



## TENTATIVE MAP DECISION

Date: February 8, 2019

Department of City Planning  
 1650 Mission Street, Suite 400  
 San Francisco, CA 94103

<b>Project ID:</b> 4273			
<b>Project Type:</b> 2 Lot Vertical Subdivision, 12 Residential and 5 Commercial Multi Use New Condominium Project			
<b>Address#</b>	<b>StreetName</b>	<b>Block</b>	<b>Lot</b>
722 - 726	MONTGOMERY ST	0196	056
<b>Tentative Map Referral</b>			

Attention: Mr. Corey Teague.

Please review\* and respond to this referral within 30 days in accordance with the Subdivision Map Act.

(\*In the course of review by City agencies, any discovered items of concern should be brought to the attention of Public Works for consideration.)

Sincerely,

**ADRIAN VERHAGEN** Digitally signed by ADRIAN VERHAGEN  
 DN: cn=ADRIAN VERHAGEN, o, ou=DPW-BSM,  
 email=adrian.verhagen@sfdpw.org, c=US  
 Date: 2019.02.08 10:47:12 -08'00'

for, Bruce R. Storrs, P.L.S.  
 City and County Surveyor

The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code. On balance, the Tentative Map is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1 based on the attached findings. The subject referral is exempt from California Environmental Quality Act (CEQA) environmental review as categorically exempt Class , CEQA Determination Date , based on the attached checklist.

The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code subject to the attached conditions.

The subject Tentative Map has been reviewed by the Planning Department and does not comply with applicable provisions of the Planning Code due to the following reason(s):

**PLANNING DEPARTMENT**

Signed **Andrew W. Perry** Digitally signed by Andrew W. Perry  
 Date: 2019.02.25 17:57:54 -08'00'

Date

Planner's Name   
 for, Corey Teague, Zoning Administrator



# PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER  
(415) 558-6378

DIRECTOR'S OFFICE  
PHONE: 558-6411  
4TH FLOOR  
FAX: 558-6426

ZONING ADMINISTRATOR  
PHONE: 558-6350  
5TH FLOOR  
FAX: 558-6409

PLANNING INFORMATION  
PHONE: 558-6377  
MAJOR ENVIRONMENTAL  
FAX: 558-5991

COMMISSION CALENDAR  
INFO: 558-6422  
INTERNET WEB SITE  
WWW.SFGOV.ORG/PLANNING

July 29, 2005

## VARIANCE DECISION

UNDER THE PLANNING CODE  
CASE NO. 2005.0139V

APPLICANT:           **Suheil Shatara  
Shatara Architecture, Inc.  
522 2<sup>nd</sup> Street  
San Francisco, CA 94107**

CASE PLANNER:      **Adam Light (415) 558-6254**

PROPERTY IDENTIFICATION - 722 MONTGOMERY STREET:

East side of Montgomery Street, between Washington and Jackson Streets; Lot 26 in Assessor's Block 196, in C-2 (Community Business) District and a 65-A Height and Bulk District.

DESCRIPTION OF VARIANCE SOUGHT - REAR YARD, OPEN SPACE, DWELLING UNIT EXPOSURE, AND PARKING VARIANCES: The proposal is to convert the original office use to approximately 18 dwelling units with ground level commercial uses fronting on Montgomery Street. No expansion of the original building envelope is planned beyond what was approved by Certificate of Appropriateness No. 1998.0038A.

**Planning Code Section 134** requires a rear yard equaling 25% of the lot depth. The subject lot is 127 feet deep, resulting in a required rear yard of approximately 32 feet. The original building envelope occupies the entire lot; therefore a rear yard variance of approximately 32 feet is requested.

**Planning Code Section 135** requires 36 square feet of private usable open space for each dwelling unit, or 48 square feet of common usable open space for each dwelling unit. While a central courtyard would provide approximately 450 square-feet of common usable open space it would not meet the requirements for common usable open space, either in total square footage required (862 square feet, Section 135(d)), or the vertical to horizontal dimension ratio (Section 135(g)(2)).

**Planning Code Section 140** requires that each unit have one major room that faces either a public street measuring at least 25 feet in width, a code complying rear yard, or an interior court that

measures 25 feet in every horizontal dimension increasing by five feet at each successive level above the second floor. Six units will face onto Hotaling Place, that measures only 20 feet in width, and eight units will face onto the interior courtyard that will measure 16 feet by 27 feet. Therefore a dwelling unit exposure variance is requested for 14 of the proposed 18 units.

**Planning Code Section 151** requires that there be one parking space for each new unit constructed in a C-2 District as well as the Washington Broadway Special Use District. Therefore, 18 parking spaces are required for the proposed project, which contains 18 units. Because the subject building is a San Francisco Landmark, an automobile entrance on either the Montgomery Street or Hotaling Street facades would not be compatible with the historic character of the building or the neighborhood. Therefore an 18-space parking variance is requested.

PROCEDURAL BACKGROUND:

1. This proposed change in use was determined to be Categorically Exempt from Environmental Review under CEQA Guidelines Section 15301.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2005.0139V on May 25, 2005.**

DECISION:

**GRANTED**, in general conformity with the plans on file with this application, shown as Exhibit A and dated June 22, 2005 to convert the commercial uses on the second and third floors to residential units subject to the following conditions:

1. Any further physical expansion beyond what is proposed under this application, even within the buildable area, is not permitted. This variance is granted on the condition that the project stay within the current envelope of the building as approved under the approved Certificate of Appropriateness (Case No. 1998.0038A) plus any additional stair penthouses required by building and fire codes. Notwithstanding the above restriction, minor modifications in general conformity, particularly to conform to Building Code requirements, with Exhibit A may be allowed.
2. A Certificate of Appropriateness will be required for the construction of any stair penthouses required by City building and fire codes.
3. The number of proposed dwelling units shall be reduced from 18 units to a maximum of 12 dwelling units, with a maximum of two units per floor that rely on the central light well for their sole source of light and air. Ground floor and basement uses shall be principally permitted commercial uses. Such commercial uses may occupy portions or all of the upper levels, so long as they are code-compliant and no occupancy permits have been granted for any of the currently proposed and approved dwelling units.
4. The project must be constructed in accordance with the approved Certificate of Appropriateness and any other restrictions that may be imposed by the Department to insure that the building is restored to its historic exterior appearance.
5. All necessary permits to implement the proposed change of use must be obtained within 90 days of the effective date of this decision letter, with the ability of this deadline to be

extended an additional 90 days at the discretion of the Zoning Administrator due to unforeseen and unavoidable delays. The Project Sponsor shall submit the required permits within a timely manner such that the 90-day deadline is met as follows:

- (a) A complete site permit application for the proposed change of use shall be submitted to the Planning Department through the Department of Building Inspection within 20 days of the date of this letter. The site permit shall accurately reflect the conditions of approval of this variance.
  - (b) The Project Sponsor shall record any required Notices of Special Restrictions on the City and County land records as well as coordinate with the Mayor's Office Housing regarding any required BMR units within 30 days of the date of this letter.
  - (c) The Project Sponsor shall, as of the date of this letter, immediately begin coordination with the Department of Building Inspection, the Department of Public Works, and the Department of Parking and Traffic to insure that all necessary permits to begin implementation of the proposed change of use granted by this variance are issued within 90 days of the date of this letter.
  - (d) The Project Sponsor shall immediately notify the Zoning Administrator and the City Attorney's office if it appears that for unforeseen and unavoidable circumstances that the 90-day deadline for the issuance of all necessary permits may not be met.
  - (e) The Project Sponsor shall give bi-weekly updates to the Zoning Administrator and the City Attorney to update both on the progress of the permitting process for this proposed change of use.
6. Construction consistent with this variance must begin no later than 30 days after the issuance of the subject change-of-use building permit. The Project Sponsor shall also diligently pursue construction (as determined by the Zoning Administrator) consistent with this variance to completion. The Project Sponsor is not absolved from continuing construction on the foundation and framing of the subject property consistent with the Settlement Agreement entered into by the Project Sponsor and the City in the matter of *City and County of San Francisco v. Glometro, Inc.*, San Francisco Superior Court Case No. 320-263. Construction related to this variance decision shall be completed within one year after issuance of the building permit.
  7. Failure to meet any of the above deadlines shall not be due to a change in marketing strategy or other preferences by the Project Sponsor.
  8. Inclusionary Affordable Housing Program
    - (a) The project shall comply with the inclusionary housing requirements set forth in Section 315 et seq. of the Planning Code. Either 10% (5) or 15% (7) Below Market Rate (BMR) units shall be provided, depending on whether they are provided on- or off-site, or an in-lieu fee shall be paid.

- (b) If the applicant chooses to provide units off-site, the Applicant shall comply with the requirements of Section 315.5.
  - (c) If the Applicant chooses to pay a fee in-lieu of providing units, the Applicant shall comply with the requirements of Section 315.6.
  - (d) If the applicant chooses to provide units on-site, the BMR units shall be designated on the building plans prior to approval of any building permit. BMR units shall (1) reflect the unit size mix of the market rate units, (2) shall be reasonably evenly distributed throughout the project as determined by the Mayor's Office of Housing and the Zoning Administrator, (3) shall be constructed and marketed concurrently with the construction and sale of the market rate units, and (4) shall be of the same quality and materials as the market rate units in the project.
  - (e) Based on the approval of 12 dwelling units, if the BMR units are provided on-site, the Project shall provide one (1) BMR unit of the appropriate size and type as determined by the Zoning Administrator.
  - (f) The Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing (MOH) or its successor, the monitoring agency for the BMR unit, at 25 Van Ness Avenue, Suite 600, San Francisco, California, 94102.
9. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
10. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

**FINDINGS:**

Section 305(c) of the Planning Code states that in order to grant a Variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

**FINDING 1.**

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

**REQUIREMENT MET.**

- A. Rear Yard Variance – The subject property is a San Francisco Landmark and a contributor to the Jackson Square Historic District. Meeting the Planning Code requirements for rear yard would require elimination of major portions of this building,

- compromising its historic architectural design as well as the character of the surrounding historic district.
- B. Open Space Variance – Providing a rooftop open space area would require significant rooftop additions such as the decking, railing as well as building and fire code-required penthouses, thereby detracting from the building’s historic appearance as well as that of the surrounding historic district.
  - C. Dwelling Unit Exposure Variance – Providing the proposed residential adaptive reuse for this landmark building in a way that complies with Section 140 of the Planning Code would either require a reduction of dwelling units to a third or half of what is approved by this letter or would result in elimination of significant portions of the building. Given the landmark status of this building and its contributory status to the surrounding historic district, as well as the City’s desire to substantially increase housing opportunities in San Francisco, neither option is desirable.
  - D. Parking Variance – The subject landmark building has never had parking and to introduce parking at this time would compromise the historic architectural integrity of the building and interfere with the heavy amount of pedestrian traffic in this busy area of the City.

**FINDING 2.**

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

**REQUIREMENT MET.**

- A. Rear Yard Variance – Requiring compliance with rear yard requirements would necessitate the removal of the 25% of the landmark building, resulting in a significant hardship for the property owner.
- B. Open Space Variance – The project sponsor could provide open space in the form of a rooftop deck, but this would require rooftop penthouse access, adding additional height to this landmark building, which is not desirable. The only other option would be to eliminate significant portions of the building to provide the required open space in code complying dimensions, which would create a significant hardship for the property owner.
- C. Dwelling Unit Exposure Variance – Dwelling unit exposure requirements can only be met at the front of the property, as Hotaling Street is not wide enough to meet the requirements of Section 140, and the interior light court is short by ten feet in the north-to-south direction. In order to meet the provisions of Section 140, the Project Sponsor would either have to eliminate significant portions of the building, or reduce the number of dwelling units to approximately four or six units, which is significantly below the dwelling unit density allowed in a C-2 Zoning District, and therefore either option would constitute a significant hardship for the property owner.

- D. Parking Variance – providing the required parking on-site would require the introduction of a large garage door, which would require the property owner to compromise the historic façade designs of the building, either on Montgomery or Hotaling Street, resulting in a significant hardship.

**FINDING 3.**

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

**REQUIREMENT MET.**

To avoid undesirable alterations to the subject building for reasons as stated above for each variance in Findings 1 and 2, the granting of these variances are necessary for the preservation and enjoyment of the right to have a property in which the entire lot is covered by the building envelope, does not provide parking or open space, or generous dwelling unit exposures. There are many properties in the surrounding and nearby neighborhood that are similarly developed, both commercial and residential. These conditions are part of the character of this dense urban area of San Francisco.

**FINDING 4.**

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

**REQUIREMENT MET.**

- A. Rear Yard Variance – In many parts of San Francisco, rear yard areas contribute to mid-block open spaces. Such spaces do not exist in the immediate project area, and therefore no such spaces will be adversely affected.
- B. Open Space Variance – There will be open space provided on the site in the courtyard area, and there are nearby public parks, such as Redwood Park and many other spaces throughout the Downtown area that will provide adequate open space for this property.
- C. Dwelling Unit Exposure Variance – Adequate light and air will be provided to all units in the building. The number of units has been reduced so that units that face solely on the interior courtyard will have windows to more than one room facing on this area. Even though Hotaling Place is only 20 feet wide, sufficient light and air exists for the rear units requiring this variance, particularly given the low height of the subject and surrounding buildings.
- D. Parking Variance -- Numerous forms of public transportation exist in the immediate area, eliminating the necessity for on-site parking of private automobiles. The addition of up to 12 dwelling units to the neighborhood will not result in any substantial burden on on-street parking or demand on existing public transit.

FINDING 5.

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

**REQUIREMENT MET.**

- A. Granting the requested variances will restore and provide an appropriate adaptive reuse for a San Francisco Landmark in such a way that the character of the surrounding historic district will be preserved, and thus will be consistent with Section 101.1 priority planning policies and General Plan policies encouraging preservation of historical resources in San Francisco.
- B. Granting the requested variances will create twelve much-needed dwelling units, consistent with Section 101.1 and General Plan policies encouraging an increase in housing units, and will do so in such a way that will be consistent with the City's transit first policies.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

**APPEAL: Any aggrieved person may appeal this Variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Third Floor, or call 575-6880.**

Very truly yours,

Lawrence B. Badiner  
Zoning Administrator





THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.