

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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TDD/TTY No. 544-5227

October 8, 2014

Mohammed Nuru
Director, Public Works
City Hall, Room 348
San Francisco, CA 94102

Planning Case No. 2013.02054CEKSV
395-26th Avenue Conditional Use Appeal

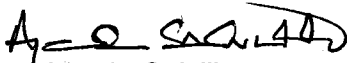
Dear Director Nuru:

The Office of the Clerk of the Board is in receipt of an appeal filed by Stephen M. Williams of the decision of the Planning Commission by its Motion No. 19229 dated September 4, 2014, relating to the approval of a Conditional Use Authorization (Case No. 2013.02054CEKSV) pursuant to Planning Code, Sections 303 and 317, to demolish two residential units on a property within the Outer Clement Street Neighborhood Commercial District (NCD) located at:

395-26th Avenue, Assessor's Block No. 1407, Lot No. 017

By copy of this letter, the City Engineer's Office is requested to determine the sufficiency of the signatures in regard to the percentage of the area represented by the appellant. Please submit a report not later than 5:00 p.m., October 14, 2014, to give us time to prepare and mail out the hearing notices, as the Board of Supervisors has tentatively scheduled the appeal to be heard on November 4, 2014, at 3:00 p.m.

Sincerely,


Angela Calvillo
Clerk of the Board

c:
Appellant, Stephen M. Williams, Law Offices of Stephen M. Williams
Project Sponsor, Gabriel Ng, Gabriel Ng and Architects, Inc.
Fuad Sweiss, City Engineer, Public Works
Jerry Sanguinetti, Public Works-Bureau of Street Use and Mapping
Bruce Storrs, Public Works
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
AnMarie Rodgers, Planning Department
Scott Sanchez, Planning Department
Sarah Jones, Planning Department
Tina Tam, Planning Department
Christine Lamorena, Planning Department

**NOTICE TO BOARD OF SUPERVISORS OF APPEAL
FROM ACTION OF THE CITY PLANNING COMMISSION**

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at 395 26th Ave. aka 2500 Clement Street.

September 4, 2014
Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

October 6, 2014
Appeal Filing Date

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The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. _____.

The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. _____.

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2013.0205CEKSV.

The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. _____.

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

Conditional Use Authorization pursuant to Planning Code Sections 303 and 317 for the demolition of two or more residential units.

b) Set forth the reasons in support of your appeal:

See Attached

Person to Whom
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

(same)

Name

Stephen M. Williams

Name

Address


1934 Divisadero Street, SF CA 94115

Address

Telephone Number

(415) 292-3656

Telephone Number



Signature of Appellant or
Authorized Agent



David Chiu, President
San Francisco Board of Supervisors
City Hall, #1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

October 6, 2014

RE: **STATEMENT OF APPEAL-CONDITIONAL USE AUTHORIZATION**
395 26th Avenue (AKA 2500-02-06-08 Clement & 381-83-87 26th Avenue)
2013.0205CEKV & 2013.0205CEKV—Project Includes:
Demolition of Sound Affordable Rent-Controlled Housing;
Request for Conditional Use Authorization;
Subdivision of Existing Development Lot;
Building Permits for Two New 45'+ Buildings,
Rear Yard Variances and Other Code Exceptions

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President Chiu and Members of the Board:

This Statement is submitted in support of the appeal of the conditional use authorization granted by the Planning Commission (4-3 vote) on September 4, 2014. We have previously submitted to Planning a Petition signed by 171 immediate neighborhood residents opposing the project as incompatible with the neighborhood and an improper use of the conditional use procedure. With this appeal, we submit the signatures of 73 property owners within 300 feet of the subject lot.

1. The Project is Demolition of TWO Sound, Affordable Rent-Controlled Units

A conditional use authorization is required for the demolition of sound affordable rent-controlled housing. The Commission decision was in error and it mistakenly found that demolition of this housing is “*necessary and desirable*” for the community. The decision is directly contrary to all controlling public policy—and is a slap in the face of the public in the middle of an affordability crisis.

Retention of this type of affordable rent controlled housing is the highest priority policy and a keystone to every plan to fight the affordability crisis in SF. The decision is contrary to the Mayor’s Executive Directives, contrary to the General Plan and contrary to the controlling policies of the Housing Element all of which mandate the retention of the existing building. There is no policy (as opined by the Dept and endorsed by the Planning Commission) that allows this type of sound affordable housing to be demolished and “exchanged” for new, market rate luxury condominium housing. Once this type of housing is demolished, it is gone forever. There is a finite supply of this type of housing and the policies of the City Demand its retention.

2. The Project Does Not Meet the Mandatory Criterion for a Demolition

The Project meets only six of the eighteen criteria for granting a demolition permit under Planning Code Section 317. The proposal to remove and replace two “naturally affordable” units is contrary to the priority principle of rent-controlled housing unit

retention. The current housing affordability crisis creates an exceptional and extraordinary circumstance such that the Commission should have denied the project and preserved the existing units. The Commission ignored this controlling fact and it is up to the Board of Supervisors to correct this error in judgment.

3. UDAT requested a Project With a 25% Rear Yard—The Developer Proposes 10%; The Developer REFUSED to comply with Dept directives for a project WITHOUT Variances; The Requested Variances Hurt the Neighbors and Are Not Justified from an “Exceptional and Extraordinary” Hardship

UDAT Reviewed the Project and Requested a Project Without Variances—the Developer Refused. The Variances hurt and negatively impact surrounding housing and long term residents and are directly contrary to law and policy. Granting variances for vacant, flat, rectangle shaped lots makes no sense and it contrary to all legal authority. The **ONLY** “hardship” cited as creating the need for variances by the developer is the “*unusual configuration of the lots.*” These new lots, of course, are being created by the developer to achieve 90% lot coverage. One cannot create a “hardship” and then claim a need for a variance to build on those same lots. Such a result is directly contrary to law and policy.

4. The Project Requests a Parking Variance For a Transit Corridor and Fails to Even Build to the Prescribed Density for the New Project

This is a project that gets it all wrong. In addition to the destruction of affordable rent-controlled housing, it requests a variance in order to construct parking within the Clement Street Neighborhood Commercial District. If approved as requested, the project would violate the most important policies of the City---destruction of sound, affordable rent-controlled housing and “over-parking” in a transit corridor. These buildings are pure luxury condos. The Dept also has the density INCORRECT. The Dept originally claimed that the prescribed density is three dwelling units per lot... Their math was WRONG and it was corrected at the hearing after appellants pointed out the error (which had existed for more than one year). The density would allow four units per lot. (Lot A 2,200s.f. divided by 600= 3.67 and Lot B 2,146s.f. divide by 600=3.58) The present lot, without subdivision, would permit seven units (4,346 divided by 600 = 7.27) and the approval is for SIX luxury condos.

Introduction

This office was retained to represent the surrounding neighbors of the proposed project including the owners and occupants of the two adjacent buildings on Clement Street and on 26th Avenue. The Neighbors object to the proposed project because it will impose unfair burdens and impacts on numerous surrounding homes. At a community meeting organized by the neighbors on February 6, the feeling of the surrounding community was made clear---They want the existing building preserved to maintain affordability in the neighborhood. This was a consensus in the meeting. Not a single neighbor supports the project as it is out of character with the neighborhood and it violates numerous priority policies in favor of creating new luxury condominiums at the top of the market. The decision by the Commission is another example of the “tone deafness” of a Planning Commission completely out of touch with the regular citizens of the City.

Project Setting and Proposal

The subject lot is one of two lots on the north side of Clement Street which falls under the Outer Clement Neighborhood Commercial District zoning. These are the *only lots* on this particular block that are zoned under the NCD.

The subject lot has on it two-units of “naturally affordable”, middle-class, and rent-controlled housing (a fact only discovered by the Dept after it approved the project) and is surrounded by such housing. The Official 3R Report confirms the building is legal two units, it is also rent-controlled. The fact that this lot is the only one of two lots with this NCD zoning is a usual circumstance requiring special design consideration and care to avoid disproportionate negative impacts to surrounding existing housing. The analysis from the Department makes no mention at all of this unusual fact and no design consideration is extended to the adjacent housing---The Project is proposed at far beyond maximum development. The adjacent housing will be dwarfed by the new building. No setbacks are employed in the project and it is proposed far BEYOND the maximum building envelope for the site.

The proposed project is very ambitious. The proposal is to demolish the existing building which fronts on Clement Street, *subdivide* the existing development lot which has been part of the development pattern of the neighborhood for more than 100 years and create two new odd smaller lots.

The proposal is to construct two very tall (for the neighborhood) apartment buildings of 3-units each with variances and exceptions so that the minimal rear yards are substantially reduced again. The existing 2-unit building which fronts on Clement Street would be demolished and replaced with a 47.5' foot tall building (to the top of the parapet)---with stair pent house and roof top deck approximately 55' feet with three residential units and retail on the ground floor.

The proposal for the first building (“Lot A”) includes a request for a rear yard variance to *completely remove the required rear yard* at grade and to provide reduced setbacks for the remaining three floors and a variance to allow parking. The second building (“Lot B”) would be constructed in what is currently the required rear yard and would be placed on a development lot just 37 feet deep. This building is 40' feet to the top of the parapet and has a roof top penthouse and roof deck. It also seeks a variance so that the minimum required rear yard area and green space shared with the surrounding residential units can be completely eliminated.

Review of the planning file reveals some interesting facts. First, the Dept asked for a minimum 25% rear yard for both new lots and the developers simply said “NO” and filed a variance request. Second, the ONLY justification asserted for the rear yard variances is ***the unusual configuration of the new lots!*** A classic self-made hardship that cannot be used to grant exceptions and variances.

A Conditional Use Authorization Cannot be Granted for the Demolition of Sound, Rent-Controlled, Affordable Units --The Mayor's Executive Directives Mandate the Preservation of the Existing, Naturally Affordable Rent Controlled Housing Stock

San Francisco's highest Priority Policies are enumerated in the General Plan. Further, to the extent some policies may clash with others, (for example—the creation of new housing vs. retention of existing housing---such as here) the two policies that are to be given primacy are:

- **That the City's supply of affordable housing be preserved and enhanced.**
- **That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.**

This directive is also found in the Housing Element of the General Plan and these two policies form the basis upon which inconsistencies in the Housing Element and in other parts of the General Plan are to be resolved. Approval of this project violates numerous crucial and primary policies.

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 3: PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

POLICY 3.3

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

POLICY 3.4

Preserve "naturally affordable" housing types such as smaller and older ownership units.

The two units to be demolished here are considered to be "naturally affordable" as described in policy 3.4 of the General Plan's Housing Element as being smaller rent controlled dwelling units. These units are subject to the Rent Stabilization and Arbitration Ordinance, as the building was constructed prior to 1979 and is not a condominium.

The proposed project would eliminate two naturally affordable units that are subject to rent control and replace them with 3 large single-family market rate units that would not be subject to the Rent Stabilization and Arbitration Ordinance contrary to the policies and directives from the Mayor's Office to address the city's housing crisis. The proposed

project is inconsistent with the objectives and policies of the General Plan and does nothing to protect affordability of the existing housing stock especially rental units and does nothing to maintain the balance of affordability or for moderate ownership opportunities---quite the opposite.

The elimination of two functional “naturally affordable” rent controlled dwelling units is contrary to the General Plan as well as to the Department’s and the City’s priority to preserve existing sound housing and to protect naturally affordable dwelling units. The proposed loss of the two dwelling units is counter to the Mayor’s executive directive, which calls for the protection of existing housing stock. The Mayor has directed the Department to adopt policies and practices that encourage the preservation of existing housing stock.

The proposal to remove and replace two naturally affordable units is contrary to the priority principle of housing unit retention. The current housing affordability crisis creates an exceptional and extraordinary circumstance such that the Commission should deny the project and preserve the existing units.

The General Plan and the Priority Policies make it clear that the Dept cannot “trade” the existing rent controlled housing on the site for additional units of market rate housing. The Dept’s analysis is deeply flawed and repeatedly states that it is recommending approval of the project because losing two rent controlled existing units is somehow offset by gaining six new market rate units. This is incorrect and is contrary to the manner in which the policies are to be applied. In fact, because the developer is building luxury style housing with abundant packing, the housing opportunity is NOT be maximized at the site. The zoning for the area would allow up to seven units on the existing lot---subdividing the lot actually reduces the housing allowed by the zoning.

First, since the project contemplates creating two new development lots, the “exchange” on proposed Lot A is the loss of two rent controlled units for only three new market rate units. Second, if the existing building is retained and units are added to it as an alteration, it would be possible to create seven units of rent-controlled housing while saving the existing units.

To bolster this already clear policy objective, the Mayor on February 6, 2014, that he would implement recommendations resulting from a Mayoral Executive Directive to accelerate housing production and *preserve existing housing stock*. The announcement by the Mayor’s Office followed earlier directives in December to help retain the existing housing stock. On August 11, 2014, the Mayor implemented this plan.

The project approved by the Commission violates these polices and initiatives to protect the existing housing stock. The requested conditional use authorization cannot be granted in the face of this overwhelming policy mandate. The destruction of two units of existing rent-controlled housing and the permanent loss of the opportunity to create more such housing cannot possibly be “necessary and desirable” in the City of San Francisco at this time.

At a minimum, the project should be returned to the Dept for review in the face of these new mandates. A project that retains the existing housing and perhaps adds new units to the existing building is far more in line with the housing needed in the City and with the directives and policies already in place as well as the new housing policy priorities announced by the Mayor.

The Project Violates a Super Majority of the Mandatory Criteria Under Section 317 For Demolition and Tenants Were Displaced for This Project Prior to the Sale

As declarations under penalty of perjury submitted to the Planning Commission and testimony from long-term neighbors clearly showed that just prior to the sale of the subject property, it was occupied by tenants. As is often the case, in order to make the building more attractive for sale the owner, wanted to deliver the building vacant. The prior tenants were offered a cash buy-out and departed the subject property in late 2012 just prior to the purchase by the developer Mary Tom and her husband in January 2013.

As noted above, the Dept's analysis of the net result of the project is simply incorrect. "Lot A" is losing two affordable rent-controlled units and a commercial unit and is being replaced by a new commercial unit and three new market rate units. "Lot B" is a proposed separate development lot and is unrelated to the development on "Lot A." In other words, the existing building could be retained and "Lot B" could still be developed.

The Dept's analysis under Section 317 is equally flawed. The Project fails to meet even a bare majority of the criteria for approving the demolition of rent-controlled existing housing. The Dept concludes that "on balance" the project complies with the criteria of section 317 (See Planning Commission motion page 7). However, no explanation of how this conclusion is reached was provided.

Contrary to the unsupported conclusion, a review of the criteria enumerated in the Demolition Application and as required under section 317 positively leads to the conclusion that the project *does not* meet the criteria for a demolition under that Section. As set forth in the Demolition Application and in the Dept's motion, (pages 7-9) the criteria to be satisfied under Section 317 are as follows:

Existing Value and Soundness .

1. Whether the Project Sponsor has demonstrated that the building is unsound or is not affordable or financially accessible housing.

The project sponsor has not submitted a soundness report and no claim is made that the buildings is unsound; because it was recently and continuously occupied by tenants it is presumed to be sound. DOES NOT Meet Criterion to Approve a Demolition.

2. Whether the housing is found to be unsound at the 50 percent threshold.

The building is not unsound. DOES NOT Meet Criterion to Approve a Demolition.

3. Whether the property is free of a history of serious, continuing code violations.

There is no history of code violations at the site. DOES NOT Meet Criterion to Approve a Demolition.

4 Whether the housing has been maintained in a decent safe and sanitary condition.

Yes the housing has been so maintained. DOES NOT Meet Criterion to Approve a Demolition.

5. Whether the property is a historical research under CEQA.

The project was not found to be a historic resource. Meets Criterion

6. Whether the removal of the resource will have a substantial adverse impact under CEQA. **Not Applicable**

The Project satisfied only two of the six criteria under the above section to approve a demolition.

Rental Protection

7. Whether in the project converts rental housing to other forms of tenure or occupancy.

Yes, the new units will no longer be under Rent Control and may be sold as condos or rented at Market Rate. DOES NOT Meet Criterion to Approve a Demolition.

8. Whether the project removes rental units subject to the rent stabilization and arbitration ordinance.

Yes the project removes at least the two units subject to rent control DOES NOT Meet Criterion to Approve a Demolition.

9. Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity.

The project removes 2 sound affordable rent controlled units. DOES NOT Meet Criterion to Approve a Demolition.

10. Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity.

*The project does not conserve neighborhood character and does not preserve neighborhood cultural and economic diversity by replacing the rent controlled units with market rate housing. **DOES NOT Meet Criterion to Approve a Demolition.***

11. Whether in the project protects the relative affordability of existing housing .

*The project does not protect the relative affordability of existing housing and replaces the affordable rent controlled units with market rate housing. **DOES NOT Meet Criterion to Approve a Demolition.***

12. Whether the project increases the number permanently affordable units is governed by section 415 .

*Project does not provide and permanently affordable units. **DOES NOT Meet Criterion to Approve a Demolition.***

The Project does not meet any of the above six criteria for approving a demolition and only satisfies 2 of the first 12 criteria.

Replacement Structure

13. Whether the project located in fill housing on appropriate sites in established neighborhoods .

*If a project requires the destruction of sound affordable rent controlled housing, the site is NOT appropriate. **DOES NOT Meet Criterion to Approve a Demolition.***

14. Whether the project creates quality, new family housing.

*The Project creates new large unit housing. **Meets Criterion***

15. Whether the project creates new supportive housing.

*No supportive housing is created by the project. **DOES NOT Meet Criterion to Approve a Demolition.***

16. Whether the project promotes construction of well-designed housing to enhance existing neighborhood character.

*Although the neighbors do not believe the project fits in with the existing neighborhood character, we can concede this point for the sake of argument. **Meets Criterion***

17. Whether the project increases the number of on-site dwelling units.

*Project creates six new units on two new development lots. **Meets Criterion***

18. Whether the project increases the number of on-site bedrooms.

Project creates six new units on two new development lots with 18 bedrooms. **Meets Criterion**

The project satisfies 4-5 of the above criteria. Overall, the Project *does not* satisfy even a bare majority of the needed criteria for a demolition and only meets 6 out of 18 of the above criterion. Further, when the Priority Policies are reviewed, the Sections of the Demolition Application for preserving Sound Affordable Rent Controlled Housing must take priority over the criteria for the replacement structure. The Dept's unexplained conclusion that the Project somehow "on balance" meets the criteria of Section 317 and the General Plan Priority Policies is simply incorrect. The Project does not satisfy the requirements of Section 317 and the demolition must be denied.

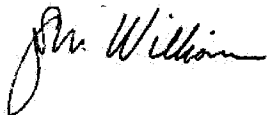
The Proposed Garage is Incompatible with the City's Transit First Policies, Incompatible with the NCD and Fails to Even Build to the Prescribed Density

This is a transit rich neighborhood with numerous bus lines just steps away. The project gives the impression of changing and demolishing the housing from rent controlled family housing to luxury condominiums ---with parking on a transit line. A type of housing that is completely out of character with the neighborhood and the City's policies. Further, the motion submitted to the Commission is simply wrong on the math. The project as subdivided would allow for eight units of housing not six (Lot A 2,200s.f.divided by 600= 3.67 and Lot B 2,146s.f. divide by 600=3.58) and the lot without the subdivision would support seven units under the zoning allowing one unit per 600 square feet. (4,346 divided by 600 = 7.27).

Conclusion

The Proposed Project violates numerous priority policies which mandate the decision to save affordable, rent controlled housing. The proposed construction is simply too much for a single development lot. The requested height and bulk of the buildings will overwhelm the lot size and the neighbors in this residential neighborhood. The neighbors request that the Board overturn the Planning Commission decision and deny the demolition permit and direct the developer to explore options to retain the existing housing (with or without a subdivision and new development at the rear).

VERY TRULY YOURS,



STEPHEN M. WILLIAMS

Received 17 pages of signatures

City Planning Commission
CASE NO. 2013.0205CEKSV

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	366-27th AVE	1407-027	JACQUILINE SVEVO	<i>Jacqueline Svevo</i>
2.	366-27th AVE	1407-027	ROCCO SVEVO	<i>Rocco Svevo</i>
3.	343-27th AVE	1406-008	ANTHONY ERLAFF	<i>Anthony Erlaff</i>
4.	363-27th AVE	1406-013	Lily Fillmore	<i>Lily Fillmore</i>
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2428-2430 Clement St.	1408-017	SHE H HSIEH	
2.	345-26 AVE	1407-009	ALFRED POON	
3.	372 26 th Ave	1408-023	JUDITH GRAY	
4.	2410 Clement St	1408-014	PING-CHI KANG	
5.	338-27 th AVE	1407-035	BIN CHEN	
6.	395-25 th Ave	1408-013	Willie Wong	
7.	290-27 th Ave	1407-023A	Willie Wong	
8.	326-26 th AVE	1408-034	FERIVOULA ARKAPES	
9.	209 26 th Ave	1386-075	Prachaya Boonluea	
10.	2443 CLEMENT ST #8	1457-059	Leonard Lyao	
11.	369-26 th	1407-014	Malan Lee	
12.	351-27 th AVE	1406-010	Ram Bhuvi	
13.	378 27 th Ave	1407-024	Wong	
14.	366 26 th AVE	1408-059	STEPHANE DUBOIS	
15.	410-26 th AVE UNIT 3	1457-033	Jen	
16.	427-26 th Ave	1458-051	Joe	
17.	2420 Clement St	1408-016	SOTERANONG	
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	373-26 th Ave #2	1407-052	MAIRE FLEMING	<i>Maire Fleming</i>
2.	338-26 th Ave	1408-032	FONG 1991 TRUST	<i>Fong 1991 Trust</i>
3.	342-26th Ave 350-27th Ave	1408-031	Kwong Chieh Chuen	<i>Kwong Chieh Chuen</i>
4.	350-27 th Ave	1407-032	WANDA CHINN	<i>Wanda Chinn</i>
5.	359-27 th Ave	1406-012	KIM CHANG	<i>Kim Chang</i>
6.	2586 th - Clement	1407-021	Nicholas Tebeschi	<i>Nicholas Tebeschi</i>
7.	343-25 th Ave	1408-007	JU, CHEW EWEY	<i>Ju, Chew Ewey</i>
8.	361-26 th Ave	1407-012	Annie chow	<i>Annie chow</i>
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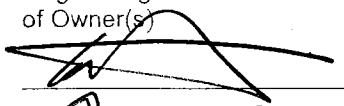
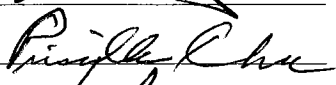

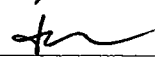
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2510-2512 CLEMENT ST.	1407-018	WENDY WAN-LI CHEN	
2.	375-27 th Ave.	1406-016	PRISCILLA CHU	
3.	401-26 Ave apt 2	1458-043	IGOR DUBROVSKY	
4.	2510-2512 CLEMENT	1407-018	JAMES MO-TAI CHAN	
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City Planning Commission

CASE NO. 2013.0205CEKSV

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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
✓ 1.	2535 Clement St	1454 036	Goodwin Family Trust James W & Susan N Goodwin TRUSTEES	Susan M. Goodwin
2.	355 - 27 th AVE.	1406 - 011	JAMES HO-TAI CHAN	[Signature]
3.	355 - 27 th AVE.	1406 - 011	WENDY WAN-LI CHEN	[Signature]
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City Planning Commission

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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	377-26 th AVE	1407-016	ANTHONY LEE	
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	350-26th Ave		ACRIVOUVA ARLINES	[Signature]
2.	350-26 th Ave	1408-029	ACRIVOUVA ARLINES	[Signature]
3.	356-20 th Ave	1408-027	Wilson C. [unclear]	[Signature]
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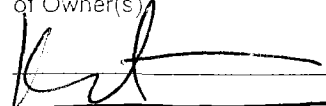
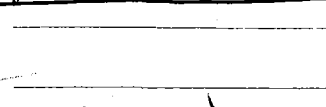
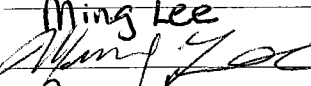
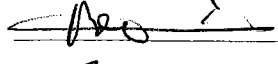

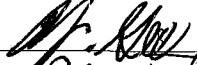

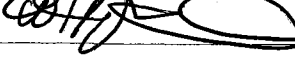
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	401 26 th Ave #4	1458/045	KATHRYN WALDEN	
2.	311 26th Ave	1458/045	KATHRYN WALDEN	
3.	269 26 th Ave #2	1407-014	Ming Lee	
4.	338 27 th Ave	1407-035	Ben Chen	
5.	351-353 - 27 th Ave	1407-010	SAM PATRICK	
6.	434-26 th Ave	1457-030	Yvonne Gice	
7.	382 27 th Ave	1407-023C	Elizabeth Ahlstrand	
8.	382 27 th Ave	1407-023L	William M. Ahlstrand	
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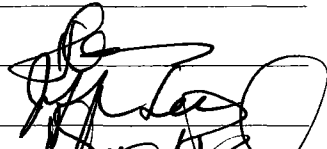
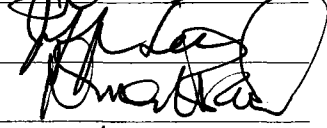
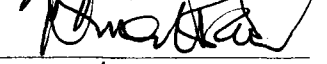
Kathryn Walden

Note: Not opposed to construction or gentrification but height + # of units added to small space (subdividing lot) is a major concern. Intersection will need a stop sign too. Blockage of light to other properties nearby is also not in the zoning laws for bldg ht.

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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2475			
2.	427-26 th Ave #3	S.F. CA 94121	Kate Lee	
3.	410-26 th Ave	S.F. CA 94121	JEFFERSON LBB	
4.	427 26th Ave #2	S.F. CA 94121	Nina Louise Frankel	
5.	401-26 th Ave #1	S.F. CA 94121	P. Huen	P. Huen
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	427 26 th Ave #3	S.F. CA 1458-051 94121	Donald T Lee	
2.	410 26 th AVE	S.F. CA 1457-033 94121	Joanna Lee	JOANNA LEE
3.	427 26 th Ave. #1	S.F. CA 1458-049	RACHEL CHENG	
4.	427 26 th Ave. #1	S.F. CA 1458-049	GANBYNG WANG	
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	2410 Clement St	1408-014	YU JUAN LIANG	<i>Yu Juan Liang</i>
2.	2428 Clement St	1408-017	SHE H HSIEH	<i>She-hsi hsieh Tsai</i>
3.	366 26th #2	1408-058	CHRISTINE BIRRELL	<i>Christine Birrell</i>
4.	366 26th #2	1408-058	TONY FERRELLI	<i>Tony Ferrelli</i>
5.	367 26th			
6.	390 - 27th Ave	1407-023A	Melinda Choy	<i>Melinda Choy</i>
7.	356 - 20th Ave	1408-027	Walter Choy	<i>Walter Choy</i>
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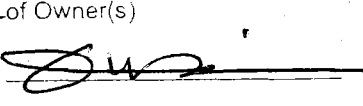
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	Street Address, property owned.	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	386 27 th AVE	1407-023B	TSUI Wing Kai Living trust SCOTT TSUI	
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	371 25 th Ave #2	1408-045	John Hatten	<i>John Hatten</i>
2.	371 25 th Ave #2	1408-045	Shirley Hatten	<i>Shirley Hatten</i>
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	390-27 th AVE.	1407-023A	WILSON CHOY Wilson	Wilson Choy
2.	357-25 th AVE	1408-008A	YUE CHANG	YUE CHANG
3.	343-25 th AVE.	1408-007	YUE C. JU	Yue C. Ju
4.	414-26 th AVE.	1457-031	LULU TSAO	Lulu Tsao
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City Planning Commission

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Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1. 2608-2610 Clement St.	Block # 7214 Lot # 003A	WING LI & ELAINE LI	<i>Wing Li Elaine Li</i>
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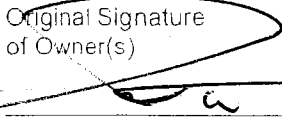
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	414-26th Ave	1457/031	TSAO-WU EDDIE & LUCY	
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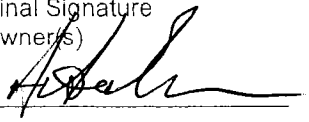
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	Street Address, property owned	Assessor's Block & Lot -	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	401 - 26 ave	1458 043	ANNA DUBROUSKY	
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- + Edwin Lui – Support
- + David Fong – Support, for housing and rental
- + Brian Kano – Support, housing shortage
- + Felix – Housing shortage
- + Martin – Better use of land
- + Hector Lee – People leave garbage at site
- + Andy Chen – Housing inventory
- + Mathew Lambert – Housing, rent controlled units

unoccupied

- Karen Horning – Day light
- Sola Brines – Affordable housing replaced with luxury condos
- Julian – Too big
- Alex Powell – Preserve rent-controlled housing
- Wendy Chan – Too big and tall
- Tony Lee – Affordable housing
- Katherine Robbins – Bad precedent
- Steven Williams – Housing directive

ACTION: Approved with Conditions as Amended, to eliminate the rear bump out on Lot B and reduce the parking to two spaces.

AYES: Fong, Antonini, Hillis, Johnson
NAYES: Wu, Moore, Richards
MOTION: 19229



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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

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415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion Draft Motion

HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: 2013.0205CEKSV
Project Address: 395 26th AVENUE
Zoning: Outer Clement Street Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
 Gabriel Ng & Architects, Inc.
 1360 9th Avenue, Suite 210
 San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE REMOVAL OF TWO OR MORE RESIDENTIAL UNITS.

PREAMBLE

On February 26, 2013, Gabriel Ng of Gabriel Ng & Architects, Inc. (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish two residential units at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On January 16, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C. The Commission continued the item from January 16, 2014 to February 20, 2014, and then to April 4, 2014 and lastly to September 4, 2014.

On September 4, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C.

On August 26, 2014 the Project was determined by the Department to be categorically exempt from environmental review under Case No. 2013.0205E. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0205C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

3. **Site Description and Present Use.** The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor

commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

4. **Surrounding Properties and Neighborhood.** The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.
5. **Public Comment.** The Department has received the following public comment:
 - a. 112 letters and petitions in support of the project
 - b. An online petition (www.change.org) with 171 persons opposed to the project
 - c. Petitions with 137 signatures of persons opposed to the project
 - d. One email and five phone calls opposed to the project
 - e. Two phone calls with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove two or more residential units in the Outer Clement Street NCD. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317 have been incorporated as findings in this Motion. See Item 7, "Additional Findings pursuant to Section 317" below.
 - B. **Lot Size.** Planning Code Section 121 requires a lot size of 1,750 square feet for lots within 125 feet of an intersection.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 2,200 square feet and the 26th Avenue lot with frontage on 26th Avenue would measure 2,146 square feet.
 - C. **Residential Density.** Planning Code Section 717.91 permits a density ratio of one dwelling unit for each 600 square feet of lot area.

Up to three dwelling units are permitted on each of the subdivided lots. The proposed unit count of three dwelling units each comply with the prescribed density.

- D. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth at grade level and at each succeeding level or story of the building in the Outer Clement Street NCD.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 60 feet deep and the 26th Avenue lot with frontage on 26th Avenue would measure 37 feet deep. The required rear yard for the Clement Street lot is 15 feet; however, the project proposes full lot coverage on the ground floor with a roof deck above. The required rear yard for the 26th Avenue lot is also 15 feet; however, the project proposes a partial rear yard on the ground floor at a depth of 13 feet with a portion of the garage and a roof deck extending into required rear yard. Therefore, the Project Sponsor is seeking a rear yard modification for the project.

- E. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

For the Clement Street building, the project proposes 340 square feet of common open space on the proposed roof deck where 212.8 square feet are required and 519 square feet of private open space on a rear deck where 80 square feet are required. For the 26th Avenue building, the project proposes 1,044 square feet of private open space in a rear yard, rear deck, and roof deck where 240 square feet are required.

- F. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Above-Grade Parking Setback.** Off-street parking at street grade on a development lot must be set back at least 25 feet from the front of the development on the ground floor.

The project proposes parking at the property line along 26th Avenue, not set back 25 feet. The Project Sponsor is requesting a variance from this section of the Planning Code.

2. **Parking and Loading Entrances.** No more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress.

The proposed parking entrance for the Clement Street building is 16 feet wide and the proposed parking entrance for the 26th Avenue building is 12 feet wide. Two curb cuts along 26th Avenue, each 10 feet wide, are proposed.

3. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be

provided within the first 25 feet of building depth on the ground floor from any façade facing a street at least 30 feet in width.

Active ground floor uses (commercial use at the Clement Street building and residential use at the 26th Avenue building) are proposed within the first 25 feet of the building depth on the ground floor of each building.

4. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for both buildings would be a minimum of ten feet tall.

5. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The proposed active uses and residential lobbies are designed along the property lines of the subject lot.

6. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed commercial use in the Clement Street building contains approximately 911 square feet of exterior ground floor wall area. Approximately 550 square feet of wall area would be dedicated to glazing, which is equivalent to approximately 60 percent transparency.

7. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- G. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

The project proposes seven parking spaces for the six replacement dwelling units.

- H. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use.

The project proposes six Class 1 bicycle parking spaces that satisfy the bicycle parking requirements. The two Class 2 spaces are provided with a bike rack on Clement Street.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit. Planning Code Section 263.20 allows for a special height exemption of five feet for active ground floor uses.

The project proposes two replacement buildings. The Clement Street building is proposed at 45 feet tall, utilizing the five-foot height exemption for an active ground floor use as a commercial space. The 26th Avenue building is proposed to be 40 feet tall.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. While the project proposes demolition of two units, the proposed density of six units distributed into two, three-unit buildings is more desirable in terms of compatibility with the surrounding housing density and the Outer Clement Street NCD. The replacement buildings are also designed to be consistent with the existing development pattern and the neighborhood character. Both new buildings are four-story buildings; however, the building fronting on 26th Avenue proposes a design and massing that respects the predominant pattern of three-story residential facades along both sides of 26th Avenue.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project is designed to be compatible with the surrounding neighborhood and specifically with the adjacent buildings. The proposed size, shape and arrangement of the project are in keeping with the development pattern of the block. The 26th Avenue building is set back at the rear and side to respect a single-family noncomplying structure in the adjacent lot at 2510-2512 Clement Street and property line windows in the adjacent lot at 377 26th Avenue.

- ii. 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;

The Planning Code requires six parking spaces for the replacement buildings. Seven spaces are proposed, where currently there are three surface lot spaces provided for the existing building.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project is primarily residential in nature with approximately 867 square feet of commercial space, which is an increase in floor area from the existing 464 square feet. The proposed residential density and commercial intensity are not anticipated to produce noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement buildings have been appropriately selected to be harmonious with the existing surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code except for rear yard and street frontage and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the Outer Clement Street NCD.

The proposed project is consistent with the stated purpose of the Outer Clement NCD. The NCD allows for up to one dwelling unit per 600 square feet of lot area. With proposed lot areas of 2,200 square feet and 2,146 square feet after the lot subdivision, six dwelling units would be permitted. The project proposes six dwelling units.

- 8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where *soundness* is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The *soundness factor* for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion.

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion.

Although the existing structures are more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion.

Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion.

The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion.

The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion.

The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion.

The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion.

The project does not create supportive housing.

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Project meets criterion.

The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion.

The project would increase the number of on-site units with a net gain of four units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion.

The project proposes 18 bedrooms. The existing building contains three bedrooms.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1:

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

The project proposes demolition of two dwelling units with the construction of six dwelling units.

URBAN DESIGN

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

The project proposes demolition of the existing building. Similar to other existing structures on the block face, both proposed buildings contain garages at the ground floor that are to be constructed to the front lot line with residential uses above.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The four-story replacement building at the corner of Clement Street and 26th Avenue is consistent with the pattern of three- and four-story buildings found along the block face. The four-story replacement building fronting 26th Avenue reinforces the existing pattern of three-story buildings found on both sides of the street, as the proposed fourth floor is designed to create the appearance of a three-story structure at the front façade and along the block face.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The massing of the replacement buildings' main front façades have been designed to be compatible with the prevailing street wall height, particularly the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Existing neighborhood-serving retail uses would be enhanced as the project proposes to expand the ground floor commercial use on Clement Street from 464 square feet to 897 square feet. The additional bedrooms in the replacement buildings would house more individuals to patronize the existing neighborhood-serving retail uses.

B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

While the existing housing is proposed to be demolished, the new replacement buildings conserve the number of dwelling units in the existing buildings while providing a net gain of four units.

- C. That the City's supply of affordable housing be preserved and enhanced,

While the affordability of the existing units is not preserved since they are proposed to be demolished, the units are not considered "affordable housing" per Planning Code Section 415 and/or the Mayor's Office of Housing. The proposal to construct six family-sized units at the project site enhances the "affordability" of the units more than if a fewer number of dwelling units were proposed.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing seven off-street parking spaces, where three spaces currently exist.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project is a mixed-use project in the Outer Clement Street NCD; therefore the project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The replacement structures would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

A shadow study was prepared and the project's shadow does not reach any parks or open space under the jurisdiction of the Department of Recreation and Parks. The project will have no negative effect on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0205C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17820. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 4, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSED:

ADOPTED: September 4, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of two residential units located at 395 26th Avenue pursuant to Planning Code Section(s) 303 and 317 within the Outer Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated October 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0305C and subject to conditions of approval reviewed and approved by the Commission on September 4, 2014 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 16, 2014 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
9. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
10. **Subdivision.** The Project Sponsor shall submit a lot subdivision application proposing to subdivide the lot into two lots prior to Planning approval of the building permit application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than eight bicycle parking spaces (six Class 1 spaces for the residential portion of the Project and two Class 2 spaces for the commercial portion of the Project).
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
12. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide six off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

14. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
15. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

16. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when

being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

17. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

18. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org