
From: Rodgers, AnMarie (CPC)
Sent: Monday, December 08, 2014 1:28 PM
To: Calvillo, Angela (BOS)
Cc: BOS Legislation (BOS); BOS-Legislative Aides; BOS-Supervisors; Givner, Jon (CAT); Malamut, John (CAT); Cleveland-Knowles, Susan (CAT); Kirby, Alexandra (CPC); Sanguinetti, Jerry; Sweiss, Fuad; jkevin@reubenlaw.com; Karl Nakamura; bruce.storrs@sfgov.org
Subject: BF 141248 Appeal of Tentative Parcel Map 3032, 3038-3040 Clement Street
Attachments: 3032 3038-40 Clement St- Subdivision Planning Response.pdf; Attach A Commission Motion.pdf; Attach B ZA Decision.pdf

Categories: 141248

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

The memorandum and attachments provided with this email constitute our Department's response to the letter of appeal to the Board of Supervisors regarding the Department of Public Work's approval of the application for a two-lot subdivision related to a project at 3032, 3038-40 Clement Street (Assessor's Block 1402, Lots 022 and 023). This response addresses the appeal to the Board filed by Karl Nakamura. These materials are being transmitted for the December 16, 2014 hearing date. Hardcopies will be delivered to the Clerk this afternoon and can be made available upon request.

AnMarie Rodgers
Senior Policy Advisor

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SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Appeal of Tentative Parcel Map 3032, 3038—3040 Clement Street

DATE: December 8, 2014

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: AnMarie Rodgers, Senior Policy Advisor – Planning (415) 558-6395
Alexandra Kirby, Case Planner – Planning Department (415) 575-9133

RE: Board File No. 141248, Planning Case No. 2012.0990CEUV, 2014.1587Q –
Appeal of the Tentative Parcel Map for 3032, 3038-40 Clement Street

HEARING DATE: December 16, 2014

ATTACHMENTS:

- A. Planning Commission Motion No. 19096 (Conditional Use Authorization)
- B. Zoning Administrator Decision (Rear Yard Modification)

PROJECT SPONSOR: 3038 Clement, LLC
c/o John Kevlin
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
735 Market Street, 4th Floor, San Francisco, CA 94107

APPELLANT: Karl Nakamura 371-31st Avenue, San Francisco, CA 94121

INTRODUCTION:

This memorandum and the attached documents are in response to the letter of appeal (“Appeal Letter”) to the Board of Supervisors (the “Board”) regarding the Department of Public Works (“DPW”) November 20, 2014 approval of a Tentative Parcel Map for a two-lot subdivision related to a project at 3032, 3038-40 Clement Street (Assessor’s Block 1402, Lots 022 and 023, “Project Site”). The related project consists of three components: (1) the merger of the two lots on the Project Site; (2) the demolition of the existing one-story retail building and carport, and (3) the construction of a new, 40-foot tall, four-story mixed-use building (Planning Case No. 2012.0990CEUV, 2014.1587Q). The application was filed with the Department of Public Works (“DPW”) on September 30, 2014 and referred to the Planning Department (the “Department”) for review on October 3, 2014. The Department recommended approval of the subdivision on November 10, 2014, and DPW issued an approval on November 10, 2014. The Appeal Letter to the Board was filed on December 1, 2014 by Karl Nakamura.

The decision before the Board is whether to uphold or overturn the Tentative Parcel Map approval. We write to explain the extensive process of Planning Department review and the Planning Commission and Zoning Administrator approval for this project, which has already occurred. Opportunity for public review occurred at every step of the process; there was no opposition to the project and no appeals of past decisions were taken. The scale, density and rear-yard dimensions of the project were all considered

Memo

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at a joint hearing of the Planning Commission and Zoning Administrator. At that hearing, the project received all necessary entitlements from the Planning Commission and Zoning Administrator. The Conditional Use Authorization for this project was not appealed to the Board of Supervisors. The Rear-Yard Modification was not appealed to the Board of Appeals. We attach the Planning Department memorandum reviewing the project, the Planning Commission Motion of Approval and the Zoning Administrator's Variance Decision so that the Board of Supervisors can review the thoroughness of the review that has already occurred.

The Appellant now raises for the first time issues that could have – indeed should have – been addressed at the time the Planning Commission and Zoning Administrator considered the permits for this project. We urge the Board of Supervisors to reject this appeal; to consider these issues at this late date could thwart the well-established, thoughtful and public review process that occurs at the time the Planning Department, Planning Commission and Zoning Administrator consider the permits for this and any project. These issues are not germane to the parcel map decision before the Board of Supervisors at this time.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Project Site is located within an NC-1 (Neighborhood Commercial Cluster) District and 40-X Height and Bulk District. The Project Site is situated towards the western end of the NC-1 District along the one-block commercial corridor in the Outer Richmond neighborhood. The MUNI line "38-Geary" is one block south of the Project Site linking the Richmond area to Downtown and the Financial District. Other transit lines are also nearby and are within walking distance of the Site. Except for the commercial uses located on the subject block and adjacent blocks, the Project Site is surrounded by predominantly residential dwellings and residentially zoned districts to the north and east of the site. To the west of the site on Clement Street and 32nd Avenue, uses include a large supermarket and Lincoln Park and Golf Course. Buildings on the subject block and facing block on Clement Street range from one to two stories tall with primarily commercial uses on the ground floor and residential units on the upper floor. Commercial uses on the subject and facing blocks on Clement Street include restaurants, a flower shop, a clothing store, a dry cleaner, a Laundromat, a dance school, a convenience store, and other professional offices. The Geary Boulevard commercial corridor is one block south of the Project Site.

BACKGROUND:

2012: Applications for Development Filed

On November 13, 2012, 3030 Clement, LLC (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use authorization under Planning Code Sections 121.1, 303(c) and 710.11 to allow a development lot size of 5,000 square feet, in an NC-1 (Neighborhood Commercial Cluster) District, and a 40-X Height and Bulk District. The proposal was to demolish an existing one-story commercial building and construct a new four-story mixed use building containing approximately 900 square feet of retail space, six residential parking spaces and 10 bicycle spaces on the ground floor, and six dwelling units on the upper floors, including three two-bedroom units, and three three-bedroom units. The proposed ground floor level occupies the entire lot, resulting in the need for a rear yard modification per the Variance process. The development would total approximately 15,500 square feet

November 2013 – Planning Department Completes CEQA Review

On November 6, 2013, the Project was determined to be exempt from the California Environmental Quality Act (“CEQA”) as Class One and Class 3 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project (Case 2012.0990E). No appeal of the categorical exemption was filed.

February 2014 – Planning Commission approves Conditional Use Authorization and Zoning Administrator Approves Variance Application

On February 27, 2014, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0990CEUV. This hearing was conducted jointly with a public hearing of the Zoning Administrator on the Variance Application No. 2012.0990CEUV. Both items were approved unanimously on the consent calendar without opposition.

October 2014 – Building Permits Issued by Department of Building Inspection

On November 16, 2012, the Project Sponsor filed a Building Permit Application with the Department of Building Inspection. On May 8, 2014, following the approval of all required entitlements, Building Permit Application no. 201211093902 and 201211093910 were approved by Planning Department staff. The Department of Building Inspection completed review of detailed construction drawings and permits for demolition and new construction. The final approved building permits were issued by the Central Permitting Bureau on October 27, 2014.

September-November 2014 – Tentative Parcel Map Application Filed & Approved

The tentative map application was filed with DPW on September 30, 2014 and referred to the Planning Department for review on October 3, 2014. The Department recommended approval of the subdivision on November 10, 2014, and DPW issued an approval on November 10, 2014.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

In the appellant's materials describing the basis for the appeal, the Appellant raises issues that have been addressed by previous actions regarding the 3032, 3038-3040 Clement Street. Specifically, the scale, density, and rear-yard dimensions of the project were all considered at the joint hearing of the Planning Commission and Zoning Administrator. At that hearing, the project received all necessary entitlements from the Planning Commission and Zoning Administrator. The Conditional Use Authorization for this project was not appealed to the Board of Supervisors. The Rear-Yard Modification was not appealed to the Board of Appeals.

The appellant raises issues with respect to the scale, density and design of the project. The issues raised by the Appellant were addressed by the Planning Commission and Zoning Administrator as follows:

1. **The scale of the proposed building.** The Commission found that the scale of the proposed Project was compatible with the existing scale of the district in that it is typified by ground floor commercial uses with housing on the upper floors. The new four-story building is typical of the surrounding three to four-story residential buildings in the district and on this block. Across 32nd Avenue is a large formula retail pharmacy and grocery store.
2. **The density of the proposed project.** The Commission found the previous development to be underutilizing the site's potential. Prior to the demolition of the previous building, the site contained a one-story building, with a specialty European grocery store and a carport for two tandem parking spaces. The proposed Project would create six new dwelling units and an approximately 900 square-foot retail space on the ground floor. The City is currently facing a housing crisis due to economic and employment changes. The Mayor issued an executive order establishing a working group to develop policies to address the housing crisis. The working group has recommended that the Planning Commission encourage density in new housing projects. The Project maximizes the permitted residential density allowed in the NC District by building the six units permitted by this zoning district. The Project is necessary and desirable because it is also located at a unique in-fill location in the Outer Richmond neighborhood, where new housing would be appropriate and desirable. A new retail storefront will be provided, adding pedestrian interest and vitality along Clement Street.
3. **The rear-yard and open space of the proposed building.** The proposed project provides no rear yard at the ground floor level. Therefore, the project required a modification from the rear yard requirement of the Planning Code. In granting the rear-yard modification, the Zoning Administrator found that the new building will not encroach any further into the mid-block open space than the previous structure. The previous one-story structure occupied almost the entirety of the lots. The proposed building would occupy the entirety of the lot at the ground floor level only. As a result, it will have no additional impact on the mid-block open space. Further, with the proposed project, an equal amount of open space that would otherwise be provided by a ground level rear yard is being provided on the second level. In addition, a roof deck totaling approximately 2,000 square feet will provide additional open space. The open space provided at the second level will be directly accessible by the two units on the second floor, allowing these residents to access open space at the same floor as their unit, rather than having to travel down a floor. The open space provided at the roof deck will serve the units on the third and fourth floor levels. As such the rooftop space will be closer to the fourth floor than if provided at the ground level, and just as close to the third floor than if provided at the ground level. The rooftop mechanical equipment is required to be screened pursuant to Planning Code section 141. In sum,

the rear yard modification will allow for the construction of six family-sized dwelling units above a ground floor with retail space, six required off-street parking spaces for the dwelling units, and 10 Class 1 bicycle spaces.

4. **The process.** In conjunction with the planning entitlements, public notification was completed as required. The Project Sponsor conducted a pre-application meeting on August 15, 2012. After the application was filed, the project was noticed for public hearing in three ways: (1) a newspaper advertisement, (2) mailed notice to property owners and occupants within 150' and mailed notice to property owners within 300', and (3) a 30"x 30" sign posted at the site, as required by Section 312. Eight letters of support were submitted to the Commission prior to the hearing. There was no opposition to the project. The item was approved unanimously on the consent calendar on February 27, 2014.

All of Appellant's issues were addressed at the time the Planning Commission and Zoning Administrator considered permits authorizing the project at a particular scale and design. The City's well-established permit process affords an opportunity for public review and comment, as well as careful consideration by City decision-makers in the appropriate context – review of the permits needed to construct the building, at a particular scale and design, in the context of the neighborhood.

CONCLUSION:

In their approval of the Conditional Use Authorization, the Commission cited numerous benefits of the Project, including the addition of new housing on a commercial corridor in the Richmond District and over 30' of fenestrated transparent windows and doorways to activate the street frontage. The location, just one block south of the 38-Gear Muni line links the area to the Downtown and is a suitable location for mixed-use development. The Commission also found that the Project's uses, size, density, height, and design are compatible with the surrounding context.

As described above, the project was found to be exempt from CEQA, and the Project has received all necessary entitlements from the Planning Commission and Zoning Administrator. Department staff has concluded that the Tentative Map application would merge the subject parcels in a manner that is consistent with the configuration of the development project approved by the entitlements. Further, the Tentative Map application is consistent the General Plan in that it will replace an underutilized one-story retail building with a four-story mixed-use building. The new building will provide six dwelling units, including three 2-bedroom units and three 3-bedroom units. The Planning Department recommends that the Board uphold the Department of Public Work's decision in approving the Tentative Parcel Map for 3032, 3038—3040 Clement Street and deny the Appellant's request for appeal.



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|---|
| <input type="checkbox"/> Inclusionary Housing (Sec. 415) | <input type="checkbox"/> Better Streets Plan (Sec. 138.1) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> First Source Hiring (Admin. Code Chapter 83) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input checked="" type="checkbox"/> Transit Impact Development Fee (Sec. 411) |

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Planning Commission Motion No.19096

HEARING DATE: FEBRUARY 27, 2014

Date: February 20, 2014
Case No.: 2012.0990CEUV
Project Address: 3032 - 3038 CLEMENT STREET
Zoning: NC-1 (Neighborhood Commercial Cluster) District
40-X Height and Bulk District
Block/Lots: 1402/022 and 023
Project Sponsor: 3038 Clement, LLC
c/o John Kevlin
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Mary Woods – (415) 558-6315
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121.1, 303(C) AND 710.11 OF THE PLANNING CODE TO ALLOW A DEVELOPMENT LOT SIZE OF 5,000 SQUARE FEET, IN AN NC-1 (NEIGHBORHOOD COMMERCIAL CLUSTER) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 13, 2012, 3030 Clement, LLC (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use authorization under Planning Code Sections 121.1, 303(c) and 710.11 to allow a development lot size of 5,000 square feet, in an NC-1 (Neighborhood Commercial Cluster) District, and a 40-X Height and Bulk District.

On February 27, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0990CEUV.

On November 6, 2013, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as Class One and Class 3 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project (Case 2012.0990E).

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 Project Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2012.0990CEUV, 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. **Site Description and Present Use.** The Project is located on the north side of Clement Street between 31st and 32nd Avenues, in Assessor's Block 1402, Lots 022 and 023. The property is located within an NC-1 (Neighborhood Commercial Cluster) District and 40-X Height and Bulk District. The Project Site is improved with a one-story retail building occupying almost the entire depth of both lots, and an ancillary carport for two tandem parking spaces on the east side of the property. The existing approximately 17-foot tall, 4,100 square-foot building is currently used as a specialty European grocery store.
3. **Surrounding Properties and Neighborhood.** The Project Site is situated towards the western end of the NC-1 District along the one-block commercial corridor in the Outer Richmond neighborhood. The MUNI line "38-Geary" is one block south of the Project Site linking the Richmond area to Downtown and the Financial District. Other transit lines are also nearby and are within walking distance of the Site. Except for the commercial uses located on the subject block and adjacent blocks, the Project Site is surrounded by predominantly residential dwellings and residentially zoned districts to the north and east of the site. To the west of the site on Clement Street and 32nd Avenue, uses include a large supermarket and Lincoln Park and Golf Course. Buildings on the subject block and facing block on Clement Street range from one to two stories tall with primarily commercial uses on the ground floor and residential units on the upper floor. Commercial uses on the subject and facing blocks on Clement Street include restaurants, a flower shop, a clothing store, a dry cleaner, a Laundromat, a dance school, a convenience store, and other professional offices. The Geary Boulevard commercial corridor is one block south of the Project Site.
4. **Project Description.** The proposed Project consists of three components: (1) the merger of the two lots on the Project Site; (2) the demolition of the existing one-story retail building and carport, and (3) the construction of a new, 40-foot tall, four-story mixed-use building. The new

building will contain a retail space (approximately 900 square feet), six parking spaces and 10 bicycle spaces on the ground floor, and six dwelling units on the upper floors, including 3 two-bedroom units, and 3 three-bedroom units. The proposed ground floor level occupies the entire lot, resulting in the need for a rear yard modification per the Variance process (Case 2012.0990V). The development would total approximately 15,500 square feet.

The proposed Project requires public notice per Planning Code Section 312 and the related Variance request for a rear yard modification, which was conducted in conjunction with the Conditional Use authorization process.

5. **Public Comment.** To date, the Department has received eight letters in support of the Project, and none received in opposition to the Project.
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. **Lot Size.** Sections 121.1 and 710.11 state that a Conditional Use authorization is required for development of a lot size exceeding 4,999 square feet in Neighborhood Commercial Districts.

The Project's two combined lots will total 5,000 square feet.

- B. **Basic Floor Area Ratio.** Section 124 limits the building square footage to 1.8 square feet of building area for every 1 square foot of lot area, or approximately 9,000 square feet of building area for the subject site. However, in NC Districts, the FAR limits do not apply to dwellings or to other residential uses per Section 124(b).

The entire Project would total approximately 15,500 square feet, of which, approximately 14,600 square feet is related to residential uses. The remaining 900 square feet is devoted to non-residential uses.

- C. **Residential Density.** Section 710.91, which sets forth density restrictions for dwelling units in NC Districts, states that one dwelling unit is allowed for each 800 square feet of lot area.

Based on a lot area of 5,000 square feet, six dwelling units are permitted. The Project proposes to develop up to six dwelling units.

- D. **Front Setback.** Section 132 is not applicable. There is no front setback requirement for buildings in NC-1 Districts.

- E. **Rear Yard.** Section 134(a)(1) requires that a rear yard equal to 25% of the lot depth be provided opposite the site's frontage. Section 134(a)(1)(A) requires that in NC-1 Districts, rear yards must be provided at the ground level and at each succeeding story of the building. Further, Section 134(e)(1) allows for a modification to the rear yard requirement to be granted by the Zoning Administrator in NC Districts when three alternative findings are made.

The proposed ground floor occupies the entire depth of the lot while the upper three floors have a 25-foot rear yard setback (25% of the 100-foot lot depth) at all the residential levels. The Project, therefore, requires a rear yard modification pursuant to the Variance procedures.

- F. Useable Open Space.** Section 135 typically requires 100 square feet of usable open space be provided for every dwelling unit, when provided as private open space, in NC-1 Districts. The open space requirement must be multiplied by 1.33 when provided as common open space.

For the proposed six-unit Project, approximately 800 square feet of common useable open space would be required. For four of the units, the Project will provide common useable open space at the roof deck totaling approximately 2,000 square feet (532 square feet required). The remaining two units contain private useable open space in the form of private decks, totaling approximately 1,200 (200 square feet required). All private open spaces meet the minimum area requirements of the Code.

- G. Dwelling Unit Exposure.** Section 140 requires that all dwelling units face a public street or side yard at least 25 feet in width, a required rear yard, or an open area of 25 feet in width.

All of the units in the proposed Project meet this requirement.

- H. Street Frontage in Neighborhood Commercial Districts.** Section 145.1 requires in NC Districts containing specific uses, including retail stores, that off-street parking at street grade on a development lot be set back at least 25 feet on the ground floor from any facade facing a street at least 30 feet in width, that parking entrances are no more than 17 feet wide, that active uses be provided within the first 25 feet of building depth on the ground floor, that ground floors have a minimum 10-foot ceiling height, that street-fronting interior spaces for non-residential active uses and lobbies be as close as possible to the sidewalk, and that the ground floor street frontage be at least 60% transparent in order to allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind ground floor windows, shall be at least 75 percent open to perpendicular view.

The proposed Project is consistent with the relevant provisions under Section 145.1. The proposed ground floor parking is set back approximately 55 feet from the building facade. The parking entrance is 8 feet wide. The ground floor ceiling height is 10.6 feet. The proposed retail space and residential lobby are designed to be set back three feet from the front property line. Along the 50-foot wide Clement Street frontage, approximately 30 feet are fenestrated with transparent windows and doorways, which is equivalent to approximately 60 percent transparency.

- I. Parking.** Section 151 requires one off-street parking space for each dwelling unit. Section 155.2(b) requires one Class 1 bicycle space for every dwelling unit, and a minimum of two Class 2 spaces for the retail use.

The proposed Project meets the provisions of the parking requirements as follows: six off-street parking spaces for the dwelling units, and 10 Class 1 bicycle spaces. The Project will provide two on-street Class 2 bicycle spaces. The Project would not be required to have off-street freight loading spaces because the Project proposes approximately 900 square feet of retail use on the ground floor. Adequate signs or notices of the availability of bicycle parking will be provided at the Project Site.

- J. Transit Impact Development Fee.** Sections 411 through 411.8 authorizes the imposition of certain development impact fees on new non-residential development projects or conversion of non-residential space of at least 800 gross square feet to offset impacts on the transit system. Land use categories for all impact fees are defined in Section 401.

The Project Sponsor will comply with the requirements of this section prior to the issuance of a Site Permit.

- K. Inclusionary Affordable Housing Program.** Section 415 (formerly Section 315) sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for before July 18, 2006.

The proposed Project for six dwelling units is not required to provide any inclusionary affordable housing units.

- L. Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

- 7. Planning Code Section 303(c)** 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 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 existing Project Site is underutilized. It contains a one-story building currently used as a specialty European grocery store, and a carport for two tandem parking spaces. The proposed Project would create six new dwelling units and an approximately 900 square-foot retail space on the ground floor.

The City is currently facing a housing crisis due to economic and employment changes. The Mayor had issued an executive order establishing a working group to develop policies to address the housing crisis. The working group has recommended that the Planning Commission encourage density in new housing projects. The Project maximizes the permitted residential density allowed in the NC District. The Project is necessary and desirable because it is also located at a unique in-fill location in the Outer Richmond neighborhood, where new housing would be appropriate and desirable. The Mayor, in his latest State of the City speech, called for the construction of 30,000 new dwelling units in the next six

years. The proposed mixed-use development will add six dwelling units to the City's housing stock. A new retail storefront will be provided, adding pedestrian interest and vitality along Clement Street.

(1) In Neighborhood Commercial Districts, if the proposed development lot exceeds the limitation (4,999 square feet) found in Planning Code Section 121.1, the following shall be considered:

(i) The mass and façade of the proposed structure are compatible with the existing scale of the district; and

The proposed Project is compatible with the existing scale of the district in that it is typified by ground floor commercial uses with housing on the upper floors. The new four-story building is typical of the surrounding three to four-story residential buildings in the district. The façade of the Project is also consistent with other multi-family developments in the area. It has vertical, multi-story bay windows. The ground floor provides significant transparency, consistent with the street frontage requirements.

(ii) The façade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

The lot to the west of the Project Site is a non-conforming automobile service station, which is not consistent with the character of the neighborhood. The Project's façade is compatible with the building adjacent to the east of the site. The Project is situated on a double-wide lot with a single building with its mass at the street broken into two halves, providing a mass that communicates two separate buildings of the same width as the building adjacent to the east. Each "half" of the building provides two lateral bays, similar to the two bays on the east building. Other multi-family buildings in the neighborhood also provide similar vertical, multi-story bay windows similar to the proposed Project. The Project will provide a building with a contemporary design that is still harmonious with the aesthetic character of the surrounding buildings.

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 four stories tall with an arcaded ground floor level. There are numerous four-story buildings on the subject block and adjacent blocks, near the Project Site. The design of the new building has been created to be compatible with the scale and context of the surrounding neighborhood.

- 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 Project Site is well-served by public transit. Several MUNI transit lines (1-California, 1AX, 2-Clement, and 38-Geary) run directly in front of or near the Site. The Project proposes ground level parking for six cars, 10 Class 1 bicycle spaces, as well as two on-street bicycle spaces.

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

No noxious or offensive emissions will be associated with the Project. The Project's retail or commercial tenant (to be determined) will incorporate appropriate measures in order to avoid any such emissions.

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

The Project provides both private and common useable open space at the second level decks and a roof deck. Landscaping will be provided at the outdoor open spaces. The proposed garage door is set back approximately 5 feet from the front property line. The parking spaces will be fully enclosed within the new building.

- 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 relevant requirements and standards of the Planning Code, 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 applicable Neighborhood Commercial District.

The proposed Project is consistent with the stated purpose of the NC-1 (Neighborhood Commercial Cluster) District in that the intended use is to replace an underutilized one-story building with a four-story mixed use development. The larger lot size is required to create six new housing units on upper floors, and a retail space, automobile and bicycle parking spaces on the ground floor.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPEMNT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1:

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The new four-story mixed-use building will contain a retail space (approximately 900 square feet) on the ground floor, and six dwelling units on the upper floors, including three two-bedroom units, and three three-bedroom units.

OBJECTIVE 11:

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

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

The Project consists of an in-fill development, which replaces an underutilized one-story retail building with a combined residential and retail building, consistent with the established uses in the neighborhood.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

Policy 6.9

Regulate uses so that traffic impacts and parking problems are minimized

The Project's commercial component will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

By providing a modified rear yard, the Project will be able to provide adequate on-site parking to meet the needs of the residential use so that the Project will not significantly increase traffic congestion or parking problems in the neighborhood.

URBAN DESIGN ELEMENT

Objectives and Policies

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.

Policy 1.3:

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

The Project consists of an in-fill development, which replaces an underutilized one-story retail building with a four-story mixed use building. The new building is consistent with the existing pattern of four-story buildings on the subject block and adjacent blocks in the neighborhood.

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 design of the Project draws on architectural features of surrounding older development and is compatible with the existing character of the neighborhood. The Project also echoes similar multi-family housing developments on the block and adjacent blocks by providing similar vertical, multi-story bay windows on residential levels.

9. **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.

The proposed Project will replace an underutilized one-story building with a four-story mixed use building with a retail space on the ground floor and residential units on the upper floors. The Project's new retail space will offer new employment opportunities and business ownership.

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

The design of the new mixed-use building will be compatible with the scale and design of the existing neighborhood.

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

The Project Site currently does not have any housing units. With the Project, six new dwelling units will be added to the City's housing stock.

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

The Project Site is well-served by public transit. Several MUNI transit lines (1-California, 1AX, 2-Clement, and 38-Geary) run directly in front of or near the Site. The Project proposes ground level parking for six cars, 10 Class 1 bicycle spaces, as well as two on-street bicycle spaces. The Transit Impact Development Fee also applies to the retail component of the Project, thereby providing additional funds to support MUNI and other public transit services.

- 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 will not displace any service or industry establishment. The Project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this Project.

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

The Project will comply will all current earthquake safety requirements of the City's Building Code for the new building as well as the existing theatre building.

- G. That landmarks and historic buildings be preserved.

The existing building is not a landmark nor considered a historic resource.

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

The new building will not exceed the 40-foot height limit; therefore, the Project will not affect existing parks and open spaces.

10. 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.
11. 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 Project Sponsor, 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. 2012.0990CEUV** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 31, 2014, and labeled "EXHIBIT B", 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. 19096. 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 94102.

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.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on February 27, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Antonini, Hillis, Moore, Sugaya
NAYS: N/A
ABSENT: Wu, Borden

ADOPTED: February 27, 2014

EXHIBIT A

Conditions of Approval

AUTHORIZATION

This authorization is for a Conditional Use Authorization to allow a development lot size of 5,000 square feet, pursuant to Planning Code Sections 121.1, 303(c) and 710.11, in an NC-1 (Neighborhood Commercial Cluster) District, and a 40-X Height and Bulk District; in general conformance with plans dated January 31, 2014 and labeled "EXHIBIT B" included in the docket for Case No. 2012.0990CEUV and subject to conditions of approval reviewed and approved by the Commission on February 27, 2014 under Motion No. 19096. 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 Application 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 February 27, 2014 under Motion No. 19096.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the "EXHIBIT A" of this Planning Commission Motion No. 19096 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. The 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 Planning Department staff review and approval. The Building/Site Permit Application and/or 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 Placement.** 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. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department's approval of the Building or Site Permit Application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.
9. **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.
10. **Signage Program.** Any proposed signage shall be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.
11. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
 - (a) On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
 - (b) On-site, in a driveway, underground;

- (c) On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- (d) Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- (e) Public right-of-way, underground; and based on Better Streets Plan guidelines;
- (f) Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- (g) On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

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

PARKING AND TRAFFIC

12. **Automobile Parking.** The Project Sponsor shall provide six spaces for the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
13. **Bicycle Parking.** The Project Sponsor shall provide ten (10) on-site "Class 1" bicycle parking spaces, and two (2) "Class 2" bicycle parking spaces. Adequate signs or notices of the availability of bicycle parking shall also be provided at the Project Site.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.
14. **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 impacts during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

PROVISIONS

15. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.
For information about compliance, contact the Case Planner, Planning department at 415-558-6378, www.sfplanning.org

MONITORING - AFTER ENTITLEMENT

16. **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
17. **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

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.
19. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within trash enclosures on 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/>.
20. **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/>



SAN FRANCISCO PLANNING DEPARTMENT

Rear Yard Modification Decision

Date: May 2, 2014
Case No.: 2012.0990CEUV
Project Address: 3032 - 3038 CLEMENT STREET
Zoning: NC-1 (Neighborhood Commercial Cluster) District and
40-X Height and Bulk District
Block/Lots: 1402/022 and 023
Applicant: John Kevlin
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Property Owner: 3038 Clement, LLC
c/o Reza Khoshnevisan
SIA Consulting Corp.
1256 Howard Street
San Francisco, CA 94103
Staff Contact: Mary Woods – (415) 558-6315
mary.woods@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

REAR YARD MODIFICATION SOUGHT:

The proposal is to demolish an existing one-story commercial building and construct a new four-story mixed use building containing approximately 900 square feet of retail space, six residential parking spaces and 10 bicycle spaces on the ground floor, and six dwelling units on the upper floors, including three two-bedroom units, and three three-bedroom units. The proposed ground floor level occupies the entire lot, resulting in the need for a rear yard modification per the Variance process. The development would total approximately 15,500 square feet

Planning Code Section 134(a)(1) requires the project to provide a rear yard equal to 25 percent of the lot depth. Section 134(a)(1)(A) requires that in NC-1 Districts, rear yards must be provided at the ground level and at each succeeding story of the building. The proposed project provides no rear yard at the ground floor level. Therefore, the project requires a modification from the rear yard requirement of the Planning Code.

Planning Code Section 134(e)(1) allows modification of the required rear yard in Neighborhood Commercial Districts when three alternative findings are made: (1) that residential uses are included in the new development and a comparable amount of usable open space is provided elsewhere on the lot where it is more accessible to the residents of the development; (2) the proposed new structure will not significantly impede the access of light and air to and views from adjacent properties, and (3) the proposed new structure will not adversely affect the interior block open space formed by rear yards of adjacent properties.

PROCEDURAL BACKGROUND:

1. The Planning Department issued a Categorical Exemption, Class One and Class Three from the California Environmental Quality Act ("CEQA") for the project on **November 6, 2013**.
2. The Zoning Administrator held a joint public hearing on **Variance Application No. 2012.0990CEUV** with the Planning Commission on **February 27, 2014**. At this hearing, the Planning Commission unanimously approved the requested Conditional Use Authorization (Motion No. 19096).
3. Planning Code Section 312 Notification was covered under the 20 day Conditional Use authorization notice for Case No. 2012.0990CEUV, mailed on February 7, 2014.

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to demolish an existing one-story commercial building and construct a new four-story, mixed use building with six dwelling units where the entire ground floor level is located within the required rear yard, 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 Rear Yard Modification or 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 Rear Yard Modification Decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Rear Yard Modification 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 Variance Case Number.

FINDINGS:

Section 134(e)(1) of the Planning Code states that in order to grant a rear yard modification, and in accordance with Section 307, the Zoning Administrator must determine that the facts of the case are sufficient to establish each of the following criteria:

CRITERIA 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; and

Requirement Met.

- A. The proposed project is located in an NC-1 zoning district, which requires that a 25 percent rear yard (equivalent to approximately 1,250 square feet) be provided at grade level and above in a new building. The project proposes a 25 percent rear yard at the second story and above.
- B. The granting of the rear yard modification will allow for the construction of six family-sized dwelling units above a ground floor with retail space, six required off-street parking spaces for the dwelling units, and 10 Class 1 bicycle spaces. An equal amount of open space that would otherwise be provided by a ground level rear yard is being provided on the second level. In addition, a roof deck totaling approximately 2,000 square feet will provide additional open space. The open space provided at the second level will be directly accessible by the two units on the second floor, allowing these residents to access open space at the same floor as their unit, rather than having to travel down a floor. The open space provided at the roof deck will serve the units on the third and fourth floor levels, provided closer to the fourth floor than if provided at the ground level, and just as close to the third floor than if provided at the ground level.

CRITERIA 2.

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

Requirement Met.

- A. The existing site is currently improved with a one-story retail building occupying almost the entire depth of both lots (except for the last 2.9 feet). As a result, within the 25 percent rear yard area, there will be no additional mass than what exists today. The new building's height at the front of the lot is approximately seven feet taller than the adjacent building to the east. The lot to the west is an auto service center.

CRITERIA 3.

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

Requirement Met.

- A. The new building will not encroach any further into the mid-block open space than the existing structure. The existing one-story structure occupies almost the entirety of the lots. The proposed building would occupy the entirety of the lot at the ground floor level only. As a result, it will have no additional impact on the mid-block open space.

FINDINGS PER PLANNING CODE SECTION 101.1

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. The proposed project does not adversely affect neighborhood parking or public transit.
2. The proposed project will be in keeping with the existing housing and neighborhood character.
3. The project will have no effect on the City's industrial and service sectors.
4. The proposed project will add six dwelling units to the City's housing supply.
5. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
6. The project will have no adverse effect on the City's landmarks or historic buildings.
7. The project would not affect any existing or planned public parks or open spaces.
8. Existing neighborhood retail uses will not be adversely affected by the proposed project.

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.

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.

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

Rear Yard Modification Decision
May 2, 2014

CASE NO. 2012.0990CEUY
3032 - 3038 Clement Street

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.

Very truly yours,

Scott Sanchez
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.

MW: G:\DOCUMENTS\VARIANCE\2012.0990V - 3032-38 Clement St - RYmodification.doc