

PATTERSON & O'NEILL, PC

235 Montgomery Street, Suite 950
San Francisco, CA 94104
Telephone: (415) 907-9110
www.pattersononeill.com

April 12, 2024

VIA EMAIL

President Aaron Peskin and Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Re: Appeal of CEQA Exemption Determination
72 Harper Street (Case No. 2023-002706APL)

Dear President Peskin and Supervisors:

Our office represents appellants Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli, owners of neighboring properties adjacent to the proposed project at 72 Harper Street. The project site is developed with a modest two-story over garage Queen Anne Cottage built in 1905 that is approximately 2,096 square feet. The applicant proposes to expand the existing building with a vertical addition measuring 44 feet from the curb, which will tower over the existing façade and mimic the historical gable roof design.

The Planning Department issued an Exemption Determination for the project at 72 Harper Street (Case No. 2020-005176ENV). The California Environmental Quality Act (“CEQA”) Guidelines state that an Exemption “*shall not be used* for a project which may cause a substantial adverse change in the significance of a historical resource.” (See CEQA Guidelines § 15300.2(f).) Here, the Planning Department failed to analyze whether the project will have a substantial adverse impact on the existing 1905 Queen Anne Cottage. Architectural Historian Joseph van den Berg of Garavaglia Architecture found that the “no actual analysis on the historic significance and integrity of the proposed property” was conducted and that “the City did not know what historic features the property had when they approved this proposal.” (See Exhibit A.) Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the “omission of required information constitutes a failure to proceed in the manner required by law.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.)

The Property is a Presumptive Historic Resource

The Project Sponsors have consistently conceded that the existing structure is a historic resource for purposes of CEQA, claiming that the design is “appropriate for an addition to a historic building.” (See Exhibit B.) Realizing that the Planning Department failed to adequately analyze the potential impacts to a historic resource, the Sponsors have now done an about face and erroneously claim that the 1905 Queen Anne Cottage is not a historic resource. The Sponsors also incorrectly claim that the existing building is not a presumptive historic resource. This is simply wrong.

The City has designated the property as a “Category B” age-eligible potential historic resource. San Francisco Preservation Bulletin Number 16 states that for any Category B property, “further consultation and review *will be required* for evaluation whether a property is an historical resource for the purposes of CEQA.” In other words, the property is a presumptive historic resource.

CEQA requires that the City must “treat any such resource as significant *unless the preponderance of evidence demonstrates that it is not historically or culturally significant.*” (Guidelines, § 15064.5(a)(2).); *Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1054.) The Sponsors do not point to any evidence at all to overcome the presumption that the property is a historic resource.

The Sponsors argue that “the City Planning Department did not find that the Property was historical resource,” a statement that is not supported by any actual analysis from the Planning Department. This is unsurprising, because the Planning Department *did not conduct an analysis* to determine whether the property is a historic resource. The Historic Resource Evaluation (“HRE”) for the project simply detailed the history of the property and described the existing structure but contained no analysis whatsoever. Architectural Historian Joseph van den Berg found that “no actual analysis on the historic significance and integrity of the property was offered by the HRE. The HRE itself goes through great lengths to document the building, but none to actually evaluate it.” (Exhibit A.)

In short, the City’s preservation guidelines deem the property a presumptive historic resource, and there was no evaluation to overcome that presumption. Thus, CEQA requires the City to treat the property as a significant historic resource.

The Planning Department Failed to Evaluate the Potential Impacts to a Historic Resource

Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the “omission of required information constitutes a failure to proceed in the manner required by law.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.) Procedural failures must be overturned in order to “scrupulously enforce all legislatively mandated CEQA requirements.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) An exemption shall not be used if there is a “fair argument” that the proposed project may cause a substantial adverse change in the significance of an historical resource. (*See Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1072.) The Exemption Determination in this case is not legally adequate because the Planning Department failed to adequately analyze the potential impacts to historic resources, and there is a fair argument that the project may cause a substantial adverse change to a historic resource.

In this case, the Planning Department did not follow its own procedures to evaluating potential impacts to a historic resource. Architectural Historian Joseph van den Berg explained that “Normally, HREs outline the Character-Defining Features (CDFs) of the property to know important features of the property need to be conserved for the property to maintain its historic character. The HRE does not do that, meaning the City did not know what historic features the property had when they approved this proposal.” (See Exhibit A.) In other words, the HRE for

this project is wholly inadequate, and even a historic architectural expert could not glean from the HRE what the historic features of the property are, nor whether the proposed project protects those historic features.

Mr. van den Berg explained that San Francisco's Victorian Era Styles context statement identifies the gable roof and massing of Queen Anne buildings, such as this one, as historically significant features. Mr. van den Berg conducted an analysis of the proposed project for consistency with the Secretary of the Interior's Standards for Rehabilitation, and found that the project is inconsistent with several standards. He concluded that the "addition of the 3rd floor would have the biggest impact due to drastically changing the building size and story count, running contrary to the City of San Francisco's own policy." (Exhibit A.) Mr. van den Berg also noted that the addition fails to differentiate from the existing historic structure, and that the "new roof design mimics the old roof in its peaked gable roof design."

After reviewing the proposed project, Mr. van den Berg concluded that the proposal will severely impact the historic and architectural integrity of the Queen Anne Cottage at 72 Harper St. This analysis was the first and only historic evaluation of the project, and therefore there is a fair argument that the project will have a substantial adverse impact on a historic resource and an exemption cannot be issued. (See CEQA Guidelines § 15064.5.)

Conclusion

The Exemption Determination for this project violates CEQA. The project's potential impacts to historic resources were not adequately identified or evaluated, which the project sponsor concedes. Instead, the Sponsor tries to argue that the lack of any analysis is because the property does not constitute a historic resource. This is simply false. The City's own guidelines create a presumption that the project is a historic resource, and there is no evidence to the contrary. This project, which includes an addition that towers over and mimics the original historic features, substantially impacts the character defining features of this historic 1905 cottage. The Board should therefore reverse the Exemption Determination and direct the Planning Department to conduct further review of potential impacts to historic resources.

Very truly yours,

PATTERSON & O'NEILL, PC



Brian J. O'Neill
Ryan J. Patterson

Exhibit A



582 MARKET ST. SUITE 1800
SAN FRANCISCO, CA 94104

T: 415.391.9633
F: 415.391.9647

www.garavaglia.com

MEMORANDUM

Date: April 11, 2024

To: David Garofoli, Owner
City of San Francisco

From: Joseph van den Berg; Architectural Historian

Project: Park-McDonald Residence

Re: 72 Harper St

INTRODUCTION

Garavaglia Architecture, Inc. (GA) was retained by David Garofoli to provide historic preservation consulting services related to 72 Harper St. This report was requested in connection with 72 Harper St and the city of San Francisco. The following memo includes an overview of the property, an overview of the process the city took with the building, and how that process complies and does not comply with the Secretary of the Interior's Standards for Rehabilitation.

OVERVIEW

The following comes from the 2024 Historic Resource Determination (HRE) for 72 Harper St: 72 Harper St is a 1-1 / 2-story late Queen Anne Cottage built in 1905. The original lot... extended from Noe to Harper with an address of 1743 Noe (later re-addressed to 1783 Noe St). The lot was owned by Rudolf Bischofberger, a Swiss-born Mechanical Engineer. While he and his wife Johanna lived in the house at 1743 / 1783 Noe, he designed the house at 72 Harper St. and split the lot. His original plans and elevation were found in the house by the current owners... The street façade faces east with a triangular front setback and driveway intersecting Harper St, which runs at ~45 degrees to the house. The inset front entry porch and centered front door sits between two large front bays. The bays have three double-hung windows each and applied ionic pilasters framing each window unit. The projecting ornately detailed attic floor, gable-end roof has two centered double-hung windows.¹

ARCHITECTURAL DESCRIPTION

The following comes from the 2024 Historic Resource Determination (HRE) for 72 Harper St: The north portion of the front setback is occupied by wood entry stairs, a concrete landing (which does not appear on the original elevation drawing), and concrete stairs

¹ "72 Harper St Historic Resource Determination: Supplemental Application", *San Francisco Planning Department*,

with planter beds lining its left and right edges that run from the sidewalk up to the base of the wooden stairs. The original design intention for the intermediate entry stair landing was an open balustrade facing the street that extended the language of ball finials on newel posts. The garage level of the house was modified in 1917 by Rudolf Bischofberger when the landscape was re-graded and an auto garage was constructed.

The garage level and first floor levels facing the street are clad in 3" exposure painted wood siding. The attic floor is sheathed in a commonly found painted wood panel siding with a decorative circular pattern. The bay detailing features a plain wooden base with banded moldings at the window sill level, and window heads that almost touch the porch ceiling. An entablature defining the bottom of the attic gable projects out to the face of the bay windows. It consists of a very thin architrave, a generous unbroken frieze (larger than what appears on the original plans), and a thin cornice with dentil moldings that return at both ends of the facade to the face of the indented bay. Decorative brackets visually support the lower corners of the roof volume. A painted wood fan (triangular starburst) occupies the peak of the gable.

The front property line meets the street at an angle that produces a triangular shape. The site also slopes downwards to the north. From south to north, the front setback includes a concrete driveway for the garage opening (see above), a triangular planter bed beneath and in front of the front entry stairs, concrete stairs leading up to the ground level below the main entry (see below left), and a planter bed between the subject property and the adjacent property to the north.²

CITY'S PROCESS

While replete with architectural descriptions and pictures, no actual analysis on the historic significance and integrity of the property was offered by the HRE. The HRE itself goes through great lengths to document the building, but none to actually evaluate it.

After the HRE, the City of San Francisco granted the building a categorical exemption for the building. A categorical exemption is a process by which the City states the subject building is not subject to review under the California Environmental Quality Act (CEQA). This is only something the City does if they have verified the proposal or proposed work will not negatively impact the historic significance of the building or the surrounding area. Normally, HREs outline the Character-Defining Features (CDFs) of the property to know important features of the property need to be conserved for the property to maintain its historic character. The HRE does not do that, meaning the City did not know what historic features the property had when they approved this proposal.

PROJECT PROPOSAL AND DESCRIPTION

The scope of work that affects the building exterior includes the following:

1. 3-story rear addition to existing structure, creating a setback
2. Elevate portion of the roof to add 1 bedroom and 1 bathroom and remove the dormer
3. Construct excavated rear-yard light court and deck on grade
4. Rebuild front stairs to meet egress requirements
5. Install new doors, windows, and skylights

The project includes a third story addition, which is the primary modification. This proposes to extend the building beyond its current built envelope and also change the front stair entry, as seen in figure 1.

² Ibid, Appendix II.

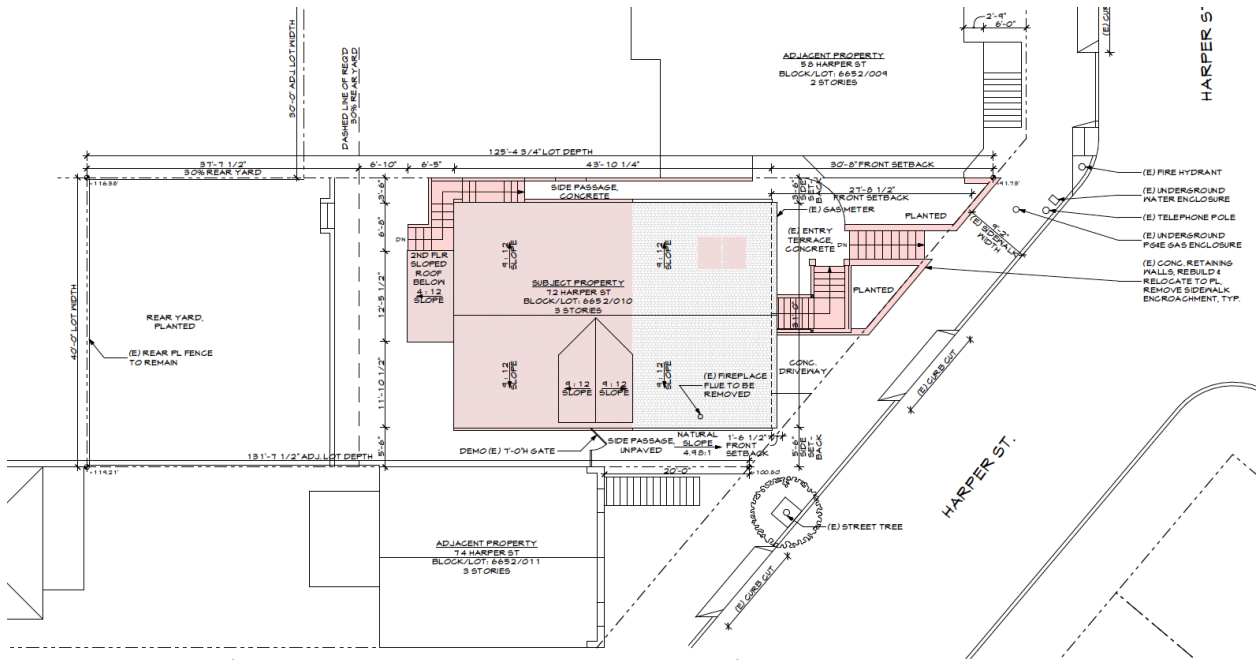


Figure 1. Plans of the Park McDonald House, red=proposed changes

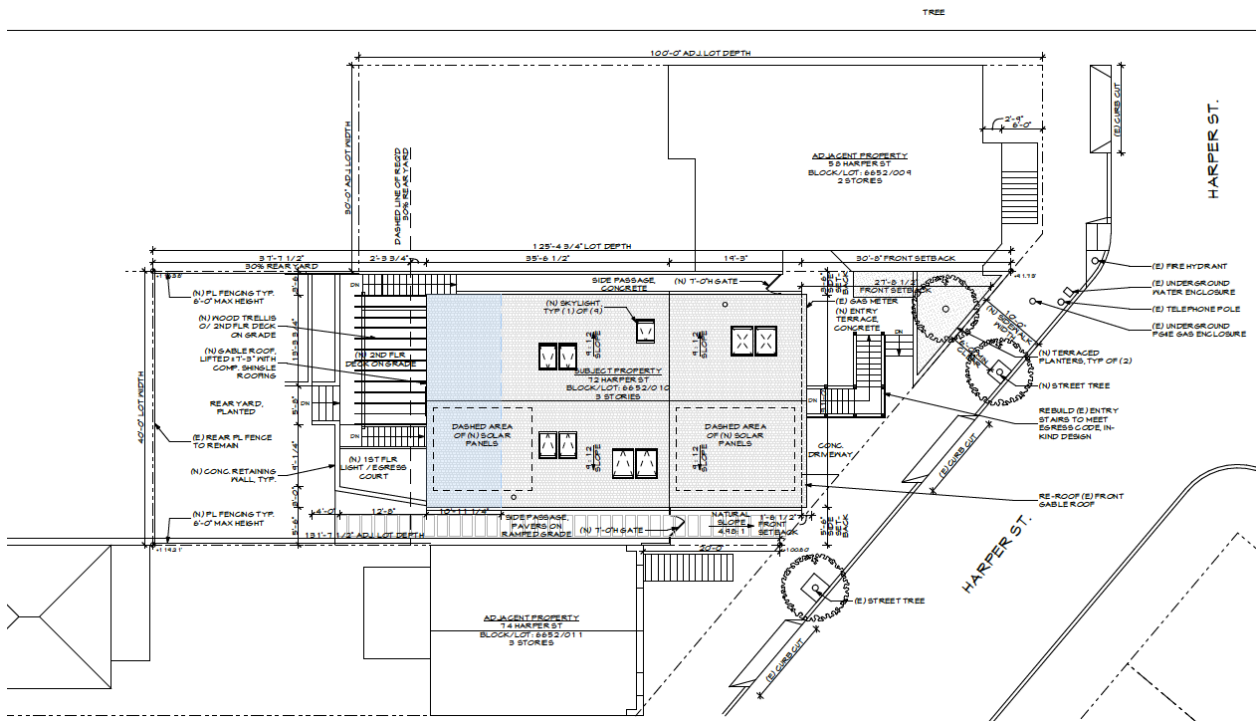


Figure 2. Planned fenestration and skylight changes, 72 Harper St.



EXISTING FRONT VIEW



PROPOSED FRONT VIEW

Figure 3. Current house vs. proposed changes

CHARACTER DEFINING FEATURES

San Francisco's Victorian Era Styles context statement describes historically significant Queen Anne buildings:

Queen Anne architecture used abundant ornament, wood siding, shingles, plasterwork, and complex building forms to avoid plain wall surfaces and create continuous visual interest. Mass produced ornament was critical to the style, providing readily available and affordable decoration for porches, cutaway bays, wall surfaces, and gable ends. Turned elements, fretwork, spindlework, and classical detailing may all be used to enliven a façade. **The Queen Anne style changed the dominant housing form of San Francisco, using gable-front roofs on narrow, rectangular lots** and complex roof shapes and house forms for larger lots and detached buildings. Significant examples of Queen Anne architecture typically display a full expression of the style...

Significance is also impacted by unique or rare architectural massing, as well as exuberant displays of ornamentation. Versions of Queen Anne architecture that incorporate some features of the style, yet display minimal ornamentation or standard form and massing would not qualify as individually architecturally significant. Groupings of multiple restrained Queen Anne and/or Victorian Era buildings, concentrated in one geographic area and retaining integrity, may constitute an architecturally significant district.³

From the above section, it can be inferred that the complex building forms, mass produced ornaments (particularly porch decorations- spindlework, fretwork, turned elements, etc) are character-defining features. The gable roof also qualifies as a character-defining feature, and any attempt to change the roof shape, style, or massing greatly affects the historic significance.

A Queen Anne Cottage has its own distinct architectural styling, and is noticeably a bit plainer than regular Queen Anne buildings. In this case, they tend to be one / two stories, where Queen Anne houses can be much larger too. Queen Anne Cottages tend to be square with a gable, and have symmetrical rooms without a central hallway, unlike Queen Anne buildings, which delight in their asymmetry. For Queen Anne buildings, the chimney tends to be located in the interior, rather than displayed on the exterior.

³ Anne Greening, edited by Elena Moore, "Victorian Era Styles Historic Context Statement", *San Francisco Planning*, 2022, 26.



Figure 4. 72 Harper St, facade, courtesy of Google maps

IMPACT ON HISTORIC INTEGRITY

The building is notable for its pre-1906 Queen Anne cottage style architecture. The Victorian era architecture is notable for its adherence to the Queen Anne Cottage style architecture during the period of significance for Victorian era architecture established in the San Francisco Victorian Era Styles historic context statement- 1885-1910, with extra emphasis on 1885-1905 buildings.⁴

Below is a description of the potential impacts of each exterior change on the building's integrity and potential significance:

1. 3rd-story rear addition (ADU) to existing structure
 - a. Extends the height of the building beyond the traditional one or two stories of Queen Anne cottages, a feature nonexistent in the Queen Anne Cottage style
2. Elevate portion of the roof to add 1 bedroom and 1 bathroom, removing the dormer
 - a. Disrupt the important symmetry of the front gable

⁴ Greening, 26.

- b. Removes dormer, negatively affecting integrity of design
3. Construct excavated rear-yard light court and deck on grade
 - a. No change in historic integrity
4. Rebuild Front Stairs to meet egress requirement
 - a. Removes historic material on front facade, creating a false sense of historic development
5. New doors, windows, and skylights
 - a. Destruction of historic material. Fenestration is vital to maintaining historic integrity, replacement of all windows and doors throughout destroys integrity of materials and

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

In order to receive a categorical exemption, historic resources need to comply with the Secretary of the Interior's Standards for Rehabilitation. The proposed work to 72 Harper Street will be evaluated on how well it meets those standards. The standards are below:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Of the above, the project relates most to standards 3, 5, 6, 9, and 10.

Standard 3 - The project conflicts with standard 3 because the project creates a false sense of historical development by increasing the height of the building. The Queen Anne Cottage style rarely reached above a 2nd story, and doing so here creates the impression that it did. Furthermore, The Queen Anne Cottage style never utilized setbacks. The proposed changes thereby indicate a stylistic trend for this type of building that never existed. Furthermore, the

style of the proposed changes matches the historic material, all of which creates a false sense of historic development.

Standard 5 - The proposed work changes some of the character-defining features, which adversely affects the building's historic significance. Queen Anne Cottages, as part of the broader Queen Anne style, are characterized by the machine-made stylistic elements. The removal of these elements would conflict with standard 5.

Standard 6 - The proposal conflicts with standard six, because many historic features would be replaced in the proposal. This includes the removal of the dormer, some siding, and windows/door changes.

Standard 9 - The proposed removal of historic material in regards to the stairs and fenestration pattern and the design of the addition both conflict with standard 9. The setback addition changes the spatial relationship that characterizes the property because Queen Anne Cottage buildings never exceeded two stories no utilized setbacks. This proposed setback also runs counter to San Francisco's own policy of additions to historic buildings not exceeding the height of the historic building. Standard 9 dictates the newer design needs to be "differentiated with the old," but the new roof design mimics the old roof in its peaked gable roof design.

Standard 10 - The addition on the rear of the building conflicts with standard 10 because the addition would be difficult if not impossible to remove.

Conclusion

While some changes would have more of an impact than others, these changes taken as a whole would severely impact the historic and architectural integrity of the Queen Anne Cottage at 72 Harper St. The addition of the 3rd floor would have the biggest impact due to drastically changing the building size and story count, running contrary to the City of San Francisco's own policy. Furthermore, the proposed changes do not meet the Secretary's of the Interior's Standards for Rehabilitation, conflicting with standards 3, 5, 6, 9, and 10.

Exhibit B

<png@gastarchitects.com>

Hi Mike (cc'ing Amy, Julie & Tom, Ashley).

Re: 72 Harper Renovations - Response to 1783 Noe Street

It was nice to speak with you as well earlier this week.

I've briefed Julie and Tom on our conversations and they've reviewed your most recent email. After discussion, we continue to believe that our project has minimal impact on your property and the impact is solely related to **MUTUAL PRIVACY**. This is an ongoing concern of ours, as such we continue to offer the following (3) solutions which come directly from the SF Residential Design Guidelines:

1. **PROVIDE OBSCURE ATTIC WINDOW GLAZING:** Within the roof pediment, the proposed window is both (i) architecturally relevant within and (ii) provides beneficial natural light to the attic storage space. We are unwilling to remove the window based on a hypothetical concern of how a future owner will use the attic. Etched or visual-obscure decorative glazing eliminates all privacy concerns.
2. **PROVIDE PRIVACY WINDOW FILM TO YOUR BATHROOM WINDOW:** A light-diffusing or one-way transparent film and vendor of your choice, installed at our project's substantial completion.
3. **ENCOURAGEMENT FOR YOU TO GROW YOUR EXISTING SCREENING TREES A FEW FEET TALLER:** This three-dimensional, easy, and aesthetically beneficial solution will help both our properties have increased visual separation.

SUN / SHADOW

We have re-reviewed the sunlight / shadow studies to examine conditions during the winter, summer, & fall/spring solstices created by our modeling software, and maintain that neither the (i) existing house nor (ii) proposed addition create any shadow impact. Your rear facade is primarily glass, it's interior abundantly filled with light even if shaded by trees and adjacent houses. **In our professional experience, if any new shading were caused by the increased height of our roof ridge, it would be well within the "some reduction of light" standard of the Residential Design Guidelines, and does not meet the city's threshold of extraordinary impacts that would merit changes in the proposed design.**

PRIVACY

Privacy is a mutual concern of ours. We remain willing to implement one or more of the solutions proposed, but given the significant distance between the two properties, even in the absence of a mutually agreeable solution, we believe the privacy impacts of the proposed project are typical for SF renovation projects.

PROJECT HEIGHT

We are still trying to understand your underlying objection to the proposed project's height. Your home would be 70 feet away and uphill from a proposed rear addition which is designed +/-5 feet below the allowable height limit. If your concern is a clipped view of Bernal Heights

Park from your lower levels, we do not consider that a valid request for roofline changes. **The design and height of the attic are integral to a functional residential unit and overall contextually appropriate for an addition to a historic building. Reducing the ceiling height of the attic would significantly impact the ability of the house to effectively meet the owners' functional needs.** As such, we are unable to lower the proposed building height to resolve view concerns. For added context: our proposed building height of +/-30' is two feet lower than your home, which is documented to be +/-32' tall.

We firmly believe the project as designed is the best way of achieving our design objectives and the needs of the Park-McDonald family.
Our project brings much needed additional housing to San Francisco and does so in a way that minimally impacts neighboring properties.

Thanks.
Dennis

Dennis Budd AIA LEED AP
Principal
GAST ARCHITECTS
355 11th Street - Suite 300
San Francisco, CA 94103
Office: 415-885-2946 x20
Mobile: 415-828-8648



On Wed, Nov 1, 2023 at 3:25 PM Michael Lee <mikeslee@gmail.com> wrote:

Hi Dennis,

Great speaking with you yesterday. Thanks for taking the time to walk me through the shade studies. As I mentioned on the phone, our actual experience disagrees with the shade studies. There are times during the year where we know the sun rises directly over 72 Harper (in its current form) and casts shadows on our house - I often see the sun rising over 72 Harper from my office. Currently, for example, we see shadows in the morning from 74 Harper. If the sun were in a more northerly position - as it would be other times in the year - those shadows would be cast by 72 Harper. With so many large glass doors and windows, that shade impacts our living space in the mornings. With the proposed increase in height, there would be significant additional negative impact to our light which concerns us.

You mentioned on the phone that you would review your shade studies to make sure they are correct. I'm not sure why your software differs with the actual shadows we are seeing - maybe the model is incorrect? Does the software take daylight savings time properly into account? Are you looking at the right time of year? In any event, if you figure out what the discrepancy is, please let us know.

You mentioned a few possible changes on our call:

- Lowering the height of the overall structure by 1 foot: unfortunately, this would provide only a very minor improvement to our shade concerns and have virtually no impact on our privacy concerns
- Using etched glass for the attic window: our concern is that Tom and Julie or a future owner could easily change out the glass for transparent glass, and could use the attic as an office or other living space instead of as storage space. It also would not address our shading concerns.

Our proposal is to significantly lower the peak of the gable roof, but retain the side height of the proposed structure, i.e. reduce the slope of the gable roof to lower the peak. This would still allow Tom and Julie to retain all of the additional living space they plan on creating. The only impact would be to reduce attic storage space which seems a very minor concession on their part (and would ensure that the attic would not be used as additional living space), but would address our most pressing privacy concerns. This would also address much of our shade concerns, and should also greatly alleviate the shade impact on their neighbor at 58 Harper. They still would have virtually an identical, beautiful, greatly improved home with an additional ADU, with only a minor reduction in attic storage space.

Honestly, we feel this is a pretty reasonable compromise and hope you all agree. We'd love to find a solution that works for everyone.

Best,
Mike

On Mon, Oct 30, 2023 at 3:05 PM Michael Lee <mikeslee@gmail.com> wrote:
No problem, see you then.

On Mon, Oct 30, 2023 at 3:02 PM Dennis Budd <dbudd@gastarchitects.com> wrote:
Yes, same zoom.
Thanks for your flexibility.

Dennis Budd AIA LEED AP
Principal

GAST ARCHITECTS
355 11th Street - Suite 300
San Francisco, CA 94103
Office: 415-885-2946 x20
Mobile: 415-828-8648



On Mon, Oct 30, 2023 at 2:57 PM Michael Lee <mikeslee@gmail.com> wrote:
No problem. Let's do 10am tomorrow. Thanks Dennis. Same zoom?

On Mon, Oct 30, 2023 at 1:23 PM Dennis Budd <dbudd@gastarchitects.com> wrote:

Hi Mike.

I had a last minute jobsite site meeting rescheduled for 2:00p today and I likely will not be back to my desk by 4:00p.

Can we reschedule for 10:00a or 2:15p tomorrow?

Sorry for the need to reschedule. Thanks.

Dennis

Dennis Budd AIA LEED AP

Principal

GAST ARCHITECTS

355 11th Street - Suite 300

San Francisco, CA 94103

Office: 415-885-2946 x20

Mobile: 415-828-8648



On Sun, Oct 29, 2023 at 6:33 PM Dennis Budd <dbudd@gastarchitects.com> wrote:

Hi Mike.

That still works.

Here is a link for tomorrow at 4:00pm.

Thanks Dennis

Gast Architects is inviting you to a scheduled Zoom meeting.

Topic: 1783 Noe Sunshade Study

Time: Oct 30, 2023 04:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

[https://us02web.zoom.us/j/83824689729?](https://us02web.zoom.us/j/83824689729?pwd=YzRrNVlrR01SNDgwZGdnaWpoazdndz09)

[pwd=YzRrNVlrR01SNDgwZGdnaWpoazdndz09](https://us02web.zoom.us/j/83824689729?pwd=YzRrNVlrR01SNDgwZGdnaWpoazdndz09)

Meeting ID: 838 2468 9729

Passcode: 864877

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+16694449171,,83824689729#,,,,*864877# US

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- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 876 9923 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US

Meeting ID: 838 2468 9729

Passcode: 864877

Find your local number: <https://us02web.zoom.us/j/kpSsJPYV5>

Dennis Budd AIA LEED AP
Principal

GAST ARCHITECTS

355 11th Street - Suite 300

San Francisco, CA 94103

Office: 415-885-2946 x20

Mobile: 415-828-8648



On Sat, Oct 28, 2023 at 8:15 AM Michael Lee <mikeslee@gmail.com> wrote:
Thanks Dennis. Let's do Monday at 4pm if that still works for you.

Best,
Mike

On Thu, Oct 26, 2023 at 10:31 AM Dennis Budd <dbudd@gastarchitects.com> wrote:

Hi Mike, Amy.

I can review the sunshade movies with you both at the following times:
Mon Oct 30 @ 4:00p
Tues Oct 31 @ 10:00a
Wed Nov 1: anytime

Let me know what is best for you and I'll send a zoom invite.

Thanks.
Dennis

On Wed, Oct 25, 2023 at 8:13 AM Michael Lee <mikeslee@gmail.com> wrote:

Hi Priscilla and Dennis -- Thanks for this response and attempting to address our concerns. Thank you also for providing the 3D model. It is helpful to understand the bulk and height of the addition, which is much larger than we had envisioned from looking at the plans alone.

Unfortunately, we still have some remaining concerns about privacy and light.

Regarding privacy, the new encroachment will occupy almost 14 percent of the current distance between our two homes, which is not insignificant. While we did install (at great expense to us) window treatments to help address privacy concerns that existed when we bought our home, we would of course like to keep the shades open and let the light in as much as possible. With the addition of another bedroom at the back of the home, and with both of the bedrooms ("kids' bedrooms") much closer to our home, we envision having to keep our shades down at pretty much all times (or at least much more frequently), whereas now we are able to keep them open a good deal of the time. Thus, while we are glad to hear that the the new second floor will be the same elevation as it is currently, that does not address all our concerns.

Regarding privacy for our bathroom and bedroom from the new third floor window of the addition, the existing trees on our property do not address the issue. As you can see from the attached photo, the trees are already high but are to the left of 72 Harper (the peaked roof to the right of the trees in the photo is 72 Harper). If you were to put the overlay of the proposed addition onto the photo, we are confident that you would see the new window peering directly into our bathroom (and bedroom), even with the trees. We don't know how much taller the trees will even grow. Furthermore, even if growing the trees could help alleviate the problem (which explained it could not), we already have an agreement with our neighbors on Noe street not to grow the trees further as leaves from the trees clog their gutter. Your email does not explain why a large picture window facing our home is needed

in a "mechanical space and storage" room accessed by a ladder. If light is needed in such a space, it could easily be accomplished by regular inside lighting (or skylights if necessary). The insistence on having a picture window there raises great risk that the space could eventually be converted into an office, bedroom, or playroom, raising extreme privacy concerns for us. Even if the current owners have no intention of using it that way, if it is set up with a window, flooring, etc, it could easily be converted by future owners. We do not believe it is fair for us to have to live in fear of people peering into our shower (even while obtaining boxes from storage) so that your client's mechanical equipment and storage boxes can have abundant natural light.

Thank you for agreeing to meet with us about the light/shading issues, for which we still have concerns. We are out of town on Thursday so if you could provide additional availability, that would be great.

We note that we believe the compromise approach suggested by our neighbor Krishna (with a lowered roof in the rear of 72 Harper) would have addressed both the 3rd floor privacy issues and the potential light/shading issues (although not all the concerns with the rear addition). As indicated in Krishna's email, we would have been willing to accept such a compromise. We've seen your recent email rejecting that compromise. However, we hope that we can continue to work towards a solution that addresses our concerns.

Best,
Mike & Amy

On Mon, Oct 23, 2023 at 8:00 PM Priscilla Ng <png@gastarchitects.com> wrote:

Hi Mike and Amy,

Thanks for sharing your specific concerns with us, and we wanted to provide additional information and thoughts back.

Privacy

We have attached some photos that Julie & Tom took to highlight a handful of observations that can hopefully ease some of your privacy concerns.

- For a dense urban environment, there is significant distance between the two houses and significant distance will remain with the rear extension, changing from approximately 81 feet to 70 feet.
- Your current windows are highly reflective of outside light, making it difficult to see into your interior spaces, even when existing window treatments are not in use

- Your house is already equipped with extensive window treatments that are frequently utilized
- Your house has been already landscaped with trees in front of the primary bathroom window that can effectively serve as a privacy screen that addresses these issues

The upstairs attic at 72 Harper will be utilized as mechanical space and storage and is accessed through a pull-down ladder. There is no occupancy at the attic, and the window only provides natural light to the space as is typical in SF attics. As we stated previously, all of the windows at the rear of 72 Harper will have window treatments, including the attic window.

The statement that "the two bedrooms in the rear of 72 Harper will stand higher than the single bedroom that currently exists there" is not accurate. The elevation of the second floor level will be the same as is the existing today. As the bedrooms are moved further to the rear, the upwards angle relative to your bathroom will actually increase. As you stated about this upwards angle: "the [current] window is not an issue because the top window at 72 Harper is below the level of the shower window, and with that angle, you can't peer into our shower." [To augment the views you provided and provide appropriate context for the Planning Department, we have also attached three publicly available images of the layout of your primary unit bathroom.]

Tom and Julie believe that common-sense and neighborly solutions such as allowing your existing screening trees to grow an additional few feet and both of us effectively using window treatments when appropriate can likely address our mutual privacy concerns considering the significant separation that exists between the two houses.

Modeled Views

The attached image includes the proposed project rear rendering transparently overlaid on the existing conditions photograph. As the rendering indicates, our project minimally impacts your view of Bernal Hill.

Shade Studies

I am available to review the sun study videos with you over a zoom call this week Tuesday or Thursday, between 9am-2pm and 4:00pm-5:00pm. Please let me know what day/time works.

Best,
Priscilla and Dennis

On Sat, Oct 21, 2023 at 8:36 AM Michael Lee <mikeslee@gmail.com> wrote:

Hi Dennis,

One additional privacy concern: attached is a photo taken from our master bathroom shower. We have a window facing 72 Harper that peers into our shower. Currently, the window is not an issue because the top window at 72 Harper is below the level of the shower window, and with that angle, you can't peer into our shower. The only view is upwards into our master bathroom ceiling. But with the elevated attic window in the proposed design, it will be level/above our current window and have a direct view into our shower which would obviously be an issue.

Hope that's helpful.

Best,
Mike & Amy

On Sat, Oct 21, 2023 at 7:53 AM Michael Lee <mikeslee@gmail.com> wrote:

Hi Dennis --

Thanks for your reply and for conducting the light/shadow analysis and sending the videos. We are having a hard time understanding the videos so if you could walk us through them that would be great. It seems surprising that the proposed plan would have no impact on our light as during the summer we can see the sun rising in the morning above your home. The sun is already blocked by the existing structure from our ground floor during sunrise, so wouldn't the additional height of the proposed plans block more sunlight? In any event, if you can walk us through them, that would be very helpful.

As for privacy, we are glad to hear you have been thinking about this. Please see attached for a view photo from our bedroom window. Please note that we did not open our home up to the rear of your client's home, but purchased the property as it is currently built. We bought the property with the current home at 72 Harper at the rear view and your clients bought the property at 72 Harper after our home was already built. The relevant privacy issues therefore are being raised by your construction proposal, not by our home or the home that currently exists at 72 Harper. It seems that you are protecting your client's privacy issues by relocating their primary bedroom to the front of the house and adding a trellis at the bottom level. However, our privacy could be threatened by the addition of two bedrooms in the rear of 72 Harper that will stand higher than the single bedroom that currently exists there, as well as the higher top window. You have indicated that these will be kids' rooms, which presents even more privacy concerns for us as kids (who quickly become teenagers) are often not as discreet as adults. It would help to understand how the new top attic will be used as well since there is a window there

that will peer directly into our home. There is concern that the attic will/can be used as another bedroom or office, as it appears to be a similar or identical configuration to the bedroom that is currently there.

Story poles would help us get a sense of how high up the property will go and how impactful the construction will be to our home and property (as well as other neighbors). It is our understanding that story poles are easy to install and go a long way to helping visualize a project. 3D modeling would also help, so thank you for offering to provide that. We look forward to seeing that modeling and any other information you can provide.

--Mike & Amy

On Fri, Oct 20, 2023 at 12:51 PM Dennis Budd

<dbudd@gastarchitects.com> wrote:

Hi Amy, Mike.

Thanks for reaching out and I do remember meeting Amy on video during the Pre-Application Outreach Meeting.

LIGHT

We were able to model your house and run a light/shadow analysis that illustrates no impact to your home or lot. Because your home is quite a bit higher up and to the west of us, our proposed rear expansion shades our own yard in early morning eastern sunlight, and the existing shading caused by the existing rear property line fence on your rear yard is not increased by the proposed new roofline. Attached are (6) movies illustrating the existing and proposed shading patterns in: (i) summer, (ii) winter, (iii) spring/fall. Please use the 'spacebar' to stop the movies at time intervals to best comprehend the sun's pattern and effect. We are happy to walk you through it if needed.

PRIVACY

Since your renovated home is higher up (relative to 72 Harper) and has expansive glass door systems on all (3) stories, I understand that privacy is a concern for you. You have opened your entire house to a wonderful view, which includes the rear of my client's home. When this type of fenestration is chosen an integrated solution to retain privacy from the outside world is necessary.

Similar to your glass doors, our project also proposes a wide-opening door system at the rear Family Room, it however, will be fully screened by a +/-10' x 18' one-story trellis over the rear deck. This trellis was specifically added as we have privacy

concerns related to your home. The proposed rear windows above, the rear Kids' bedrooms and unconditioned attic (no occupancy), are historically-appropriate standard-sized double-hung windows which will have interior window coverings (both bedrooms).

As it stands, our kitchen windows will likely have a direct view up to your house. If you could send a specific photo from your bedroom, we'd be happy to provide a model rendering that illustrates what specific angle of view you can see into our project. That would actually help us because we are equally concerned with mitigating privacy concerns and the main reason why we located the primary bedroom suite to the front of the house.

I hope this helps clarify our project's impact on your sunlight (none exists), and our attempts, thus far, to minimize privacy impact, which is made more challenging by the design of your home. The erection of 'story poles' is not a normal request and is not required by SF Planning, nor do they help answer questions regarding light or privacy. We can overlay a 3D rendering, as previously mentioned, with a particular photo view if desired.

Please let us know if you have additional questions and/or concerns.

Thanks.
Dennis

Dennis Budd AIA LEED AP
Principal

GAST ARCHITECTS
355 11th Street - Suite 300
San Francisco, CA 94103
Office: 415-885-2946 x20
Mobile: 415-828-8648



On Thu, Oct 19, 2023 at 2:52 PM Michael Lee

<mikeslee@gmail.com> wrote:

Hi Dennis --

My name is Mike Lee and I live at 1783 Noe St., which is the house directly behind 72 Harper. We received your application for the rear addition and have some concerns about the impact of the project on our light and privacy and the character of the house and neighborhood. It would be helpful to get some more information than what is in the application. My wife Amy (copied here) attended the Pre-Application Meeting for 72 Harper St and also discussed these concerns with you (and/or your colleagues). She requested that additional information be

provided including a light/shadow analysis for our home and storey poles. At the time, either you or one of your colleagues mentioned that was a reasonable request and that you would be able to provide it, but we never received that analysis (only the plans were provided). We again ask for such information to be provided, as well as any additional information that would be helpful to assessing the impacts on our home, which again is directly behind 72 Harper. As Amy explained at the meeting (and as is plain from the property), our primary bedroom will be looking directly into the new addition and thus privacy is of paramount concern, as well as our morning light which will apparently be blocked by the proposed addition. We're also happy to discuss this with you further.

Thank you,
Mike & Amy

--

Priscilla Ng, AIA
Architect

GAST ARCHITECTS

355 11th Street, Suite 300
San Francisco, California 94103

Phone: (415) 885-2946 X 18

Fax: (415) 885-2808

Email: PNg@gastarchitects.com

Website: www.GastArchitects.com

