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**Categorical Exemption Appeal
2417 Green Street**

DATE: January 3, 2018
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
Jeanie Poling – (415) 575-9072
RE: Planning Department Case No. 2017-002545ENV
Appeal of Categorical Exemption for 2417 Green Street
HEARING DATE: January 9, 2018
ATTACHMENT: B – Additional waiver from San Francisco Health Code Article 22A (Maher Ordinance), dated October 31, 2017

PROJECT SPONSOR: Eric Dumican of Dumican Mosey Architects on behalf of Chris Dunkin of 2417 Green Street, LLC
APPELLANT: Richard Drury and Rebecca Davis of Lozeau Drury, LLP, on behalf of Philip Kaufman

INTRODUCTION

This memorandum and attachment are a response to the December 28, 2017, supplemental letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Department's issuance of a categorical exemption under the California Environmental Quality Act ("CEQA determination") for the proposed project at 2417 Green Street (the "project").

The Planning Department, pursuant to Title 14 of the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15300–15387), issued a categorical exemption for the project on May 16, 2017, finding that the proposed project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption. The Class 1 exemption applies to minor alterations of existing facilities, including additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive (CEQA Guidelines Section 15301(e)).

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

PROJECT DESCRIPTION

Please refer to the Planning Department's December 29, 2017 appeal response.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The new concerns raised in the December 28, 2017 supplemental appeal letter are cited below and followed by the Planning Department's responses. The new concerns are identified as Concerns 6 through 8 to continue the numbering of the issues addressed in the Planning Department's December 29, 2017 appeal response, which ended with Concern 5.

Concern 6: The appellant contends that expansion into the subject property's rear yard would impact the mid-block open space, which would cause substantial adverse change in the significance of adjacent historic resources.

Response 6: The appellant has provided no substantial evidence to support the conclusion that the project could impact the significance of adjacent historic resources.

The appellant states that "mid-block shared open space" is an integral part of the adjacent property's historic design. As discussed in the response to concern 1, no historic resource is present on the project site, it is not located within an eligible historic district, and no changes are proposed to the adjacent properties. The lots within the project block are separately owned and not shared. As discussed in the response to concern 4, mid-block open space is a design issue – not a CEQA issue – and is appropriately addressed as part of the Planning Department's project review for compliance with the Planning Code and consistency with applicable design guidelines.

The appellant claims that the project's extension into its rear yard would materially impair adjacent historic resources by blocking windows, views, light, and air. There are two historic resources abutting the rear yard of 2417 Green Street. To the west is 2421 Green Street (the Coxhead House) – listed in the 1968 Here Today Survey – and to the south is 2727 Pierce Street (the Casebolt House) – listed as Landmark No. 51, Planning Code, Article 10. Neither of the listings for either property identifies the buildings' character-defining features.

It is unlikely that open space in the rear of a property is a character-defining feature, and the appellant has provided no substantial evidence to support this claim. The appellant includes (in Exhibit 11 to the first appeal) the nomination of the Coxhead House for National Register of Historic Places, which states,

Coxhead could have recognized there would be enough open space on the east and west elevations to glaze much of these elevations. He then carefully positioned bands of windows to capture San Francisco Bay views and sunlight from the East and West (probably inspired by recent London work of Richard Norman Shaw, bringing more English architecture influence to San Francisco).

The placement and architectural character of the east and west elevation windows may be considered character-defining features of the Coxhead House; however, the view of adjacent open space from those windows is not likely a character-defining feature, and the potential for blocking those windows, would not materially impair the Coxhead House. The setting of the Coxhead House has been and continues to be an urban setting composed of narrow residential lots. While the subject block has filled in with new construction since the land was originally subdivided, this development and the current project do not substantially change the character of the urban setting. Furthermore, the appellant has provided no substantial evidence that the Coxhead House is located within a California Register-eligible historic district that would warrant more extensive review of the neighborhood character.

The appellant also restates concerns about impacts to the Coxhead House caused by excavation and possible flooding. See the responses to concerns 3 and 7 regarding impacts to adjacent properties due to excavation and flooding.

Concern 7: The appellant contends that the project may cause flooding in adjacent properties.

Response 7: The project would comply with the Building Code and would not present any unusual circumstances regarding flooding.

See the response to concern 3 regarding compliance with the Building Code and protection of adjoining properties.

The preliminary geotechnical report prepared for the project addresses groundwater issues, noting that any excavation on a hillside may encounter groundwater and seasonal springs, and that, if necessary, the final design should include measures to control the flow of groundwater at the site. Such measures may include drainage behind retaining walls, under-slab-drainage, French drains and area drains to intercept groundwater and surface run-off, and waterproofing, which is typically installed where the construction of habitable space is below the ground surface.

As part of its review, DBI would verify that geological and geotechnical issues have been considered and that appropriate drainage plans are included. Including drainage design measures to protect adjacent properties is common in San Francisco; projects are routinely reviewed in accordance with applicable City and State regulations. The appellant has not demonstrated how the project would result in significant effects related to flooding due to unusual circumstances. The CEQA determination properly relied on the qualified geotechnical consultant's report and compliance with City and State regulations, and no further analysis is necessary.

Concern 8: The appellant contends that the sponsor must submit a site mitigation plan to the San Francisco Department of Public Health (DPH) to avoid potentially significant impacts related to the release of hazardous materials.

Response 8: The project complies with DPH regulations concerning hazardous materials and would present no unusual circumstances related to the release of hazardous materials.

See the response to concern 2 regarding DPH's right to waive Health Code Section 22A requirements for residential properties.

Attachment G to the appellant's supplemental letter includes the DPH approval line from the back of building permit application #201710020114 (for excavation). DPH signed off on the permit application on October 31, 2017, with a stamp that reads "Accepted by the San Francisco Department of Public Health Maher Program with the following conditions: Obtain copies and follow the requirements of the Site Mitigation Plan, Environmental Health and Safety Plan, Dust Control Plan and other documents and requirements to ensure compliance with the S.F. Maher Ordinance." The stamp indicates that no further DPH review is required, not that a site mitigation plan must be submitted.¹ On October 31, 2017, DPH also issued a Maher waiver for the excavation work (see Attachment B). The waiver includes certain recommendations but indicates that no further plans need to be submitted. If DPH required a site mitigation plan, the agency would not have issued the Maher waiver and signed off on the excavation permit. Thus, the project complies with Article 22A and would not result in significant impacts related to the release of hazardous materials.

CONCLUSION

The appellant has not presented substantial evidence to the Planning Department that would support the conclusion that (1) there could be a substantial adverse change in the significance of a historic resource, and (2) there is a reasonable possibility of significant environmental impacts due to unusual circumstances such as flooding or hazardous materials. For the reasons stated above and in the Planning Department's December 29, 2017 appeal response, the CEQA determination complies with the requirements of CEQA and the project is appropriately exempt from environmental review. The Planning Department therefore recommends that the Board uphold the CEQA determination and deny the appeal.

¹ Per telephone conversation with Marley Zalay, DPH, on December 29, 2017, the agency has one approval stamp that it uses for both projects that receive Maher waivers and projects that have approved site mitigation plans.



**WAIVER FROM SAN FRANCISCO HEALTH CODE ARTICLE 22A
(MAHER ORDINANCE)**

Compliance with Article 22A of the San Francisco Health Code is required for all sites that require a permit from the Department of Building Inspection, will move or excavate at least 50 cubic yards (38.23 m³) of soil and/or that have the potential to contain hazardous materials in soil and/or groundwater or are within the mapped Article 22A (Maher) area. Sites subject to Article 22A may be granted a waiver by the San Francisco Department of Public Health per Section A.4. of Article 22A which states, "The Director may waive the requirements imposed by this Article if the applicant demonstrates that the property has been continuously zoned as residential under the City Planning Code since 1921, has been in residential use since that time, and no evidence has been presented to create a reasonable belief that the soil and/or groundwater may contain hazardous substances. In these circumstances, the Director shall provide the applicant and the Director of Building Inspection with written notification that the requirements of this Article have been waived."

The following information and documents were submitted in support of the Waiver:

- Site history information and/or environmental/geotechnical documents
- Project plans and elevation Drawings AND excavation, trenching grading plans
- Current or former underground storage tank operation and removal documents, as applicable

PROPERTY/PROJECT INFORMATION

Address: 2417 Green Street Block/Lot: 0560 / 028 SMED No.: 1652

Owner/Proponent name: Kim Lee (kinlee822@gmail.com)

Contact Name/ phone: Kim Lee (415) 688-0187

Proponent Address: 957 Avalon Dr, South San Francisco, CA 94080

Current Site Use: Single Family Residence Proposed Site Use: Garage expansion and replacement of current foundation

If residential use only, approximate year residential only use began: 1913

COMMENTS:

The San Francisco Department of Public Health has determined that:


- The project Property has been continuously zoned as residential since at least 1913 AND the available information does not indicate potential or known the soil and/or groundwater contamination by contain hazardous substances or materials. AND The site use will remain as residential or a less sensitive land use.

- Less than 50 Cubic Yards of soil will be disturbed by the proposed project AND the available information does not indicate potential or known the soil and/or groundwater contamination by contain hazardous substances or materials.
- A former underground storage tank removed from the residential site or nearby residential site, does not present a significant health or environmental risk to the project property based on the information available from publically available state databases and SF DPH files.

SFDPH Recommendations:

- Site Soils are known to, or may, contain fill material. Fill material associated with the 1906 Earthquake and Fire or other fill materials in San Francisco may contain elevated lead concentrations among other potential contaminants. SF DPH recommends that excavated fill soils be segregated, stored on plastic sheeting and chemically analyzed for contaminants prior to soil reuse or as required by the disposal facility prior to disposal. The analyses considered may include the analytes listed in the Maher Ordinance, which include: Metals, volatile and semi volatile organic compounds, cyanide and petroleum hydrocarbons. Any remaining soils with elevated contaminants should be capped by the building, hardscape or at least one foot of clean soil over a visual physical barrier such as expanded plastic geogrid, or similar material.
- Construction activities should follow a work health and safety plan and dust control measures.

San Francisco Department of Public Health **GRANTS A WAIVER FROM THE REQUIREMENTS OF THE SF HEALTH CODE ARTICLE 22A FOR THE SPECIFIED PROJECT ONLY BASED ON THE SITE CRITERIA AND CHARACTERISTICS LISTED ABOVE.** Should you have any questions please contact the San Francisco Department of Public Health, Site Assessment and Mitigation Program (DPH SAM) at (415) 252-3800.


Stephanie K. J. Cushing, MSPH, CHMM, REHS
Director of Environmental Health
San Francisco Department of Public Health

Date: 10/31/17

cc: Jeanie Poling, Environmental Planner
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