



# SAN FRANCISCO PLANNING DEPARTMENT

## Rear Yard Modification Decision

*Date:* June 15, 2017  
*Case No.:* 2015-014040VAR  
*Project Address:* 2301 LOMBARD STREET  
*Zoning:* NC-3 (Neighborhood Commercial, Moderate Scale)  
40-X Height and Bulk District  
*Block/Lot:* 0512/031  
*Project Sponsor:* Brett Leon  
DM Development  
448 Linden Street  
San Francisco, CA 94102  
*Owner:* DM 2301 Lombard LLC  
448 Linden Street  
San Francisco, CA 94102  
*Staff Contact:* Laura Ajello - (415) 575-9142 or [laura.ajello@sfgov.org](mailto:laura.ajello@sfgov.org)

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### DESCRIPTION – REAR YARD MODIFICATION SOUGHT:

The proposal is to construct a four-story mixed-use building on a 13,263 square foot vacant lot located at the southwest corner of Lombard (Highway 101) and Pierce Streets. The proposed 40-foot tall building includes three stories of residential units over ground floor commercial space and residential parking.

**Planning Code Section 134** requires that the project provide a rear yard equal to 25 percent of the total lot depth (but in no case less than 15 feet) at the lowest level containing a residential unit and at each succeeding level or story of the building. The rear yard requirements in NC Zoning Districts may be modified or waived under Planning Code Section 134(e)(1) provided certain criteria are met. For the subject property, the proposed rear yard is located at the interior corner of the lot and is not equal to 25% of the lot area. The project includes 22 new residential units and usable open space is provided both in the interior corner rear yard and on a roof deck. The project will not significantly impede access of light and air or views from adjacent properties, and will not adversely affect interior block open space formed by adjacent properties. Therefore the project is eligible for a rear yard modification per Planning Code Section 134(e).

### PROCEDURAL BACKGROUND:

1. On May 17, 2017 the Project was determined to be exempt from the Categorical Exemption, Class 32 (California Environmental Quality Act (CEQA) Guidelines Section 15332). General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).
2. The Planning Commission and the Zoning Administrator held a joint public hearing on **Variance and Conditional Use Application No. 2015-014040CUAVAR on June 1, 2017**. The

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Planning Commission approved the Conditional Use Authorization for the project with conditions through Motion No. 19930.

3. Planning Code Section 312 Notification for Building Permit Application No. 2016.12.28.5988 was conducted in conjunction with the Conditional Use Authorization process.

#### **DECISION:**

**GRANTED**, in general conformity with the plans on file with this application, shown as EXHIBIT A, to construct a new four-story mixed-use building with 22 dwelling units and a roof deck, 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 Modification or Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Modification decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Modification Decision and the recorded Notice of Special Restrictions for Case No. 2015-014040VAR shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

#### **FINDINGS:**

Section 134(e) of the Planning Code allows the rear yard requirement in Neighborhood Commercial (NC) Districts to be modified or waived by the Zoning Administrator pursuant to the procedures which are applicable for variances, as set forth in Sections 306.1 through 306.5, and 308.2, provided that the following criteria are met:

#### **CRITERIA 1.**

Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.

**Requirement Met.**

- A. The project proposes the creation of 22 dwelling units and would require a rear yard of 3,316 square feet, equal to 25% of the lot area at the second story and above. The project includes 3,745 square feet of usable open space elsewhere on the lot in the form of a landscaped rear yard equal to 777 square feet at grade level and approximately 768 square feet at the second story (an additional 300 square feet of area adjacent to the rear yard on the second level will be utilized as private terraces) and a 2,200 square foot roof deck. Additional area on the roof in excess of the common open space requirement can be utilized privately but cannot be counted toward open space calculations. The proposed combined roof deck open space and rear yard areas are greater than the 25% requirement.

**CRITERIA 2.**

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

**Requirement Met.**

- A. The Project organizes the massing so that the proposed rear yard area is adjacent to the mid-block open space and does not create adverse effects on adjacent properties. The proposed structure would primarily abut blank property line walls on the adjacent properties.

**CRITERIA 3.**

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

**Requirement Met.**

- A. The proposed L-shaped corner building contributes positively to the interior block open space. As such, the proposed project will not adversely affect the existing interior block open space formed by the adjacent properties.

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 modification is utilized, all specifications and conditions of the modification authorization became immediately operative.

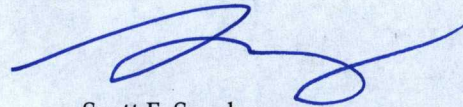
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of 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 Modification 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 modification decision to the Board of Appeals within ten (10) days after the date of the issuance of this Rear Yard Modification Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3<sup>rd</sup> Floor (Room 304) or call 575-6880.

Very truly yours,



Scott F. Sanchez  
Zoning Administrator

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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.