

Discrepancies with CEQA and S.F. Policy

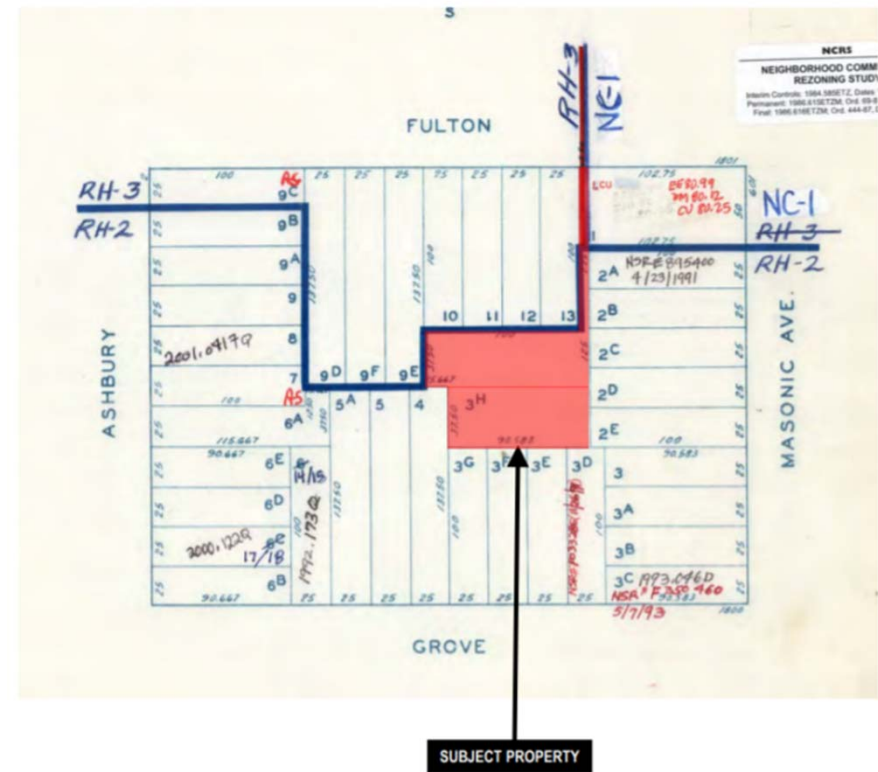
1846 GROVE STREET Market-Price Residences

Presentation to the
San Francisco Board of Supervisors
September 29, 2020

Project Overview

- Lot where construction is proposed is zoned RH-2 (Residential House, 2 Family)
- Only 2 units principally permitted
- Landlocked lot
- Zero Lot Lines
- Access is via 3.5-foot wide alleyway with frontage on Fulton
- The alleyway is zoned RH-3 but construction is not feasible in this narrow space

Parcel Map



Four Single-Family Dwelling Units in Four Buildings Built Against Neighbors' Fences (80%)



Discrepancies: Project and CEQA

- In granting an exemption, CEQA requires that several factors be examined. The following impacts were not examined as required:
 - Impact on major transit stops (as defined by CEQA)
 - Impact on a protected Coastal Live Oak on the site
 - Impact of soil removal of more than 50 cu. ft. from a site subject to liquefaction (USGS classifies site as moderate risk)
- CEQA §15061(b)(3): “The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be **seen with certainty** that there is **no possibility** that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” (Emphases added)
- The Project Sponsor has failed to provide evidence that the exemption comports with common sense and with certainty, and the Planning Department has failed to require such evidence prior to granting the Class 3 exemption.

Major Discrepancy In Exemption

There are several discrepancies between the exemption granted and requirements of both CEQA and SF Policy. One discrepancy is substantial – Class 3 applies to either 3 separate single-family residences or up to 6 dwelling units in a single building.

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).	
<input type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input checked="" type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six 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.

Major Discrepancy with CEQA and SF Policy

- CEQA (§15303) and S.F. policy require the project to be up to **three single-family residences, or** up to six dwelling units in **one building** to be exempt.
- The Planning Department relied on an outdated and superseded 1997 certificate of determination, which equated six one-unit buildings to one six-unit building, for exempting this project of 4 units in 4 buildings.
- CEQA is very specific on authorities granted to public agencies (§15040). Modifying CEQA criteria is not granted.
- Planning Commission Resolution No. 14952 adopted in 2000 currently in effect corrected the 1997 certificate of determination:
“This section is limited to dwelling units and to **no more than one building even when the number of units in two or more buildings totals less than six.**”
(Emphasis added.)

Planning Dept's Response to CEQA Appeal

- In its response, Planning again refers to the 1997 memo and re-affirms, contrary to CEQA and SF Policy, that six dwelling units have the same impacts whether in one building or six.
- Planning cites Resolution 14952 passed in 2000 but does not refer to its explicit and specific exclusion of projects with 4 dwelling units in 4 buildings
 - “This section is limited to dwelling units and to **no more than one building** even when the number of units in two or more buildings totals less than six.” (Emphasis added.)
- The proposed dense development in such a constrained lot defies common sense. There are many potential adverse effects that were not demonstrably examined. It is far from certain that the project will not have adverse effects on the environment.

Sponsor's Response to CEQA Appeal

Sponsor's photo of access alleyway. The individuals are in front of each other, showing an apparent gap between them



Appellant's photo of gate into alleyway. Two people carrying groceries cannot pass each other walking normally



Conclusion

- The Class 3 exemption was granted without consideration of any adverse effects, contrary to specific CEQA and SF Policy requirements.
“A categorical exemption...can only be issued when there may be no impact to the environment.” *The Honorable Supervisor Peskin, July 28, 2020*
- Building such a dense development on a landlocked lot with only one narrow and long entrance/egress defies common sense – the development is environmentally unsound and generally unsafe.
- The Haight-Ashbury Neighborhood Council (HANC) agrees with NOPAWN that the Class 3 exemption was granted prematurely.
- We urge the Board of Supervisors to reverse the granting of Class 3 exemption under CEQA and Conditional Use for the project.