

File No. 170855

Committee Item No. \_\_\_\_\_

Board Item No. 29

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: September 12, 2017

#### Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Memorandum - August 30, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - July 17, 2017</u>         |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice and Clerical Documents</u> |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/> | <input type="checkbox"/>            | _____  |

Prepared by: Brent Jalipa

Date: September 7, 2017

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [ryan@zfplaw.com](mailto:ryan@zfplaw.com); [jabutlerdesign@gmail.com](mailto:jabutlerdesign@gmail.com); [ttunny@reubenlaw.com](mailto:ttunny@reubenlaw.com); [mvisick@reubenlaw.com](mailto:mvisick@reubenlaw.com); [ardesign@att.net](mailto:ardesign@att.net)  
**Cc:** [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Poling, Jeanie \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [McKellar, Jennifer \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** PLANNING MEMO: Determination of Exemption Appeal - Proposed Project at 43 Everson Street - Appeal Hearing on September 12, 2017  
**Date:** Wednesday, August 30, 2017 3:31:52 PM

---

Good afternoon,

Please find linked below a letter received by the Office of the Clerk of the Board from the Planning Department, regarding their decision to rescind the Categorical Exemption under CEQA for the proposed project on 43 Everson Street.

[Planning Department Memo - August 30, 2017](#)

**The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 12, 2017.**

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170855](#)

Thank you,

**Brent Jalipa**

**Legislative Clerk**

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7712 | Fax: (415) 554-5163

[brent.jalipa@sfgov.org](mailto:brent.jalipa@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** August 30, 2017  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Lisa Gibson, Environmental Review Officer  
**RE:** Decision to Rescind Categorical Exemption Determination under CEQA for 43 Everson Street (Planning Department Case No. 2016-000017ENV)

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

The California Environmental Quality Act (CEQA) Class 1(e)(1) Categorical Exemption determination for the proposed project at 43 Everson Street, issued on July 29, 2016, is hereby rescinded.

San Francisco Administrative Code section 31.08(e)(1)(B) requires that the environmental review for all projects involving the issuance of multiple discretionary approvals, describe and evaluate the whole of the project that will result from these discretionary approvals, as well as identify any additional discretionary approvals required. In addition, CEQA statute section 21159.27 prohibits the division of a project into smaller projects (i.e. "piecemealing"), in order to qualify for a CEQA exemption.

Since issuance of the exemption determination for the 43 Everson Street project, the Planning Department has found that this exemption determination did not describe or analyze the possible existence of an unauthorized second dwelling unit at the project site. In addition, the exemption determination did not describe or analyze the demolition work involved in the removal of this space. This is because the Environmental Evaluation Application (EEA)<sup>1</sup> submitted for the project in December 2015 did not disclose the possible existence and proposed removal of the unauthorized second dwelling unit located at the rear of the project site on the first floor.

Furthermore, the Planning Department has found that the exemption determination did not accurately describe and evaluate the amount of excavation proposed for the entire project. On April 1, 2016, a supplemental permit<sup>2</sup> was issued for the project site, which expanded the scope of excavation from that presented for the proposed project in the December 2015 EEA and its associated site plans. The supplemental permit was not routed to the Planning Department for review; therefore, the additional excavation was not evaluated as part of the exemption determination. However, despite not having environmental clearance, the expanded scope of the proposed on-site excavation was

---

<sup>1</sup> San Francisco Planning Department, *Environmental Evaluation Application: Case No. 2016-000017: 43 Everson Street, San Francisco, California, 94131*, December 18, 2015

<sup>2</sup> Department of Building Inspection permit number 201603303476, issued April 1, 2016. This permit has not yet been completed

incorporated into the primary permit<sup>3</sup> for the proposed project, which was approved by the Planning Commission on June 15, 2017.

For all of the reasons described above, the CEQA Class 1(e)(1) exemption determination for the proposed project at 43 Everson Street, issued on July 29, 2016, is hereby rescinded. The environmental review should be reopened to include evaluation of all elements of the proposed project, including removal of the possible unauthorized dwelling unit and the additional excavation.

If you have further questions on this matter, please contact Planning Department staff Jennifer McKellar at (415) 575-8754 and [Jennifer.McKellar@sfgov.org](mailto:Jennifer.McKellar@sfgov.org), or Devyani Jain at (415) 575-9051 and [Devyani.Jain@sfgov.org](mailto:Devyani.Jain@sfgov.org).

---

<sup>3</sup> Department of Building Inspection permit number 201601278097

# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400  
San Francisco, California 94104  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

July 17, 2017

## VIA HAND DELIVERY AND EMAIL

President London Breed  
c/o Angela Calvillo, Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

Re: Appeal of CEQA Categorical Exemption Determination  
Planning Case No. 2016-000017ENV  
Building Permit Application No. 2016.01.27.8097  
43 Everson Street ("Project Site")

Dear President Breed and Honorable Members of the Board of Supervisors:

This letter is respectfully submitted on behalf of David Cowfer ("Appellant"), owner of the property located at 49 Everson Street. Appellant opposes the above-captioned Project, *inter alia*, on the grounds that the Project's Class 1 Categorical Exemption determination ("CatEx," Exh. A) violates California Environmental Quality Act ("CEQA") Guidelines § 15301. (14 CCR § 15301).

Pursuant to San Francisco Administrative Code Section 31.16, Appellant hereby appeals the July 29, 2016 CatEx determination and the Planning Commission's June 15, 2017 approval of that determination.

The following documents are attached:

1. A copy of the CatEx determination dated July 29, 2016 ("Exhibit A");
2. A copy of the Meeting Minutes from the Planning Commission's June 15, 2017 meeting ("Exhibit B");

3. Declaration of David Cowfer in support of Discretionary Review, dated April 6, 2017; Declaration of Francis Lee in support of Discretionary Review, dated May 31, 2017; (altogether, "Exhibit C")
4. Declaration of Dave Hernandez in support of CatEx Appeal, dated July 14, 2017 ("Exhibit D");
5. An appeal authorization signed by David Cowfer.
6. A check in the amount of \$578 payable to the San Francisco Planning Department.

A copy of this letter of appeal will be concurrently submitted to the Environmental Review Officer.

**I. The CatEx did not consider the Project Sponsor's removal of a dwelling unit from the Project Site or its excavation that exceeds the scope of the Permit.**

The proposed Project calls for replacing a second dwelling unit at the Project Site and replacing it with a basketball court, gym, and sauna. (Exh. A at 1-2) The Project architect shows the second dwelling unit on the Project plans. (See Exh. C) Google Street View photos from November 2013 and July 2015 show two mailboxes at the property. (See Exh. D) Furthermore, Appellant presented declarations in support of his Discretionary Review application, signed under penalty of perjury, confirming that tenants lived in the second dwelling unit until the property was sold in 2015. (See Exh. C) The tenants vacated the second dwelling unit prior to the 2015 sale, and it was physically, but not legally, removed at some point after the current owner took possession of the property. (See Exh. C and Exh. D). However, the CatEx did not consider the Project Sponsor's removal of a second dwelling unit from the Project Site. (See Exh. A)

Additionally, the Project Sponsor has excavated within six feet of Everson Street, inside the front setback area, which is not authorized by the Permit.

**II. The Board of Supervisors must reverse the exemption determination because the CatEx did not evaluate the "whole of the project" and identify additional discretionary reviews that are required for the Project.**

The Project's CatEx must describe and evaluate the "whole of the project that will result from all discretionary approvals" and "identify any additional discretionary approvals that are required" at the time the exemption determination is issued. (S.F. Admin. Code § 31.08(e)(1)(B)) "A public agency may not divide a single project into smaller individual projects in order to avoid its responsibility to consider the environmental impacts of the project as a whole." (*Sierra Club v. West Side Irr. Dist.* (2005) 128 Cal.App.4th 690, 698) Lastly, where one activity is a reasonably foreseeable consequence of another activity . . . "both activities are integral parts of the same project." (*Sierra Club v. West Side Irr. Dist.* (2005) 128 Cal.App.4th 690, 698) Thus, the CatEx should have considered all integral Project activities that require discretionary approval from the City.

***A. The CatEx should be reversed because it did not consider the Project Sponsor's removal of a dwelling unit from the Project Site.***

The Project Sponsor is removing a dwelling unit from the Project Site without seeking or obtaining approval for those actions. The Project Sponsor is required to obtain Conditional Use authorization from the Planning Commission to remove a residential dwelling unit. (S.F. Planning Code § 317(c)(1)-(2)) Therefore, the Project Sponsor's removal of the dwelling unit requires discretionary approval from the City.

Furthermore, the removal of the dwelling unit was an integral part of the Project Sponsor's conversion of the Project Site from a multi-family residence to a single-family residence with a personal recreation center. Thus, the CatEx did not consider the entirety of the Project that is being proposed for the Project Site or an additional discretionary approval that is required for the Project.

***B. The CatEx must be revoked because it did not consider the Project Sponsor's excavation that exceeds the scope of the Permit.***

The Project Sponsor must obtain a permit from DBI and approval from the Planning Commission for any construction work in a front setback area. (S.F. Planning Code § 106A.1.13) In RH zoning districts, "any building or addition constructed, reconstructed or relocated on the subject property shall be set back to the average of the two adjacent front setbacks." (S.F. Planning Code § 132(a)) While the average front setback for the two lots adjacent to the Project Site is nine feet, the Project Sponsor has excavated to within six feet of Everson Street. Thus, the Project Sponsor has exceeded the scope of the work under the Permit. Consequently, the Project Sponsor must obtain a separate excavation permit from DBI and approval from Planning. As a result, the CatEx must be revoked.

**III. The Project May Have a Significant Effect on the Environment Due to Unusual Circumstances**

A project may qualify for CEQA's Class 1 Categorical Exemption if it involves a "minor alteration of existing public or private structures, . . . involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." (14 CCR § 15301) "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (14 CCR § 15300.2(c)) "[A] party can show an unusual circumstance by showing that the project has some feature that distinguishes it from others in the exempt class." (*Citizens for Environmental Responsibility v. State ex rel. 14th District Agricultural Association* (2015) 242 Cal.App.4th 555, 576) "[A]n agency invoking a categorical exemption . . . must 'consider the issue of significant effects . . . in determining whether the project is exempt from CEQA where there is some

information or evidence in the record that the project might have a significant environmental effect.” (Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, 1103) As stated herein, the Project involves significant alterations to the existing structure and a significant, unusual change in the structure’s use from a two-family dwelling to a private gym. Thus, unusual circumstances are present because the Project is distinct from others under CEQA’s Class 1 Categorical Exemption.

Given the Project’s unusual circumstances, the CatEx should have considered the concerns in the record regarding significant light, air, and massing impacts. However, the CatEx did not consider those environmental impacts. Rather, the CatEx merely stated “there is no possibility of a significant effect on the environment due to unusual circumstances” without further discussion of whether the Project Sponsor’s significant changes to the structure constitute unusual circumstances. (Exh. A at 3) Consequently, the Board of Supervisors must revoke the CatEx.

**IV. The CatEx must be revoked because the Project Sponsor has not demonstrated that the Project will not adversely affect the surrounding area’s slope stability.**

The Project is located in an area that may be subject to unusually significant geotechnical risks, including slope instability, drainage, and erosion as a result of excavation. Given that the Project’s excavation exceeds the approved plans as identified in the CatEx, the CatEx has not considered the entirety of the Project and its significant cumulative impacts.

**Conclusion**

In conclusion, the Project is not lawfully eligible to receive a CatEx under CEQA Guidelines Section 15301. The CatEx did not consider the “whole of the project” or analyze additional discretionary approvals that are required for the Project. Additionally, the CatEx did not consider the Project’s significant environmental effects due to unusual circumstances.

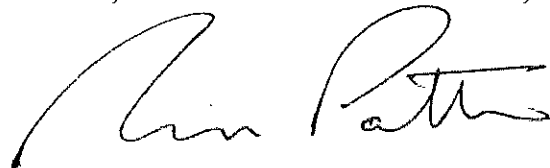
Appellant reserves the right to submit additional written and oral comments, bases, and evidence in support of this appeal to the City up to and including the final hearing on this appeal and any and all subsequent permitting proceedings and approvals for the Project. Appellants request that this letter and exhibits be placed in and incorporated into the administrative record for Case No. 2016-000017ENV.

Appellant respectfully requests that the Board of Supervisors revoke the CatEx determination and require further environmental review pursuant to CEQA. If the CatEx determination is upheld, Appellant is prepared to file suit to enforce his and the public’s rights.



Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in black ink, appearing to read "Ryan Patterson", written over a horizontal line.

Ryan J. Patterson  
Attorneys for David Cowfer

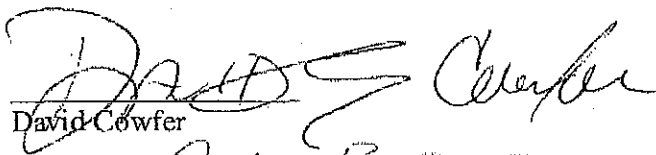
cc: Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103  
[Lisa.Gibson@sfgov.org](mailto:Lisa.Gibson@sfgov.org)

Enclosures

July 13, 2017

I hereby authorize Zacks, Freedman & Patterson, PC, including but not limited to Ryan J. Patterson, to appeal the Categorical Exemption determination in Planning Case No. 2016-000017ENV (43 Everson Street, enclosed).

Signed,

  
David Cowfer  
July 13, 2017

# **EXHIBIT A**



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination Exemption from Environmental Review

Case No.: 2016-000017ENV  
 Project Title: 43 Everson Street  
 Zoning: RH-1 Use District  
 40-X Height and Bulk District  
 Block/Lot: 7542/024  
 Lot Size: 5,127 square feet  
 Project Sponsor: Jennifer Butler, Rodgers Architecture  
 415-505-0763  
 Staff Contact: Heather Jones - (415) 575-6813  
 Heather.jones@sfgov.org

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

Reception:  
 415.558.6378

Fax:  
 415.558.6409

Planning  
 Information:  
 415.558.6377

### PROJECT DESCRIPTION:

The project site at 43 Everson Street is located in the Glen Park neighborhood on the south side of Everson Street between its terminus at Fairmont Plaza and Beacon Street. The proposed project would include horizontal and vertical additions to an existing three-story single-family home. The addition would increase the gross square footage of the residence from 5,364 square feet to approximately 6,780 square feet. Additionally, it would increase the height of the building from approximately 13 feet to approximately 30 feet measured from the Everson Street frontage.

(Continued on next page)

### EXEMPT STATUS:

Categorical Exemption, Class 1 (California Environmental Quality Act [CEQA] Guidelines Section 15301).

(Continued on next page)

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and local requirements.

Sarah B. Jones  
 Environmental Review Officer

July 29, 2016  
 Date

cc: Jennifer Butler, Project Sponsor  
 Ella Samonsky, Current Planner  
 Supervisor Scott Weiner, District 8, (via Clerk of the Board)

Virna Byrd, M.D.F.  
 Stephanie Cisneros, Preservation Planner

**PROJECT DESCRIPTION (continued):**

The project would include the addition of the following on the existing ground floor: a basketball court and lounge, lockers, 1.5 bathrooms, and a sauna. On the existing second floor, the project would add a new guest room and bathroom, a living room, and a powder room. On the existing third floor, the project would include a remodeled entry, living area, dining area, kitchen, and half bathroom. The project would add a fourth story to the home, which would include a new master suite and recreation room. The project would also include new interior stairs, door, windows, as well as structural, mechanical, plumbing, and electrical improvements.

The project site is a 5,127-square-foot, rectangular lot with an approximately 30 percent grade. The front of the house is partially set into the hillside. Construction of the additions would entail approximately 270 cubic yards of excavation to a depth of approximately six feet below grade.

The surrounding neighborhood is characterized by one-to three-story single-family residences. Fairmont Plaza—a 0.74-acre San Francisco Recreation and Parks Department property is located approximately 140 feet to the east of the project site. The Everson and Digby Lots—a 1.2-acre San Francisco Recreation and Parks Department property—is located approximately 305 feet to the west of the project site.

**Project Approvals**

- **Department of Building Inspection (DBI).** Approval of site permit. Grading and building permits for the construction of the addition to the existing building.

**Approval Action:** The proposed project is subject to notification under Section 311 of the Planning Code. If discretionary review before the Planning Commission is requested, the discretionary review hearing is the Approval Action for this project. If no discretionary review is requested, the issuance of a building permit by the Department of Building Inspection (DBI) is the Approval Action. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

**EXEMPT STATUS (continued):**

CEQA Guidelines Section 15301(e)(1), or Class 1, provides an exemption from environmental review for additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. As stated above, the addition would increase the floor area of the existing structure by 1,416 square feet, or approximately 26 percent. Thus, construction of the proposed project at 43 Everson would qualify for this exemption.

**DISCUSSION OF ENVIRONMENTAL ISSUES:**

CEQA Guidelines Section 15300.2 establishes exceptions to the application of a categorical exemption for a project. None of the established exceptions applies to the proposed project.

Guidelines Section 15300.2, subdivision (a), provides that a categorical exemption shall not be used where the proposed project may have an impact on an environmental resource of hazardous or critical concern

where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. As discussed below under "Geology and Soils," "Archeological Resources," and "Biological Resources" there is no possibility of a significant effect on the environment due to hazardous or critical concerns.

Guidelines Section 15300.2, subdivision (c), provides that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As discussed below, there is no possibility of a significant effect on the environment due to unusual circumstances.

CEQA Guidelines Section 15300.2, subdivision (l), provides that a categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of a historical resource. For the reasons discussed below under "Historic Architectural Resources," there is no possibility that the proposed project would have a significant effect on a historic resource.

#### Environmental Topics.

##### Geology and Soils:

A geotechnical report prepared for the project indicates that the project site is suitable for the proposed construction from a soil and foundation engineering standpoint, provided that the recommendations of the geotechnical report are incorporated into the project design.<sup>1</sup> The geotechnical report specifies recommendations regarding: site preparation and grading, excavation of bedrock, groundwater and site drainage, surface drainage, temporary shoring, foundations, floor and wall design, and seismic design. The project sponsor has agreed to incorporate the recommendations of the geotechnical report into the project.

The proposed project would be required to comply with the San Francisco Building Code, which ensures the safety of all new construction in the City. Decisions about appropriate foundation and structural design are considered as part of the Department of Building Inspection (DBI) permit review process. DBI would review background information including geotechnical and structural engineering reports to ensure that the security and stability of adjoining properties and the subject property is maintained during and following construction. For all of the above reasons, the project would not result in a significant impact related to seismic and geologic hazards.

##### Archeological Resources

The proposed project would include 270 cubic yards of excavation to a depth of six feet below grade. The Planning Department Staff Archeologist reviewed the proposed project and site history to evaluate the potential for encountering archeological resources and determined that no archeological resources are expected within the affected soils.<sup>2</sup> Therefore, the project would not result in a significant impact related to archeological resources.

<sup>1</sup> Divis Consulting, Inc. *Geotechnical Investigation Report and Geologic Hazard Study: 43 Everson, San Francisco, CA*. February 18, 2016.

<sup>2</sup> San Francisco Planning Department, *Preliminary Archeological Review for 43 Everson*, Randall Dean, June 9, 2016.

### Biological Resources

As described above, the project site is near two City-owned parks—Fairmont Plaza and the Everson and Digby Lots. According to San Francisco Recreation and Parks Department, various bird species—including chestnut-back chickadees and migratory warblers<sup>3</sup> can be found in Fairmont Plaza.

To reduce the incidence of birds colliding with man-made structures, the San Francisco Planning Commission adopted Resolution 18406, which establishes policies concerning window treatment, lighting design, and wind generation for certain projects that may create hazards for birds. The San Francisco Planning Department's Standards for Bird-Safe Buildings (Planning Code Section 139) identify urban bird refuges—open spaces of two acres or more that are dominated by vegetation, open water, and green rooftops—as areas in which new construction or additions constitute location-related hazards to birds.<sup>4</sup> The Planning Department has also extended the boundaries urban bird refuges to include adjacent private properties with identified thick tree canopy coverage.

If a project presents a location-related hazard to birds, the design must incorporate measures to reduce the incidence of bird collisions, such as bird-safe glazing, minimal lighting, and limiting the types of wind generators. The northern portion of the project site (front façade) is in an urban bird refuge, and thus the front façade of the project would create a location-related hazard. Because the project is a residential building less than 45 feet in height and less than 50 percent of the front façade is glass, the project would be exempt from the bird-safe glazing treatment requirement for location-related hazards. The project sponsor, however, would be subject to other applicable requirements, such as lighting design, set forth in Section 139 of the San Francisco Planning Code to protect bird species.

The project sponsor would comply with Section 139 of the Planning Code, and the proposed project would not affect any rare, threatened, or endangered species nor would it diminish habitat for protected species. Therefore, the project would not result in any significant impact to biological resources.

### Historic Architectural Resources

Under CEQA Section 21084.1, a property may be considered a historic resource if it is “listed in, or determined to be eligible for listing in, the California Register of Historical Resources” (CRHR). The CRHR stipulates that a property may be considered a historic resource if a historically significant (1) event, (2) person, or (3) architectural style is associated with the property, or (4) if there is potential to gather historically significant information from the site.

The project site is occupied by a three-story, split level, wood-framed, single-family house. Building permit records indicate that architect Albert R. Seyranian designed the existing structure for Walter F. Vendetti in 1965. Immediately after construction, Vendetti sold the house to Norman and Lorraine Impelman, who owned and occupied the home until 1992. The project sponsor retained Andy Rogers to

<sup>3</sup> San Francisco Department of Recreation and Parks website. <http://sfrecpark.org/destination/fairmont-plaza/> Accessed June 30, 2016.

<sup>4</sup> San Francisco Planning Department. Standards for Bird-Safe Buildings, Adopted July 14, 2011. <http://50.17.237.182/docs/PlanningProvisions/Standards%20for%20Bird%20Safe%20Buildings-%208-11-11.pdf#page=29>

prepare a Historic Resources Evaluation (HRE) of the subject property.<sup>5</sup> The Planning Department reviewed the HRE and provided a determination in a Historic Resource Evaluation Response (HRER).<sup>6</sup>

The HRE found that the project site is not eligible to be listed in the CRHR under any of the four criteria and the HRER concurred. The subject property is not associated with any known historic events (Criterion 1). None of the owners or occupants have been identified as important to history (Criterion 2). The building is not a notable example of a type, period, or method of construction. The building is not the work of a master architect nor is it architecturally distinct (Criterion 3). The HRER concluded that the property was not eligible for listing due to any potential to gather historically significant information from the site (Criterion 4). The property is not located in an identified historic district and the surrounding neighborhood does not represent a collection of historically or aesthetically related building types. For the reasons listed above, the HRER concludes that subject property is not a historic resource and the proposed project would not result in a significant impact to any historic resources.

**Conclusion.** The proposed project satisfies the criteria for exemption under the above-cited classification. In addition, none of the CEQA Guidelines Section 15300.2 exceptions to the use of a categorical exemption applies to the proposed project. For the above reasons, the proposed project is appropriately exempt from environmental review.

---

<sup>5</sup> Andy Rogers, *Historic Resource Evaluation, 43 Everson Street, San Francisco, CA*, December 12, 2015.

<sup>6</sup> San Francisco Planning Department, *Historic Resource Evaluation Response, 43 Everson, San Francisco*, Stephanie Cisneros, February 26, 2016.





# SAN FRANCISCO PLANNING DEPARTMENT

## PRESERVATION TEAM REVIEW FORM

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6378

Preservation Team Meeting Date	Date of Form Completion
	2/26/2016

PROJECT INFORMATION	
Stephanie Cisneros	43 Everson Street
1542/024	Beacon Street
B	N/A 2016-000017ENV

PURPOSE OF REVIEW		PROJECT DESCRIPTION		
<input checked="" type="radio"/> CEQA	<input type="radio"/> Article 10/11	<input type="radio"/> Preliminary/PIC	<input checked="" type="radio"/> Alteration	<input type="radio"/> Demo/New Construction

--

<input checked="" type="checkbox"/> Is the subject Property an eligible historic resource?
<input type="checkbox"/> If so, are the proposed changes a significant impact?
Additional Notes:
Submitted: Supplemental Information for Historic Resource Determination prepared by Andy Rogers (dated December 12, 2015).
Proposed Project: Two-story addition to existing single-family home. Interior remodel and renovation to include a basketball court with lounge and sauna at first level and a cantilevered swimming pool and recreation room at the top level.

PRESERVATION TEAM REVIEW	
	<input type="radio"/> Yes <input checked="" type="radio"/> No * <input type="radio"/> N/A
Individual	Historic District/Context
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:	Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:
Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No
Period of Significance: <input type="text"/>	Period of Significance: <input type="text"/>
	<input type="radio"/> Contributor <input type="radio"/> Non-Contributor

<input type="radio"/> Yes	<input type="radio"/> No	<input checked="" type="radio"/> N/A
<input checked="" type="radio"/> Yes	<input checked="" type="radio"/> No	
<input type="radio"/> Yes	<input checked="" type="radio"/> No	
<input type="radio"/> Yes	<input checked="" type="radio"/> No	
<input checked="" type="radio"/> Yes	<input type="radio"/> No	

\* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

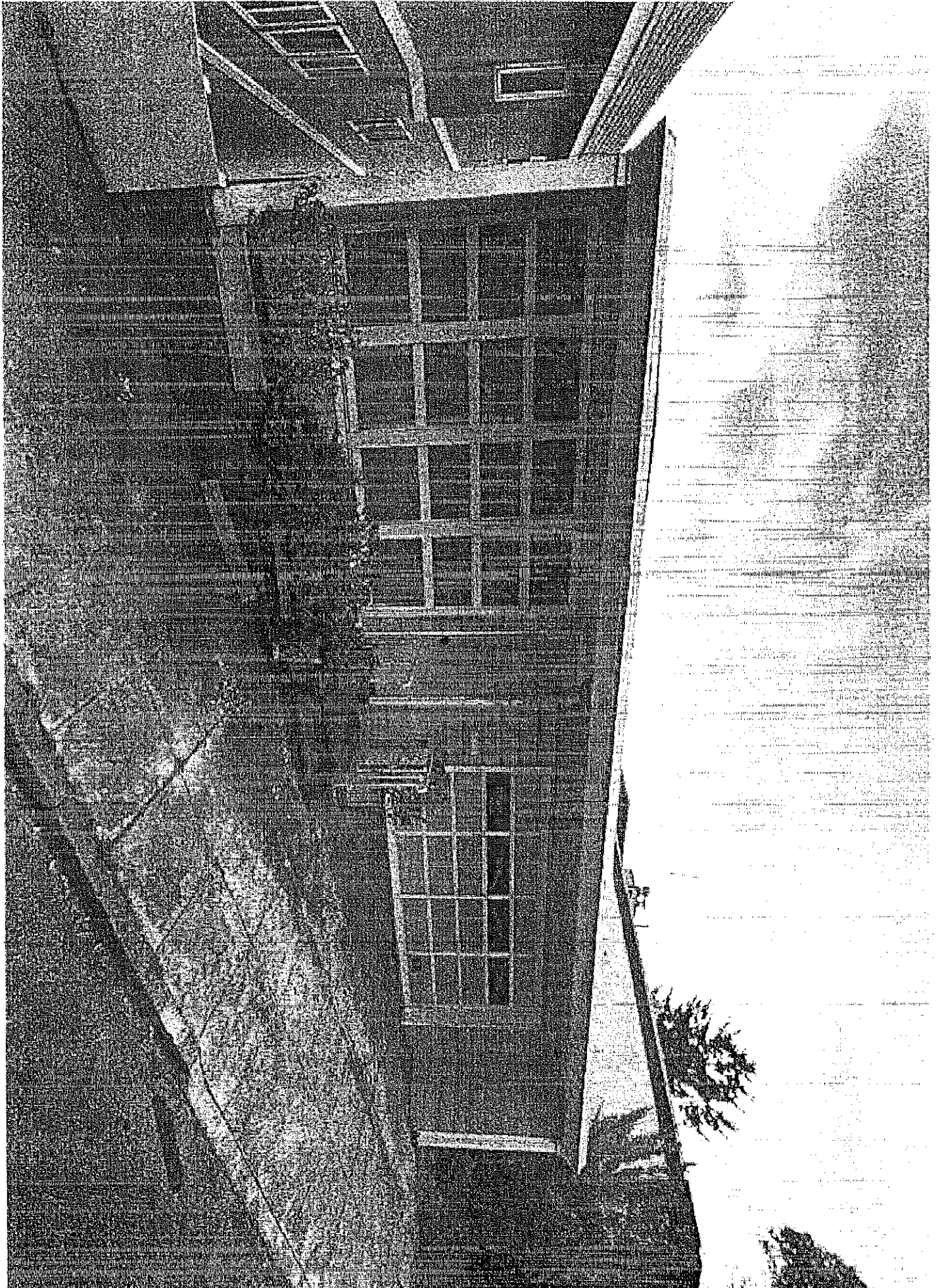
According to the Supplemental Information for Historic Resource Determination prepared by Andy Rogers (dated December 12, 2015) and information found in the Planning Department files, the subject property at 43 Everson Street contains a tri-level split house with garage and partial basement, wood-frame, single-family residence constructed in 1965 (source: building permit). The simple Modern residence was designed by architect Albert R. Seyranian for original owner Walter F. Vendetti, a manager at American Elevator Company, and his wife Nadine. The Vendetti's sold the property to Norman Impelman, a real estate professional, and his wife Lorraine immediately after construction. The Impelman's owned and occupied the property until 1992. Known alterations to the property include: replacing all exterior stucco with redwood siding (1981); reroofing (1991); and legalizing the existing ground floor 2 bedroom, family room and half bath and replacing old skylight with 3 new skylights (1994).

No known historic events occurred at the subject property (Criterion 1). None of the owners or occupants have been identified as important to history (Criterion 2). Although 43 Everson Street is located within the Diamond Heights Redevelopment area, it was constructed toward the end of the redevelopment era and was an individually commissioned property rather than a part of a builder- or architect-designed tract. As an individually commissioned property, the house exhibits typical details of simple vernacular Modern construction. The architect, Albert Seyranian, was commissioned for many projects in the East Bay, including the Lido Faire community development in Newark. However, neither is he considered to be a master architect of either San Francisco or the greater Bay Area nor is the subject property does not represent an important work of his. The building is not the work of a master architect and is not architecturally distinct such that it would qualify individually for listing in the California Register under Criterion 3.

The subject property is not located within the boundaries of any identified historic district. The subject property is located in the Glen Park/Diamond Heights neighborhood. The block generally consists of houses constructed in a Modern influence in the 1950s and 1960s. While some of the houses may be of individual significance, as a whole the block does not contain a sufficient cohesion of architecturally distinct or aesthetically related buildings. While sections of Diamond Heights may be eligible as a historic district, this block does not reflect the larger pattern of development in which developers and architects improved anywhere between 20 and 60 lots at a time.

Therefore, the subject property is not eligible for listing in the California Register under any criteria individually or as part of a historic district.

Signature of Senior Preservation Planner or Preservation Coordinator	Date
	3-1-2016



# **EXHIBIT B**

## Planning Department

### **Planning Commission - June 15, 2017 - Minutes**

**Meeting Date:**

**Location:**

United States

# SAN FRANCISCO PLANNING COMMISSION

## Meeting Minutes

---

Commission Chambers, Room 400  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Thursday, June 15, 2017**

**12:00 p.m.**

**Regular Meeting**

---

**COMMISSIONERS PRESENT:** Hillis, Richards, Johnson, Koppel, Melgar, Moore  
**COMMISSIONER ABSENT:** Fong

**THE MEETING WAS CALLED TO ORDER BY PRESIDENT HILLIS AT 12:12 P.M.**

**STAFF IN ATTENDANCE:** John Rahaim – Planning Director, Jacob Bintliff, Don Lewis, Diana Livia, Andrew Perry, Christopher May, Laura Ajello, Ella Samonsky, Nancy Tran, Justin Horner, Rich Sucre, and Jonas P. Ionin – Commission Secretary

SPEAKER KEY:

- + indicates a speaker in support of an item;
- indicates a speaker in opposition to an item; and
- = indicates a neutral speaker or a speaker who did not indicate support or opposition

A. CONSIDERATION OF ITEMS PROPOSED FOR CONTINUANCE

The Commission will consider a request for continuance to a later date. The Commission may choose to continue the item to the date proposed below, to continue the item to another date, or to hear the item on this calendar.

1a. 2014-002181MAPPCA (C. MAY: (415)575-9087)

2670 GEARY BOULEVARD - Northwest corner of Geary Boulevard and Masonic Avenue; Lot 003 in Assessor’s Block 1071 (District 2) – Establishment of the Geary-Masonic Special Use District [Board File 161109] - **Planning Code and Zoning Map Amendments**, adding Section 249.20 and amending Sheet SU03 of the of the City and County of San Francisco to establish the Geary-Masonic Special Use District in the area generally bounded by Geary Boulevard to the south, Masonic Avenue to the east, and Assessor’s Block 1071 Lots 001 and 004 to the north and east, respectively; and affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code Section 302. The application of the Geary-Masonic SUD development controls would preclude the application of the HOME-SF provisions pursuant to Planning Code Section 206.3.

*Preliminary Recommendation: Pending*  
**(Proposed for Continuance to July 13, 2017)**

SPEAKERS: None  
ACTION: Continued to July 13, 2017  
AYES: Hillis, Koppel, Melgar, Moore  
ABSENT: Fong, Johnson, Richards

1b. 2014-002181CUA (C. MAY: (415) 575-9087)

2670 GEARY BOULEVARD - northwest corner of Geary Boulevard and Masonic Avenue; Lot 003 in Assessor’s Block 1071 (District 2) - Request for **Conditional Use Authorization**, pursuant to Planning Code Sections 121.1, 121.2, 271, and 303 to permit the development of an 8-story mixed-use building containing 99 residential dwelling units above 36 stacked parking spaces and 3,294 square feet of ground floor retail space within the NC-3 (Moderate-

Scale Neighborhood Commercial) District and an 80-D Height and Bulk District. This project is seeking development incentives in the form of increased dwelling unit density in exchange for providing a higher level of affordable housing than would otherwise be required pursuant to Planning Code 415 (the Inclusionary Affordable Housing Program) by one of two means: either the application of draft legislation which would amend the Planning Code and Zoning Map of the City and County of San Francisco to establish the Geary-Masonic Special Use District (Board File 161109) or the application of the provisions of the HOME-SF Program. In order to facilitate the project under the HOME-SF Program, Conditional Use Authorization pursuant to Planning Code Section 206.3 is required. The project is also requesting a modification to the rear yard requirements pursuant to Planning Code Section 134, and variances to the usable open space and dwelling unit exposure requirements pursuant to Planning Code Sections 135 and 140 which can be granted as zoning modifications by the Planning Commission pursuant to Planning Code Section 206. Alternatively, these may be granted by the Zoning Administrator pursuant to Planning Code Section 305. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

*Preliminary Recommendation: Pending*

**(Proposed for Continuance to July 13, 2017)**

SPEAKERS: None  
 ACTION: Continued to July 13, 2017  
 AYES: Hillis, Koppel, Melgar, Moore  
 ABSENT: Fong, Johnson, Richards

2. 2013.1330DRP (D. VU: (415) 575-9120)

1900 MISSION STREET - southwest corner of 15<sup>th</sup> and Mission Streets, Lot 01 in Assessor's

Block 3554 (District 9) - Request for **Discretionary Review** of Building Permit Application No. 2015.0708.0963, proposing to demolish the existing 1,690 sq. ft. automotive repair shop (dba Discount Auto Performance) and construct a 16,022 gross sq. ft., seven-story over basement, 75-foot tall mixed-use building that includes 805 sq. ft. of ground-floor commercial space, twelve dwelling units at all floors of the building, 1,370 sq. ft. of combined common and private open space and eighteen Class 1 bicycle parking spaces at the basement level within the Mission Street NCT (Neighborhood Commercial Transit) Zoning District and 80-B Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

*Preliminary Recommendation: Do Not Take Discretionary Review and Approve*  
 (Continued from Regular Meeting of April 13, 2017)

**NOTE: On February 23, 2017, after hearing and closing public comment, the matter was continued to April 13, 2017 by a vote of +7 -0.**

**On April 13, 2017, without hearing, the matter was continued to June 15, 2017 by a vote of +7 -0.**

**(Proposed for Continuance to July 6, 2017)**

SPEAKERS: None  
 ACTION: Continued to July 6, 2017  
 AYES: Hillis, Koppel, Melgar, Moore  
 ABSENT: Fong, Johnson, Richards

## B. COMMISSION MATTERS

3. Consideration of Adoption:  
 • [Draft Minutes for June 1, 2017](#)

SPEAKERS: None  
 ACTION: Adopted  
 AYES: Hillis, Koppel, Melgar, Moore  
 ABSENT: Fong, Johnson, Richards

4. Commission Comments/Questions
- Inquiries/Announcements. Without discussion, at this time Commissioners may make announcements or inquiries of staff regarding various matters of interest to the Commissioner(s).
  - Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Planning Commission.

### Commissioner Moore:

There was an interesting article in yesterday's paper again. It needs perhaps qualification, but stated that the Uber and Lyft impact on San Francisco traffic is about 15 percent, that would ultimately require further detailed specification, why and how and where, but I thought the number itself was very interesting and quite alarming given that we are still working on the assumption that transit first is the policy by which we plan.

## C. DEPARTMENT MATTERS

5. Director's Announcements

### Director Rahaim:

Good afternoon Commissioners, just a couple of announcements today that I want to bring to your attention regarding Connect SF. Connect SF is the transportation vision program that we are managing with our partners at the MTA and the CTA. This is a multi-year effort looking at a 50-year land use transportation vision, I should say for the City, based on land use projections, based on a number of public meetings, and there's a short memo in your packet today about it, but the reason I bring up today first is two fold, one is the first of our task force meetings is next week. It is a very large task force that we've been working very hard on over the last few months to assemble. Commissioner Hillis and Johnson and Richards, excuse me - Commissioner Hillis and Richards are on that task force, and the first of those is next week. There will be a series of public meetings after that the second task force meeting in the fall. It will be - this effort is an important, kind of long term thinking about transportation and it will serve as a kind of guide for many of the other transportation planning efforts, such as



the update of the Transportation Element, the Subway Vision, the CTA 2050 Transportation Plan and so on. So, we are excited doing this work. It's the most involved that the Department have been in transportation for a long time and we believe it is important piece of work for the City to embark on. Secondly, I'd like to introduce you to our new manager of that program Doug Johnson. Doug joined us from many years at the MTC. Doug managed the Plan Bay Area Program for MTC, has a long history with transportation planning in the region and hit the ground running and is doing a great job in getting organized for next week's task force and as you see Peter Albert is in the audience. Peter held that position for the last few months in transition, and so, we thank Peter again for his many years of service and helping us through this transition. Thanks to Peter and welcome to Doug. That concludes my comments. Thank you.

6. Review of Past Events at the Board of Supervisors, Board of Appeals and Historic Preservation Commission

**LAND USE COMMITTEE:**

- **161351 Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements.** Sponsors: Breed; Kim, Peskin, Safai and Tang. Staff: Rodgers/Bintliff. Continued to June 19, 2017
- **1170434 Planning Code - Construction of Accessory Dwelling Units.** Sponsor: Peskin. Staff: Haddadan. Continued to June 26, 2017

**FULL BOARD:**

- **170203 Planning Code - Article 7 Reorganization; Technical and Other Amendments.** Sponsor: Mayor. Staff: Starr. Amended and Passed First Read
- **170204 Planning Code - Deletion of Duplicate Definitions and Outdated Article 7 Zoning Control Tables.** Sponsor: Mayor. Staff: Starr. Continued to June 20.

The Article 7 ordinance was slightly delayed. The ordinance had to be amended to incorporate changes to the planning code that were made by other recent amendments. At the BOS meeting, the Article 7 ordinance was amended with these clerical changes and passed its first read as an amended ordinance. It will receive its second read next week.

- **170131 Establishment of Compton's Transgender Cultural District.** Sponsors: Kim, Peskin, Safai, and Sheehy. Staff: Frye. Adopted

**INTRODUCTIONS:**

- No new introductions last week.

**BOARD OF APPEALS:**

No Report

**HISTORIC PRESERVATION COMMISSION:**

No Report

**D. GENERAL PUBLIC COMMENT – 15 MINUTES**

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. With respect to agenda items, your opportunity to address the Commission will be afforded when the item is

reached in the meeting. Each member of the public may address the Commission for up to three minutes.

SPEAKERS: Laura Clark – Randy Shaw article  
Gregory Santee – 1629 Market, unsanitary issues

## E. REGULAR CALENDAR

The Commission Hearing Procedures provide for presentations by staff; followed by the project sponsor team; followed by public comment for and against the proposal. Please be advised that the project sponsor team includes: the sponsor(s) or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

7. [2017-001061PCA-04](#) (J. BINTLIFF: (415) 575-9170)

**INCLUSIONARY AFFORDABLE HOUSING PROGRAM ORDINANCE** – **Planning Code Amendment** revising the Inclusionary Affordable Housing Program. The Planning Commission considered two ordinances on April 27, 2017 [Board File No. 161351 Inclusionary Affordable Housing Fee and Requirements and Board File No. 170208 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]. Since the Commission hearing, the Board of Supervisors made material modifications which are being referred back to the Commission pursuant to Planning Code Section 302(d). The revised Ordinance [Board File No. 161351 v4 Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements] would amend the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; to establish dwelling unit minimum sizes; to establish a prohibition on studio units with prices set at 100% AMI or above; to replace or pay a fee for any affordable units that may be lost due to demolition or conversion; and affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

*Preliminary Recommendation: Adopt a Recommendation for Approval of a modified ordinance and make findings of consistency*

SPEAKERS: = Annmarie Rodgers – Introduction  
+ Supervisor Safai – Dwelling legislation  
= Jacob Bintliff – Staff Report  
+ Supervisor Kim – Questions/Support  
+ Todd David – Economic feasibility parameter  
+ Tes Welbourne – Support  
+ Peter Cohen – Incrementally better  
= Sonja Transs – Promoting big units  
+ Steve Vettel – Staff modifications  
= Traisa Flandrick – All workforce, studios family housing

ACTION: Adopted a Recommendation for Approval with Staff modifications as amended:

1. Eliminating Staff recommendation No. 4; and
2. Retain current Affordable Housing Fee requirements, pending further study.

AYES: Hillis, Richards, Johnson, Koppel, Melgar,

NAYES: Moore

ABSENT: Fong

RESOLUTION: [19937](#)8.  
9168)[2015-005848ENV](#)

(D. LEWIS: (415) 575-

**1629 MARKET STREET MIXED-USE PROJECT** - south side of Market Street between Brady and 12<sup>th</sup> Streets; Lots 001, 007, 008, 027, 028, 029, 031, 031A, 032, 032A, 033, 033A, 034, and 035 in Assessor's Block 3505 - Public Hearing on the **Draft Environmental Impact Report**. The project would demolish the existing UA Local 38 building at 1621 Market Street and the majority of the Lesser Brothers Building, at 1629-1645 Market Street, rehabilitate the Civic Center Hotel at 1601 Market Street, and remove the existing on-site surface parking lots. The proposed project would construct five buildings including: a four-story, 58-foot-tall UA Local 38 building; a 10-story, 85-foot-tall addition to the Lesser Brothers Building; a 10-story, 85-foot-tall mixed-use residential building with ground-floor retail; a nine-story, 85-foot-tall mixed-use residential building with ground-floor retail; and a six-story, 68-foot-tall affordable housing building on Colton Street. The five-story, 55-foot-tall Civic Center Hotel would be rehabilitated to contain residential units and ground-floor retail. Up to 316 parking spaces would be provided in a two-level below-grade garage accessed from Stevenson and Brady Streets. The project would create a publicly-accessible Brady Open Space as well as a publicly-accessible mid-block passage from the open space to Market Street. Overall, the project would include approximately 498,100 square feet of residential use containing 477 units, an additional 107 affordable units in the Colton Street Affordable Housing Building, 32,800 square feet of open space, 27,300 square feet of union facility use, and 13,000 square feet of ground-floor retail/restaurant use. The project site is located in the NCT-3 (Moderate Scale Neighborhood Commercial Transit District) and P (Public) zoning districts and the OS, 40-X, and 85-X height and bulk districts. The project would require a height re-classification from 40-X to 68-X for the Colton Street Affordable Housing parcel and Conditional Use/Planned Unit Development authorization to permit development of a large lot and large non-residential use, and to provide exceptions for driveway width, rear yard, dwelling unit exposure, active street frontage, loading, and measurement of height.

*Preliminary Recommendation: Review and Comment*

**NOTE: Written comments will be accepted at the Planning Department until 5:00 p.m. on June 26, 2017.**

SPEAKERS: = Don Lewis – Staff Report  
 - John Boujois – Inadequacies of the DEIR  
 - Gregory Santee – Horrible  
 + Sonja Transs – Support

ACTION: Reviewed and Commented

9.

[2009.0159E](#)

(D. LIVIA: (415) 575-

8758)

**1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT** - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Assessor's Block 0836, Lots 001, 002, 003, 004, 005 - **Certification of the Final Environmental Impact Report**. The proposed project would include the demolition of all existing features on the site, including a 3-story, 2,750 square foot commercial office building containing a limited restaurant (All Star Café), a 4-story, 48,225 square foot commercial office building and a 47-vehicle, surface, commercial parking lot; and the construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing 310 Dwelling Units; 4,110 square feet of ground floor retail; 11,056 square feet of private, common and publicly-accessible open space; construction of a public (or



floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces.

*Preliminary Recommendation: Adopt CEQA Findings*

SPEAKERS: Same as Item 9.  
 ACTION: Adopted CEQA Findings  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 MOTION: 19939

10b. [2009.0159K](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. The proposal requests Planning Commission consideration of a **Shadow Determination** that project shadow would not adversely affect use of public open space under the jurisdiction of the Recreation and Park Commission (Section 295). The Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces. These actions constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

*Preliminary Recommendation: Adopt Shadow Findings*

SPEAKERS: Same as Item 9.  
 ACTION: Adopted Shadow Findings  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 MOTION: [19940](#)

10c. [2009.0159GPA](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. **General Plan Amendment** that revises the height designation for 668 square feet of Assessor's Block 0836, Lot 001 from 400' tower/120' podium to 120' and 668 square feet of Block 0836, Lot 005 from 120' to 400' tower/120' podium on Map 3 of the Market and Octavia Area Plan; and the height designation from 150-S to 120-R-2 for 668 square feet of Lot 001 and from 120-F to 120/400-R-2 for 668 square feet of Lot 005, on Map 5 of the Downtown Area Plan. The

Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces.

*Preliminary Recommendation: Adopt a Recommendation for Approval*

SPEAKERS: Same as Item 9.  
 ACTION: Adopted a Recommendation for Approval  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 RESOLUTION: [19941](#)

- 10d. [2009.0159MAP](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. **Zoning Map Amendment** to Sheet HT07 of the San Francisco Planning Code to reclassify the height and bulk of the a portion of Block 0836, Lot 001 from 120/400-R-2 to 120-R-2, and Block 0836, Lot 005 from 120-R-2 to 120/400-R-2. The Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces.

*Preliminary Recommendation: Adopt a Recommendation for Approval*

SPEAKERS: Same as Item 9.  
 ACTION: Adopted a Recommendation for Approval  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 RESOLUTION: [19942](#)

- 10e. [2009.0159DNX](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. The proposal requests Planning

Commission consideration of a **Downtown Project Authorization** pursuant to Planning Code Section 309, with exceptions to the requirements for "Reduction of Ground-Level Wind Currents in C-3 Districts" (Section 148) and Lot Coverage (Section 249.33, 134). The Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces. *Preliminary Recommendation: Approve with Conditions*

SPEAKERS: Same as Item 9.  
 ACTION: Approved with Conditions  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 MOTION: 19943

10f. [2009.0159CUA](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. The proposal requests Planning Commission consideration of a **Conditional Use Authorization** to provide a parking ratio of up to 0.45 parking spaces per dwelling unit (Section 151). The Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces.

*Preliminary Recommendation: Approve with Conditions*

SPEAKERS: Same as Item 9.  
 ACTION: Approved with Conditions as amended to require a reduced parking ratio, if the project becomes rental  
 AYES: Hillis, Richards, Johnson, Melgar, Moore  
 NAYES: Koppel  
 ABSENT: Fong  
 MOTION: [19944](#)

10g. [2009.0159VAR](#) (A. PERRY: (415) 575-9017)

1500-1540 MARKET STREET (AKA ONE OAK STREET) PROJECT - north side of Market Street, bounded by Van Ness Avenue on the east and Oak Street on the north; Lots 001, 002, 003, 004, 005 in Assessor's Block 0836. The proposal requests Zoning Administrator consideration of **Variance** requests from Dwelling Unit Exposure requirements (Section 140) and Active Frontages (Section 145), and **Elevator Height Exemption Waiver** pursuant to Section 260(b)(1)(B). The Project includes the demolition of two existing structures including a 3-story, 2,750 square foot commercial office building containing a limited restaurant doing business as "All Star Café", a 4-story, 48,225 square foot commercial office building and a 47-car surface commercial parking lot; and the new construction of a 40-story, 400-foot-tall residential tower (plus 20-foot parapet and 26-foot elevator penthouse) containing approximately 304 Dwelling Units; approximately 4,110 square feet of ground floor retail, approximately 11,056 square feet of private, common and publicly-accessible open space; 366 bicycle parking spaces (304 Class 1, 62 Class 2) and up to 136 underground parking spaces.

SPEAKERS: Same as Item 9.

ACTION: Assistant ZA closed the public hearing and indicated an intent to

Grant

11a. [2013.1037C](#) (C. MAY: (415) 575-9087)

650 DIVISADERO STREET - southeast corner of Divisadero and Grove Streets; Lot 002B in Assessor's Block 1202 (District 5) - Request for **Conditional Use Authorization** pursuant to Planning Code Sections 121.1, 271, 303, 746.10 and 746.11 to permit the development of a 6-story mixed-use building containing 66 residential dwelling units above 26 ground floor parking spaces and 3,528 square feet of commercial uses within the Divisadero Street Neighborhood Commercial Transit (NCT) District, the Fringe Financial Services Restricted Use District and 65-A Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

*Preliminary Recommendation: Approve with Conditions*

(Continued from Regular Hearing of April 6, 2017)

SPEAKERS: Jen – 650 Divisadero continuance

ACTION: Continued to September 28, 2017

AYES: Hillis, Koppel, Melgar, Moore

ABSENT: Fong, Johnson, Richards

11b. [2013.1037V](#) (C. MAY: (415) 575-9087)

650 DIVISADERO STREET - southeast corner of Divisadero and Grove Streets; Lot 002B in Assessor's Block 1202 (District 5) - Request for **Rear Yard Modification** pursuant to



Planning Code Section 134 to permit the development of a 6-story mixed-use building containing 66 residential dwelling units above 26 ground floor parking spaces and 3,528 square feet of commercial uses within the Divisadero Street Neighborhood Commercial Transit (NCT) District, the Fringe Financial Services Restricted Use District and 65-A Height and Bulk District.

(Continued from Regular Meeting of April 6, 2017)

SPEAKERS: Same as Item 11a.

ACTION: Acting ZA Continued to September 28, 2017

## F. DISCRETIONARY REVIEW CALENDAR

The Commission Discretionary Review Hearing Procedures provide for presentations by staff; followed by the DR requestor team; followed by public comment opposed to the project; followed by the project sponsor team; followed by public comment in support of the project. Please be advised that the DR requestor and project sponsor teams include: the DR requestor and sponsor or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

12. [2014-000599DRM](#) (L. AJELLO: (415) 575-9142)

1228 FUNSTON AVENUE - east side between Lincoln Way and Irving Street, Lot 039 in Assessor's Block 1738, (District 5) **Staff-Initiated Discretionary Review**, pursuant to Planning Code Section 311(c)(1), of Building Permit Application No. 2014.02.06.7948, proposing to legalize alterations completed without permit, including demolition of a 20' by 25' detached building located in the rear yard, a three-story horizontal addition, deck and spiral stair at the rear of the house and front façade/window changes to a three-story single-family house within a RH-2 (Residential, House, Two-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

Staff Analysis: Full Discretionary Review

*Preliminary Recommendation: Take Discretionary Review and Approve with Modifications*

SPEAKERS: = Laura Ajello – Staff Report  
 + Elena Estudias – Project presentation  
 + Dave Irwin – Project presentation  
 + Rodrigo Santos – Project presentation  
 + Gary Teele – Support  
 + Henry Karnilowicz – Support

ACTION: Took DR and Approved with Staff Modifications

AYES: Hillis, Richards, Koppel, Moore

RECUSED: Melgar

ABSENT: Fong, Johnson

DRA No: [0532](#)

- 13a. [2016-010343DRP](#) (S. JIMENEZ: (415) 575-9187)

2523 STEINER STREET - west side of Steiner Street between Jackson Street and Pacific Avenue; Lot 001A in Assessor's Block 0586 (District 2) - Request for **Discretionary Review** of Building Permit Application No. 2016.08.08.4423, proposing to construct a rear horizontal

addition on the third and fourth floors and a front horizontal addition on the fourth floor of the existing four-story, single family residence within a RH-1 (Residential-House, One Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

Staff Analysis: Full Discretionary Review

*Preliminary Recommendation: Do not take Discretionary Review and Approve*

SPEAKERS: = Elizabeth Watty – Staff Report

- Kirk DeNiro – DR presentation
- Greg Scott – Opposition
- Zack Chen – Site plan inaccuracies
- Luanne Lee – Opposition
- Speaker – Opposition, sunlight
- Grant Johnston – Decks, views, sunlight
- Speaker – Privacy, views
- Speaker – Privacy, light, and air
- Brie Bachner – Opposition
- Phil Lemont – Opposition
- Glen Hickerson – Opposition
- John Smith – Decks
- Kyle Rindhal – Disregard for the neighbors
- + Jonathan – Sponsor presentation
- + Louis Buttler – Design presentation
- + Dr. Eugene Spencer - Support

ACTION: Took DR and Disapproved

AYES: Richards, Koppel, Melgar, Moore

NAYES: Hillis

ABSENT: Fong, Johnson

DRA No: [0533](#)

- 13b. [2016-010343VAR](#) (S. JIMENEZ: (415) 575-9187)

2523 STEINER STREET - west side of Steiner Street between Jackson Street and Pacific Avenue; Lot 001A in Assessor's Block 0586 (District 2) - Request for **Variance** from rear yard requirements of Section 134. Specifically, the subject property is required to maintain a rear yard of 15 feet. Currently, the existing building encroaches entirely into the required rear yard to the rear property line at the ground and second floors. The proposed rear horizontal addition at the third and fourth floors would encroach approximately 9 feet 6 inches into the required rear yard at the third level and 6 feet 6 inches at the fourth level. The site is within a RH-1 (Residential-House, One Family) Zoning District and 40-X Height and Bulk District.

SPEAKERS: Same as Item 13a.

ACTION: Assistant ZA closed the public hearing and took the matter under advisement

14. [2016-000017DRP](#) (E. SAMONSKY: (415) 575-9112)

43 EVERSON STREET - south side approximately 150 feet east of the intersection with Beacon Street, Lot 024 in Assessor's Block 7542, (District 8) - Request for **Discretionary Review** of Building Permit Application No. 2016.01.27.8097 proposing construction of a

three-story horizontal rear addition and remodel the front facade and interior of a single family dwelling within a RH-1 (Residential House, One-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

Staff Analysis: Abbreviated Discretionary Review

*Preliminary Recommendation: Do Not Take Discretionary Review and Approve*

(Continued from Regular Meeting of June 1, 2017)

**NOTE: On April 6, 2017, after hearing and closing public comment, the item was continued to May 18, 2017 by a vote of +6 -1 (Johnson against).**

**On May 18, 2017, without hearing, Continued to June 1, 2017 by a vote of +6 -0 (Johnson absent).**

SPEAKERS: = Elizabeth Watty – Staff Report  
 - David Kelper – DR presentation  
 - Ryan Patterson – DU removal  
 + Andy Rogers – Project presentation  
 + Mark Brennan - Support

ACTION: Took DR and Approved with Modifications

AYES: Hillis, Richards, Koppel, Melgar

NAYES: Moore

ABSENT: Fong, Johnson

DRA No: [0534](#)

15. [2015-003686DRP-07](#)

(N.

TRAN: (415) 575-9174)

437 HOFFMAN AVENUE - east side of Hoffman Avenue, between 24<sup>th</sup> and 25<sup>th</sup> Streets, Lot 024 in Assessor's Block 6503 (District 8) - Request for **Discretionary Review** of Building Permit Application No. 2014.04.11.3029, proposing to construct additions to the existing single-family residence and increase the dwelling count from one to two units. The project includes extensive interior remodeling and exterior changes such as lifting the building to install a two car garage, front porch, entry stairs and rear terraces within a RH-2 (Residential House, Two-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

Staff Analysis: Full Discretionary Review

*Preliminary Recommendation: Do not take Discretionary Review and Approve*

SPEAKERS: None

ACTION: Continued to September 14, 2017

AYES: Hillis, Koppel, Melgar, Moore

ABSENT: Fong, Johnson, Richards

5:00 p.m.

**Items listed here may not be considered prior to the time indicated above. It is provided as a courtesy to limit unnecessary wait times. Generally, the Commission adheres to the order of the Agenda. Therefore, the following item(s) will be considered at or after the time indicated.**

16. [2013.1383ENV-02](#)

(J. HORNER: (415) 575-

9023)

3516-26 FOLSOM STREET - west side of Folsom Street between Chapman Street and Bernal Heights Boulevard; Block 5626, Lots 013, 014 (District 9) - **Appeal of Preliminary**

# **EXHIBIT C**

ZACKS, FREEDMAN & PATTERSON, PC  
235 MONTGOMERY STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94104

1 RYAN J. PATTERSON (SBN 277971)  
2 ZACKS, FREEDMAN & PATTERSON, PC  
3 235 Montgomery Street, Suite 400  
4 San Francisco, CA 94104  
5 Tel: (415) 956-8100  
6 Fax: (415) 288-9755  
7 Attorneys for David Cowfer

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SAN FRANCISCO PLANNING COMMISSION

**DECLARATION OF DAVID COWFER**

Discretionary Review Application  
Project Address: 43 Everson Street  
Case No. 2016-000017DRP

I, David Cowfer, declare as follows:

1. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. I have lived at 49 Everson Street, San Francisco, California since November 2005. I am familiar with the property commonly known as 43 Everson Street, San Francisco, California (the "Property").

3. The Property has contained two residential dwelling units for as long as I have lived next door. The second unit was located downstairs.

4. The first unit was occupied by the Louie family for as long as I lived at 49 Everson Street.

5. The second unit, downstairs, was continuously occupied by various long-term tenants from 2005 until the Property was cleared out for sale (to the current owner) in late 2015.

6. The second unit at the Property included a full kitchen (including a gas stove) and a full bathroom (including a bath tub and shower). I personally saw the kitchen and bathroom during the Property's open house, prior to sale in 2015.

ZACKS, FREEDMAN & PATTERSON, PC  
235 MONTGOMERY STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94104

1           7.     The photographs attached hereto as Exhibit A accurately show the downstairs  
2 unit, including the kitchen and bathroom. I am informed and believe that these photos were  
3 taken in late 2015 and used in listing the Property for sale.

4           8.     The second unit at the Property was used as a separate and distinct living or  
5 sleeping space independent from any other residential unit on the same property. It had  
6 independent access (from external stairs at the west side, between my house and the Property)  
7 that did not require entering another residential unit on the property, and there was no open,  
8 visual connection to another residential unit on the property. There were no stairs connecting  
9 the upstairs unit with the second unit.

10          9.     The second unit had its own mailbox. A true and correct copy of a photograph of  
11 the mailbox from Google Maps Streetview is attached hereto as Exhibit A.

12          10.    The second unit as well as the upstairs unit – was completely removed by the  
13 current owner in 2016. Attached as Exhibit B is a true and correct copy of photographs taken in  
14 2017 showing the current condition of the Property.

15          11.    The Property’s listing description on Zillow.com states the following: “This  
16 fabulous home offers 6 bedrooms, 3.5 bathrooms . . . **Additional Guest Quarters with**  
17 **separate entrance.**” ([https://www.zillow.com/homedetails/43-Everson-St-San-Francisco-CA-94131/15200247\\_zpid/](https://www.zillow.com/homedetails/43-Everson-St-San-Francisco-CA-94131/15200247_zpid/) (emphasis added).)

18          12.    A true and correct copy of architectural renderings/plans of the upstairs unit and  
19 second unit are attached as Exhibit C. I am informed and believe that these were used in listing  
20 the Property for sale. ([https://www.zillow.com/homedetails/43-Everson-St-San-Francisco-CA-94131/15200247\\_zpid/](https://www.zillow.com/homedetails/43-Everson-St-San-Francisco-CA-94131/15200247_zpid/))  
21  
22

23  
24           I declare, under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct.  
26

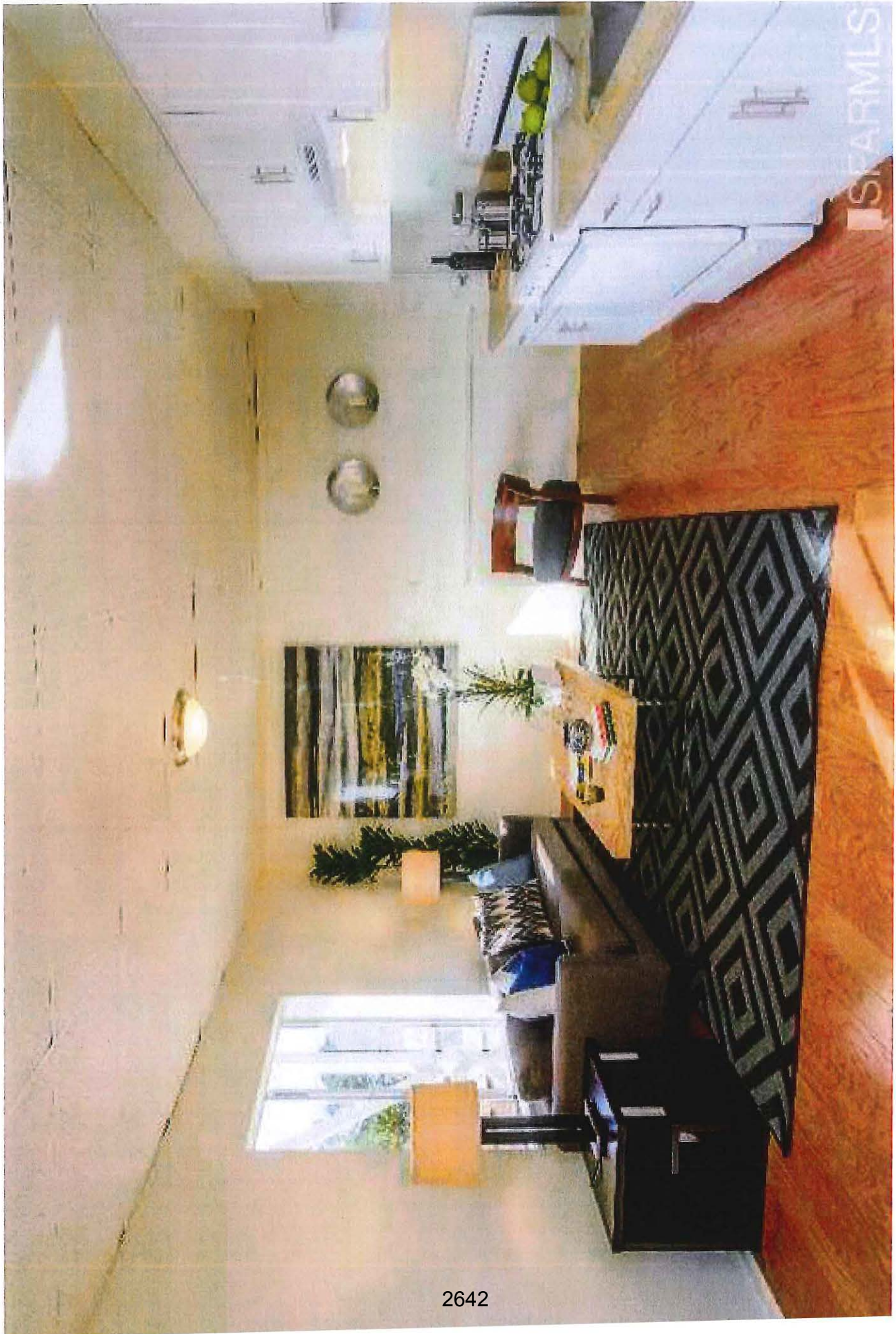
27 Dated: April 6, 2017  
28

DocuSigned by:  
*David Cowfer*  
004EEDE06395419...  
David Cowfer

# **EXHIBIT A**



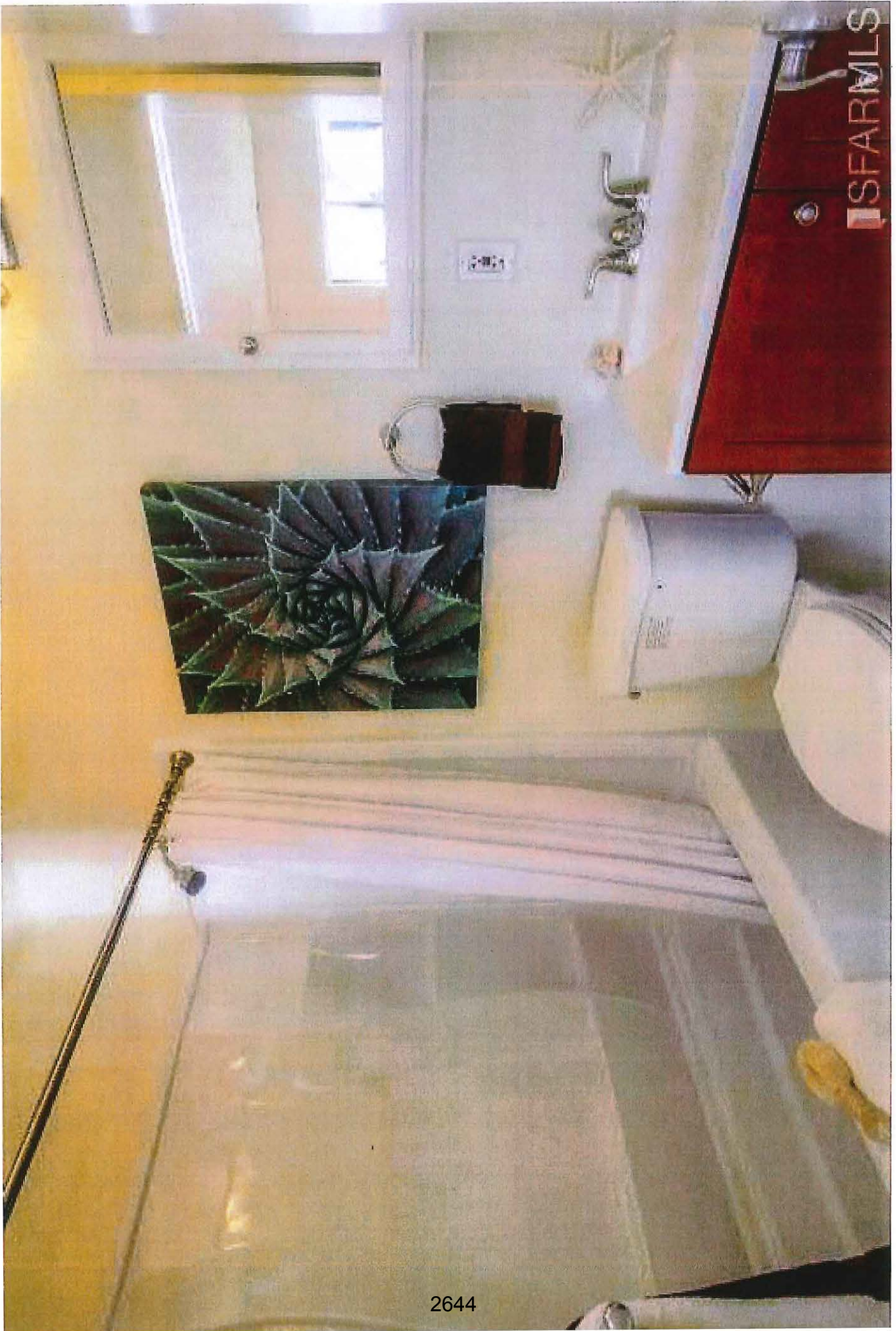




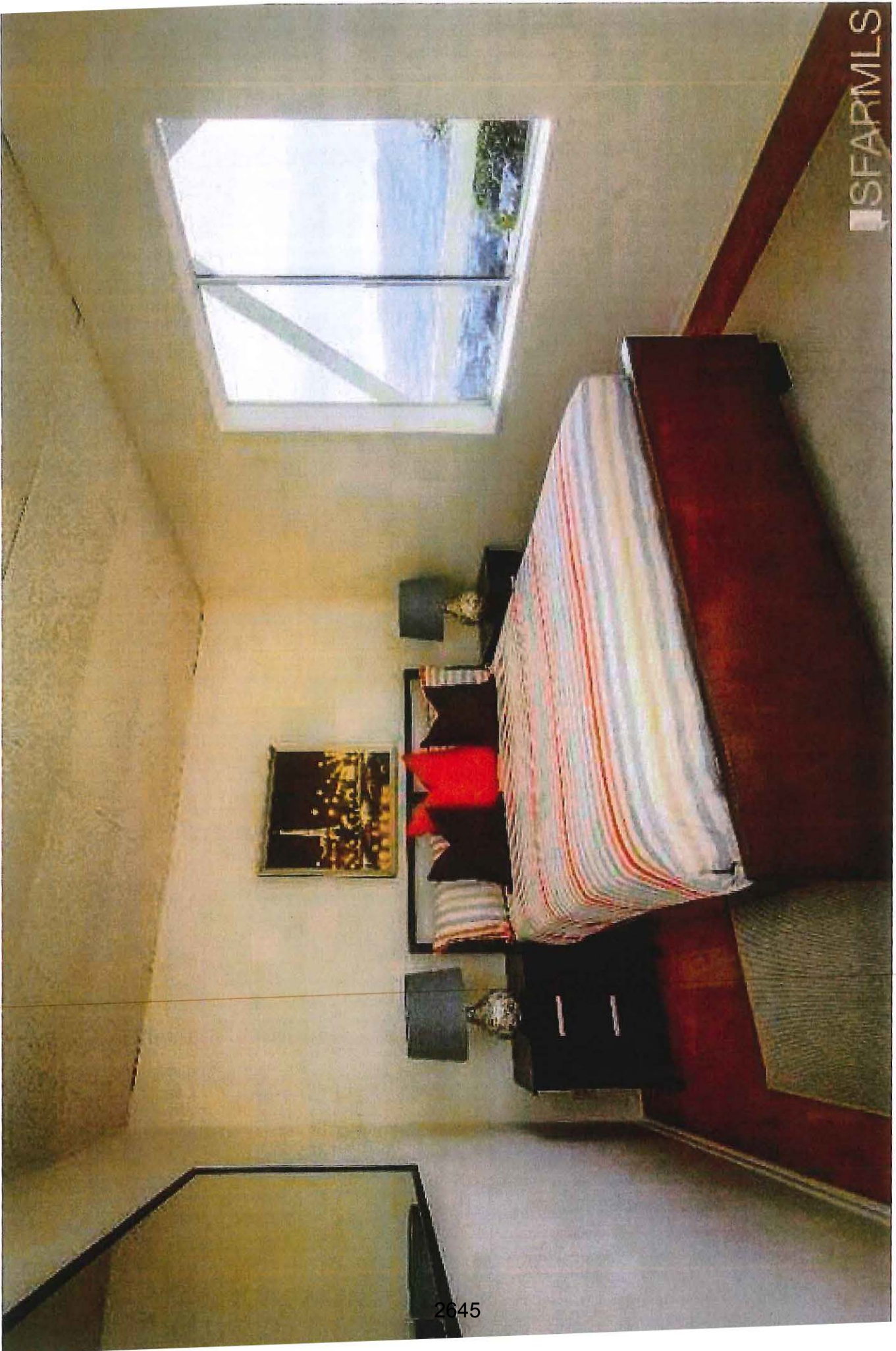
STARMLS



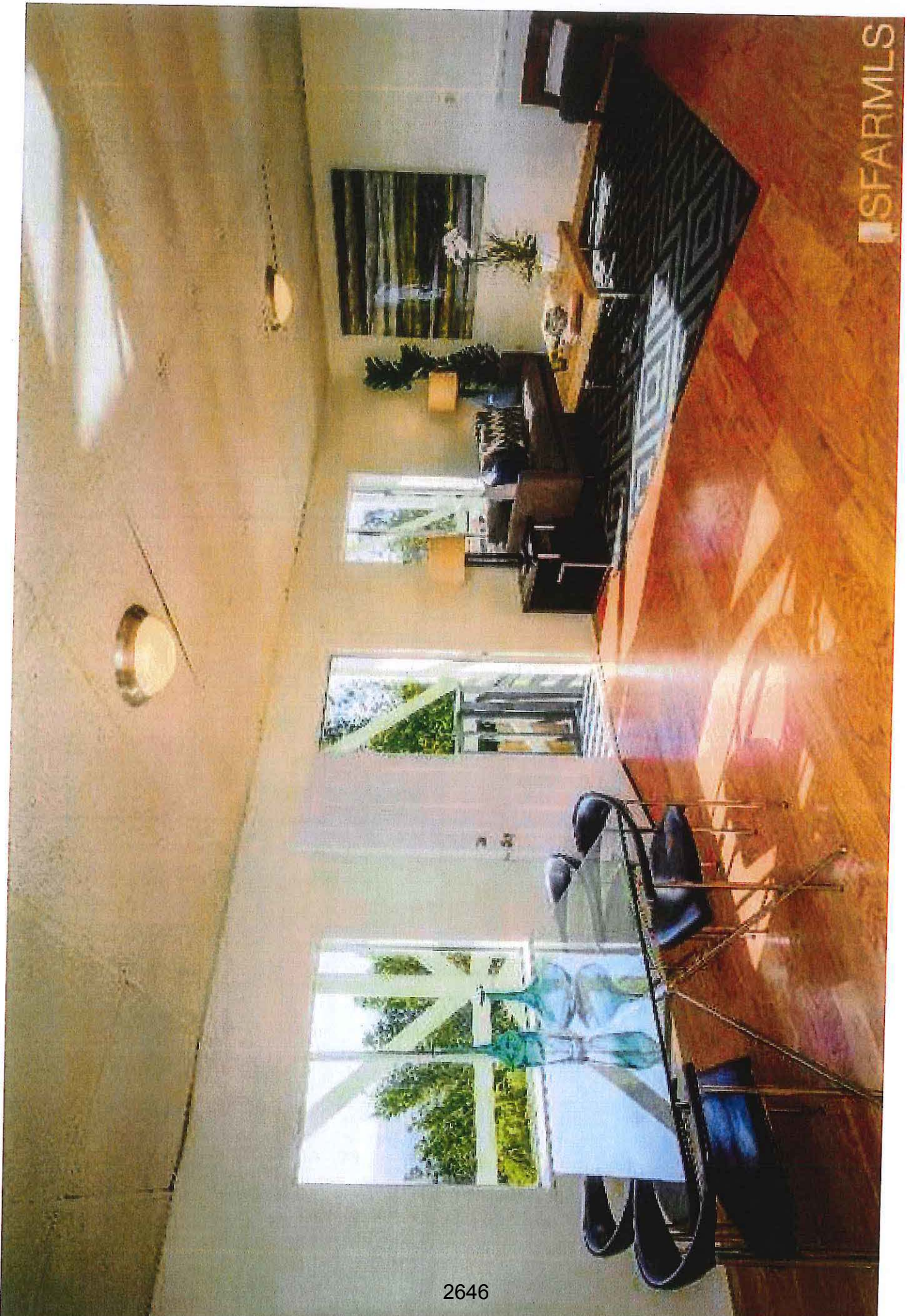
JISEARIMLS



ISFARMLS



ISFARMILS



# **EXHIBIT B**





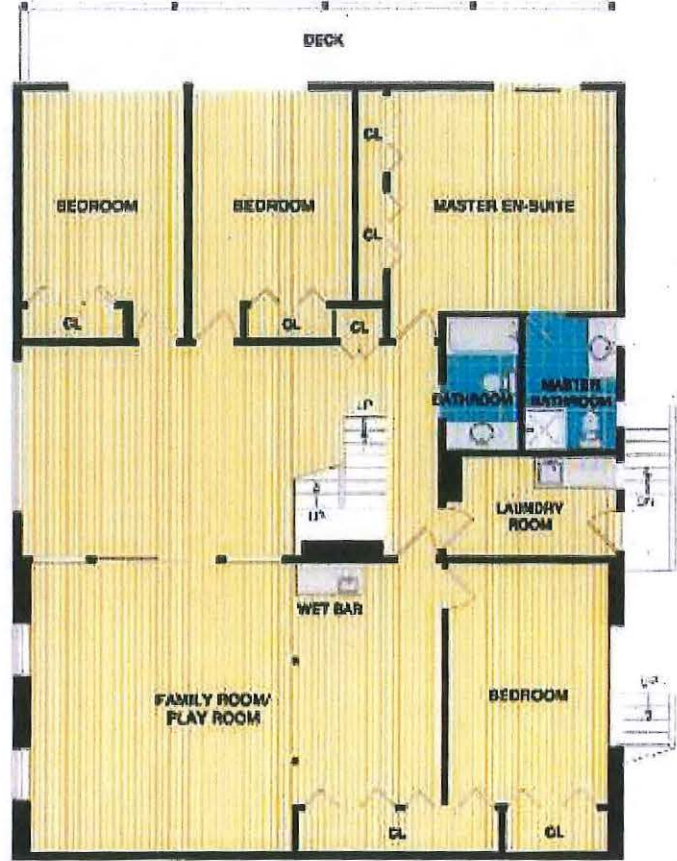


# **EXHIBIT C**

# 43 EVERSON STREET



MAIN FLOOR



LOWER FLOOR



GUEST QUARTERS



Zacks, FREEDMAN & PATTERSON, PC  
235 Montgomery Street, Suite 400  
San Francisco, California 94104

1 RYAN J. PATTERSON (SBN 277971)  
2 ZACKS, FREEDMAN & PATTERSON, PC  
3 235 Montgomery Street, Suite 400  
4 San Francisco, CA 94104  
5 Tel: (415) 956-8100  
6 Fax: (415) 288-9755  
7  
8 Attorneys for David Cowfer  
9

6 SAN FRANCISCO PLANNING COMMISSION

9 **DECLARATION OF FRANCES LEE**

10 Discretionary Review Application  
11 Project Address: 43 Everson Street  
12 Case No. 2016-000017DRP

14 I, Frances Lee, declare as follows:

15 1. Unless otherwise stated, I have personal knowledge of the facts stated herein  
16 and, if called as a witness, could and would testify competently thereto.

17 2. I have lived at 37 Everson Street, San Francisco, California since October of  
18 1977. I am familiar with the property commonly known as 43 Everson Street, San Francisco,  
19 California (the "Property").

20 3. The Property has contained two residential dwelling units for as long as I have  
21 lived next door. The second unit was located downstairs.

22 4. The first unit was occupied by the Louie family for as long as I lived at 43  
23 Everson Street (since approximately 1975).

24 5. The second unit, downstairs, was continuously occupied by various long-term  
25 tenants from at least 1977 until the Property was cleared out for sale (to the current owner) in  
26 late 2015. The second unit was briefly removed (after the City discovered it) but was reinstalled  
27 shortly thereafter.

Zacks, FREEDMAN & PATTERSON, PC  
235 Montgomery Street, Suite 400  
San Francisco, California 94104


1           6.       Most recently, the second unit was occupied by a tenant named Mason and his  
2 family from approximately 2012 until the Property was cleared out for sale in late 2015.

3           7.       I am informed and believe that the second unit at the Property was used as a  
4 separate and distinct living or sleeping space independent from any other residential unit on the  
5 same property. It had independent access (from external stairs at the west side, between 49  
6 Everson Street and the Property) that did not require entering another residential unit on the  
7 property, and there was no open, visual connection to another residential unit on the property.  
8 There were no stairs connecting the upstairs unit with the second unit.

9           8.       The second unit – as well as the upstairs unit – was completely removed by the  
10 current owner in 2016.

11                   I declare, under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct.

13                   Dated: May 31, 2017

  
14                   Frances Lee  
15                   Frances Lee

1 RYAN J. PATTERSON (SBN 277971)  
2 ZACKS, FREEDMAN & PATTERSON, PC  
3 235 Montgomery Street, Suite 400  
4 San Francisco, CA 94104  
5 Tel: (415) 956-8100  
6 Fax: (415) 288-9755  
7 Attorneys for David Cowfer

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SAN FRANCISCO BOARD OF SUPERVISORS

**DECLARATION OF DAVE  
HERNANDEZ**

Project Address: 43 Everson Street  
Case No. 2016-000017DRP

I, Dave Hernandez, declare as follows:

1. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. I lived at 49 Everson Street, San Francisco, California from approximately 2007 until approximately 2011. I am familiar with the property commonly known as 43 Everson Street, San Francisco, California (the "Property").

3. The Property contained two residential dwelling units for as long as I lived next door. The second unit was located downstairs.

4. The first unit was occupied by the Louie family for as long as I lived at 49 Everson Street.

5. The second unit, downstairs, was continuously occupied by various long-term tenants while I lived next door (approximately 2007 until 2011, when I moved away). I was an avid gardener and often saw the downstairs tenants coming and going from the second unit as I watered the plants at 49 Everson Street.

ZACKS, FREEDMAN & PATTERSON, PC  
235 MONTGOMERY STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94104

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

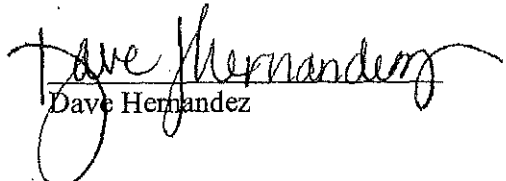
6. The second unit had its own mailbox, located on the outside of the gate at the west side of the Property.

7. In particular, I remember that the second unit was occupied by a tenant named Mason and his family when I lived next door.

8. I am informed and believe that the second unit at the Property was used as a separate and distinct living or sleeping space independent from any other residential unit on the same Property. It had independent access (from external stairs at the west side, between 49 Everson Street and the Property) that did not require entering another residential unit on the Property, and there was no open, visual connection to another residential unit on the Property. There were no stairs connecting the upstairs unit with the second unit.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 14, 2017

  
Dave Hernandez

# **EXHIBIT D**

ZACKS, FREEDMAN & PATTERSON, PC  
235 MONTGOMERY STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94104

1 RYAN J. PATTERSON (SBN 277971)  
2 ZACKS, FREEDMAN & PATTERSON, PC  
3 235 Montgomery Street, Suite 400  
4 San Francisco, CA 94104  
5 Tel: (415) 956-8100  
6 Fax: (415) 288-9755  
7 Attorneys for David Cowfer

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SAN FRANCISCO BOARD OF SUPERVISORS

**DECLARATION OF DAVE  
HERNANDEZ**

Project Address: 43 Everson Street  
Case No. 2016-000017DRP

I, Dave Hernandez, declare as follows:

1. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.
2. I lived at 49 Everson Street, San Francisco, California from approximately 2007 until approximately 2011. I am familiar with the property commonly known as 43 Everson Street, San Francisco, California (the "Property").
3. The Property contained two residential dwelling units for as long as I lived next door. The second unit was located downstairs.
4. The first unit was occupied by the Louie family for as long as I lived at 49 Everson Street.
5. The second unit, downstairs, was continuously occupied by various long-term tenants while I lived next door (approximately 2007 until 2011, when I moved away). I was an avid gardener and often saw the downstairs tenants coming and going from the second unit as I watered the plants at 49 Everson Street.



ZACKS, FREEDMAN & PATTERSON, PC  
255 MONTGOMERY STREET, SUITE 400  
SAN FRANCISCO, CALIFORNIA 94104

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

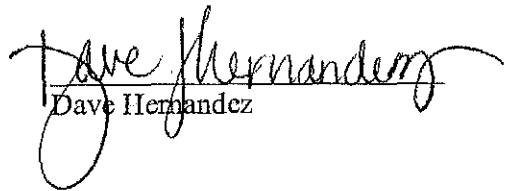
6. The second unit had its own mailbox, located on the outside of the gate at the west side of the Property.

7. In particular, I remember that the second unit was occupied by a tenant named Mason and his family when I lived next door.

8. I am informed and believe that the second unit at the Property was used as a separate and distinct living or sleeping space independent from any other residential unit on the same Property. It had independent access (from external stairs at the west side, between 49 Everson Street and the Property) that did not require entering another residential unit on the Property, and there was no open, visual connection to another residential unit on the Property. There were no stairs connecting the upstairs unit with the second unit.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 14, 2017

  
Dave Hernandez

**43 Everson St**  
San Francisco, California  
Street View - Nov 2013

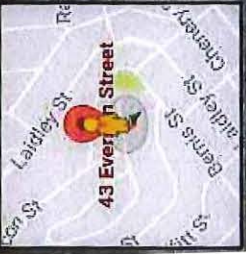


2659



Google

43 Everson St  
San Francisco, California  
Street View - Jul 2015



Google



# 43 Everson St



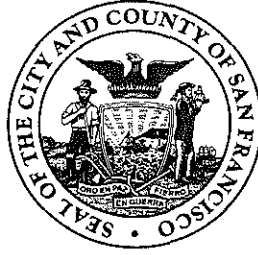
Image capture: Jul 2015 © 2017 Google

San Francisco, California

Street View - Jul 2015



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Tuesday, September 12, 2017

**Time:** 3:00 p.m.

**Location:** Legislative Chamber, City Hall, Room 250  
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA

**Subject:** **File No. 170855.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on July 29, 2017, approved on June 15, 2017, for the proposed project at 43 Everson Street, to include horizontal and vertical additions to an existing three-story single family home, increase the gross square footage of the residence from 5,364 square feet to approximately 6,780 square feet, and increase the height of the building from approximately 13 feet to approximately 30 feet measured from the Everson Street frontage. (District 8) (Appellant: Ryan J. Patterson, on behalf of David Cowfer) (Filed July 17, 2017)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 8, 2017.

  
for Angela Calvillo  
Clerk of the Board

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [ryan@zfplaw.com](mailto:ryan@zfplaw.com); [jabutlerdesign@gmail.com](mailto:jabutlerdesign@gmail.com); [ttunny@reubenlaw.com](mailto:ttunny@reubenlaw.com); [mvisick@reubenlaw.com](mailto:mvisick@reubenlaw.com)  
**Cc:** [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Poling, Jeanie \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [McKellar, Jennifer \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** HEARING NOTICE: Determination of Exemption Appeal - Proposed Project at 43 Everson Street - Appeal Hearing on September 12, 2017  
**Date:** Tuesday, August 29, 2017 4:11:05 PM  
**Attachments:** [image001.png](#)  
[170855 Hearing Notice 091217.pdf](#)

---

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 12, 2017, at 3:00 p.m.**, to hear an appeal regarding the determination of exemption for environmental review for the proposed project at 43 Everson Street.

**Please find attached the hearing notice for the matter:**

[Notice of Public Hearing Notice - September 12, 2017](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 170855](#)

Thank you,

**Lisa Lew**  
Board of Supervisors  
San Francisco City Hall, Room 244  
San Francisco, CA 94102  
P 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**PROOF OF MAILING**

Legislative File No. 170855

Description of Items: Public Hearing Notices - Hearing - Appeal of Determination of Exemption From Environmental Review - 43 Everson Street - 33 Notices Mailed

I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: August 29, 2017

Time: 2:30 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 27, 2017

**File Nos. 170855-170858**

**Planning Case No. 2016-000017ENV**

Received from the Board of Supervisors Clerk's Office one check, in the amount of Five Hundred Seventy Eight Dollars (\$578) representing the filing fee paid by Zacks, Freedman & Patterson, on behalf of David Cowfer for the appeal of the California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review for the proposed project at 43 Everson Street.

**Planning Department**

**By:**

Tony  
Print Name

[Signature] 7/28/17  
Signature and Date

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 415-554-5184  
Fax No. 415-554-5163  
TDD/TTY No. 415-554-5227

July 25, 2017

Ryan J. Patterson  
Zacks, Freedman & Patterson  
235 Montgomery Street, Suite 400  
San Francisco, California 94104

**Subject: File No. 170855 - Appeal of CEQA Exemption Determination - Proposed Project at 43 Everson Street**

Dear Mr. Patterson:

The Office of the Clerk of the Board is in receipt of a memorandum dated July 24, 2017, from the Planning Department regarding their determination on the timely filing of appeal of the CEQA Exemption Determination for the proposed project at 43 Everson Street.

The Planning Department has determined that the appeal was filed in a timely manner.

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, September 12, 2017, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

**20 days prior to the hearing:** names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and


**11 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

Very truly yours,

  
Angela Calvillo  
Clerk of the Board

- c: Jennifer Butler, Project Sponsor, Rodgers Architecture
- Jon Givner, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Marlena Byrne, Deputy City Attorney
- John Rahaim, Planning Director
- Scott Sanchez, Zoning Administrator, Planning Department
- Lisa Gibson, Environmental Review Officer, Planning Department
- Joy Navarrete, Environmental Planning, Planning Department
- Laura Lynch, Environmental Planning, Planning Department
- Aaron Starr, Manager of Legislative Affairs, Planning Department
- AnMarie Rodgers, Senior Policy Advisor, Planning Department
- Heather Jones, Staff Contact, Planning Department
- Jonas Ionin, Planning Commission Secretary, Planning Department



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

DATE: July 24, 2017  
 TO: Angela Calvillo, Clerk of the Board of Supervisors  
 FROM: Lisa Gibson, Environmental Review Officer *LJ*  
 RE: Appeal timeliness determination – 43 Everson Street, Planning Department Case No. 2016-000017ENV

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
 Information:  
**415.558.6377**

An appeal of the categorical exemption determination for the proposed project at 43 Everson Street (Planning Department Case No. 2016-000017ENV) was filed with the Office of the Clerk of the Board of Supervisors on July 17, 2017 by Ryan J. Patterson, on behalf of David Cowfer.

Date of Approval Action	30 Days after Approval Action	Appeal Deadline (Must Be Day Clerk of Board's Office Is Open)	Date of Appeal Filing	Timely?
June 15, 2017	Saturday, July 15, 2017	Monday, July 17, 2017	July 17, 2017	Yes

**Approval Action:** On July 29, 2016, the Planning Department issued a Certificate of Determination for the project at 43 Everson Street. The Approval Action for the project was the Discretionary Review Hearing by the Planning Commission, as provided for in Planning Code Section 311, which occurred on June 15, 2017 (Date of the Approval Action).

**Appeal Deadline:** Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action. The 30<sup>th</sup> day after the Date of the Approval Action was Saturday, July 15, 2017. The next date when the Office of the Clerk of the Board of Supervisors was open was Monday, July 17, 2017 (Appeal Deadline).

**Appeal Filing and Timeliness:** The Appellant filed the appeal of the exemption determination on Monday, July 17, 2017, prior to the the Appeal Deadline. Therefore, the appeal is considered timely.

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Rahaim, John \(CPC\)](#)  
**Cc:** [Givner, Jon \(CAT\)](#); [Stacy, Kate \(CAT\)](#); [Byrne, Marlena \(CAT\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Poling, Jeanie \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** Appeal of CEQA Exemption Determination - 43 Everson Street - Timeliness Determination Request  
**Date:** Wednesday, July 19, 2017 12:06:04 PM  
**Attachments:** [image001.png](#)  
[Appeal Ltr 071717.pdf](#)  
[COB Ltr 071817.pdf](#)

---

Good afternoon, Director Rahaim:

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Exemption Determination for the proposed project at 43 Everson Street. The appeal was filed by Ryan J. Patterson, on behalf of David Cowfer, on July 17, 2017.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Regards,

**Brent Jalipa**

**Legislative Clerk**

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7712 | Fax: (415) 554-5163

[brent.jalipa@sfgov.org](mailto:brent.jalipa@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

**Disclosures:** *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*


BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

July 18, 2017

To: John Rahaim  
Planning Director

From:  Angela Calvillo  
Clerk of the Board of Supervisors

**Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 43 Everson Street**

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project at 43 Everson Street was filed with the Office of the Clerk of the Board on July 17, 2017, by Ryan J. Patterson of Zacks, Freedman & Patterson, on behalf of David Cowfer.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

c: Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Lisa Gibson, Environmental Review Officer, Planning Department  
Jessica Range, Acting Environmental Review Officer, Planning Department  
AnMarie Rodgers, Senior Policy Advisor, Planning Department  
Aaron Starr, Manager of Legislative Affairs, Planning Department  
Heather Jones, Staff Contact, Planning Department  
Jonas Ionin, Planning Commission Secretary, Planning Department

Print Form

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Exemption From Environmental Review - 43 Everson Street

The text is listed:

Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on July 29, 2017, approved on June 15, 2017, for the proposed project at 43 Everson Street, to include horizontal and vertical additions to an existing three-story single family home, increase the gross square footage of the residence from 5,364 square feet to approximately 6,780 square feet, and increase the height of the building from approximately 13 feet to approximately 30 feet measured from the Everson Street frontage. (District 8) (Appellant: Ryan J. Patterson, on behalf of David Cowfer) (Filed July 17, 2017)

Signature of Sponsoring Supervisor: *Alisa Bernal*

For Clerk's Use Only