BUILDING TYPE: Type VA	
TOTAL GROSS SQUARE FEET OF CONSTRUCTION	BY PROPOSED USES:
7,682 (Residential)	
1,163 (Retail)	
1,530 (Parking)	
2,889 (Common Area)	
ESTIMATED CONSTRUCTION COST \$1,900,000	
ESTIMATE PREPARED BY: Gabriel Ng, Gabriel Ng + Architects Inc.	
FEE ESTABLISHED: \$14,118.00	

Applicant's Affidavit

- Under penalty of perjury the following declarations are made:
- a: The undersigned is the owner or authorized agent of the owner of this property.
 - b: The information presented is true and correct to the best of my knowledge.
 - c: The other information or applications may be required.

Signature: 

Date: 2/24/13

Print name, and indicate whether owner, or authorized agent:
Authorized Agent
 Owner ; Authorized Agent (circle one)

Application Submittal Checklist

Applications listed below submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent and a department staff person.

APPLICATION MATERIALS	CHECKLIST
Application, with all blanks completed	<input checked="" type="checkbox"/>
300-foot radius map, if applicable	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Site Plan	<input checked="" type="checkbox"/>
Floor Plan	<input checked="" type="checkbox"/>
Elevations	<input checked="" type="checkbox"/>
Section 303 Requirements	<input checked="" type="checkbox"/>
Prop. M Findings	<input checked="" type="checkbox"/>
Historic photographs (if possible), and current photographs	<input checked="" type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Original Application signed by owner or agent	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input checked="" type="checkbox"/>

- NOTES:**
- Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner)
 - Typically would not apply. Nevertheless, in a specific case, staff may require the item.
 - Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street

After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.

Some applications will require additional materials not listed above. The above checklist does not include material needed for Planning review of a building permit. The "Application Packet" for Building Permit Applications lists those materials.

No application will be accepted by the Department unless the appropriate column on this form is completed. Receipt of this checklist, the accompanying application, and required materials by the Department serves to open a Planning file for the proposed project. After the file is established it will be assigned to a planner. At that time, the planner assigned will review the application to determine whether it is complete or whether additional information is required in order for the Department to make a decision on the proposal.

For Department Use Only
Application received by Planning Department:
By: James J. [Signature]

Date: 2/26/13

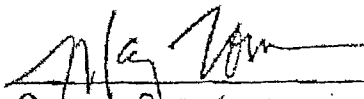
TO: City and County of San Francisco

0205 C

Re: 395 26th Avenue, Block 1407, Lot 017

The undersigned, owner of the above referenced property, hereby authorize Gabriel Ng + Architects, Inc. to file any application with the City and County of San Francisco, and to complete necessary forms and documents related to the San Francisco Planning Code, Building or to City and County ordinances and regulations, or to State laws and codes connected with my property as referenced above for building permit application purpose.

Thank you for your attention.



Owner's Signature

Mary Tom

Print Name

1559 B Sloat Boulevard #468

San Francisco, CA 94132

Owner's Address

February 19, 2013

Date



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 19229

HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: 2013.0205CEKSV
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
 Gabriel Ng & Architects, Inc.
 1360 9th Avenue, Suite 210
 San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE REMOVAL OF TWO OR MORE RESIDENTIAL UNITS.

PREAMBLE

On February 26, 2013, Gabriel Ng of Gabriel Ng & Architects, Inc. (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish two residential units at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On January 16, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C. The Commission continued the item from January 16, 2014 to February 20, 2014, and then to April 4, 2014 and lastly to September 4, 2014.

On September 4, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C.

On August 26, 2014 the Project was determined by the Department to be categorically exempt from environmental review under Case No. 2013.0205E. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0205C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

3. **Site Description and Present Use.** The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor

commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

4. **Surrounding Properties and Neighborhood.** The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.
5. **Public Comment.** The Department has received the following public comment:
 - a. 112 letters and petitions in support of the project
 - b. An online petition (www.change.org) with 171 persons opposed to the project
 - c. Petitions with 137 signatures of persons opposed to the project
 - d. One email and five phone calls opposed to the project
 - e. Two phone calls with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove two or more residential units in the Outer Clement Street NCD. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317 have been incorporated as findings in this Motion. See Item 7, "Additional Findings pursuant to Section 317" below.
 - B. **Lot Size.** Planning Code Section 121 requires a lot size of 1,750 square feet for lots within 125 feet of an intersection.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 2,200 square feet and the 26th Avenue lot with frontage on 26th Avenue would measure 2,146 square feet.
 - C. **Residential Density.** Planning Code Section 717.91 permits a density ratio of one dwelling unit for each 600 square feet of lot area.

Up to four dwelling units are permitted on each of the subdivided lots. The proposed unit count of three dwelling units each complies with the prescribed density.

- D. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth at grade level and at each succeeding level or story of the building in the Outer Clement Street NCD.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 60 feet deep and the 26th Avenue lot with frontage on 26th Avenue would measure 37 feet deep. The required rear yard for the Clement Street lot is 15 feet; however, the project proposes full lot coverage on the ground floor with a roof deck above. The required rear yard for the 26th Avenue lot is also 15 feet; however, the project proposes a partial rear yard on the ground floor at a depth of 13 feet with a portion of the garage and a roof deck extending into required rear yard. Therefore, the Project Sponsor is seeking a rear yard modification for the project.

- E. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

For the Clement Street building, the project proposes 340 square feet of common open space on the proposed roof deck where 212.8 square feet are required and 519 square feet of private open space on a rear deck where 80 square feet are required. For the 26th Avenue building, the project proposes 1,044 square feet of private open space in a rear yard, rear deck, and roof deck where 240 square feet are required.

- F. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Above-Grade Parking Setback.** Off-street parking at street grade on a development lot must be set back at least 25 feet from the front of the development on the ground floor.

The project proposes parking at the property line along 26th Avenue, not set back 25 feet. The Project Sponsor is requesting a variance from this section of the Planning Code.

2. **Parking and Loading Entrances.** No more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress.

The proposed parking entrance for the Clement Street building is 16 feet wide and the proposed parking entrance for the 26th Avenue building is 12 feet wide. Two curb cuts along 26th Avenue, each 10 feet wide, are proposed.

3. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be

provided within the first 25 feet of building depth on the ground floor from any façade facing a street at least 30 feet in width.

Active ground floor uses (commercial use at the Clement Street building and residential use at the 26th Avenue building) are proposed within the first 25 feet of the building depth on the ground floor of each building.

4. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for both buildings would be a minimum of ten feet tall.

5. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The proposed active uses and residential lobbies are designed along the property lines of the subject lot.

6. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed commercial use in the Clement Street building contains approximately 911 square feet of exterior ground floor wall area. Approximately 550 square feet of wall area would be dedicated to glazing, which is equivalent to approximately 60 percent transparency.

7. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- G. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

The project proposes seven parking spaces for the six replacement dwelling units.

- H. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use.

The project proposes six Class 1 bicycle parking spaces that satisfy the bicycle parking requirements. The two Class 2 spaces are provided with a bike rack on Clement Street.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit. Planning Code Section 263.20 allows for a special height exemption of five feet for active ground floor uses.

The project proposes two replacement buildings. The Clement Street building is proposed at 45 feet tall, utilizing the five-foot height exemption for an active ground floor use as a commercial space. The 26th Avenue building is proposed to be 40 feet tall.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. While the project proposes demolition of two units, the proposed density of six units distributed into two, three-unit buildings is more desirable in terms of compatibility with the surrounding housing density and the Outer Clement Street NCD. The replacement buildings are also designed to be consistent with the existing development pattern and the neighborhood character. Both new buildings are four-story buildings; however, the building fronting on 26th Avenue proposes a design and massing that respects the predominant pattern of three-story residential facades along both sides of 26th Avenue.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project is designed to be compatible with the surrounding neighborhood and specifically with the adjacent buildings. The proposed size, shape and arrangement of the project are in keeping with the development pattern of the block. The 26th Avenue building is set back at the rear and side to respect a single-family noncomplying structure in the adjacent lot at 2510-2512 Clement Street and property line windows in the adjacent lot at 377 26th Avenue.

- ii. 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;

The Planning Code requires six parking spaces for the replacement buildings. Seven spaces are proposed, where currently there are three surface lot spaces provided for the existing building.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project is primarily residential in nature with approximately 867 square feet of commercial space, which is an increase in floor area from the existing 464 square feet. The proposed residential density and commercial intensity are not anticipated to produce noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement buildings have been appropriately selected to be harmonious with the existing surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code except for rear yard and street frontage and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the Outer Clement Street NCD.

The proposed project is consistent with the stated purpose of the Outer Clement NCD. The NCD allows for up to one dwelling unit per 600 square feet of lot area. With proposed lot areas of 2,200 square feet and 2,146 square feet after the lot subdivision, six dwelling units would be permitted. The project proposes six dwelling units.

- 8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where *soundness* is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The *soundness factor* for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion.

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion.

Although the existing structures are more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion.

Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion.

The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion.

The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion.

The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion.

The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion.

The project does not create supportive housing.

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Project meets criterion.

The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion.

The project would increase the number of on-site units with a net gain of four units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion.

The project proposes 18 bedrooms. The existing building contains three bedrooms.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1:

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

The project proposes demolition of two dwelling units with the construction of six dwelling units.

URBAN DESIGN

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

The project proposes demolition of the existing building. Similar to other existing structures on the block face, both proposed buildings contain garages at the ground floor that are to be constructed to the front lot line with residential uses above.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The four-story replacement building at the corner of Clement Street and 26th Avenue is consistent with the pattern of three- and four-story buildings found along the block face. The four-story replacement building fronting 26th Avenue reinforces the existing pattern of three-story buildings found on both sides of the street, as the proposed fourth floor is designed to create the appearance of a three-story structure at the front façade and along the block face.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The massing of the replacement buildings' main front façades have been designed to be compatible with the prevailing street wall height, particularly the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Existing neighborhood-serving retail uses would be enhanced as the project proposes to expand the ground floor commercial use on Clement Street from 464 square feet to 897 square feet. The additional bedrooms in the replacement buildings would house more individuals to patronize the existing neighborhood-serving retail uses.

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

While the existing housing is proposed to be demolished, the new replacement buildings conserve the number of dwelling units in the existing buildings while providing a net gain of four units.

- C. That the City's supply of affordable housing be preserved and enhanced,

While the affordability of the existing units is not preserved since they are proposed to be demolished, the units are not considered "affordable housing" per Planning Code Section 415 and/or the Mayor's Office of Housing. The proposal to construct six family-sized units at the project site enhances the "affordability" of the units more than if a fewer number of dwelling units were proposed.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing seven off-street parking spaces, where three spaces currently exist.

- E. 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 project is a mixed-use project in the Outer Clement Street NCD; therefore the project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The replacement structures would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

A shadow study was prepared and the project's shadow does not reach any parks or open space under the jurisdiction of the Department of Recreation and Parks. The project will have no negative effect on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0205C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17820. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 4, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson

NAYS: Moore, Richards, Wu

ABSENT: None

RECUSED: None

ADOPTED: September 4, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of two residential units located at 395 26th Avenue pursuant to Planning Code Section(s) 303 and 317 within the Outer Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated October 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0305C and subject to conditions of approval reviewed and approved by the Commission on September 4, 2014 under Motion No 19229. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 16, 2014 under Motion No 19229.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19229 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

10. **Subdivision.** The Project Sponsor shall submit a lot subdivision application proposing to subdivide the lot into two lots prior to Planning approval of the building permit application.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than eight bicycle parking spaces (six Class 1 spaces for the residential portion of the Project and two Class 2 spaces for the commercial portion of the Project).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

12. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide six off-street parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

13. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

14. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

16. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when

being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

17. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

18. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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, November 4, 2014

Time: 3:00 p.m.

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

Subject: File No. 141046. Hearing of persons interested in or objecting to the Planning Commission's decision of September 4, 2014, by its Motion No. 19229, pursuant to Planning Code, Sections 303 and 317, relating to the approval of a Conditional Use Authorization (Case No. 2013.0205CEKSV), to demolish two residential units on a property within the Outer Clement Street Neighborhood Commercial District (NCD), located at 395-26th Avenue, Assessor's Block No. 1407, Lot No. 017. (District 1) (Appellant: Stephen M. Williams) (Filed October 6, 2014).

In accordance with Administrative Code, Section 67.7-1, 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 as part of the official record 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, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, 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 Friday, October 31, 2014.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

DATED: October 24, 2014
MAILED/POSTED: October 24, 2014

300' Radius Map
 395 26th Ave
 Owners Only

Type	APN	Name	Address	City	State	ZIP
Owner	1406 -011, 1407 -018	CHAN, JAMES MO TAI	846 MURCHISON DR	MILLBRAE	CA	94030
Owner	1406 -012	CHIA, LILIA	359 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1406 -013	FILLMORE, CHARLES J & LILY WONG	363 27TH AVE # 365	SAN FRANCISCO	CA	94121
Owner	1406 -014	CHOW, SAM & EMMA	367 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1406 -015	PUCCIANI, SYLVAIN	274 CHENERY ST	SAN FRANCISCO	CA	94131
Owner	1406 -016	CHU, EDWIN WING & PRISCILLA PING CHUE	851 28TH AVE	SAN FRANCISCO	CA	94121
Owner	1406 -017	SERA, ARTHUR T & BONNIE A	379 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1406 -018	BOGGERI, EVA	519 HAMILTON ST	SAN FRANCISCO	CA	94134
Owner	1406 -019	LI WING K & ELAINE Y W REV TR	3065 23RD AVE	SAN FRANCISCO	CA	94132
Owner	1407 -006	LEONG, DANIEL & EDITH S	335 26TH AVE # 3	SAN FRANCISCO	CA	94121
Owner	1407 -007	LEE, CAT SIR	444 34TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -008	LEW GAM & MEI FUNG WONG LIV	679 22ND AVE	SAN FRANCISCO	CA	94121
Owner	1407 -009	SIU, RYAN E & LOUISE W	347 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -010	LOUIE, GARRICK & EDMUND	717 AIRPORT BLVD	SOUTH SAN FRANCISCO	CA	94080
Owner	1407 -011	WONG, TAM	3916 CLAY ST	SAN FRANCISCO	CA	94118
Owner	1407 -012	CHOW, FONG LIN	361 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -013	ONEILL, PATRICK & BRENDA	19 LEONA DR	SAN RAFAEL	CA	94903
Owner	1407 -014	LEE, MING & MELANIE	369 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -016	LEE, ANTHONY	1327 TARAVAL ST	SAN FRANCISCO	CA	94116
Owner	1407 -017	TOM, MARY N & PHILIP J	1559 SLOAT BLVD # B	SAN FRANCISCO	CA	94132
Owner	1407 -020	CHANG, PHILBERT & MARGERY TOM	337 31ST AVE	SAN FRANCISCO	CA	94121
Owner	1407 -021	TEDESCHI, NICHOLAS E	NO DATA ON FILE			
Owner	1407 -022	YU, JIA HUO	PO BOX 320521	SAN FRANCISCO	CA	94132
Owner	1407 -023	LAU, KING C & LORETTA Y	1340 GRANT AVE	SAN FRANCISCO	CA	94133
Owner	1407 -023A, 1408 -027	CHOY, WILSON G & MELINA LAM	390 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -023B	TSUI, SCOTT YEUNG YAN & BETTY SAU LAN	386 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -023C	AHLSTRAND, WILLIAM M & ELIZABETH W	382 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -024	VANYA, JAMES	378 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -025	TIERNEY, THOMAS M	374 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -026	BERNARD, GIULIA	370 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -027	SVEVO, ROCCO & JACQUELINE A	366 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -028	YATABE, PHILIP T	362 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -029	MUGANDA, NELLIE C	358 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -031	THE, FELIX W	354 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -032	CHINN, WANDA	350 27TH AVE	SAN FRANCISCO	CA	94121

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300' Rad' Map
 395 26. Ave
 Owners Only

Type	APN	Name	Address	City	State	ZIP
Owner	1407 -033	CHAN, JAMES & ARLENE	348 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -035	CHEN, VEN	338 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1407 -036	LO, HANG WAI	2406 30TH AVE	SAN FRANCISCO	CA	94116
Owner	1407 -037	WONG, GERALDINE C	190 TERRA VISTA AVE	SAN FRANCISCO	CA	94115
Owner	1407 -049	325 26TH AVE LLC	4623 ANZA ST	SAN FRANCISCO	CA	94121
Owner	1407 -050	MULLINS EDWARD J & ELAINE M RE	2514 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1407 -051	MULLINS, ELAINE M	2514 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1407 -052	FLEMING, MAIRE BERNADETTE	PO BOX 210047	SAN FRANCISCO	CA	94121
Owner	1407 -053	YIM, SHELLEY K	373 26TH AVE # 2	SAN FRANCISCO	CA	94121
Owner	1407 -054	KOPMAN, IGOR & MARINA	373 26TH AVE # 3	SAN FRANCISCO	CA	94121
Owner	1408 -006A	WONG, SALLY KIT	3040 CABRILLO ST	SAN FRANCISCO	CA	94121
Owner	1408 -007	JU, CHEW GUEY & YUE CHEUK	343 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -008A	ANNA L LEE REVOCABLE TRUST	1769 LATOUR AVE	BRENTWOOD	CA	94513
Owner	1408 -008B	OSSENBRUGEN, PAUL C	830 LAKE ST APT 2	SAN FRANCISCO	CA	94118
Owner	1408 -008C	LEY MIU-LUNG C	357 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -012	WONG, GEE KWONG	379 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -013	WONG, WILLIE	1331 STOCKTON ST	SAN FRANCISCO	CA	94133
Owner	1408 -014	KANG, PING QI	2410 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1408 -015	YOUNG, MICHAEL & CHRISTINE	788 VICTORIA ST	SAN FRANCISCO	CA	94127
Owner	1408 -016	WONG, SOTERA T & WAYNE T	2420 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1408 -017	HSIEH, SHE HSIN & CHEN HSI TSAI	615 44TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -020	KM & ASSOCIATES LLC	2147 12TH AVE	SAN FRANCISCO	CA	94116
Owner	1408 -022	DEA, LILIAN	380 26TH AVE APT 2	SAN FRANCISCO	CA	94121
Owner	1408 -023	GRAY, DONALD B & JUDITH D	372 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -024	YEE, MARTIN	1579 40TH AVE	SAN FRANCISCO	CA	94122
Owner	1408 -026	WONG, RAYMOND T & VIRGINIA J	1994 15TH AVE	SAN FRANCISCO	CA	94116
Owner	1408 -028	PAN, AI MING	354 26TH AVE APT 3	SAN FRANCISCO	CA	94121
Owner	1408 -030	KU, JERRY H & HANNAH A	346 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -031	KWONG, CHIEH CHUEN	342 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -032	FONG 1991 TRUST	338 26TH AVE APT 3	SAN FRANCISCO	CA	94121
Owner	1408 -033	LOW, JENNIE	7132 MOUND ST	EL CERRITO	CA	94530
Owner	1408 -042	SINGH, NIRMAL	3948 ORTEGA ST	SAN FRANCISCO	CA	94122
Owner	1408 -044	VINSKI, ANASTASIA	371 25TH AVE APT 201	SAN FRANCISCO	CA	94121
Owner	1408 -045	HATTEN, JOHN L & SHIRLEY SAGER	371 25TH AVE APT 202	SAN FRANCISCO	CA	94121
Owner	1408 -046	WU, JOLENE H & SHERRIE H	635 17TH AVE A	SAN FRANCISCO	CA	94121

2333

300' Radius Map
 395 26th Ave
 Owners Only

2334

Type	APN	Name	Address	City	State	ZIP
Owner	1408 -047	DER-MCLEOD FAMILY TRUST	450 27TH AVE APT 3	SAN FRANCISCO	CA	94121
Owner	1408 -048	VEKSLER, VLAD	371 25TH AVE APT 302	SAN FRANCISCO	CA	94121
Owner	1408 -049	KATS, DORA & KHARY	371 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1408 -050	KIMURA, AKIHIRO	371 25TH AVE APT 304	SAN FRANCISCO	CA	94121
Owner	1408 -057	SASONKIN, ALEKSEY & OLGA	366 26TH AVE # 1	SAN FRANCISCO	CA	94121
Owner	1408 -058	FERRELLI, ANTHONY M	366 26TH AVE # 2	SAN FRANCISCO	CA	94121
Owner	1408 -059	DELANEY, STEPHEN F	366 26TH AVE # 3	SAN FRANCISCO	CA	94121
Owner	1408 -060, 061, 062	ARRIAZA, RAUL & DENISE	4248 23RD ST	SAN FRANCISCO	CA	94114
Owner	1408 -063	MURPHY, TIMOTHY J & JANICE HASENCAMP	349 25TH AVE UNIT C	SAN FRANCISCO	CA	94121
Owner	1408 -066	SUSAN N WARTELL REVOC	23850 OVERLOOK CIR	BINGHAM FARMS	MI	48025
Owner	1457 -001	WANG, WILLIAM & SHIRLEY	699 36TH AVE APT 308	SAN FRANCISCO	CA	94121
Owner	1457 -030D	GEE, JANE Y	434 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -031	TSAO-WU, EDDIE & LULU	638 38TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -032	CHOY, RAINA & WAI MUN	2423 29TH AVE	SAN FRANCISCO	CA	94116
Owner	1457 -033	LEE, JEFFERSON & JOANNA	410 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -034	HUEY, MICHAEL & ROSALYN	1543 32ND AVE	SAN FRANCISCO	CA	94122
Owner	1457 -037	TSAI RICK C L & MADELINE LIV	3250 OCEAN AVE	SAN FRANCISCO	CA	94132
Owner	1457 -038	MORGAN, TARA M	1947 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1457 -039	TSAI, RICKY & ANGELA	2421 CLEMENT ST # 2425	SAN FRANCISCO	CA	94121
Owner	1457 -040	CASTELLUCCI, ANTONIO & MARCO A	1757 UNION ST # 2ND	SAN FRANCISCO	CA	94123
Owner	1457 -041	LIN, JACK H & CONNIE S	2151 IRVING ST STE 201	SAN FRANCISCO	CA	94122
Owner	1457 -042	LUM, STEVEN K & ESTELLA KITYIN LI	3735 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1457 -043	HONG, STEPHANIE W	425-427 25TH AVE # 1	SAN FRANCISCO	CA	94121
Owner	1457 -044	TSOI, THEODORE M & AMY S	427 25TH AVE # 2	SAN FRANCISCO	CA	94121
Owner	1457 -045	TSOI, THEODORE M & AMY S	425 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -046	WONG, HELEN B	425 25TH AVE # 4	SAN FRANCISCO	CA	94121
Owner	1457 -051	SALIMI, SALMA	1435 BUCKINGHAM WAY	HILLSBOROUGH	CA	94010
Owner	1457 -052	MULLIGAN, PATRICK	2443 CLEMENT ST APT 1	SAN FRANCISCO	CA	94121
Owner	1457 -053	2445 CLEMENT ST LLC	111 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -054	LIU, JENNIFER C	2443 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1457 -055	JOE, TEDDY K	2443 CLEMENT ST APT 4	SAN FRANCISCO	CA	94121
Owner	1457 -056	KEARNS LIVING TRUST	621 BIRCHWOOD CT	DANVILLE	CA	94506
Owner	1457 -057	LEE, ROSE F	3366 SOLANO CT	SANTA CLARA	CA	95051
Owner	1457 -058	YEE, HENRY SHEW & SAU CHUN	2146 27TH AVE	SAN FRANCISCO	CA	94116
Owner	1457 -059	CHAN, YORKIE	240 TARA ST	SAN FRANCISCO	CA	94112

300' Rar Map

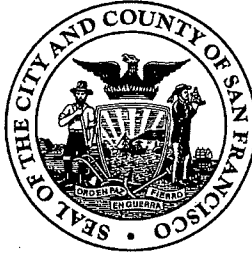
395 26th Ave

Owners Only

Type	APN	Name	Address	City	State	ZIP
Owner	1457 -060	CHEUNG, IVY	2443 CLEMENT ST APT 9	SAN FRANCISCO	CA	94121
Owner	1457 -062	RILEY, MARIA	428 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -063	RODZEWICH, EDWARD J	430 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1457 -064	GREEN, RANDALL B	432 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1458 -002	NELSON, RUSSELL & DAWN	185 VASQUEZ AVE	SAN FRANCISCO	CA	94127
Owner	1458 -006	LEON FAMILY TRUST THE	1987 41ST AVE	SAN FRANCISCO	CA	94116
Owner	1458 -007	NG, GORDON T & CONNIE LEE	35 SAN JACINTO WAY	SAN FRANCISCO	CA	94127
Owner	1458 -029	CHIN, CAREY D	434 27TH AVE # 436	SAN FRANCISCO	CA	94121
Owner	1458 -030	FONG KENNETH & VIOLET J TRUST	539 25TH AVE	SAN FRANCISCO	CA	94121
Owner	1458 -031	YEH, SIMON M	2540 FOX CIR	WALNUT CREEK	CA	94596
Owner	1458 -032	LAM, SAI FU	424 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1458 -033	KWAN, MAN YIU & HUI LING HUO	420 27TH AVE	SAN FRANCISCO	CA	94121
Owner	1458 -034	SURVIVORS TRUST THE	2543 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1458 -035	HUEY, FRANKIE & CINDY KWAN	9553 SANDPOINT DR	SAN RAMON	CA	94583
Owner	1458 -036	GOODWIN, JAMES W	125 VICKSBURG ST	SAN FRANCISCO	CA	94114
Owner	1458 -039	GON, QUON LIT	2521 CLEMENT ST APT 2	SAN FRANCISCO	CA	94121
Owner	1458 -040	CLEMENT ST PARTNERSHIP	2515 CLEMENT ST APT 4	SAN FRANCISCO	CA	94121
Owner	1458 -042	LEE, SONIA	401 26TH AVE	SAN FRANCISCO	CA	94121
Owner	1458 -043	DUBROVSKY, IGOR & ANNA	129 REED ST	MILL VALLEY	CA	94941
Owner	1458 -044	KWONG, ALLEN	401 26TH AVE APT 3	SAN FRANCISCO	CA	94121
Owner	1458 -045, 046	WALDEN, KATHRYN A	401 26TH AVE APT 4	SAN FRANCISCO	CA	94121
Owner	1458 -047	CHENG, PAUL SHU SHUM & ALVA LEW	2212 18TH AVE	SAN FRANCISCO	CA	94116
Owner	1458 -048	LEE, ROGER Y & SUSIE L	860 MERIDIAN BAY LN UNIT 223	FOSTER CITY	CA	94404
Owner	1458 -049	WANG, GANBING	427 26TH AVE # 1	SAN FRANCISCO	CA	94121
Owner	1458 -050	FRANKEL, NINA	427 26TH AVE # 2	SAN FRANCISCO	CA	94121
Owner	1458 -051	LEE, DONALD T & KATE	427 26TH AVE # 3	SAN FRANCISCO	CA	94121
Owner	1458 -071	431 26TH AVE LLC	2543 CLEMENT ST	SAN FRANCISCO	CA	94121
Owner	1459 -001	JURI, ELVIN P & BARBARA L	405 27TH AVE APT 4	SAN FRANCISCO	CA	94121
APPLICANT		VICTORIA ELLISON GABRIEL NG ARCHITECTS	1360 9TH AVE STE 210	SAN FRANCISCO	CA	94122

2335

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

PROOF OF MAILING

Legislative File No. 141046

Description of Items:

I, John Carroll, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows: to be affixed by ReproMail.

Date: 10.24.14

Time: 9: a.m.

USPS Location: Clerk's Office - Dogwood USPS Pick-up

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

Carroll, John (BOS)

From: BOS Legislation (BOS)
Sent: Friday, October 24, 2014 10:03 AM
To: SF Docs (LIB)
Cc: BOS Legislation (BOS)
Subject: Please Post the Attached Hearing Notices
Attachments: Hearing Notice.pdf; Hearing Notice.pdf; Hearing Notice.pdf

Categories: 141046, 141064, 141068

Please kindly post the three attached notices.

141046
141064
141068

Thank you!

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax
john.carroll@sfgov.org | board.of.supervisors@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Carroll, John (BOS)

From: Lamorena, Christine (CPC)
Sent: Wednesday, October 15, 2014 1:56 PM
To: Lamug, Joy
Cc: Carroll, John (BOS); BOS Legislation (BOS)
Subject: RE: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street) Case No. 2013.0205CEKSV
Attachments: 2013.0205C-395 26th Avenue-Application.pdf; 395 26th 300' Mailing List UPDATED.XLSX; Final Motion 19229 - 395 26th Ave.pdf
Categories: 141046

Hi Joy – Please see attached.

Christine Lamorena, LEED AP Manager of Commission Affairs

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103

Direct: 415-575-9085 **Fax:** 415-558-6409

Email: christine.lamorena@sfgov.org

Web: www.sfplanning.org

Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org

Property Information Map (PIM): <http://propertymap.sfplanning.org>

From: Lamug, Joy
Sent: Tuesday, October 14, 2014 1:05 PM
To: Lamorena, Christine (CPC)
Cc: Carroll, John (BOS); BOS Legislation (BOS)
Subject: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street) Case No. 2013.0205CEKSV

Hi Christine,

The above referenced appeal is tentatively scheduled to be heard by the Board of Supervisors on November 4, 2014, at 3:00 p.m. Per Public Works initial count on Friday, October 10, the appeal has exceeded the minimum 20% requirement. We are just waiting for the official letter (due back today, Oct. 14) from Public Works on the final count.

Kindly provide the following documents if possible by tomorrow, Oct. 15:

- 1) Planning Final Motion
- 2) Application Form
- 3) Distribution list in excel format

Please email or call me if any questions.

Thank you in advance.

Joy Lamug
Legislative Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102
Direct: (415) 554-7712 | Fax: (415) 554-5163
Email: joy.lamug@sfgov.org
Web: www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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Carroll, John (BOS)

From: Lamug, Joy
Sent: Thursday, October 16, 2014 4:58 PM
To: BOS Legislation (BOS)
Subject: FW: Appeal of Conditional Use Authorization - 395-26th Avenue - Public Works' Response
Attachments: Final Motion 19229 - 395 26th Ave.pdf
Categories: 141046

From: Lamorena, Christine (CPC)
Sent: Thursday, October 16, 2014 4:49 PM
To: Lamug, Joy
Subject: RE: Appeal of Conditional Use Authorization - 395-26th Avenue - Public Works' Response

Hi Joy – Thanks for this. There was a minor typo in the CU motion. The correct motion is attached. Can you upload this document instead of the original one I sent you?

Christine Lamorena, LEED AP
Manager of Commission Affairs

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9085 **Fax:** 415-558-6409
Email: christine.lamorena@sfgov.org
Web: www.sfplanning.org

Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org
Property Information Map (PIM): <http://propertymap.sfplanning.org>

From: Lamug, Joy
Sent: Thursday, October 16, 2014 4:39 PM
To: Stephen M. Williams
Cc: Sweiss, Fuad; Sanguinetti, Jerry; Storrs, Bruce; Stacy, Kate (CAT); Givner, Jon (CAT); Byrne, Marlena (CAT); Rodgers, AnMarie (CPC); Sanchez, Scott (CPC); Jones, Sarah (CPC); Tam, Tina (CPC); Lamorena, Christine (CPC); gabrieln@rchitects.com; BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Caldeira, Rick (BOS); Carroll, John (BOS); Rivera, Javier; Bergin, Steven; Barkley, Alice; maryntom@gmail.com; Gabriel Ng (gabriel@gabrielngarchitects.com); Jeremy Schaub; 'Mei Lam' (mei@gabrielngarchitects.com); Shanagher, Denis
Subject: Appeal of Conditional Use Authorization - 395-26th Avenue - Public Works' Response

Dear Mr. Williams,

The Office of the Clerk of the Board has scheduled an appeal hearing for a Special Order before the Board on November 4, 2014, at 3:00 p.m.

Please find linked below a letter from Clerk of the Board forwarding Public Works determination of the sufficiency of signatures regarding the CU appeal filing for a property located at 395-26th Avenue.

[Clerk of the Board Letter – 10/16/2014](#)

You are invited to review the entire matter on our [Legislative Research Center](#) by following the link below.

Thank you,

Joy Lamug

Legislative Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Direct: (415) 554-7712 | Fax: (415) 554-5163

Email: joy.lamug@sfgov.org

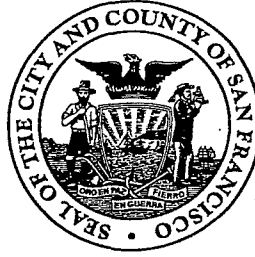
Web: www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

BOARD of SUPERVISORS



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

October 16, 2014

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115

Subject: Conditional Use Appeal - 395-26th Avenue (aka 2500 Clement Street)

Dear Mr. Williams:

This is in reference to the appeal you submitted from the decision of the Planning Commission by Motion No. 19229 (Case No. 2013.0205CEKSV), on property located at:

395-26th Avenue (aka 2500 Clement Street), Assessor's Block No. 1407, Lot No. 017.

The Director of Public Works has informed the Board of Supervisors in a letter dated October 14, 2014, (copy attached), that the signatures represented with your appeal of October 6, 2014, have been checked pursuant to the Planning Code and represent owners of more than 20 percent of the property involved and would be sufficient for appeal.

A hearing (File No. 141046) date has been scheduled on **Tuesday, November 4, 2014, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by:

11 days prior to the hearing: names and addresses of interested parties to be notified of the hearing in spreadsheet format; and

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

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and one hard copy of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.



If you have any questions, please feel free to contact Legislative Deputy, Rick Caldeira at (415) 554-7711, or Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

Sincerely,

Angela Calvillo
Clerk of the Board

c:
Project Owner, Gabriel Ng, Gabriel Ng and Architects, Inc.
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Tina Tam, Planning Department
Christine Lamorena, Planning Department
Jonas Ionin, Planning Commission
Mohammed Nuru, Director of Public Works
Fuad Sweiss, City Engineer, Public Works
Jerry Sanguinetti, Manager, Public Works-Bureau of Street Use and Mapping
Bruce Storrs, Public Works
Steven Bergin, Public Works

City and County of San Francisco



Phone: (415) 554-5827

Fax: (415) 554-5324

www.sfdpw.org

Subdivision.Mapping@sfdpw.org

Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Edwin M. Lee, Mayor
Mohammed Nuru, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering

October 14, 2014

Ms. Angela Calvillo
Clerk of the Board
1 Dr. Carlton B. Goodlet Place
City Hall – Room 244
San Francisco, CA 94102

RE: 395 26th Ave.
Lot 017 of Assessor's Block 1407
Appealing Planning Commissions Approval of
Conditional Use Application No. 2013.0205CEKSV

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 OCT 15 PM 4:31
AK

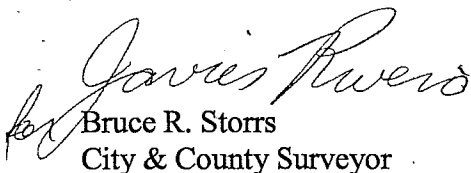
Dear Ms. Calvillo:

This letter is in response to your October 08, 2014 request for our Department to check the sufficiency of the signatures with respect to the above referenced appeal.

Please be advised that per our calculations the appellants' signatures represent 22.98% of the area within the 300 foot radius of the property of interest; which is more than the minimum required 20% of the area involved and is therefore sufficient for appeal.

If you have any questions concerning this matter, please contact Mr. Steven Bergin of my staff at 554-5886.

Sincerely


Bruce R. Storrs
City & County Surveyor

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

October 8, 2014

Mohammed Nuru
Director, Public Works
City Hall, Room 348
San Francisco, CA 94102

Planning Case No. 2013.02054CEKSV
395-26th Avenue Conditional Use Appeal

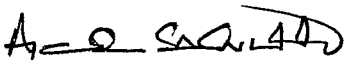
Dear Director Nuru:

The Office of the Clerk of the Board is in receipt of an appeal filed by Stephen M. Williams of the decision of the Planning Commission by its Motion No. 19229 dated September 4, 2014, relating to the approval of a Conditional Use Authorization (Case No. 2013.02054CEKSV) pursuant to Planning Code, Sections 303 and 317, to demolish two residential units on a property within the Outer Clement Street Neighborhood Commercial District (NCD) located at:

395-26th Avenue, Assessor's Block No. 1407, Lot No. 017

By copy of this letter, the City Engineer's Office is requested to determine the sufficiency of the signatures in regard to the percentage of the area represented by the appellant. Please submit a report not later than 5:00 p.m., October 14, 2014, to give us time to prepare and mail out the hearing notices, as the Board of Supervisors has tentatively scheduled the appeal to be heard on November 4, 2014, at 3:00 p.m.

Sincerely,


Angela Calvillo
Clerk of the Board

c:
Appellant, Stephen M. Williams, Law Offices of Stephen M. Williams
Project Sponsor, Gabriel Ng, Gabriel Ng and Architects, Inc.
Fuad Sweiss, City Engineer, Public Works
Jerry Sanguinetti, Public Works-Bureau of Street Use and Mapping
Bruce Storrs, Public Works
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
AnMarie Rodgers, Planning Department
Scott Sanchez, Planning Department
Sarah Jones, Planning Department
Tina Tam, Planning Department
Christine Lamorena, Planning Department

BOARD of SUPERVISORS



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

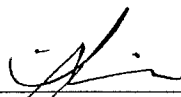
October 23, 2014

FILE NO. 141046

Received from the Board of Supervisors-Clerk's Office a check in the amount of Five Hundred Forty Seven Dollars (\$547), representing filing fee paid by Stephen M. Williams (Appellant) for Appeal of Conditional Use for 395-26th Avenue.

Planning Department
By:

Josephine Chen
Print Name

 10/23/14
Signature and Date

2347

LAW OFFICE OF STEPHEN M. WILLIAMS
ATTORNEY/CLIENT TRUST ACCOUNT
1934 DIVISADERO ST.
SAN FRANCISCO, CA 94115
PH: (415) 292-3656

1061
11-35/1210 CA
91299

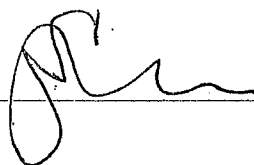
10-6-14

Pay To The
Order of San Francisco Planning Dept. | \$ 547 -
Five Hundred and Forty Seven *00/100 Dollars*

Bank of America 

ACH R/T 121000358

To: C.U. Appeal 395 26th AVE

 MP

Harland Clarke

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

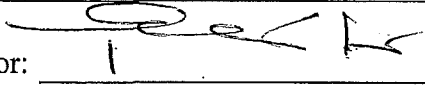
Clerk of the Board

Subject:

Public Hearing - Appeal of Conditional Use Authorization - 395-26th Avenue, aka 2500 Clement Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the Planning Commission's decision of September 4, 2014, Motion No. 19229, relating to approval of a Conditional Use Authorization (Case No. 2013.02054CEKSV), to demolish two residential units on a property within the Outer Clement Street Neighborhood Commercial District (NCD), located at 395-26th Avenue, Assessor's Block No. 1407, Lot No. 017. (District 1) (Appellant: Stephen M. Williams) (Filed October 6, 2014).

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: