



# SAN FRANCISCO PLANNING DEPARTMENT

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## Variance Decision

*Date:* December 31, 2015  
*Case No.:* **2015-007328CUAVAR**  
*Project Address:* **1805 Buchanan Street**  
*Zoning:* RM-3 [Residential – Mixed, Medium Density]  
40-X Height and Bulk District  
*Block/Lots:* 0676/073  
*Applicant:* 3D Investments, LLC  
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### DESCRIPTION OF VARIANCES – REAR YARD AND PERMITTED OBSTRUCTION VARIANCES SOUGHT:

The proposal is to construct a new four-story, six-unit residential building with three stories of residential over ground floor parking on a vacant paved site. The new building would feature four two-bedroom units and two one-bedroom units, with a total of 7,724 square feet of residential space. The existing Hotel Tomo parking in the basement level beneath the site would be preserved. The resulting structure would be 9,898 square feet in area and 40 feet in height.

**Per Section 134 of the Planning Code**, the subject property is required to maintain a rear yard of approximately 17'. The Project proposes a 5'- 11 ½" rear yard at all levels and therefore requires a variance from the rear yard requirement of the Planning Code.

**Per Section 136(c)(2)(F) of the Planning Code**, bay windows require a minimum horizontal separation of eight feet along a line parallel to and at a distance of three feet from the line establishing the required open area. The proposed bays at the primary (east) façade would provide a five-foot separation and therefore require a variance from the permitted obstruction requirements of the Planning Code. This separation is intended as a design element to better incorporate the proposed façade into the context of the Japantown Special Use District and was supported by the Residential Design Team.

### PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 3 categorical exemption.
2. The Zoning Administrator held a public hearing on Variance Application No. 2015-007328VAR on November 12, 2015.

3. The Planning Commission held a public hearing on Conditional Use Authorization Case No. 2015-007328CUA on November 12, 2015 and unanimously approved the Conditional Use Authorization (Motion No. 19509).
4. Neighborhood notification pursuant to Planning Code Section 311 was performed in conjunction with the notification for the conditional use hearing before the Planning Commission on November 12, 2015.

**DECISION:**

**GRANTED**, in general conformity with the plans on file with this application, shown as EXHIBIT A, to construct a four-story, 6-unit building, 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 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 Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the recorded Notice of Special Restrictions 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 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

**FINDING 1.**

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

**Requirement Met.**

- A. The property is an air space parcel located above an existing underground garage that serves the adjacent Hotel Tomo building. As a result, the site cannot be excavated to increase below-

**Requirement Met.**

- A. Granting the rear yard variance will allow the subject property owners to encroach approximately 11' into the required rear yard, and as such the proposal will provide an additional 1,518 square feet of habitable space for the proposed six-unit building, a substantial property right possessed by other properties in the same class of district.
- B. Granting the permitted obstruction variance would allow for additional usable habitable space in the larger, family-sized units while creating a distinctive and compatible façade that is in keeping with the architectural aesthetic of the Japantown District.

**FINDING 4.**

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

**Requirement Met.**

- A. Granting these variances would improve the livability of the subject property, allow for more dwelling units within the project, and would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.
- B. Granting the permitted obstruction variance would better incorporate the distinctive design of the proposed building into the surrounding Japantown Special Use District.
- C. The Planning Department is not aware of any opposition to the proposed project.

**FINDING 5.**

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

**Requirement Met.**

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
  - 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
  - 2. The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will create a six-unit building on the property.
  - 3. The proposed project will have no effect on the City's supply of affordable housing.
  - 4. The proposed project does not adversely affect neighborhood parking or public transit.

grade developable area, as is routinely permitted. In addition, an approximately 5'-11 ½" wide easement extends along the south (side) and west (rear) facades, providing ventilation and egress to the underground parking garage. This necessitates development setbacks along two sides of the property, restricting the developable lot area in a manner that is not applicable to other properties in the area.

- B. The subject lot is only 68'-9" in depth, while a majority of lots on the subject block are typically 137'-6". The property is similarly 21 to 69 feet shallower than the residential parcels located directly across Buchanan Street. Finally, at 3,162 square feet, the property has one of the smallest lot areas in the subject block. The adjacent parcel to the south is approximately 13,973 square feet, and to the north, the multi-unit residential building at 1875 Buchanan has been constructed on a combined lot area of approximately 7,250 square feet.
- C. The subject property is located within the Japantown Special Use District, which was established, in part, to enhance the distinctive image and unique character of Japantown through architectural design and other elements of the build environment and to encourage representational expression of Japanese architectural design. The proposed asymmetrical pattern of bay windows framed by steel are a design element intended to integrate the building design into the surrounding area, and reference contemporary Japanese architecture and design. The proposed design was supported by the Residential Design Team in contrast to a code-compliant symmetrical design.

#### FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

#### Requirement Met.

- A. Due to the property's shallow depth, relatively small lot area, and pre-existing easements, literal enforcement of the required 17'-2" rear yard would unreasonably constrain the developable area of the subject lot. The required 5'-11 ½" easement along the south property line further restricts the developable area of the lot, and cumulatively the required restrictions would create an unnecessary hardship that does not apply to adjacent properties.
- B. The purpose of the rear yard requirement is to assure the protection and continuance of a midblock open space. The subject block does not feature a consistent midblock open space, and the adjacent properties at 1875 and 1800 Buchanan are built to their full lot depths from Buchanan Street, as are other properties along Sutter Street. As such, the proposed project would not affect the midblock space of the block.

#### FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

5. The project will have no effect on the City's industrial and service sectors.
6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
7. The project will have no effect on the City's landmarks or historic buildings.
8. The project would not affect any existing or planned public parks or open spaces.

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 variance is utilized, all specifications and conditions of the variance 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 Variance 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 variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance 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.