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November 13, 2017

**VIA HAND DELIVERY**

Angela Calvillo  
Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Letter of Appeal; 218 27th Avenue; CEQA Categorical Exemption Determination (Case No. 2016-003258ENV)

This office represents Alex Bernstein and Sonia Daccarett, the owners of a single family home located at 2545 Lake Street, which abuts the property located at 218 27th Street, the subject of this appeal.

On behalf of our clients, and pursuant to Section 31.16 of the San Francisco Administrative Code, we hereby appeal the Planning Department's issuance of a Categorical Exemption Determination for the demolition and replacement of the existing, two-story single family home located at 218 27th Avenue with the construction of a four-story, three-unit building with three parking spaces (the "Project"). While the Categorical Exemption Determination, dated June 29, 2016, states that the Project Approval Action is a Building Permit, a building permit has not been issued and it is our understanding that the first approval action for the Project is the Conditional Use Authorization (Case No. 2016-003258CUA) approved by the Planning Commission on October 12, 2017 by Motion No. 20025.

The grounds for this appeal are as follows: (1) the City failed to comply with the procedural requirements of CEQA and the City's implementing regulations codified in Chapter 31 of the San Francisco Administrative Code, including the content and posting requirements established in Section 31.08; (2) the project description has changed since the time the Categorical Exemption Determination was issued in July 2016 and the Project cannot be approved in reliance on the exemption determination; and (3) the determination that the Class 1 and Class 3 Categorical exemptions apply to the Project is not supported by substantial evidence.

The cursory process utilized by the City in issuing the Categorical Exemption Determination was contrary to the stated purposes of CEQA and the City's implementing regulations, which are to bring environmental considerations to bear at an early stage of the planning process, and prevent significant avoidable impacts by requiring changes in projects through the use of alternatives or mitigation measures when the government agency finds the changes to be feasible. This process was undertaken without providing decision makers and the public with meaningful information regarding the impacts of the proposed Project, including aesthetic impacts, land use and planning impacts, and parking and traffic impacts, as required by CEQA.

Angela Calvillo  
November 13, 2017  
Page 2

We will submit further briefing prior to the hearing scheduled for this appeal.

Very truly yours,



Robia S. Crisp

RSC

Attachments

cc: Lisa Gibson, Environmental Review Officer (Via Email [Lisa.Gibson@sfgov.org](mailto:Lisa.Gibson@sfgov.org))  
Alex Bernstein (Via Email [alex@kingfisherinvestment.com](mailto:alex@kingfisherinvestment.com))  
Sonia Daccarett (Via Email [sdaccarett@gmail.com](mailto:sdaccarett@gmail.com))  
Michael F. Donner, Esq.



# SAN FRANCISCO PLANNING DEPARTMENT

NO. 100-100000-000  
SAN FRANCISCO, CA 94100  
2016-003258-000  
2016-07-07 4:31  
ll

## CEQA Categorical Exemption Determination

### PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
218 27th Avenue		1386/038	
Case No.	Permit No.	Plans Dated	
2016-003258ENV		01/07/2016	
<input type="checkbox"/> Addition/ Alteration	<input checked="" type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input checked="" type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. Demolish existing two-story single-family home and construct a four-story building containing three residences and three parking spaces.			

### STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

<b>*Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.*</b>	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input checked="" type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class ____

### STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

<b>If any box is checked below, an <i>Environmental Evaluation Application</i> is required.</b>	
<input type="checkbox"/>	<b>Air Quality:</b> Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap &gt; CEQA Catex Determination Layers &gt; Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	<b>Hazardous Materials:</b> If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap &gt; Maher layer).</i>
<input type="checkbox"/>	<b>Transportation:</b> Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	<b>Archeological Resources:</b> Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	<b>Subdivision/Lot Line Adjustment:</b> Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	<b>Slope = or &gt; 20%:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) <b>If box is checked, a geotechnical report is required.</b>
<input type="checkbox"/>	<b>Seismic: Landslide Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) <b>If box is checked, a geotechnical report is required.</b>
<input type="checkbox"/>	<b>Seismic: Liquefaction Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) <b>If box is checked, a geotechnical report will likely be required.</b>
<b>If no boxes are checked above, GO TO STEP 3. <u>If one or more boxes are checked above, an Environmental Evaluation Application is required, unless reviewed by an Environmental Planner.</u></b>	
<input checked="" type="checkbox"/>	<b>Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.</b>
Comments and Planner Signature (optional): Jean Poling <small>Digitaly signed by Jean Poling DN: cn=Jean Poling, o=San Francisco Planning and Environmental Review, ou=San Francisco Planning and Environmental Review, email=jean.poling@sfgov.org Date: 2016.06.16 15:03:32 -0700</small>	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE  
TO BE COMPLETED BY PROJECT PLANNER**

<b>PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)</b>	
<input type="checkbox"/>	<b>Category A: Known Historical Resource. GO TO STEP 5.</b>
<input checked="" type="checkbox"/>	<b>Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.</b>
<input type="checkbox"/>	<b>Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.</b>

**STEP 4: PROPOSED WORK CHECKLIST**  
**TO BE COMPLETED BY PROJECT PLANNER**

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. <b>Change of use and new construction.</b> Tenant improvements not included.
<input type="checkbox"/>	2. <b>Regular maintenance or repair</b> to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. <b>Window replacement</b> that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. <b>Garage work.</b> A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the <i>Residential Design Guidelines</i> .
<input type="checkbox"/>	5. <b>Deck, terrace construction, or fences</b> not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. <b>Mechanical equipment installation</b> that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. <b>Dormer installation</b> that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. <b>Addition(s)</b> that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input type="checkbox"/>	Project is not listed. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project <b>does not conform</b> to the scopes of work. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>four or more</b> work descriptions. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>less than four</b> work descriptions. <b>GO TO STEP 6.</b>

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW**  
**TO BE COMPLETED BY PRESERVATION PLANNER**

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. Project involves a <b>known historical resource (CEQA Category A)</b> as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. <b>Interior alterations to publicly accessible spaces.</b>
<input type="checkbox"/>	3. <b>Window replacement</b> of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. <b>Façade/storefront alterations</b> that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. <b>Raising the building</b> in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. <b>Restoration</b> based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. <b>Addition(s)</b> , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. <b>Other work consistent</b> with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. <b>Other work</b> that would not materially impair a historic district (specify or add comments):</p> <p>(Requires approval by Senior Preservation Planner/Preservation Coordinator) _____</p>
<input checked="" type="checkbox"/>	<p>10. <b>Reclassification of property status.</b> (Requires approval by Senior Preservation Planner/Preservation Coordinator)</p> <p><input type="checkbox"/> Reclassify to Category A    <input checked="" type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ (attach HRER)</p> <p>b. Other (specify): Per PTR form signed on June 21, 2016</p>
<p><b>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</b></p>	
<input type="checkbox"/>	<p><b>Further environmental review required.</b> Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. <b>GO TO STEP 6.</b></p>
<input checked="" type="checkbox"/>	<p><b>Project can proceed with categorical exemption review.</b> The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. <b>GO TO STEP 6.</b></p>
<p>Comments (optional):</p>	
<p>Preservation Planner Signature: <b>Stephanie Cisneros</b></p>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION  
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<p><b>Further environmental review required.</b> Proposed project does not meet scopes of work in either (check all that apply):</p> <p><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p><b>STOP! Must file an <i>Environmental Evaluation Application</i>.</b></p>	
<input checked="" type="checkbox"/>	<p><b>No further environmental review is required. The project is categorically exempt under CEQA.</b></p>	
	<p>Planner Name: <b>Stephanie A. Cisneros</b></p> <hr/> <p>Project Approval Action:</p> <p><b>Building Permit</b></p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p> <p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>	<p>Signature:</p> <p><b>Stephanie Cisneros</b></p> <p><small>Digitally signed by Stephanie Cisneros DN: dc=org, dc=sfgov, dc=cityplanning, ou=CityPlanning, ou=Current Planning, cn=Stephanie Cisneros, email=Stephanie.Cisneros@sfgov.org Date: 2016.08.29 14:23:13 -07'00'</small></p>

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT  
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

**PROPERTY INFORMATION/PROJECT DESCRIPTION**

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

**DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION**

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. <b>A TEX FORM</b>	

**DETERMINATION OF NO SUBSTANTIAL MODIFICATION**

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:



# SAN FRANCISCO PLANNING DEPARTMENT

## PRESERVATION TEAM REVIEW FORM

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Preservation Team Meeting Date:		Date of Form Completion:	6/14/2016
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PROJECT INFORMATION:		
Planner:	Address:	
Stephanie Cisneros	218 27th Avenue	
Block/Lot:	Cross Streets:	
1386/038	Lake Street & California Street	
CEQA Category:	Art. 10/11:	BPA/Case No.:
B	N/A	2016-003258ENV

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
<input checked="" type="radio"/> CEQA	<input type="radio"/> Article 10/11	<input type="radio"/> Preliminary/PIC	<input type="radio"/> Alteration	<input checked="" type="radio"/> Demo/New Construction

DATE OF PLANS UNDER REVIEW:	01/07/2016
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PROJECT ISSUES:	
<input checked="" type="checkbox"/>	Is the subject Property an eligible historic resource?
<input type="checkbox"/>	If so, are the proposed changes a significant impact?
Additional Notes:	
Submitted: Historic Resource Evaluation prepared by Richard Brandi (dated April 29, 2016).	
Proposed Project: Demolish existing two-story single-family home and construct a four-story building containing three residences and three parking spaces.	

PRESERVATION TEAM REVIEW:				
Historic Resource Present		<input type="radio"/> Yes	<input checked="" type="radio"/> No *	<input type="radio"/> N/A
Individual		Historic District/Context		
Property is Individually eligible for inclusion in a California Register under one or more of the following Criteria:		Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:		
Criterion 1 - Event:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 1 - Event:	<input type="radio"/> Yes	<input type="radio"/> No
Criterion 2 - Persons:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 2 - Persons:	<input type="radio"/> Yes	<input type="radio"/> No
Criterion 3 - Architecture:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 3 - Architecture:	<input type="radio"/> Yes	<input type="radio"/> No
Criterion 4 - Info. Potential:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 4 - Info. Potential:	<input type="radio"/> Yes	<input type="radio"/> No
Period of Significance:	<input type="text"/>	Period of Significance:	<input type="text"/>	
		<input type="radio"/> Contributor <input type="radio"/> Non-Contributor		



Complies with the Secretary's Standards/Art 10/Art 11	<input type="radio"/> Yes	<input type="radio"/> No	<input checked="" type="radio"/> N/A
CEQA Material Impairment	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Needs More Information	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Requires Design Revisions	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Defer to Residential Design Team	<input checked="" type="radio"/> Yes	<input type="radio"/> No	

\* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

**PRESERVATION TEAM COMMENTS**

According to the Historic Resource Evaluation prepared by Richard Brandi and information found in the Planning Department files, the subject property at 218 27th Avenue contains a one-story-over-garage, wood-frame, single-family residence constructed in the early 1900s. No original building permit was found to determine exact date of construction, architect, or builder. A water tap record application was filed in 1904 for a one-story, 800 square-foot building, which was shown in the 1905 Sanborn map as located at the rear of the lot at full width but just short of the property line. The 1913 Sanborn map shows a one-story house with a flat facade and full width porch in the location of the current building and also shows a small building at the rear of the lot (different from the structure identified in the 1905 map). The 1950 Sanborn map shows a one-story-over-garage house with an angled bay and a full-width rectangular addition at the rear of the building and no longer shows the small building at the rear. For purposes of this review, the construction date for the current residence is narrowed to sometime between 1905 and 1913.

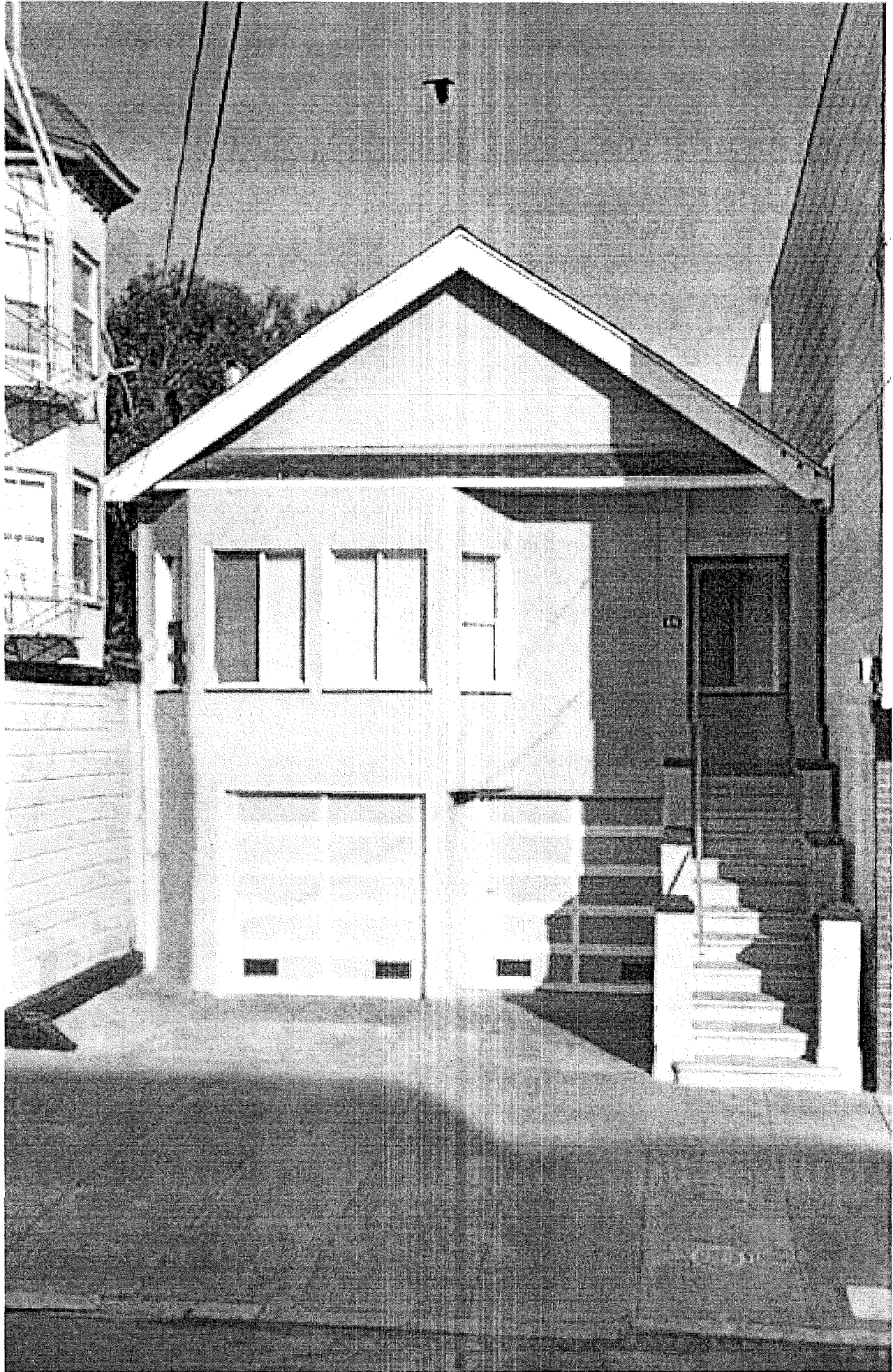
The original owner of the building was Francis W. Smiley, a laundry worker, and his wife Mary. The Smiley family owned and occupied the building from the time of its construction until 1938. The building has been owner-occupied for a majority of its existence. Known alterations to the property include: changing the front of the "old" building from a hipped to gabled roof, adding a portion of the old front porch to the living room, and changing the stairs from the center to the right side (1915); and re-roofing (2008). In comparing the current building to historic photos, it appears that other changes that have also occurred include: removing original siding and stuccoing the exterior; replacing windows; and replacing the garage doors.

No known historic events occurred at the subject property (Criterion 1). None of the owners or occupants have been identified as important to history (Criterion 2). The subject property is a nondescript example of a vernacular cottage that has been stripped of any character-defining features. The building is not architecturally distinct such that it would qualify individually for listing in the California Register under Criterion 3.

The subject property is not located within the boundaries of any identified historic district. The subject property is located in the Outer Richmond neighborhood on a block that exhibits a variety of vernacular architectural styles and construction dates ranging from early 1900s to 2000. Together, the block does not comprise a significant concentration of historically or aesthetically unified buildings.

Therefore, the subject property is not eligible for listing in the California Register under any criteria individually or as part of a historic district.

Signature of a Senior Preservation Planner / Preservation Coordinator	Date
	6-21-2016



**HANSON BRIDGETT LLP**

CHECK NUMBER: 56742  
CHECK DATE: 11-10-17

REF. #	INV. #	INV. DATE	INV. AMOUNT	INV. DESCRIPTION	AMT. PAID
418153	35114.1-111017	11-10-17	597.00	Appeal fee -CEQA Exemption Determination (35114.1)	597.00

NOV 14 2017  
 11:54 AM  
 SAN FRANCISCO, CA  
 94105

**CHECK DATE**  
November 10, 2017

**HANSON BRIDGETT LLP**

CHECK NO. 56742

First Republic Bank  
111 Pine Street  
San Francisco, CA 91111

425 MARKET STREET, 26TH FLOOR 415-777-3200  
SAN FRANCISCO, CA 94105

11-8166/3210


CHECK AMOUNT

**\$ 597.00**

PAY FIVE HUNDRED NINETY-SEVEN AND 00/100 Dollar(s)

TO THE ORDER OF **San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103**

VOID AFTER 180 DAYS  
TWO SIGNATURES REQUIRED IF OVER \$5,000.00

  
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