

**From:** [Starr, Aaron \(CPC\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Christensen, Michael \(CPC\)](#); [Sucre, Richard \(CPC\)](#)  
**Subject:** Planning Appeal Response for BF 210709  
**Date:** Wednesday, June 23, 2021 10:06:11 AM  
**Attachments:** [575 Vermont CU Appeal Planning Response.pdf](#)

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Attached, please find the Planning Department's response for the CU appeal at 575 Vermont Street.

Sincerely,

Aaron Starr, Manager of Legislative Affairs

Legislative Affairs

San Francisco Planning

**PLEASE NOTE MY NEW ADDRESS AND PHONE NUMBER AS OF AUGUST 17, 2020:**

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[San Francisco Property Information Map](#)

**IN ORDER FOR US TO MOVE, OUR OFFICE WILL BE CLOSED WITH NO ACCESS TO PHONES OR E-MAIL ON THURSDAY, AUGUST 13 and FRIDAY, AUGUST 14, 2020. WE APPRECIATE YOUR PATIENCE.**

Due to COVID-19, San Francisco Planning is not providing any in-person services, but we are operating remotely. Our staff are available by e-mail, and the Planning and Historic Preservation Commissions are convening remotely. The public is encouraged to participate. Find more information on our services [here](#).



# Conditional Use Authorization Appeal

## 575 Vermont Street

**DATE:** June 23, 2021  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Rich Hillis, Planning Director – Planning Department (628) 652-7600  
Michael Christensen, Case Planner – Planning Department (628) 652-7567  
**RE:** Board File No. 210709, Planning Case No. 2020-000886CUA  
Appeal of Conditional Use Authorization for 575 Vermont Street  
**HEARING DATE:** June 29, 2021  
**PROJECT SPONSOR:** Aaron Lim, Timbre Architecture, 1130 Keeler Avenue, Berkeley, CA 94708  
**APPELLANTS:** Marion Parr, Scott Carr, Ron Altoonian, Louk Stephens, Victoria Carraden

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### INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (“Board”) regarding the Planning Commission’s (“Commission”) approval of the application for Conditional Use Authorization under Planning Department Case Number 2020-000886CUA pursuant to Planning Code Sections 209.1 (Residential-House), 303 (Conditional Use Authorization), and 317 (Loss of Residential and Unauthorized Units Through Demolition, Merger, and Conversion) for a Project which proposes to demolish an existing 620 sq ft single-family home and construct a new, four-story, 3,318 sq ft, 40-foot tall Residential building containing two dwelling units, one Accessory Dwelling Unit, one off-street automobile parking space, and three off-street bicycle parking spaces.

This memorandum addresses the appeal to the Board, filed on June 11, 2021, by multiple adjacent neighbors (Marion Parr, Scott Carr, Ron Altoonian, Louk Stephens, Victoria Carraden).

The decision before the Board is whether to uphold, overturn, or amend the Planning Commission’s approval of an application for Conditional Use Authorization to allow the proposed Project at the subject property.

### SITE DESCRIPTION & PRESENT USE

The Project is located on a 25’ wide by 75’ deep parcel fronting Vermont Street and is developed with a single-family home measuring 920 square feet with zero bedrooms. The existing building is set back approximately 28 feet front Vermont Street, breaking the typical development pattern of the block.

### **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The Project Site is located within the RH-2 Zoning District in the Showplace Square / Potrero Hill Area Plan. The immediate context is Residential in nature, with a mix of single-family homes and small multi-family buildings.

### **PROJECT DESCRIPTION**

The Project includes the demolition of an existing 620 sq ft single-family home and construction of a four-story, 40-foot tall Residential building (measuring 3,318 gross square feet) containing two dwelling units, one Accessory Dwelling Unit, one off-street automobile parking space, and three off-street bicycle parking spaces (hereinafter "Project") at 575 Vermont Street, Block 4010 Lot 006 (hereinafter "Project Site").

### **BACKGROUND**

On January 21, 2020, Aaron Lim of Timbre Architecture (hereinafter "Project Sponsor") filed Application No. 2020-000886CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization for the proposed Project.

On May 13, 2021 the San Francisco Planning Commission heard the proposed Conditional Authorization Application, including public comment on the proposed Project.

After reviewing the revised project, and taking public comment, the Planning Commission voted to unanimously approve the project with conditions.

In addition to the standard Conditions of Approval proposed by Planning Department staff, the Planning Commission added an additional condition to the approval, condition 10, which reads as follows:

10. Prior to the approval of any building permit to implement the approved Project, the following modifications shall be made to the final design:
  - a. A patio for the Accessory Dwelling Unit will be provided at the same level as the Accessory Dwelling Unit with a minimum horizontal dimension of ten feet;
  - b. The Project Sponsor shall work with Department staff and the owner of the adjacent property to the north to refine the fenestration pattern of the top two floors to reduce conflicts between the proposed Project and the current and future condition of the adjacent property.
  - c. These modifications shall be submitted to the Planning Commission in the form of an update memo.

### CONDITIONAL USE AUTHORIZATION REQUIREMENTS

Planning Code Section 303 establishes criteria for the Commission to consider when reviewing all applications for Conditional Use approval. To approve the project, the Commission must find that these criteria have been met:

1. That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and
2. That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
  - a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
  - b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
  - c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
  - d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.
4. That such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

### APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

**ISSUE 1:** The Project would cover an existing property line window at 2136 18<sup>th</sup> Street.

**RESPONSE 1:** Property line windows are not protected under the Planning or Building Codes.

The adjacent property to the south at 2136 18<sup>th</sup> Street is built to the rear property line, which abuts the southern side property line of 575 Vermont Street. The property at 2136 18<sup>th</sup> Street contains a one-bedroom dwelling unit at the very rear of the property. The bedroom of the unit contains one window, which faces onto 575 Vermont Street as a property line window. Additional windows for the unit face the interior of the lot which contains the unit.

Property line windows are not protected under the Planning Code or Building Code. When feasible, the Department encourages Projects to incorporate design modifications to avoid impacting adjacent property line windows; however, this is not a requirement of the Planning Code or Building Code. Maintaining the property line window, which is not protected under the Planning or Building Codes, would require the new building proposed at 575 Vermont Street to be set-back from the southern property line a minimum of three feet, which would cause a substantial loss of floor area. Additionally, the design modification

would increase the construction cost of the project. As the project adds two units of housing and is a code-compliant Project, the Department did not find a basis to require protection of the window.

Additionally, the property at 2136 18<sup>th</sup> Street has an issued permit under Building Permit Application No. 201304305775 to add a front addition to the existing building and to reconfigure the interior of the existing building. The front addition has been constructed, but the approved interior modifications, which are required to maintain the property in a code-compliant manner do not appear to have been completed. The approved scope of work calls for changing the bedroom with subject property line window into a 'Master Bedroom Closet'. The permit remains in an issued status, and no inspections have occurred since July of 2013. As the approved permit already calls for changing the room behind the window into a closet, the window is not needed to maintain the legal use of a bedroom.

**ISSUE 2: The proposed project is out of scale with other properties in the general vicinity.**

**RESPONSE 2: The 40-X Height and Bulk District permits the property to be developed to a maximum height of 40-feet. The proposed Project would develop a building with a total height of 40-feet.**

The Planning Code allows a building within the RH-2 Zoning District to have a maximum total height of 40-feet. Additionally, the Planning Code requires that buildings be limited to a total height of 30-feet at the front setback line, increasing at a 45-degree angle to reach the total allowable height of 40-feet. Additionally, when rear yard averaging is used, the rearmost 10-feet of building massing gained by averaging is limited to a total height of 30-feet. The proposed project meets both requirements.

In addition to the Planning Code, the Residential Design Guidelines apply to the Project. Among other things, the Residential Design Guidelines help ensure that additions or new buildings fit within the area's existing scale. As such, under 'Building Scale', the Residential Design Guidelines prescribes setting back an upper floor of a building when the proposed building is taller than adjacent buildings. The proposed upper floor of the Project was setback 15-feet from the front façade at the Department's direction during the design review process, prior to the Commission hearing. Without the Residential Design Guidelines, the Code would only require a 10-foot setback.

**ISSUE 3: The proposed Project would impact access to light for adjacent properties.**

**RESPONSE 3: The proposed Project incorporates the design modifications prescribed by the Residential Design Guidelines with respect to light.**

The Residential Design Guidelines state that "some reduction in light can be expected with a building expansion." Where a "greater impact on neighboring buildings" will occur, the following design modifications are prescribed:

- Provide setbacks on the upper floors of the building.
- Include a sloped roof form in the design.
- Provide shared light wells to provide more light to both properties.
- Incorporate open railings on decks and stairs.
- Eliminate the need for parapet walls by using a fire-rated roof.

For the Project at 575 Vermont Street, the massing at the rear of the building has a total height of 30-feet. It is not clear that such massing would cause a greater impact than is expected of any development in the City. Even so, the upper floor has been setback 5-feet from the northern property line, as prescribed by the guideline. If the adjacent properties had existing lightwells, matching lightwells would have been required for the new Project. Neither adjacent property has a lightwell adjacent to 575 Vermont Street. Similarly, at roof level, the proposed roof deck has railings setback 3' and 3'9" from the north and south property lines, respectively, and the railing material is glass to allow light to pass through, as prescribed by the guideline.

**ISSUE 4: The proposed Project would impact the privacy the adjacent property at 567 Vermont Street.**

**ISSUE 5: The proposed Project is not designed to coordinate with a potential proposed Project at 567 Vermont Street.**

**RESPONSE 4 & 5: The Planning Commission imposed a new Condition of Approval No. 10, requiring coordination with the owner of the adjacent property at 567 Vermont Street. This coordination is ongoing.**

The concerns of the adjacent property owner at 567 Vermont Street were consider by the Planning Commission, which is why they added condition 10 described above. Since the hearing, the project sponsor has worked with the adjacent property owner on design modifications to address the concerns over privacy and compatibility with a potential future vertical addition that has not been submitted to the City for review. This discussion is ongoing. If, after discussion, there remain unresolved issues between this Project and the potential project at 567 Vermont Street, the Planning Department will review and require modifications as necessary. The Planning Department did not review this Project for compatibility with the future project at 567 Vermont Street because no application for such project has been submitted.

#### **SUMMARY RESPONSE**

The appellants contend that the Planning Commission's unanimous approval of the Project was based on insufficient information; however, the design has been modified as prescribed by the Residential Design Guidelines in response to these adjacent contexts, and the Project is code compliant. Further modification beyond what is prescribed in the Residential Design Guidelines, such as removal of the top floor, would reduce the size of the habitable area of the Project by 757 feet, or 23%. The Project Sponsor contents that this would impact the financial feasibility of constructing the Project.

#### **CONCLUSION**

For the reasons stated in this document, in the attached Resolution, and in the Planning Department case file, the Planning Department recommends that the Board uphold the Planning Commission's decision in approving the Conditional Use authorization for the Project.