



SAN FRANCISCO PLANNING DEPARTMENT

Rear Yard Reduction and Variance Decision

Date: July 12, 2017
Case No.: 2015-005329VAR
Project Address: 719 Larkin Street
Zoning: RC-4 [Residential-Commercial, High Density]
North of Market Residential Special Use District
80-T Height and Bulk District
Block/Lots: 0717/003
Applicant: Jon Heimdahl
JS Sullivan
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San Francisco, CA 94115
Owner: 719 Larkin Street, LLC
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DESCRIPTION – REAR YARD REDUCTION AND DWELLING UNIT EXPOSURE VARIANCE SOUGHT:

The applicant proposes to demolish the existing single-story commercial building and to construct an eight-story mixed-use building that is approximately 80 foot tall with 42 residential units over ground floor retail. The proposed building would include 42 one-bedroom units which range from 556 square feet to 921 square feet, as well as four commercial storefronts ranging from 544 square feet to 921 square feet. The project also includes 42 Class 1 and six Class 2 bicycle parking spaces at the ground floor. Common usable open space for residents is provided on the 2,016 square foot roof deck. The rear yard setback, which begins at the second floor, would be landscaped with both traditional and flow-through planters, and would not be considered private open space, as it is not open to residents.

Section 134 of the Planning Code requires a minimum rear yard setback equal to 25% of lot depth at the first residential level and above in the RC-4 Zoning District. The project, which is located on a corner lot, proposes a 25' by 47' 8" open area in the southwest corner of the lot beginning at the second story and above. Since the project does not meet the rear yard requirements, the applicant is seeking a rear yard reduction for properties located in the North of Market Residential Special Use District per Planning Code Sections 134(g) and 249.5.

Section 140 of the Planning Code requires at least one room within a dwelling unit that is at least 120 square feet must face directly onto a public street or alley at least 20 feet in width, an open area at least 25 feet in width which increases in five foot increments beyond the second floor, or a code-compliant rear yard. The project proposes 42 total dwelling units, 28 of which face streets and alleys that are greater than 20 feet wide. The remaining 14 dwelling units face the rear yard setback, which is not considered a Code-complying rear yard.

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PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 32 categorical exemption.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2015-005329VAR** on **May 18, 2017**.
3. On May 18, 2017, the Planning Commission held a public hearing and approved a related Conditional Use Authorization pursuant to Planning Code Sections 249.49 and 303 to allow the construction of a building exceeding 40 feet in height (Case No. 2015-005329CUA – Motion No. 19924).

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT B, to allow the new construction of an eight story mixed-use building with 42 dwelling units and ground floor commercial space, 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 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 Variance Case Number.

FINDINGS:

SECTION 134 – REAR YARD

Section 134(g) of the Planning Code states that in order to grant a rear yard reduction, the Zoning Administrator must determine the following criteria are met:

CRITERIA 1

Substituted open space in the new or expanding structure will improve the access of light and air to and view from existing abutting properties.

Requirement Met.

- A. The substituted open space in the new structure will provide a 25' by 47'-8" interior court, which would contribute to interior block open space where there currently is none. The open area would maintain light and air to a portion of the existing property line windows of the adjacent residential building to the south.

CRITERIA 2

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

Requirement Met.

- A. All abutting lots contain buildings that are constructed to their rear property line. As a result, there is no existing pattern of interior block open space exists in the vicinity of the site. However, in the case that adjacent properties are redeveloped in the future, the project includes a 25' by 47' 8" open area in the southwest corner of the lot beginning at the second story and above.

SECTION 140 – EXPOSURE

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 located on a corner lot within the Uptown Tenderloin National Register Historic District. The proposed eight-story building must be compliant with the Secretary of the Interior's Standards, and must incorporate design features consistent with the character-defining features of the District. Character defining features may include materials, architectural features, and massing. Similarly scaled infill development projects are not always subject to additional design and massing review.

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. Strict enforcement of the Planning Code could adversely impact the project's ability to comply with the Secretary of the Interior Standards. In order for the rear units to comply with dwelling unit exposure, the project would need to provide a code-compliant rear yard or a larger open area. However, the project is compliant with the Secretary of the Interior Standards, in part, because the building does not propose setbacks along Olive or Larkin Streets¹, which reinforces the street wall. The project requires compliance with the Secretary of Interior Standards due to its location within the National Register Historic District. Literal enforcement of the exposure requirement may result in a massing that is not compliant with the Standards, and does not relate to the massing found in the surrounding Historic District.

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.

- A. Granting this variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by many other properties in the same class of district, because multiple residential projects in this district have a similar, or larger, massing than the proposed project. The subject property is located in a heavily developed area where many existing residential properties do not meet the current exposure requirements for all units. Many of these properties are built to the rear property line and include internal light wells, or do not provide Code-compliant rear yards, and therefore do not meet the required minimum dimensions for dwelling unit exposure. These residential developments were constructed long before the current exposure requirements came into effect, and provide significantly less light and air to the interior facing units. The project, as proposed, will provide more light and air to the units facing the rear court, while also allowing the property owner to provide a comparable number of dwelling units to other residential buildings in the vicinity.

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. Granting the variance would improve the livability of the subject property and would not be materially detrimental to the public welfare or materially injurious to the neighboring properties. Granting the variance would allow for the provision of additional dwelling units within a dense, residential Zoning District. Of the 42 proposed units, 28 are compliant with the exposure requirement. The remaining 14 units would retain access to light and air, as they face an open area that is 25 feet by approximately 47 feet, eight inches.

¹ Planning Department Preservation Team Review Form - March 20, 2017.

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.
 2. The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will allow for the construction of 42 dwelling units on the property.
 3. The proposed project will provide new housing and comply with the affordable housing requirements of the Planning Code.
 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 decision is utilized, all specifications and conditions of this 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

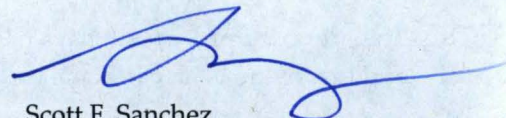
Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

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 Decision to the Board of Appeals within ten (10) days after the date of the issuance of this 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,



Scott F. 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.