

File No. 240246

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

Board Item No. 21

# COMMITTEE/BOARD OF SUPERVISORS

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

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Date: April 23, 2024

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Prepared by: Lisa Lew

Date: April 19, 2024

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

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

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# PATTERSON & O'NEILL, PC

2024 MAR -8 PM 4: 59

BY \_\_\_\_\_

235 Montgomery Street, Suite 950  
San Francisco, CA 94104  
Telephone: (415) 907-9110  
www.pattersononeill.com

March 8, 2024

VIA EMAIL

President Aaron Peskin and Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Re: Appeal of CEQA Exemption Determination  
72 Harper Street (Case No. 2023-002706ENV)

Dear President Peskin and Supervisors:

Our office represents Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli, owners of neighboring properties adjacent to the proposed project at 72 Harper Street. The project site is developed with a modest two-story over garage Queen Anne Cottage built in 1905 that is approximately 2,096 square feet. The applicant proposes to expand the existing building with a vertical addition measuring 44 feet from the curb, which will tower over the existing façade and mimic the historical gable roof design.

We submit this letter pursuant to Administrative Code § 31.16(e) to appeal the Exemption Determination for the project at 72 Harper Street (Case No. 2020-005176ENV). The Exemption Determination violates the California Environmental Quality Act ("CEQA") because the Planning Department failed to adequately study whether the project will have a significant adverse impact on historic resources, did not determine whether the project meets the Secretary of Interior's Standards for the Treatment of Historic Properties, and failed to adequately study whether the project is located in an eligible historic district. Due to these deficiencies, the appellants respectfully request the Board reverse the Exemption Determination; and direct the Planning Department to conduct further environmental review.

The CEQA Guidelines state that an Exemption "*shall not be used* for a project which may cause a substantial adverse change in the significance of a historical resource." (See CEQA Guidelines § 15300.2(f).) Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the "omission of required information constitutes a failure to proceed in the manner required by law." (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.) Procedural failures must be overturned in order to "scrupulously enforce all legislatively mandated CEQA requirements." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)

Moreover, the "foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment

within the reasonable scope of the statutory language.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390.) To that end, an exemption shall not be used if there is a “fair argument” that the proposed project may cause a substantial adverse change in the significance of an historical resource. (*See Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1072.)

The Exemption Determination in this case is not legally adequate because the Planning Department failed to adequately analyze the potential impacts to historic resources, and there is a fair argument that the project may cause a substantial adverse change to a historic resource. The Exemption Determination found that the existing building qualifies as a historic resource, yet still found the project exempt without even conducting a Historic Resource Evaluation. The project sponsor also acknowledged that existing home is a historic resource, and even submitted an Historic Resource Evaluation application that demonstrated the existing home has distinct architectural features that have generally remained largely unchanged since the building was first constructed in 1905.

Despite receiving an application for a Historic Resource Evaluation, the Planning Department failed to complete a Historic Resource Evaluation Response. The Exemption simply says “addition visible but compatible with existing structure” and “entry sequence change meets standard and no impacts to potential remaining CFDs [character defining features].” This analysis is wholly inadequate. The analysis states “no impacts to *potential*” character defining features, without even conducting an analysis to identify what the character defining features of the property actually are. The analysis also states that the “change meets standards,” presumably referring to the Secretary of Interior’s Standards, yet the Planning Department did not complete a Historic Resource Evaluation to analyze the project against the standards. The Planning Department could not possibly determine that the project meets the Secretary of Interior’s Standards for protecting the character defining features of historic properties when the Department never identified the features in the first place.

Moreover, the project is located in an area known as Fairmount Heights that was developed by the Fairmount Homestead Association shortly after the Civil War in the 1860s. The neighborhood contains many century-old modest cottages that reflect the neighborhood’s historic blue-collar demographic. The Planning Department did not evaluate at all whether the surrounding area could be eligible as a historic district, nor identify any potential character defining features of the surrounding properties. The Planning Department’s complete omission of any analysis or information on the potential impacts to a an eligible historic district or surrounding historic properties was a procedural error, and therefore the Exemption Determination must be overturned.

Finally, there is a fair argument that the project may cause a substantial adverse change to a historic resource. Secretary of Interior Standard 9 requires that any new additions to a historic structure must not destroy the “spatial relationships that characterize the property” and any new work must be “differentiated from the old” and “compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.” Rather than being differentiated from the old as required by the standards, the new addition mimics the original architectural features with faux historic features. Moreover, the new addition towers over the original roof form, and is completely out of scale and proportion with

President Aaron Peskin and Supervisors

March 8, 2024

Page 3

the mass of the existing modest home. The addition fails to reflect the property's history as a post-Civil War era home for working class San Franciscans.

The Exemption Determination for this project violates CEQA. The project's potential impacts to historic resources were not adequately identified or evaluated, which constitutes a failure to proceed in the manner required by law. This project, which includes an addition that towers over and mimics the original historic features, substantially impacts the character defining features of this historic 1905 cottage. The Board should therefore reverse the Exemption Determination and direct the Planning Department to conduct further review of potential impacts to historic resources.

Very truly yours,

PATTERSON & O'NEILL, PC



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Brian J. O'Neill  
Ryan J. Patterson



San Francisco Planning

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2024 MAR -8 PM 4:59

Handwritten initials

49 South Van Ness Avenue, Suite 1400 San Francisco, CA 94103

628.652.7600

www.sfplanning.org

### CEQA Exemption Determination

#### PROPERTY INFORMATION/PROJECT DESCRIPTION

<b>Project Address</b>		<b>Block/Lot(s)</b>
72 HARPER ST (ADU)		6652010
<b>Case No.</b>		<b>Permit No.</b>
2023-002706ENV		
<input checked="" type="checkbox"/> <b>Addition/ Alteration</b>	<input type="checkbox"/> <b>Demolition (requires HRE for Category B Building)</b>	<input type="checkbox"/> <b>New Construction</b>
<p><b>Project description for Planning Department approval.</b>          3 story rear addition, convert 1st fl to adu, elevate portion of roof, interior partition changes on all floors, construct excavated rear yard light court, re-build front steps in kind to met egress code, install fire sprinkler system, full seismic upgrade of bldg, new fixtures fitting &amp; finishes throughout.</p>		

#### EXEMPTION TYPE

<b>The project has been determined to be exempt under the California Environmental Quality Act (CEQA).</b>	
<input checked="" type="checkbox"/>	<b>Class 1 - Existing Facilities.</b> (CEQA Guidelines section 15301) Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	<b>Class 3 - New Construction.</b> (CEQA Guidelines section 15303) Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<b>Class 32 - In-Fill Development.</b> (CEQA Guidelines section 15332) New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.
<input type="checkbox"/>	<b>Other</b> _____
<input type="checkbox"/>	<b>Common Sense Exemption (CEQA Guidelines section 15061(b)(3)).</b> It can be seen with certainty that there is no possibility of a significant effect on the environment.

## ENVIRONMENTAL SCREENING ASSESSMENT

### Comments:

Geology and Soils: A preliminary geotechnical report was prepared by Frank Lee & Associates (dated 7/18/2023), confirming that the proposed project is on a site subject to 25 percent slope. The project's structural drawings would be reviewed by the building department, where it would be determined if further geotechnical review and technical reports are required.

Archeological Resources: The department's staff archeologist conducted preliminary archeological review on 6/22/2023 and determined that no CEQA-significant archeological resources are expected within project-affected soils.

Planner Signature: Don Lewis

## PROPERTY STATUS - HISTORIC RESOURCE

### PROPERTY IS ONE OF THE FOLLOWING:

<input type="checkbox"/>	Category A: Known Historical Resource.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age).
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age).

## PROPOSED WORK CHECKLIST

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	<b>Change of use and new construction.</b> Tenant improvements not included.
<input type="checkbox"/>	<b>Regular maintenance or repair</b> to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	<b>Window replacement</b> that meets the Department's <i>Window Replacement Standards</i> .
<input type="checkbox"/>	<b>Garage work.</b> A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	<b>Deck, terrace construction, or fences</b> not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	<b>Mechanical equipment installation</b> that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	<b>Dormer installation</b> that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input checked="" type="checkbox"/>	<b>Addition(s)</b> not visible from any immediately adjacent public right-of-way for 150 feet in each direction; or does not extend vertically beyond the floor level of the top story of the structure, or does not cause the removal of architectural significant roofing features.
<input type="checkbox"/>	<b>Façade or storefront alterations</b> that do not remove, alter, or obscure character -defining features.
<input type="checkbox"/>	<b>Restoration</b> based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input type="checkbox"/>	Project is not listed.
<input checked="" type="checkbox"/>	Project involves scope of work listed above.

## ADVANCED HISTORICAL REVIEW

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	<p><b>Reclassification of property status.</b> (Attach HRER Part I relevant analysis; requires Principal Preservation Planner approval)</p> <p><input type="checkbox"/> Reclassify to Category A</p> <p><input type="checkbox"/> Reclassify to Category C</p> <p><input type="checkbox"/> Lacks Historic Integrity</p> <p><input type="checkbox"/> Lacks Historic Significance</p>
<input type="checkbox"/>	Project involves a <b>known historical resource (CEQA Category A)</b>
<input checked="" type="checkbox"/>	Project does not substantially impact character-defining features of a historic resource (see Comments)
<input type="checkbox"/>	Project is compatible, yet differentiated, with a historic resource.
<input type="checkbox"/>	Project consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties
<b>Note: if ANY box above is checked, a Preservation Planner MUST sign below.</b>	
<input checked="" type="checkbox"/>	<b>Project can proceed with EXEMPTION REVIEW.</b> The project has been reviewed by the Preservation Planner and can proceed with exemption review.
<b>Comments by Preservation Planner:</b>	
Addition visible, but compatible with existing structure. Entry sequence change meets standards and no impacts to potential remaining CDFs.	
<b>Preservation Planner Signature:</b>	Elizabeth Gordon Jonckheer

## EXEMPTION DETERMINATION

<input checked="" type="checkbox"/>	<p><b>No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.</b></p>	
	<p><b>Project Approval Action:</b> Building Permit</p>	<p><b>Signature:</b> Ashley Lindsay 12/14/2023</p>
	<p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the</p>	
	<p>Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at <a href="https://sfplanningqgis.org/pim/">https://sfplanningqgis.org/pim/</a>. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link.</p> <p>Once signed and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the SF Admin Code. Per Chapter 31, an appeal of an exemption determination to the Board of Supervisors shall be filed within 30 days after the Approval Action occurs at a noticed public hearing, or within 30 days after posting on the Planning Department's website a written decision or written notice of the Approval Action, if the approval is not made at a noticed public hearing.</p>	

March 8, 2024

*Re: 72 Harper Street, Block/Lot 6652/010, Case No. 2023-002706ENV  
Appeal of CEQA Determination*

To Whom It May Concern:

We hereby authorize the attorneys of Patterson & O'Neill, PC to file an appeal on our behalf of the environmental determination for Building Permit Application No. 202303163798 for the property at 72 Harper Street.

Signed,

DocuSigned by:

*Krishna Ramamurthi*

7FF2AD1093CE46D

By: Krishna Ramamurthi

DocuSigned by:

*David Garafoli*

EFG41DECB9EE4A0

By: David Garafoli

DocuSigned by:

*Tusi Chowdhury*

EAD3A8D35A1F43F

By: Tusi Chowdhury

# PATTERSON & O'NEILL, PC

235 Montgomery Street, Suite 950  
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March 8, 2024

Office of the Clerk of the Board  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

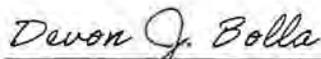
Re: Appeal of CEQA Exemption Determination  
72 Harper Street (Case No. 2023-002706ENV)

Dear Clerk,

Please find enclosed a check in the amount of \$729.00 for the appeal filing fee in the above-referenced matter.

Please be advised that the filing will be submitted electronically by emailing the appeal filing with supporting documents to [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org) and that this payment is being sent prior to the filing.

Sincerely,



Devon J. Bolla  
Paralegal

Encl.

Check in the amount of \$729.00 made payable to the San Francisco Planning Department.

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THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER AND ORIGINAL DOCUMENT SECURITY SCREEN ON BACK WITH PADLOCK SECURITY ICON.



Careful Attorney Services

PO Box 420475  
San Francisco CA 94142  
415-865-5464

90-78/1211

10475

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DATE 3/8/24

\$ 729.<sup>00</sup>

Seven hundred twenty nine exactly DOLLARS

Bank of the West  
295 Bush St SF CA 94104

Case# 2023-002706ENV

MEMO Appeal of CEDA Exemptions

341 7174



Void after 90 Days  
[Signature]  
AUTHORIZED SIGNATURE

Security features included. Details on back.

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Brian O'Neill; "dbudd@gastarchitects.com"; 72harperst@gmail.com; bmansouri@buchalter.com](#)  
**Cc:** [PEARSON, ANNE \(CAT\); JENSEN, KRISTEN \(CAT\); YANG, AUSTIN \(CAT\); RUIZ-ESQUIDE, ANDREA \(CAT\); Hillis, Rich \(CPC\); Gibson, Lisa \(CPC\); Jain, Devyani \(CPC\); Dwyer, Debra \(CPC\); Navarrete, Joy \(CPC\); Lewis, Don \(CPC\); Switzky, Joshua \(CPC\); Teague, Corey \(CPC\); Tam, Tina \(CPC\); Sider, Dan \(CPC\); Starr, Aaron \(CPC\); Watty, Elizabeth \(CPC\); Ionin, Jonas \(CPC\); Lindsay, Ashley \(CPC\); Winslow, David \(CPC\); Rosenberg, Julie \(BOA\); Longaway, Alec \(BOA\); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela \(BOS\); Somera, Alisa \(BOS\); Mchugh, Eileen \(BOS\); BOS Legislation, \(BOS\)](#)  
**Subject:** PLANNNG DEPARTMENT RESPONSE: Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing Date: April 23, 2024  
**Date:** Monday, April 15, 2024 1:00:56 PM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board is in receipt of a response from the Planning Department, for the CEQA Exemption Determination for the proposed project at 72 Harper Street.

[Planning Department Response - April 15, 2024](#)

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

[Board of Supervisors File No. 240246](#)

Regards,  
**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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**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.



# CATEGORICAL EXEMPTION APPEAL

## 72 Harper Street

*Date:* April 15, 2024  
*To:* Angela Calvillo, Clerk of the Board of Supervisors  
*From:* Lisa Gibson, Environmental Review Officer – (628) 652-7571  
Ryan Shum – ryan.shum@sfgov.org, (628) 652-7542

*RE:* Board File No. [240246](#)  
Planning Case No. 2023-002706ENV and 2023-002706APL  
Appeal of Categorical Exemption for 72 Harper Street

*Hearing Date:* April 23, 2024  
*Attachment(s):* n/a

*Project Sponsor:* Dennis Budd, Gast Architects (dbudd@gastarchitects.com, 415-828-8648)  
*Appellant:* Brian J. O’Neill and Ryan J. Patterson of Patterson & O’Neill, PC on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli

## Introduction

This memorandum is a response to the March 8, 2024, letter of appeal to the board of supervisors (the board) regarding the planning department’s (the department’s) issuance of a categorical exemption under the California Environmental Quality Act (CEQA) determination for the proposed 72 Harper Street project.

The department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the project on December 14, 2023, finding that the proposed project is exempt from CEQA as a Class 1-Existing Facilities categorical exemption.

The decision before the board is whether to uphold the department’s decision to issue a categorical exemption and deny the appeal, or to overturn the department’s decision to issue a categorical exemption and return the project to the department staff for additional environmental review.

On Friday, April 12, 2024, the project sponsors submitted supplemental letters on the appeal. Subsequently, after the close of business hours on Friday, April 12, 2024, the appellants filed supplemental materials regarding the appeal. The department reviewed the supplemental materials from the project sponsors and the appellants, and determined that the new materials do not contain any new substantive information that would alter the department’s decision to issue a category exemption for the proposed project.

## Site Description and Existing Use

The 4,338 square-foot project site consists of one lot (Block 6652, Lot 010) located within the Glen Park neighborhood of San Francisco. The site is on the block bounded by 30th Street to the north, Harper Street to the east, Laidley Street to the south, and Noe Street to the west.

The project site is occupied by an existing three-story (two stories-over-basement) single-family dwelling. The site is approximately 40 feet wide by 125 feet deep and upsloped from west to east and surrounded by other single-family residential buildings. The building pattern of this block of Harper Street consists of two- to three-story houses set back from the street with gabled roof forms. The rear walls of the buildings on the block are likewise consistent except at the south end of the block where the angular street results in a stepped/staggered siting of buildings. This building pattern provides for large front setbacks and a corresponding staggering of rear walls at the south end of the mid-block open space. The site is within a 40-X Height and Bulk District and a RH-1 Zoning District. Additionally, the site is within the Central Neighborhoods Large Residence Special Use District (SUD). The project site has a historic resource status of B – Unknown/Age Eligible.

## Project Description

The 72 Harper Street project proposes interior and exterior modifications to the existing single-family dwelling on-site. The project would convert the existing unoccupied basement level to a one-bedroom, one-bathroom accessory dwelling unit (ADU), construct a three-story rear addition attached to the existing single-family dwelling to a maximum height of approximately 30 feet, elevate portions of the existing roof to add a bedroom and bathroom to the primary unit, make seismic improvements to the building, and rebuild the existing front stairs in-kind to meet current egress requirements. Additionally, the project proposes interior changes, including changes to interior partitioning on all floors, installation of a fire-sprinkler system, new skylights and light wells, and upgrades to mechanical, electrical, and plumbing systems on-site.

The existing dwelling is 3,183 square feet in area with 323 square feet of parking. The proposed project would add 2,156 net new square feet of total area for a total area of 4,274 square feet with 352 square feet of parking, of which 3,033 square feet would be the primary residential unit and 1,048 square feet would be the ADU.<sup>1</sup> Construction of the proposed project is estimated to be 15 months and would require approximately 148 cubic yards of soil excavation over an approximately 1,198 square-foot area to a maximum depth of approximately 12 feet below ground surface for foundation work.

<sup>1</sup> Note: Calculation for net new and total area include the following area types: Primary unit, ADU, unconditioned areas, and mechanical areas.

## Background

On March 16, 2023, Dennis Budd (hereinafter project sponsor) filed a building permit and project application with the planning department. The 30-day building permit notification under Planning Code Section 311 ended on November 11, 2023. On December 14, 2023, the department determined that the project was categorically exempt under CEQA Class 1 – Existing Facilities, and that no further environmental review was required. The project received four Discretionary Review requests and the Planning Commission’s 20-day Notice occurred from January 20, 2024, to February 8, 2024. At the Planning Commission Discretionary Review hearing on February 8, 2024, planning department staff supported the proposed project as being code complying and meeting the Residential Design Guidelines and Preservation criteria. On February 8, 2024, the Planning Commission did not find exceptional or extraordinary circumstances related to the project and did not take discretionary review on the project (see further discussion under Response 2 below). The department approved the permit on February 23, 2024. The permit is still under review with the other city departments.

On March 8, 2024, Brian O’Neill and Ryan Patterson of Patterson & O’Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli (appellants) filed an appeal of the categorical exemption determination.

## CEQA Guidelines

### Categorical Exemptions

CEQA section 21084 and CEQA Guidelines sections 15301 through 15333 list classes of projects that have been determined to not have a significant effect on the environment and are exempt from further environmental review. In accordance with CEQA Guidelines section 15301 (Existing Facilities), or Class 1 exemptions, projects that involve negligible or no expansion of existing facilities are categorically exempt from CEQA. Such a project could include, but is not limited to, additions to existing structures totaling less than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and if the area in which the project is located is not environmentally sensitive.

In determining the significance of environmental effects caused by a project, CEQA Guidelines section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines section 15064(f)(5) offers the following guidance: “Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts.”

## Historical Resources

Projects that may cause a substantial adverse change in the significance of a historical resource cannot be exempted from CEQA (CEQA Sections 21084(e) and 21084.1; CEQA Guidelines Section 15300.2(f)). Per CEQA section 21084.1, a historical resource for the purposes of CEQA includes, among other things, a historical resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources, as well as a resource included in a local register of historical resources or determined to be a historic resource by the lead agency. As stated in CEQA Section 21084.1 and CEQA Guidelines Section 15064.5(b), a project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. A substantial adverse change in the significance of an historical resource is defined as follows:

- (1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.
- (2) The significance of an historical resource is materially impaired when a project: (A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or (B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or (C) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.
- (3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Secretary Standards, 1995)<sup>2</sup>, Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

## Planning Department Responses

The concerns raised in the appeal letter are addressed in the responses below.

<sup>2</sup> The Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary Standards) are federal standards used in the evaluation of projects proposed for historic properties in accordance with federal regulations. The Secretary Standards are used in making decisions about the identification, evaluation, registration, and treatment of historic properties. The list of 10 Rehabilitation Standards, published as the Secretary of the Interior's Standards, is aimed at retaining and preserving those features and materials that are important in defining the historic character of a resource. (Adapted from San Francisco Planning Department Bulletin No. 17.)  
[https://sfplanning.org/sites/default/files/documents/preserv/bulletins/HistPres\\_Bulletin\\_17.PDF](https://sfplanning.org/sites/default/files/documents/preserv/bulletins/HistPres_Bulletin_17.PDF)

**Response 1: The department properly determined that the project is categorically exempt under CEQA Class 1 – Existing Facilities in accordance with CEQA Guidelines section 15301.**

Pursuant to CEQA Guidelines section 15301, projects that involve negligible or no expansion of existing facilities may qualify for a Class 1 categorical exemption. Examples of such projects include, but are not limited to, additions of 10,000 square feet or less to existing structures, provided that the project is in an area where public services and facilities are available, and the area is not environmentally sensitive. As described above, the project proposes additions and modifications totaling less than 10,000 net new square feet to an existing single-family dwelling.

Furthermore, the project does not meet any of the exceptions described in CEQA Guidelines section 15300.2 that would make the project ineligible for a categorical exemption. The project site is occupied by a single-family dwelling in an urban residential neighborhood with other single-family dwellings and is not in an environmentally sensitive area. The project site is not on a hazardous waste site, would not damage a scenic highway, and would not result in off-site cumulative impacts or significant impacts. The project site also does not contain a historic resource and there are no historic resources in the immediate vicinity of the project site, as described further in Response 2 below. For these reasons, the department determined that the project is categorically exempt under CEQA and eligible for a Class 1 – Existing Facilities exemption in accordance with CEQA Guidelines section 15301.

**Response 2: The Department reviewed the project scope and appropriately determined that the proposed changes would not have the potential to result in any significant impacts to historic resources. The proposed scope of work does not materially impair potential character defining features associated with the building and meets the Secretary of the Interior’s Standards for Treatment of Historic Properties.**

As documented in the issued categorical exemption, the department determined that the proposed project met the Secretary of the Interior’s Standards and would not cause a material impairment to the subject building or surroundings. According to the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Standards), rehabilitation is the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.<sup>3</sup> For purposes of historic preservation and CEQA, the environment is that which is visible or accessible by the public. In the case of the subject building, the environment is that which is visible from the public right of way (e.g. the street). Therefore, when evaluating potential impacts of the proposed project, department staff considered potential impacts to those portions of the building that are visible from the street. Similarly, character-defining features are the elements, materials, spaces, and finishes that contribute to the overall visual character of a building as a historic resource.

<sup>3</sup> U.S Department of the Interior National Park Service. (2017). The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings. Washington, D.C.: Technical Preservation Services

The proposed project scope is limited to a modest modification to the front steps and a vertical addition with a gable roof set back 19 feet and 5 inches from the front building wall. As noted in the categorical exemption, the department found the proposed work to be consistent with the Standards, because no potential character-defining features are proposed to be removed, and new elements would be compatible with the existing building. Staff appropriately determined that the proposed scope of work would not alter visible features associated with the 1905 building, including the gable roof form, wood windows, wood ornamentation, and mix of wood siding. Nor would the scope of work diminish the visibility of these elements. The appellants also contend that the proposed vertical addition is not adequately set back. However, the addition is setback 4 feet and 5 inches further than the typical 15 feet from the front building wall and the upper floor addition would be setback 19 feet and 5 inches from the front façade, thereby maintaining the gable roof form of the existing building. The existing building extends approximately 54 feet from an irregular (triangular) front yard off of Harper Street. The building is set back approximately 1.5 to 27 feet along Harper Street and the proposed vertical addition is set back a further 19 feet and 5 inches from the existing front façade. Furthermore, based on the submitted sightline study for the project, the proposed vertical addition is sufficiently set back from the front façade so as to not visually or physically alter the overall form or massing of the existing building. Moreover, the addition also does not intrude into the mid-block open space. Therefore, the department found that the proposed project would not alter potential character defining features, would not cause a material impairment to the subject building or surroundings, and is categorically exempt.<sup>4</sup>

In addition to the CEQA review process, the proposed project underwent the department's design review process, which includes a review pursuant to the adopted Residential Design Guidelines. The Residential Design Guidelines are intended to result in building designs that are compatible with the patterns of existing context, such that a contemporary building can fit aesthetically with the context of older buildings. In evaluating the project's conformance with applicable design guidelines, department staff determined that the massing, composition, materials, proportions, and details of the proposed addition to 72 Harper Street would be consistent with and compatible with the other buildings in the surrounding neighborhood. The Planning Commission concurred with staff findings at a public hearing on February 2, 2024, when the Commission voted unanimously against four discretionary review requests against the project.<sup>5</sup>

**Response 3: A Historic Resource Evaluation was not necessary to evaluate potential impacts to historic resources.**

The appellants assert that an evaluation of the property was necessary to determine whether a historic resource is present. However, a historic resource evaluation of a property is not necessary for all proposed projects. The department requests an evaluation of a property when a proposed scope of work would significantly alter publicly visible portions of a building. The department does not conduct extraneous environmental review when a project would not materially impair features of a building that are part of the environment. Therefore, although the project sponsor submitted a historic resource evaluation document, the department determined that such analysis was not required in the first place to evaluate whether the proposed work would materially impair a resource.

<sup>4</sup> For purposes of review of Queen Anne characteristics, please see the Victorian Era Styles Context Statement (1870-1910) (Adopted 2022) at <https://sfplanning.org/project/citywide-historic-context-statement#completed>, starting on Page 22.

<sup>5</sup> See Case No.'s 20203-002706DRP, 20203-002706DRP02, 20203-002706DRP-03, and 20203-002706DRP-04 available on PIM: <https://sfplanninggis.org/PIM/>

As noted above in Response 2, the proposed project would not alter those features which help to identify the subject building as a 1905 Queen Anne style cottage. For example, the department's Victorian Era Styles Context Statement (1870-1910) that was adopted in 2022 lists potential character-defining features for Queen Anne Cottages that include (but are not limited to): wood construction, gable-front roofs for rowhouses and cottages (complex roof shapes for detached, single family houses: front-gabled or hipped roofs with cross gables, towers, and/or turrets), towers, rounded, square, or octagonal, full-height angled bay windows, machine-made wooden ornamentation (such as scroll-sawn ornament (ex. brackets), bargeboards, and floral and sunburst patterns) and a variety of detailing styles.<sup>6</sup> Under the Statement of Significance, the Context Statement states that significant examples of Queen Anne architecture typically display a full expression of the style, drawing from the character-defining features, and finds that significance is also impacted by unique or rare architectural massing, as well as exuberant displays of ornamentation. In this case, the proposed scope of work would maintain the street-visible portions of the building and detailing, would not constitute a significant alteration to a front facade and the setback of the vertical addition would be substantial enough such that the historic roof form would be retained. Therefore, because the project would not alter those visible features which could have the potential to be identified as character-defining as noted above, and the proposed work could be removed in the future without detriment to the extant building features, a historic resource evaluation was not necessary.

The appellants also erroneously assert that the categorical exemption prepared by department determined "that the existing building qualifies as a historic resource." This is incorrect. The department did not determine that the subject building is a historic resource. The categorical exemption clearly states that the subject building is a "Category B: Potential Historical Resource (over 45 years of age)". The CEQA exemption determination includes a section where the department can update, or reclassify, the historical status of the building to an A (known historic resource) or C (no historic resource); however, this section of the categorical exemption section is blank because it is not required to be completed. Not all projects that are classified as Category B need to be reclassified as an A or C if the project does not propose changes to potentially character defining features. As discussed above, a historic resource evaluation was not necessary and, therefore, it was also not necessary to reclassify the building and/or make a formal determination of the building's historic status.

Similarly, the appellants mistakenly assert that the "project sponsor acknowledged that [the] existing home is a historic resource." With regards to this assertion, the historical documentation provided by the project sponsor did not include a formal evaluation arguing whether the subject building is or is not a historic resource. Instead, the document provided by the project sponsor included basic building information, including permit history, photographs, and a list of past owners and occupants. The appellants have not presented any information to support their assertion that the proposed project would have an adverse effect on any potential character defining features of the subject property such that there could be a significant impact to a historic resource.

<sup>6</sup> For purposes of review of Queen Anne characteristics, please see the Victorian Era Styles Context Statement (1870-1910) (Adopted 2022) at <https://sfplanning.org/project/citywide-historic-context-statement#completed>, starting on Page 22.

**Response 4: The evaluation of impacts to a potential historic district was not necessary because the proposed project met the Secretary of the Interior’s Standards for Treatment of Historic Properties.**

The appellants do not provide a fair argument based on substantial evidence that the proposed project would result in the inability of a potential historic district in the vicinity of the project to express its historical significance. If a project is found to meet the Standards, then further analysis of potential impacts to a potential historic district is not warranted. This is because the proposed addition does not remove or alter those features that would likely be associated with a potential district, specifically, features visible from the public right of way. The scope of work proposed by the project would alter 72 Harper Street in an architecturally compatible manner that meets the Secretary Standards. Ultimately, the proposed alteration of one building, particularly if those proposed building alterations meet the Secretary Standards, does not meet the threshold for a significant impact to a potential historic district.

Furthermore, previous evaluations of nearby properties in the vicinity of the subject property did not identify the presence of a historic district. For example, a historic evaluation for a nearby property, 76 Harper Street (case no. 2023-004270GEN), concluded that there did not appear to be a “significant concentration of historically or aesthetically unified buildings such that it would rise to the level of an eligible historic district.” This conclusion is further supported by additional evaluations conducted for other nearby properties, including 105 Laidley Street (case no. 2015-006770ENV), 1783 Noe Street (2014.1079E), 278 Randall Street (case no. 2020-000199ENV), and 279 Randall Street (2021-010580GEN), all of which reached conclusions similar to the one in the 76 Harper Street (case no. 2023-004270GEN) evaluation. As the department may consider past evaluations, records, and available documentation when making a determination, it is fair to conclude that a proposed project that would meet the Standards would not materially impair the surrounding area.

The department appropriately evaluated potential impacts and adequately determined that the proposed work would not impact any potential historic resources.

## **Conclusion**

The department has determined that the proposed project is categorically exempt from environmental review under CEQA on the basis that: (1) the project meets the definition of one or more of the classes of projects that the Secretary of Resources has found do not have a significant effect on the environment, and (2) none of the exceptions specified in CEQA Guidelines section 15300.2 prohibiting the use of a categorical exemption are applicable to the project. The appellants have not demonstrated that the department’s determination is not supported by substantial evidence in the record.

For the reasons stated above and in the December 14, 2023 CEQA categorical exemption determination, the CEQA determination complies with the requirements of CEQA and the project is appropriately exempt from environmental review pursuant to the cited exemption. The department therefore respectfully recommends that the board uphold the CEQA categorical exemption determination and deny the appeal of the CEQA determination.

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Brian O'Neill; "dbudd@gastarchitects.com"; 72harperst@gmail.com; bmansouri@buchalter.com](#)  
**Cc:** [PEARSON, ANNE \(CAT\); JENSEN, KRISTEN \(CAT\); YANG, AUSTIN \(CAT\); RUIZ-ESQUIDE, ANDREA \(CAT\); Hillis, Rich \(CPC\); Gibson, Lisa \(CPC\); Jain, Devyani \(CPC\); Dwyer, Debra \(CPC\); Navarrete, Joy \(CPC\); Lewis, Don \(CPC\); Switzky, Joshua \(CPC\); Teague, Corey \(CPC\); Tam, Tina \(CPC\); Sider, Dan \(CPC\); Starr, Aaron \(CPC\); Watty, Elizabeth \(CPC\); Ionin, Jonas \(CPC\); Lindsay, Ashley \(CPC\); Winslow, David \(CPC\); Rosenberg, Julie \(BOA\); Longaway, Alec \(BOA\); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela \(BOS\); Somera, Alisa \(BOS\); Mchugh, Eileen \(BOS\); BOS Legislation, \(BOS\)](#)  
**Subject:** APPELLANT SUPPLEMENTAL BRIEF: Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing Date: April 23, 2024  
**Date:** Friday, April 12, 2024 5:15:24 PM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board is in receipt of a supplemental brief from appellant, Brian O'Neill of Patterson & O'Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli, for the CEQA Exemption Determination for the proposed project at 72 Harper Street.

[Appellant Supplemental Brief - April 12, 2024](#)

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

[Board of Supervisors File No. 240246](#)

Regards,  
**Lisa Lew**  
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**(VIRTUAL APPOINTMENTS)** To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

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# PATTERSON & O'NEILL, PC

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April 12, 2024

## VIA EMAIL

President Aaron Peskin and Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Re: Appeal of CEQA Exemption Determination  
72 Harper Street (Case No. 2023-002706APL)

Dear President Peskin and Supervisors:

Our office represents appellants Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli, owners of neighboring properties adjacent to the proposed project at 72 Harper Street. The project site is developed with a modest two-story over garage Queen Anne Cottage built in 1905 that is approximately 2,096 square feet. The applicant proposes to expand the existing building with a vertical addition measuring 44 feet from the curb, which will tower over the existing façade and mimic the historical gable roof design.

The Planning Department issued an Exemption Determination for the project at 72 Harper Street (Case No. 2020-005176ENV). The California Environmental Quality Act (“CEQA”) Guidelines state that an Exemption “*shall not be used* for a project which may cause a substantial adverse change in the significance of a historical resource.” (See CEQA Guidelines § 15300.2(f).) Here, the Planning Department failed to analyze whether the project will have a substantial adverse impact on the existing 1905 Queen Anne Cottage. Architectural Historian Joseph van den Berg of Garavaglia Architecture found that the “no actual analysis on the historic significance and integrity of the proposed property” was conducted and that “the City did not know what historic features the property had when they approved this proposal.” (See Exhibit A.) Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the “omission of required information constitutes a failure to proceed in the manner required by law.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.)

### The Property is a Presumptive Historic Resource

The Project Sponsors have consistently conceded that the existing structure is a historic resource for purposes of CEQA, claiming that the design is “appropriate for an addition to a historic building.” (See Exhibit B.) Realizing that the Planning Department failed to adequately analyze the potential impacts to a historic resource, the Sponsors have now done an about face and erroneously claim that the 1905 Queen Anne Cottage is not a historic resource. The Sponsors also incorrectly claim that the existing building is not a presumptive historic resource. This is simply wrong.

The City has designated the property as a “Category B” age-eligible potential historic resource. San Francisco Preservation Bulletin Number 16 states that for any Category B property, “further consultation and review *will be required* for evaluation whether a property is an historical resource for the purposes of CEQA.” In other words, the property is a presumptive historic resource.

CEQA requires that the City must “treat any such resource as significant *unless the preponderance of evidence demonstrates that it is not historically or culturally significant.*” (Guidelines, § 15064.5(a)(2).); *Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1054.) The Sponsors do not point to any evidence at all to overcome the presumption that the property is a historic resource.

The Sponsors argue that “the City Planning Department did not find that the Property was historical resource,” a statement that is not supported by any actual analysis from the Planning Department. This is unsurprising, because the Planning Department *did not conduct an analysis* to determine whether the property is a historic resource. The Historic Resource Evaluation (“HRE”) for the project simply detailed the history of the property and described the existing structure but contained no analysis whatsoever. Architectural Historian Joseph van den Berg found that “no actual analysis on the historic significance and integrity of the property was offered by the HRE. The HRE itself goes through great lengths to document the building, but none to actually evaluate it.” (Exhibit A.)

In short, the City’s preservation guidelines deem the property a presumptive historic resource, and there was no evaluation to overcome that presumption. Thus, CEQA requires the City to treat the property as a significant historic resource.

### **The Planning Department Failed to Evaluate the Potential Impacts to a Historic Resource**

Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the “omission of required information constitutes a failure to proceed in the manner required by law.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.) Procedural failures must be overturned in order to “scrupulously enforce all legislatively mandated CEQA requirements.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) An exemption shall not be used if there is a “fair argument” that the proposed project may cause a substantial adverse change in the significance of an historical resource. (*See Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1072.) The Exemption Determination in this case is not legally adequate because the Planning Department failed to adequately analyze the potential impacts to historic resources, and there is a fair argument that the project may cause a substantial adverse change to a historic resource.

In this case, the Planning Department did not follow its own procedures to evaluating potential impacts to a historic resource. Architectural Historian Joseph van den Berg explained that “Normally, HREs outline the Character-Defining Features (CDFs) of the property to know important features of the property need to be conserved for the property to maintain its historic character. The HRE does not do that, meaning the City did not know what historic features the property had when they approved this proposal.” (See Exhibit A.) In other words, the HRE for

this project is wholly inadequate, and even a historic architectural expert could not glean from the HRE what the historic features of the property are, nor whether the proposed project protects those historic features.

Mr. van den Berg explained that San Francisco's Victorian Era Styles context statement identifies the gable roof and massing of Queen Anne buildings, such as this one, as historically significant features. Mr. van den Berg conducted an analysis of the proposed project for consistency with the Secretary of the Interior's Standards for Rehabilitation, and found that the project is inconsistent with several standards. He concluded that the "addition of the 3rd floor would have the biggest impact due to drastically changing the building size and story count, running contrary to the City of San Francisco's own policy." (Exhibit A.) Mr. van den Berg also noted that the addition fails to differentiate from the existing historic structure, and that the "new roof design mimics the old roof in its peaked gable roof design."

After reviewing the proposed project, Mr. van den Berg concluded that the proposal will severely impact the historic and architectural integrity of the Queen Anne Cottage at 72 Harper St. This analysis was the first and only historic evaluation of the project, and therefore there is a fair argument that the project will have a substantial adverse impact on a historic resource and an exemption cannot be issued. (See CEQA Guidelines § 15064.5.)

### **Conclusion**

The Exemption Determination for this project violates CEQA. The project's potential impacts to historic resources were not adequately identified or evaluated, which the project sponsor concedes. Instead, the Sponsor tries to argue that the lack of any analysis is because the property does not constitute a historic resource. This is simply false. The City's own guidelines create a presumption that the project is a historic resource, and there is no evidence to the contrary. This project, which includes an addition that towers over and mimics the original historic features, substantially impacts the character defining features of this historic 1905 cottage. The Board should therefore reverse the Exemption Determination and direct the Planning Department to conduct further review of potential impacts to historic resources.

Very truly yours,

PATTERSON & O'NEILL, PC



---

Brian J. O'Neill  
Ryan J. Patterson

# **Exhibit A**



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## MEMORANDUM

**Date:** April 11, 2024

**To:** David Garofoli, Owner  
City of San Francisco

**From:** Joseph van den Berg; Architectural Historian

**Project:** Park-McDonald Residence

**Re:** 72 Harper St

### INTRODUCTION

Garavaglia Architecture, Inc. (GA) was retained by David Garofoli to provide historic preservation consulting services related to 72 Harper St. This report was requested in connection with 72 Harper St and the city of San Francisco. The following memo includes an overview of the property, an overview of the process the city took with the building, and how that process complies and does not comply with the Secretary of the Interior's Standards for Rehabilitation.

### OVERVIEW

The following comes from the 2024 Historic Resource Determination (HRE) for 72 Harper St: 72 Harper St is a 1-1/2-story late Queen Anne Cottage built in 1905. The original lot... extended from Noe to Harper with an address of 1743 Noe (later re-addressed to 1783 Noe St). The lot was owned by Rudolf Bischofberger, a Swiss-born Mechanical Engineer. While he and his wife Johanna lived in the house at 1743/1783 Noe, he designed the house at 72 Harper St. and split the lot. His original plans and elevation were found in the house by the current owners... The street façade faces east with a triangular front setback and driveway intersecting Harper St, which runs at ~45 degrees to the house. The inset front entry porch and centered front door sits between two large front bays. The bays have three double-hung windows each and applied ionic pilasters framing each window unit. The projecting ornately detailed attic floor, gable-end roof has two centered double-hung windows.<sup>1</sup>

### ARCHITECTURAL DESCRIPTION

The following comes from the 2024 Historic Resource Determination (HRE) for 72 Harper St: The north portion of the front setback is occupied by wood entry stairs, a concrete landing (which does not appear on the original elevation drawing), and concrete stairs

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<sup>1</sup> "72 Harper St Historic Resource Determination: Supplemental Application", *San Francisco Planning Department*,

with planter beds lining its left and right edges that run from the sidewalk up to the base of the wooden stairs. The original design intention for the intermediate entry stair landing was an open balustrade facing the street that extended the language of ball finials on newel posts. The garage level of the house was modified in 1917 by Rudolf Bischofberger when the landscape was re-graded and an auto garage was constructed.

The garage level and first floor levels facing the street are clad in 3" exposure painted wood siding. The attic floor is sheathed in a commonly found painted wood panel siding with a decorative circular pattern. The bay detailing features a plain wooden base with banded moldings at the window sill level, and window heads that almost touch the porch ceiling. An entablature defining the bottom of the attic gable projects out to the face of the bay windows. It consists of a very thin architrave, a generous unbroken frieze (larger than what appears on the original plans), and a thin cornice with dentil moldings that return at both ends of the facade to the face of the indented bay. Decorative brackets visually support the lower corners of the roof volume. A painted wood fan (triangular starburst) occupies the peak of the gable.

The front property line meets the street at an angle that produces a triangular shape. The site also slopes downwards to the north. From south to north, the front setback includes a concrete driveway for the garage opening (see above), a triangular planter bed beneath and in front of the front entry stairs, concrete stairs leading up to the ground level below the main entry (see below left), and a planter bed between the subject property and the adjacent property to the north.<sup>2</sup>

### **CITY'S PROCESS**

While replete with architectural descriptions and pictures, no actual analysis on the historic significance and integrity of the property was offered by the HRE. The HRE itself goes through great lengths to document the building, but none to actually evaluate it.

After the HRE, the City of San Francisco granted the building a categorical exemption for the building. A categorical exemption is a process by which the City states the subject building is not subject to review under the California Environmental Quality Act (CEQA). This is only something the City does if they have verified the proposal or proposed work will not negatively impact the historic significance of the building or the surrounding area. Normally, HREs outline the Character-Defining Features (CDFs) of the property to know important features of the property need to be conserved for the property to maintain its historic character. The HRE does not do that, meaning the City did not know what historic features the property had when they approved this proposal.

### **PROJECT PROPOSAL AND DESCRIPTION**

The scope of work that affects the building exterior includes the following:

1. 3-story rear addition to existing structure, creating a setback
2. Elevate portion of the roof to add 1 bedroom and 1 bathroom and remove the dormer
3. Construct excavated rear-yard light court and deck on grade
4. Rebuild front stairs to meet egress requirements
5. Install new doors, windows, and skylights

The project includes a third story addition, which is the primary modification. This proposes to extend the building beyond its current built envelope and also change the front stair entry, as seen in figure 1.

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<sup>2</sup> Ibid, Appendix II.

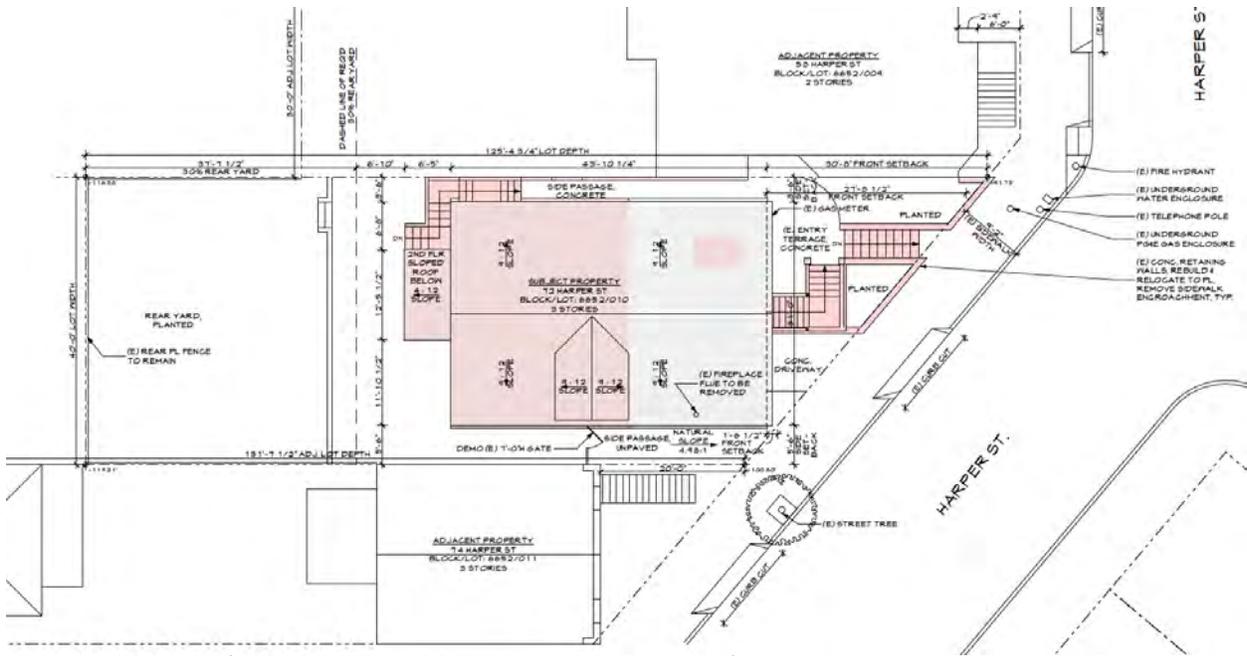


Figure 1. Plans of the Park McDonald House, red=proposed changes

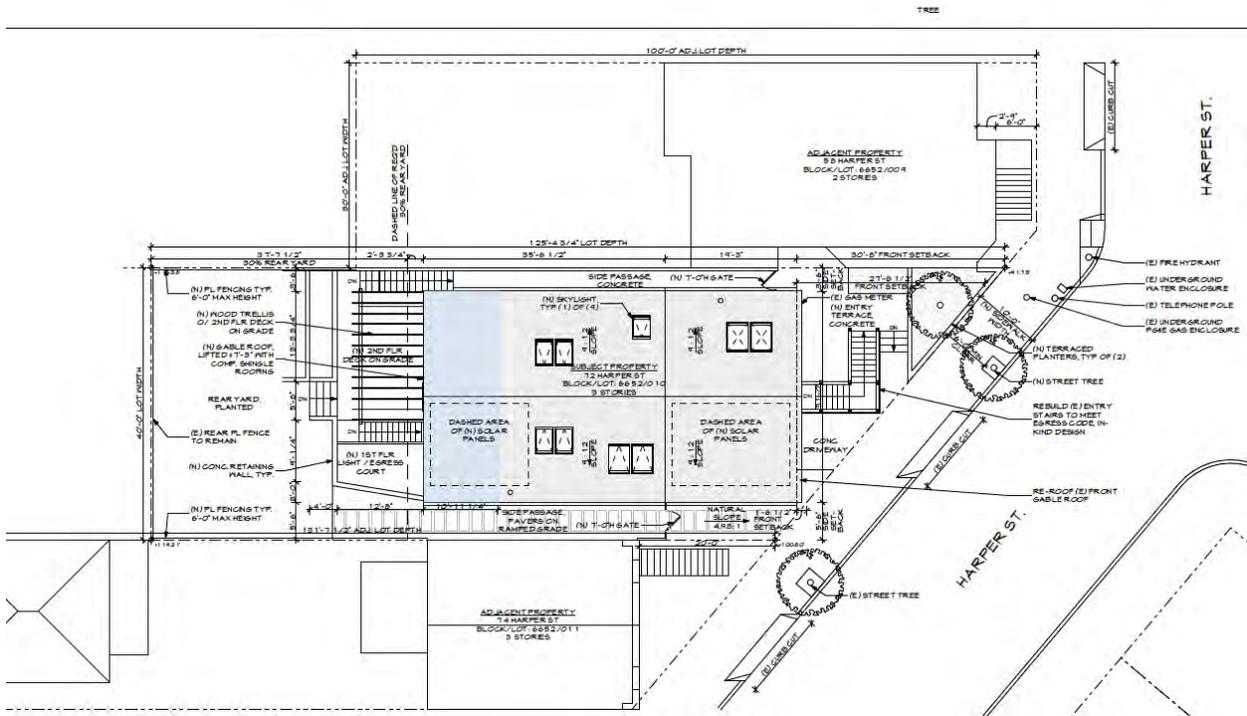


Figure 2. Planned fenestration and skylight changes, 72 Harper St.



EXISTING FRONT VIEW



PROPOSED FRONT VIEW

Figure 3. Current house vs. proposed changes

## CHARACTER DEFINING FEATURES

San Francisco's Victorian Era Styles context statement describes historically significant Queen Anne buildings:

**Queen Anne architecture used abundant ornament, wood siding, shingles, plasterwork, and complex building forms to avoid plain wall surfaces and create continuous visual interest.** Mass produced ornament was critical to the style, providing readily available and affordable decoration for porches, cutaway bays, wall surfaces, and gable ends. Turned elements, fretwork, spindlework, and classical detailing may all be used to enliven a façade. **The Queen Anne style changed the dominant housing form of San Francisco, using gable-front roofs on narrow, rectangular lots** and complex roof shapes and house forms for larger lots and detached buildings. Significant examples of Queen Anne architecture typically display a full expression of the style...

**Significance is also impacted by unique or rare architectural massing, as well as exuberant displays of ornamentation.** Versions of Queen Anne architecture that incorporate some features of the style, yet display minimal ornamentation or standard form and massing would not qualify as individually architecturally significant. Groupings of multiple restrained Queen Anne and/or Victorian Era buildings, concentrated in one geographic area and retaining integrity, may constitute an architecturally significant district.<sup>3</sup>

From the above section, it can be inferred that the complex building forms, mass produced ornaments (particularly porch decorations- spindlework, fretwork, turned elements, etc) are character-defining features. The gable roof also qualifies as a character-defining feature, and any attempt to change the roof shape, style, or massing greatly affects the historic significance.

A Queen Anne Cottage has its own distinct architectural styling, and is noticeably a bit plainer than regular Queen Anne buildings. In this case, they tend to be one/two stories, where Queen Anne houses can be much larger too. Queen Anne Cottages tend to be square with a gable, and have symmetrical rooms without a central hallway, unlike Queen Anne buildings, which delight in their asymmetry. For Queen Anne buildings, the chimney tends to be located in the interior, rather than displayed on the exterior.

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<sup>3</sup> Anne Greening, edited by Elena Moore, "Victorian Era Styles Historic Context Statement", *San Francisco Planning*, 2022, 26.



Figure 4. 72 Harper St, facade, courtesy of Google maps

### IMPACT ON HISTORIC INTEGRITY

The building is notable for its pre-1906 Queen Anne cottage style architecture. The Victorian era architecture is notable for its adherence to the Queen Anne Cottage style architecture during the period of significance for Victorian era architecture established in the San Francisco Victorian Era Styles historic context statement- 1885-1910, with extra emphasis on 1885-1905 buildings.<sup>4</sup>

Below is a description of the potential impacts of each exterior change on the building's integrity and potential significance:

1. 3rd-story rear addition (ADU) to existing structure
  - a. Extends the height of the building beyond the traditional one or two stories of Queen Anne cottages, a feature nonexistent in the Queen Anne Cottage style
2. Elevate portion of the roof to add 1 bedroom and 1 bathroom, removing the dormer
  - a. Disrupt the important symmetry of the front gable

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<sup>4</sup> Greening, 26.

- b. Removes dormer, negatively affecting integrity of design
3. Construct excavated rear-yard light court and deck on grade
  - a. No change in historic integrity
4. Rebuild Front Stairs to meet egress requirement
  - a. Removes historic material on front facade, creating a false sense of historic development
5. New doors, windows, and skylights
  - a. Destruction of historic material. Fenestration is vital to maintaining historic integrity, replacement of all windows and doors throughout destroys integrity of materials and

### **THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION**

In order to receive a categorical exemption, historic resources need to comply with the Secretary of the Interior's Standards for Rehabilitation. The proposed work to 72 Harper Street will be evaluated on how well it meets those standards. The standards are below:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Of the above, the project relates most to standards 3, 5, 6, 9, and 10.

**Standard 3** - The project conflicts with standard 3 because the project creates a false sense of historical development by increasing the height of the building. The Queen Anne Cottage style rarely reached above a 2<sup>nd</sup> story, and doing so here creates the impression that it did. Furthermore, The Queen Anne Cottage style never utilized setbacks. The proposed changes thereby indicate a stylistic trend for this type of building that never existed. Furthermore, the

style of the proposed changes matches the historic material, all of which creates a false sense of historic development.

**Standard 5** - The proposed work changes some of the character-defining features, which adversely affects the building's historic significance. Queen Anne Cottages, as part of the broader Queen Anne style, are characterized by the machine-made stylistic elements. The removal of these elements would conflict with standard 5.

**Standard 6** - The proposal conflicts with standard six, because many historic features would be replaced in the proposal. This includes the removal of the dormer, some siding, and windows/door changes.

**Standard 9** – The proposed removal of historic material in regards to the stairs and fenestration pattern and the design of the addition both conflict with standard 9. The setback addition changes the spatial relationship that characterizes the property because Queen Anne Cottage buildings never exceeded two stories no utilized setbacks. This proposed setback also runs counter to San Francisco's own policy of additions to historic buildings not exceeding the height of the historic building. Standard 9 dictates the newer design needs to be "differentiated with the old," but the new roof design mimics the old roof in its peaked gable roof design.

**Standard 10** – The addition on the rear of the building conflicts with standard 10 because the addition would be difficult if not impossible to remove.

### **Conclusion**

While some changes would have more of an impact than others, these changes taken as a whole would severely impact the historic and architectural integrity of the Queen Anne Cottage at 72 Harper St. The addition of the 3<sup>rd</sup> floor would have the biggest impact due to drastically changing the building size and story count, running contrary to the City of San Francisco's own policy. Furthermore, the proposed changes do not meet the Secretary's of the Interior's Standards for Rehabilitation, conflicting with standards 3, 5, 6, 9, and 10.

# **Exhibit B**

<png@gastarchitects.com>

Hi Mike (cc'ing Amy, Julie & Tom, Ashley).

**Re: 72 Harper Renovations - Response to 1783 Noe Street**

It was nice to speak with you as well earlier this week.

I've briefed Julie and Tom on our conversations and they've reviewed your most recent email. After discussion, we continue to believe that our project has minimal impact on your property and the impact is solely related to **MUTUAL PRIVACY**. This is an ongoing concern of ours, as such we continue to offer the following (3) solutions which come directly from the SF Residential Design Guidelines:

1. **PROVIDE OBSCURE ATTIC WINDOW GLAZING:** Within the roof pediment, the proposed window is both (i) architecturally relevant within and (ii) provides beneficial natural light to the attic storage space. We are unwilling to remove the window based on a hypothetical concern of how a future owner will use the attic. Etched or visual-obscure decorative glazing eliminates all privacy concerns.
2. **PROVIDE PRIVACY WINDOW FILM TO YOUR BATHROOM WINDOW:** A light-diffusing or one-way transparent film and vendor of your choice, installed at our project's substantial completion.
3. **ENCOURAGEMENT FOR YOU TO GROW YOUR EXISTING SCREENING TREES A FEW FEET TALLER:** This three-dimensional, easy, and aesthetically beneficial solution will help both our properties have increased visual separation.

**SUN / SHADOW**

We have re-reviewed the sunlight / shadow studies to examine conditions during the winter, summer, & fall/spring solstices created by our modeling software, and maintain that neither the (i) existing house nor (ii) proposed addition create any shadow impact. Your rear facade is primarily glass, it's interior abundantly filled with light even if shaded by trees and adjacent houses. **In our professional experience, if any new shading were caused by the increased height of our roof ridge, it would be well within the "some reduction of light" standard of the Residential Design Guidelines, and does not meet the city's threshold of extraordinary impacts that would merit changes in the proposed design.**

**PRIVACY**

Privacy is a mutual concern of ours. We remain willing to implement one or more of the solutions proposed, but given the significant distance between the two properties, even in the absence of a mutually agreeable solution, we believe the privacy impacts of the proposed project are typical for SF renovation projects.

**PROJECT HEIGHT**

We are still trying to understand your underlying objection to the proposed project's height. Your home would be 70 feet away and uphill from a proposed rear addition which is designed +/-5 feet below the allowable height limit. If your concern is a clipped view of Bernal Heights

Park from your lower levels, we do not consider that a valid request for roofline changes. **The design and height of the attic are integral to a functional residential unit and overall contextually appropriate for an addition to a historic building. Reducing the ceiling height of the attic would significantly impact the ability of the house to effectively meet the owners' functional needs.** As such, we are unable to lower the proposed building height to resolve view concerns. For added context: our proposed building height of +/-30' is two feet lower than your home, which is documented to be +/-32' tall.

We firmly believe the project as designed is the best way of achieving our design objectives and the needs of the Park-McDonald family. Our project brings much needed additional housing to San Francisco and does so in a way that minimally impacts neighboring properties.

Thanks.  
Dennis

Dennis Budd AIA LEED AP  
Principal  
**GAST ARCHITECTS**  
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Office: 415-885-2946 x20  
Mobile: 415-828-8648



On Wed, Nov 1, 2023 at 3:25 PM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:

Hi Dennis,

Great speaking with you yesterday. Thanks for taking the time to walk me through the shade studies. As I mentioned on the phone, our actual experience disagrees with the shade studies. There are times during the year where we know the sun rises directly over 72 Harper (in its current form) and casts shadows on our house - I often see the sun rising over 72 Harper from my office. Currently, for example, we see shadows in the morning from 74 Harper. If the sun were in a more northerly position - as it would be other times in the year - those shadows would be cast by 72 Harper. With so many large glass doors and windows, that shade impacts our living space in the mornings. With the proposed increase in height, there would be significant additional negative impact to our light which concerns us.

You mentioned on the phone that you would review your shade studies to make sure they are correct. I'm not sure why your software differs with the actual shadows we are seeing - maybe the model is incorrect? Does the software take daylight savings time properly into account? Are you looking at the right time of year? In any event, if you figure out what the discrepancy is, please let us know.

You mentioned a few possible changes on our call:

- Lowering the height of the overall structure by 1 foot: unfortunately, this would provide only a very minor improvement to our shade concerns and have virtually no impact on our privacy concerns

- Using etched glass for the attic window: our concern is that Tom and Julie or a future owner could easily change out the glass for transparent glass, and could use the attic as an office or other living space instead of as storage space. It also would not address our shading concerns.

Our proposal is to significantly lower the peak of the gable roof, but retain the side height of the proposed structure, i.e. reduce the slope of the gable roof to lower the peak. This would still allow Tom and Julie to retain all of the additional living space they plan on creating. The only impact would be to reduce attic storage space which seems a very minor concession on their part (and would ensure that the attic would not be used as additional living space), but would address our most pressing privacy concerns. This would also address much of our shade concerns, and should also greatly alleviate the shade impact on their neighbor at 58 Harper. They still would have virtually an identical, beautiful, greatly improved home with an additional ADU, with only a minor reduction in attic storage space.

Honestly, we feel this is a pretty reasonable compromise and hope you all agree. We'd love to find a solution that works for everyone.

Best,  
Mike

On Mon, Oct 30, 2023 at 3:05 PM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:  
No problem, see you then.

On Mon, Oct 30, 2023 at 3:02 PM Dennis Budd <[dbudd@gastarchitects.com](mailto:dbudd@gastarchitects.com)> wrote:  
Yes, same zoom.  
Thanks for your flexibility.

Dennis Budd AIA LEED AP  
Principal

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Mobile: 415-828-8648



On Mon, Oct 30, 2023 at 2:57 PM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:  
No problem. Let's do 10am tomorrow. Thanks Dennis. Same zoom?

On Mon, Oct 30, 2023 at 1:23 PM Dennis Budd <[dbudd@gastarchitects.com](mailto:dbudd@gastarchitects.com)> wrote:

Hi Mike.

I had a last minute jobsite site meeting rescheduled for 2:00p today and I likely will not be back to my desk by 4:00p.  
Can we reschedule for 10:00a or 2:15p tomorrow?

Sorry for the need to reschedule. Thanks.  
Dennis

Dennis Budd AIA LEED AP  
Principal

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On Sun, Oct 29, 2023 at 6:33 PM Dennis Budd <[dbudd@gastarchitects.com](mailto:dbudd@gastarchitects.com)> wrote:

Hi Mike.

That still works.  
Here is a link for tomorrow at 4:00pm.  
Thanks Dennis

Gast Architects is inviting you to a scheduled Zoom meeting.

Topic: 1783 Noe Sunshade Study  
Time: Oct 30, 2023 04:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

[https://us02web.zoom.us/j/83824689729?  
pwd=YzRrNVlrR01SNDgwZGdnaWpoazdndz09](https://us02web.zoom.us/j/83824689729?pwd=YzRrNVlrR01SNDgwZGdnaWpoazdndz09)

Meeting ID: 838 2468 9729  
Passcode: 864877

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One tap mobile

+14086380968,,83824689729#,,,,\*864877# US (San Jose)  
+16694449171,,83824689729#,,,,\*864877# US

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Dial by your location

- +1 408 638 0968 US (San Jose)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 876 9923 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US

Meeting ID: 838 2468 9729

Passcode: 864877

Find your local number: <https://us02web.zoom.us/j/83824689729>

Dennis Budd AIA LEED AP  
Principal

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On Sat, Oct 28, 2023 at 8:15 AM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:  
Thanks Dennis. Let's do Monday at 4pm if that still works for you.

Best,  
Mike

On Thu, Oct 26, 2023 at 10:31 AM Dennis Budd <[dbudd@gastarchitects.com](mailto:dbudd@gastarchitects.com)>  
wrote:

Hi Mike, Amy.

I can review the sunshade movies with you both at the following times:  
Mon Oct 30 @ 4:00p  
Tues Oct 31 @ 10:00a  
Wed Nov 1: anytime

Let me know what is best for you and I'll send a zoom invite.

Thanks.  
Dennis

On Wed, Oct 25, 2023 at 8:13 AM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)>  
wrote:

Hi Priscilla and Dennis -- Thanks for this response and attempting to address our concerns. Thank you also for providing the 3D model. It is helpful to understand the bulk and height of the addition, which is much larger than we had envisioned from looking at the plans alone.

Unfortunately, we still have some remaining concerns about privacy and light.

Regarding privacy, the new encroachment will occupy almost 14 percent of the current distance between our two homes, which is not insignificant. While we did install (at great expense to us) window treatments to help address privacy concerns that existed when we bought our home, we would of course like to keep the shades open and let the light in as much as possible. With the addition of another bedroom at the back of the home, and with both of the bedrooms ("kids' bedrooms") much closer to our home, we envision having to keep our shades down at pretty much all times (or at least much more frequently), whereas now we are able to keep them open a good deal of the time. Thus, while we are glad to hear that the the new second floor will be the same elevation as it is currently, that does not address all our concerns.

Regarding privacy for our bathroom and bedroom from the new third floor window of the addition, the existing trees on our property do not address the issue. As you can see from the attached photo, the trees are already high but are to the left of 72 Harper (the peaked roof to the right of the trees in the photo is 72 Harper). If you were to put the overlay of the proposed addition onto the photo, we are confident that you would see the new window peering directly into our bathroom (and bedroom), even with the trees. We don't know how much taller the trees will even grow. Furthermore, even if growing the trees could help alleviate the problem (which explained it could not), we already have an agreement with our neighbors on Noe street not to grow the trees further as leaves from the trees clog their gutter. Your email does not explain why a large picture window facing our home is needed

in a "mechanical space and storage" room accessed by a ladder. If light is needed in such a space, it could easily be accomplished by regular inside lighting (or skylights if necessary). The insistence on having a picture window there raises great risk that the space could eventually be converted into an office, bedroom, or playroom, raising extreme privacy concerns for us. Even if the current owners have no intention of using it that way, if it is set up with a window, flooring, etc, it could easily be converted by future owners. We do not believe it is fair for us to have to live in fear of people peering into our shower (even while obtaining boxes from storage) so that your client's mechanical equipment and storage boxes can have abundant natural light.

Thank you for agreeing to meet with us about the light/shading issues, for which we still have concerns. We are out of town on Thursday so if you could provide additional availability, that would be great.

We note that we believe the compromise approach suggested by our neighbor Krishna (with a lowered roof in the rear of 72 Harper) would have addressed both the 3rd floor privacy issues and the potential light/shading issues (although not all the concerns with the rear addition). As indicated in Krishna's email, we would have been willing to accept such a compromise. We've seen your recent email rejecting that compromise. However, we hope that we can continue to work towards a solution that addresses our concerns.

Best,  
Mike & Amy

On Mon, Oct 23, 2023 at 8:00 PM Priscilla Ng <[png@gastarchitects.com](mailto:png@gastarchitects.com)> wrote:

Hi Mike and Amy,

Thanks for sharing your specific concerns with us, and we wanted to provide additional information and thoughts back.

**Privacy**

We have attached some photos that Julie & Tom took to highlight a handful of observations that can hopefully ease some of your privacy concerns.

- For a dense urban environment, there is significant distance between the two houses and significant distance will remain with the rear extension, changing from approximately 81 feet to 70 feet.
- Your current windows are highly reflective of outside light, making it difficult to see into your interior spaces, even when existing window treatments are not in use

- Your house is already equipped with extensive window treatments that are frequently utilized
- Your house has been already landscaped with trees in front of the primary bathroom window that can effectively serve as a privacy screen that addresses these issues

The upstairs attic at 72 Harper will be utilized as mechanical space and storage and is accessed through a pull-down ladder. There is no occupancy at the attic, and the window only provides natural light to the space as is typical in SF attics. As we stated previously, all of the windows at the rear of 72 Harper will have window treatments, including the attic window.

The statement that "the two bedrooms in the rear of 72 Harper will stand higher than the single bedroom that currently exists there" is not accurate. The elevation of the second floor level will be the same as is the existing today. As the bedrooms are moved further to the rear, the upwards angle relative to your bathroom will actually increase. As you stated about this upwards angle: "the [current] window is not an issue because the top window at 72 Harper is below the level of the shower window, and with that angle, you can't peer into our shower." [To augment the views you provided and provide appropriate context for the Planning Department, we have also attached three publicly available images of the layout of your primary unit bathroom.]

Tom and Julie believe that common-sense and neighborly solutions such as allowing your existing screening trees to grow an additional few feet and both of us effectively using window treatments when appropriate can likely address our mutual privacy concerns considering the significant separation that exists between the two houses.

### **Modeled Views**

The attached image includes the proposed project rear rendering transparently overlaid on the existing conditions photograph. As the rendering indicates, our project minimally impacts your view of Bernal Hill.

### **Shade Studies**

I am available to review the sun study videos with you over a zoom call this week Tuesday or Thursday, between 9am-2pm and 4:00pm-5:00pm. Please let me know what day/time works.

Best,  
Priscilla and Dennis

On Sat, Oct 21, 2023 at 8:36 AM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:

Hi Dennis,

One additional privacy concern: attached is a photo taken from our master bathroom shower. We have a window facing 72 Harper that peers into our shower. Currently, the window is not an issue because the top window at 72 Harper is below the level of the shower window, and with that angle, you can't peer into our shower. The only view is upwards into our master bathroom ceiling. But with the elevated attic window in the proposed design, it will be level/above our current window and have a direct view into our shower which would obviously be an issue.

Hope that's helpful.

Best,  
Mike & Amy

On Sat, Oct 21, 2023 at 7:53 AM Michael Lee <[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:

Hi Dennis --

Thanks for your reply and for conducting the light/shadow analysis and sending the videos. We are having a hard time understanding the videos so if you could walk us through them that would be great. It seems surprising that the proposed plan would have no impact on our light as during the summer we can see the sun rising in the morning above your home. The sun is already blocked by the existing structure from our ground floor during sunrise, so wouldn't the additional height of the proposed plans block more sunlight? In any event, if you can walk us through them, that would be very helpful.

As for privacy, we are glad to hear you have been thinking about this. Please see attached for a view photo from our bedroom window. Please note that we did not open our home up to the rear of your client's home, but purchased the property as it is currently built. We bought the property with the current home at 72 Harper at the rear view and your clients bought the property at 72 Harper after our home was already built. The relevant privacy issues therefore are being raised by your construction proposal, not by our home or the home that currently exists at 72 Harper. It seems that you are protecting your client's privacy issues by relocating their primary bedroom to the front of the house and adding a trellis at the bottom level. However, our privacy could be threatened by the addition of two bedrooms in the rear of 72 Harper that will stand higher than the single bedroom that currently exists there, as well as the higher top window. You have indicated that these will be kids' rooms, which presents even more privacy concerns for us as kids (who quickly become teenagers) are often not as discreet as adults. It would help to understand how the new top attic will be used as well since there is a window there

that will peer directly into our home. There is concern that the attic will/can be used as another bedroom or office, as it appears to be a similar or identical configuration to the bedroom that is currently there.

Story poles would help us get a sense of how high up the property will go and how impactful the construction will be to our home and property (as well as other neighbors). It is our understanding that story poles are easy to install and go a long way to helping visualize a project. 3D modeling would also help, so thank you for offering to provide that. We look forward to seeing that modeling and any other information you can provide.

--Mike & Amy

On Fri, Oct 20, 2023 at 12:51 PM Dennis Budd

<[dbudd@gastarchitects.com](mailto:dbudd@gastarchitects.com)> wrote:

Hi Amy, Mike.

Thanks for reaching out and I do remember meeting Amy on video during the Pre-Application Outreach Meeting.

### **LIGHT**

We were able to model your house and run a light/shadow analysis that illustrates no impact to your home or lot. Because your home is quite a bit higher up and to the west of us, our proposed rear expansion shades our own yard in early morning eastern sunlight, and the existing shading caused by the existing rear property line fence on your rear yard is not increased by the proposed new roofline. Attached are (6) movies illustrating the existing and proposed shading patterns in: (I) summer, (ii) winter, (iii) spring/fall. Please use the 'spacebar' to stop the movies at time intervals to best comprehend the sun's pattern and effect. We are happy to walk you through it if needed.

### **PRIVACY**

Since your renovated home is higher up (relative to 72 Harper) and has expansive glass door systems on all (3) stories, I understand that privacy is a concern for you. You have opened your entire house to a wonderful view, which includes the rear of my client's home. When this type of fenestration is chosen an integrated solution to retain privacy from the outside world is necessary.

Similar to your glass doors, our project also proposes a wide-opening door system at the rear Family Room, it however, will be fully screened by a +/-10' x 18' one-story trellis over the rear deck. This trellis was specifically added as we have privacy

concerns related to your home. The proposed rear windows above, the rear Kids' bedrooms and unconditioned attic (no occupancy), are historically-appropriate standard-sized double-hung windows which will have interior window coverings (both bedrooms).

As it stands, our kitchen windows will likely have a direct view up to your house. If you could send a specific photo from your bedroom, we'd be happy to provide a model rendering that illustrates what specific angle of view you can see into our project. That would actually help us because we are equally concerned with mitigating privacy concerns and the main reason why we located the primary bedroom suite to the front of the house.

I hope this helps clarify our project's impact on your sunlight (none exists), and our attempts, thus far, to minimize privacy impact, which is made more challenging by the design of your home. The erection of 'story poles' is not a normal request and is not required by SF Planning, nor do they help answer questions regarding light or privacy. We can overlay a 3D rendering, as previously mentioned, with a particular photo view if desired.

Please let us know if you have additional questions and/or concerns.

Thanks.  
Dennis

**Dennis Budd AIA LEED AP**  
Principal

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On Thu, Oct 19, 2023 at 2:52 PM Michael Lee  
<[mikeslee@gmail.com](mailto:mikeslee@gmail.com)> wrote:

Hi Dennis --

My name is Mike Lee and I live at 1783 Noe St., which is the house directly behind 72 Harper. We received your application for the rear addition and have some concerns about the impact of the project on our light and privacy and the character of the house and neighborhood. It would be helpful to get some more information than what is in the application. My wife Amy (copied here) attended the Pre-Application Meeting for 72 Harper St and also discussed these concerns with you (and/or your colleagues). She requested that additional information be

provided including a light/shadow analysis for our home and storey poles. At the time, either you or one of your colleagues mentioned that was a reasonable request and that you would be able to provide it, but we never received that analysis (only the plans were provided). We again ask for such information to be provided, as well as any additional information that would be helpful to assessing the impacts on our home, which again is directly behind 72 Harper. As Amy explained at the meeting (and as is plain from the property), our primary bedroom will be looking directly into the new addition and thus privacy is of paramount concern, as well as our morning light which will apparently be blocked by the proposed addition. We're also happy to discuss this with you further.

Thank you,  
Mike & Amy

--

Priscilla Ng, AIA  
Architect

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**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Brian O'Neill; "dbudd@gastarchitects.com"; 72harperst@gmail.com; bmansouri@buchalter.com](#)  
**Cc:** [PEARSON, ANNE \(CAT\); JENSEN, KRISTEN \(CAT\); YANG, AUSTIN \(CAT\); RUIZ-ESQUIDE, ANDREA \(CAT\); Hillis, Rich \(CPC\); Gibson, Lisa \(CPC\); Jain, Devyani \(CPC\); Dwyer, Debra \(CPC\); Navarrete, Joy \(CPC\); Lewis, Don \(CPC\); Switzky, Joshua \(CPC\); Teague, Corey \(CPC\); Tam, Tina \(CPC\); Sider, Dan \(CPC\); Starr, Aaron \(CPC\); Watty, Elizabeth \(CPC\); Ionin, Jonas \(CPC\); Lindsay, Ashley \(CPC\); Winslow, David \(CPC\); Rosenberg, Julie \(BOA\); Longaway, Alec \(BOA\); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela \(BOS\); Somera, Alisa \(BOS\); Mchugh, Eileen \(BOS\); BOS Legislation, \(BOS\)](#)  
**Subject:** PROJECT SPONSOR RESPONSES: Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing Date: April 23, 2024  
**Date:** Friday, April 12, 2024 12:03:30 PM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board is in receipt of responses from Project Sponsor, Julie Park and Tom McDonald, and Braeden Mansouri of Buchalter, PC, on behalf of Julie Park and Tom McDonald, for the CEQA Exemption Determination for the proposed project at 72 Harper Street.

[Project Sponsor Response - April 12, 2024](#)  
[Project Sponsor Counsel Response - April 12, 2024](#)

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

[Board of Supervisors File No. 240246](#)

Regards,  
**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

**(VIRTUAL APPOINTMENTS)** To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

 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.



**From:** [Julie P](#)  
**To:** [BOS Legislation, \(BOS\); Board of Supervisors \(BOS\)](#)  
**Subject:** File 240246: Project Sponsor Letter to BoS for CEQA Appeal at 72 Harper St  
**Date:** Friday, April 12, 2024 11:03:29 AM  
**Attachments:** [Project Sponsor Letter 72 Harper Appeal.pdf](#)

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Dear Clerk of the Board,

As Project Sponsors for the project at 72 Harper St, we have attached a letter we request be entered into the record for the hearing schedule for April 23. The file number for the hearing is 240246. Please let us know if you have any questions or difficulties with the attached PDF document.

I also wanted to ask for clarification about the hearing structure. Will the Appellants and Project Sponsors be given opportunities to speak and/or answer questions from the Supervisors? Any information on how the hearing itself will proceed would be greatly appreciated.

Best regard,

Julie Park  
Tom McDonald

April 12, 2024

**VIA E-MAIL**

President Peskin and Members of the Board of Supervisors  
1 Dr. Carlton B Goodlett Place  
Room 244  
San Francisco, CA 94102

Re: 72 Harper Street CEQA Categorical Exemption Appeal; File 240246

Dear President Peskin and Members of the Board of Supervisors:

As the owners and residents of 72 Harper St in Glen Park, we write today as the Project Sponsors. We respectfully ask you to reject the CEQA categorical exemption appeal before you today and join the Planning Commission and Planning Department in support of our project.

Our home has been designed to fit our family's needs – an ADU on the lower level for Tom's mobility-impaired parents and three bedrooms on the upper level for us and our kids. Despite the Appellants' allegations, we have proposed a sensible and respectful update to our home. A small yet vocal group of neighbors are opposed to our plans. They had a chance to have their concerns heard before the Planning Commission during a February 2024 Discretionary Review hearing. For nearly an hour, the Planning Commission spent time "carefully listening to all sides of this project." These are some of comments the Commissioners gave about our project:

Planning Commission Vice-President Kathrin Moore:

*"Looking at what's proposed here, it is a lovely building."*

*"I personally believe that the remodel, the adding of the ADU, and the vertical and horizontal extension, are creating actually an admirably well-designed building."*

*"From my perspective, a building with a pitched roof, really supporting and extending the traditional expression of this building is for me personally is far more important than devaluing the building with a flat roof [as requested by Appellants]."*

*"The impact, I believe, is not exceptional or extraordinary."*

Planning Commissioner Derek Braun:

*"The gabled roof is very much in keeping with the current configuration and design and the historic nature of the building."*

*"I think that the project is in many ways modest relative to what could be allowed under our code."*

*“I think about this project in the context of the many projects that we see come before us for DRs and other actions and the overall impact in terms of shadow, to the open space, the privacy concerns, is just not rising to the level that exceeds what is typical.”*

The Planning Commission voted unanimously (6-0) to support our project as designed and declined to take DR. The Planning Commissioners, whose role is to “reflect on what we’re doing with buildings” understood that despite the claims of our neighbors, our project is well-designed, appropriate for the building and the neighborhood, and has only typical impacts on our neighbors. They further understood that the Appellants’ proposal, a flat-roof design that enables them to fully maintain their peek-a-boo views of San Francisco, would “devalue” the building.

While we disagree with the Appellants that the project will significantly impact them, we respected the DR process and entrusted the Planning Commission to strike the right balance as that is their role in San Francisco. We hoped that the Appellants would also choose to respect the process, and if they firmly believe the Planning Commission made a grievous mistake, the correct forum for further appealing this would be to the Board of Appeals.

Instead, the Appellants have chosen to abuse and attempt to weaponize CEQA to extract the concessions they desire. We hope it is clear to you that an Appeal devoid of facts and rife with baseless speculation is designed merely to waste the time and resources of the City and ourselves.

We want to note that Appellants have been running a neighborhood campaign for their requested changes. This campaign has no relationship to the allegations contained within their CEQA Appeal. Instead, it is centered around the same arguments that Planning Commission rejected. The Appellants continue to misrepresent that our project is outside the bounds of SF Planning guidelines, when in reality our plans are code and design standard compliant with no CUAs or variances ever requested.

It is clear the Appellants view the CEQA appeals process as an attempt to relitigate their DR loss. We and most of our neighbors reject these cynical tactics. The vast majority of our neighbors want no part of the Appellants’ campaign, they want the lobbying of the Appellants to stop, and they would like to see our project quickly move forward to completion for the benefit of the neighborhood.

There is no legal or common-sense basis for further delaying this project by entertaining a meritless and frivolous CEQA Appeal. We respectfully ask you to stand with the Planning Department and the Planning Commission and vote in favor of our project by rejecting the Appeal and affirming our project’s CEQA categorical exemption determination.

Sincerely,

Julie Park and Tom McDonald  
72 Harper Street

**From:** [Mansouri, Braeden](#)  
**To:** [Board of Supervisors \(BOS\); BOS Legislation, \(BOS\)](#)  
**Cc:** [Jain, Devyani \(CPC\); Lindsay, Ashley \(CPC\); Julie P; Guerra, Alicia C.](#)  
**Subject:** Case No. 2023-002706APL - 72 Harper Street CEQA Categorical Exemption Appeal Applicant Response [IMAN-BN.FID4874305]  
**Date:** Friday, April 12, 2024 11:03:44 AM  
**Attachments:** [2023-002706APL Appeals \(APL\) - Applicant Response Letter\(81995601.1\).pdf](#)

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Dear Clerk Calvillo,

Attached, please find the response letter on behalf of the project applicants for the project proposed at 72 Harper Street (Case No. 2023-002706APL). The CEQA exemption decision is also identified as Case No. 2023-002706ENV. Please forward this letter to President Peskin and each of the members of the Board of Supervisors.

Thank you for your attention to this and please do not hesitate to reach out if you have any questions.

Best,  
Braeden

**Buchalter**

---

**Braeden Mansouri** he/him/his  
Attorney  
T 415-227-3516  
C 4156532700  
[bmansouri@buchalter.com](mailto:bmansouri@buchalter.com)

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425 Market Street  
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415.227.0770 Fax

April 12, 2024

415.227.3516 Direct  
bmansouri@buchalter.com

**VIA E-MAIL**

President Peskin and Members of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102

Re: 72 Harper Street CEQA Categorical Exemption Appeal - Case No. 2023-002706APL

Dear President Peskin and Members of the Board of Supervisors:

Buchalter, a Professional Corporation, represents Julie Park and Tom McDonald (the “Applicants”) with respect to their building permit application to renovate their residence at 72 Harper Street (Assessor’s Parcel No. 6652/010) (the “Property”) in the City of San Francisco (“City”) and to establish an accessory dwelling unit (“ADU”) on the ground floor of their home (the “Project”). On behalf of our client, the purpose of our letter is to respectfully request that the Board of Supervisors reject the appeal filed by some of the neighbors and uphold the Project’s CEQA exemption determination, as further discussed below.

**Project Background**

We understand that on November 1, 2023, the Applicants’ neighbors, David Garofoli, David Rizzoli, Michael Lee and Amy Bricker, and Krishna Ramamurthi requested Discretionary Review of the Project. On December 14, 2023, the Planning Department relied on a Categorical Exemption from the California Environmental Quality Act (“CEQA”) for the Project, in its determination that the Project qualifies for a Class 1 exemption for existing facilities. (*See* Pub. Res. Code, § 21084(a); 14 Cal. Code Regs. (the “CEQA Guidelines”), § 15301.) On February 8, 2024, the City Planning Commission held a noticed public hearing at which it declined to take Discretionary Review of the Project. The Planning Commission found that “there are no extraordinary or exceptional circumstances in the case” and that the Project “complies with the Planning Code, the General Plan, and conforms with the Residential Design Guidelines.”

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President Peskin and Members of the Board of Supervisors

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As you know, Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli (collectively, the “Appellants”), neighbors of the Applicants, recently appealed the Planning Department’s determination, alleging that the Project does not qualify for a CEQA exemption. For the reasons contained herein, the Appellants’ assertions are without merit.

### **The Property does not contain a historic resource.**

Appellants incorrectly assert that this Project is ineligible for the Class 1 CEQA exemption because Section 15300.2(f) of the CEQA Guidelines provides an exception to the categorical exemptions for projects that may cause a substantial adverse change to a historical resource.

Appellants claim that our clients’ Property is a historic resource but fail to cite CEQA’s own definition of what constitutes a historical resource. Section 15064.5(a) of the CEQA Guidelines defines “historical resources” as:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources;
2. A resource included in a local register of historical resources or identified as significant in an historical resource survey; or
3. A building which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided such determination is supported by substantial evidence.

These three categories are respectively described as mandatory, presumptive, and discretionary historical resources. (*Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1051.)

The “question whether a building is an ‘historical resource’ for purposes of CEQA and thus part of the ‘environment’ can be conceptualized as a threshold question that must be resolved by the lead agency.” (*Citizens for the Restoration of L Street v. City of Fresno* (2014) 229 Cal.App.4th 340, 364.) This “determination of historicity would be a foundation,” after which the lead agency will then review impacts to a historic resource “after it knew whether the [item in question] was an historical resource and thus part of the ‘environment’ protected by CEQA.” (*Id.* at p. 365.) Accordingly, the lead agency would make this determination “during the first stage of the CEQA review” so that it can determine “whether the proposed activity was a project that might cause a direct physical change in the environment.” (*Id.* at p. 368.)

CEQA defers to the lead agency to make the historical resource determination based on the “three analytical categories established by [Public Resources Code] section 21084.1 and [CEQA] Guidelines section 15064.5, subdivision (a).” (*Citizens for the Restoration of L Street, supra*, 229 Cal.App.4th at p. 369.) Here, the lead agency is the City’s Planning Department.

President Peskin and Members of the Board of Supervisors

April 12, 2024

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The historic resource determination, which the Appellants skip over entirely, is critical because if the property is not a historic resource, CEQA does not apply. Here, the Applicants submitted a Historic Resource Evaluation (“HRE”) with the Project application to the City. The HRE determined that the residence on the Property is not listed in any historic survey nor is it listed in any national, state, or local register of historic resources. In other words, the residence is unambiguously neither a mandatory nor a presumptive historical resource. Thus, the remaining question is what would be required for the Property to be a discretionary historical resource.

**Designating the Property a discretionary historical resource is a determination for the Planning Department to make, which must be supported by substantial evidence.**

For potential historic resources that are not listed in a federal, state, or local register, the City may evaluate whether the residence on Property is a discretionary historical resource. (*Valley Advocates, supra*, 160 Cal.App.4th at p. 1060.<sup>1</sup>) CEQA Guidelines section 15064.5(a)(3) provides that a lead agency’s discretionary historical resource determination must be “supported by substantial evidence in light of the whole record.” CEQA defines “substantial evidence” as “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact,” but “is not argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous.” (Pub. Res. Code, § 21080(e).)

It is important to note that “[d]uring the preliminary review stage of a CEQA review, *the fair argument standard does not apply* to the question of whether a building or other object qualifies as an historical resource for purposes of CEQA.” (*Citizens for the Restoration of L Street, supra*, 229 Cal.App.4th at p. 369; *Valley Advocates, supra*, 160 Cal.App.4th at p. 1072.)

While substantial evidence would be required for the City to designate the Property a discretionary historic resource, CEQA does not require the City to furnish substantial evidence supporting its conclusion that the Property is not historic. (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1043-44.) Instead, the burden is on an appellant to provide a body of evidence that substantially supports their allegations. (*See id.* at p. 1044; *Citizens’ Com. to Save our Village v. City of Claremont* (1995) 37 Cal.App.4th 1157, 1167.<sup>2</sup>) In *Taxpayers*, the Court of Appeal rejected the appellant’s argument that the lead agency “should have expanded that description to include a discussion of

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<sup>1</sup> The Court of Appeal explains that Public Resources Code section 21084.1 and CEQA Guidelines section 15064.5 “make clear that lead agencies have discretionary authority to determine that buildings that have been denied listing or simply have not been listed on a local register are nonetheless historical resources for purposes of CEQA.”

<sup>2</sup> The Court of Appeal explained in *City of Claremont* that “the project opponent must demonstrate by substantial evidence . . . that the project as revised and/or mitigated may have a significant adverse effect on the environment.” There, the court rejected evidence proffered by the opponents that the subject project would affect some alleged historic resource. (*City of Claremont, supra*, 37 Cal.App.4th at p. 1171.)

President Peskin and Members of the Board of Supervisors

April 12, 2024

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the neighborhood's [the alleged resource] historic characteristics.” (*Id.* at p. 1043.) Rather, the court accepted the lead agency's conclusion, without substantial evidence, that the resource is non-historic.

CEQA requires substantial evidence to support a finding that the Property constitutes a historical resource. Nothing Appellants provide constitutes substantial evidence demonstrating that the residence is historic. Appellants' March 8, 2024 letter is devoid of facts or expert opinion, and composed entirely of argument, speculation, and unsubstantiated opinion and narrative. Accordingly, the City's CEQA Exemption Determination checklist, addressing the potential for presumptive or discretionary historic resources outlined in CEQA Guidelines section 15064.5, is sufficient for its conclusion that the Property does not contain a historical resource. The Appellants failed to provide any substantial evidence that the Property contains a historical resource, thus CEQA does not permit the conclusion that the residence is a historical resource.

**The City is not required to analyze the Project's impacts to a non-historical resource.**

The lead agency's review of impacts to a historic resource occurs *after* it knows that the item in question is an historical resource and, thus, part of the environment protected by CEQA. (*See Citizens for the Restoration of L Street, supra*, 229 Cal.App.4th at p. 365.) Thus, evaluation of whether a project will cause a “substantial adverse change in the significance of an historical resource” is not required in the absence of a historical resource.

Because the City Planning Department did not find that the Property was historical resource, the City was not required to evaluate the potential impacts of the Project to some alleged historic resource, or whether the Project adheres to the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Nonetheless, in their Appeal letter, the Appellants jump to a conclusion that the City failed to study the Project's impacts to a historical resource. Appellant's argument is misplaced because, as explained above, CEQA does not require the City to analyze a project's impacts to a structure that is **NOT** historic. (*See* CEQA Guidelines, § 15064.5(b).<sup>3</sup>) Nevertheless, the City Preservation Planner evaluated the Project's compatibility with the existing structure and any “potential” character-defining features, and the Preservation Planner concluded that the addition and outside appearance of the building and its roof are “compatible with the existing structure.” Again, while this level of analysis was not required, the City's finding that the project would not have an adverse impact on the Property further supports the City's use of a categorical CEQA

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<sup>3</sup> CEQA requires evaluations of projects “that may cause a substantial adverse change in the significance of an historical resource,” not an ahistorical resource.

President Peskin and Members of the Board of Supervisors  
April 12, 2024  
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exemption for the Project.

## **Conclusion**

The City Planning Department complied with CEQA's requirements. No substantial evidence exists supporting the conclusion that the residence is a historical resource. Therefore, the City cannot determine the residence to be historic for the purposes of CEQA. Thus, the Property does not contain a mandatory, presumptive, or discretionary historical resource and CEQA does not require the City to evaluate the Project's impacts to nonexistent historic resource. Accordingly, no exception applies to the categorical exemption and the City's categorical exemption determination conforms to CEQA's requirements. The appeal is without merit, and we respectfully request that the Board of Supervisors reject the appeal and sustain the Planning Department's determination that the Project is categorically exempt from CEQA.

We appreciate your attention to this matter. Do not hesitate to reach out with any additional questions.

Sincerely,

BUCHALTER  
A Professional Corporation



Braeden Mansouri

BM:vs

cc: Angela Calvillo  
Devyani Jain  
Ashley Lindsay  
Julie Park  
Tom McDonald  
Alicia Guerra

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Brian O'Neill; "dbudd@gastarchitects.com"](#)  
**Cc:** [PEARSON, ANNE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [YANG, AUSTIN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Dwyer, Debra \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Switzky, Joshua \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Tam, Tina \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Watty, Elizabeth \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Lindsay, Ashley \(CPC\)](#); [Winslow, David \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** HEARING NOTICE: Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing April 23, 2024  
**Date:** Tuesday, April 9, 2024 8:24:54 AM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **April 23, 2024**, at 3:00 p.m. for the appeal of the CEQA Exemption Determination for the proposed project at 72 Harper Street.

**Please find the following link to the hearing notice for the matter:**

[Public Hearing Notice - April 9, 2024](#)

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

[Board of Supervisors File No. 240246](#)

Regards,

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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BOARD of SUPERVISORS



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

## NOTICE OF PUBLIC HEARING

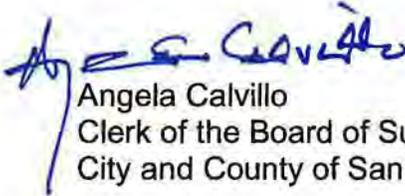
### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO Sent via Email and/or U.S. Postal Service

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, April 23, 2024
- Time:** 3:00 p.m.
- Location:** Legislative Chamber, Room 250, located at City Hall  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA
- Subject:** **File No. 240246.** 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 December 14, 2023, for the proposed project at 72 Harper Street, Assessor's Parcel Block No. 6652, Lot No. 010, to construct an accessory dwelling unit and a rear horizontal and vertical addition to a two-story single-family dwelling within a RH-1 (Residential House-One Family) Zoning District and 40-X Height and Bulk District. (District 8) (Appellant: Brian O'Neill of Patterson & O'Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli) (Filed March 8, 2024)

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 added to 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 or sent via email ([bos.@sfgov.org](mailto:bos.@sfgov.org)). Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (<https://sfbos.org/legislative-research-center-lrc>). Agenda information relating to this matter will be available for public review on Friday, April 19, 2024.

For any questions about this hearing, please contact our office at [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org) or call (415) 554-5184.



Angela Calvillo  
Clerk of the Board of Supervisors  
City and County of San Francisco

jw:ak:ll:ams

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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Fax No. (415) 554-5163  
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**PROOF OF MAILING**

Legislative File No. 240246

Description of Items: Hearing - Appeal of Determination of Exemption From Environmental Review - Proposed 72 Harper Street Project - 10 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: April 9, 2024

Time: 8:30 a.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

A handwritten signature in blue ink that reads "Lisa Lew".

Signature: \_\_\_\_\_

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

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Liu, Bella \(CPC\)](#); [Yeung, Tony \(CPC\)](#)  
**Cc:** [BOS-Operations](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** APPEAL CHECK PICK UP: Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing April 23, 2024  
**Date:** Friday, March 15, 2024 11:07:28 AM  
**Attachments:** [image001.png](#)  
[Appeal Check Pickup.doc](#)

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Hi Bella and Tony,

The check for the appeal filing fee for CEQA appeal of the proposed 72 Harper Street project, is ready to be picked up at the Clerk's Office. Our office is opened Monday through Friday from 8:00am to 5:00pm. A fee waiver was not filed with this project. Kindly sign the attached Appeal Check Pickup form once the filing fee is picked up.

Thank you.

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
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---

**From:** BOS Legislation, (BOS) <bos.legislation@sfgov.org>  
**Sent:** Friday, March 15, 2024 10:57 AM  
**To:** Brian O'Neill <brian@pattersononeill.com>  
**Cc:** PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; YANG, AUSTIN (CAT) <Austin.Yang@sfcityatty.org>; RUIZ-ESQUIDE, ANDREA (CAT) <Andrea.Ruiz-Esquide@sfcityatty.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Dwyer, Debra (CPC) <debra.dwyer@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Switzky, Joshua (CPC) <joshua.switzky@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Tam, Tina (CPC) <tina.tam@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Watty, Elizabeth (CPC) <elizabeth.watty@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Lindsay, Ashley (CPC)

<ashley.lindsay@sfgov.org>; Winslow, David (CPC) <david.winslow@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative\_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

**Subject:** Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing April 23, 2024

Greetings,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **April 23, 2024**, at 3:00 p.m. Please find linked below an appeal letter regarding the proposed 72 Harper Street project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - March 8, 2024](#)

[Planning Department Memo - March 13, 2024](#)

[Clerk of the Board Letter - March 15, 2024](#)

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

[Board of Supervisors File No. 240246](#)

Best regards,

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

**(VIRTUAL APPOINTMENTS)** To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.



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BOARD of SUPERVISORS



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TDD/TTY No. (415) 554-5227

March 15, 2024

**File Nos. 240246-240249**

**Planning Case No. 2023-002706ENV**

Received from the Board of Supervisors Clerk's Office one check, one in the amount of Seven Hundred Twenty Nine Dollars (\$729) the filing fee paid by Careful Attorney Services for the appeal of the CEQA Determination of Exemption for the proposed 72 Harper Street project:

**Planning Department By:**

Tony Yeung  
Print Name

[Signature] 3/15/24  
Signature and Date

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2024 MAR 15 PM 1:35  
BY [Signature]

**From:** [BOS Legislation..\(BOS\)](#)  
**To:** [Brian O'Neill](#)  
**Cc:** [PEARSON, ANNE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [YANG, AUSTIN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Dwyer, Debra \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Switzky, Joshua \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Tam, Tina \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Watty, Elizabeth \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Lindsay, Ashley \(CPC\)](#); [Winslow, David \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation..\(BOS\)](#)  
**Subject:** Appeal of CEQA Determination of Exemption - Proposed 72 Harper Street Project - Appeal Hearing April 23, 2024  
**Date:** Friday, March 15, 2024 10:57:35 AM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **April 23, 2024**, at 3:00 p.m. Please find linked below an appeal letter regarding the proposed 72 Harper Street project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - March 8, 2024](#)

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Best regards,

**Lisa Lew**

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March 15, 2024

Brian O'Neill  
Patterson & O'Neill, PC  
235 Montgomery Street, Suite 950  
San Francisco, CA 94104

**Subject: File No. 240246 - Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - Proposed 72 Harper Street Project**

Dear Mr. O'Neill:

The Office of the Clerk of the Board is in receipt of a memorandum dated March 13, 2024, from the Planning Department regarding their determination on the timely filing for appeal of the Categorical Exemption Determination issued by the Planning Department under CEQA for the proposed 72 Harper Street project.

The Planning Department has determined that the appeal was filed in a timely manner (copy attached).

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, April 23, 2024, at 3:00 p.m.**, at the Board of Supervisors meeting.

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  
*Wednesday, April 3, 2024*

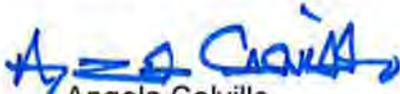
**11 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing.  
*Friday, April 12, 2024*

For the above, the Clerk's office requests electronic files be sent to [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org).



Please feel free to contact our office at [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org) or call (415) 554-5184 if you have any questions.

Very truly yours,



Angela Calvillo  
Clerk of the Board

ll:ak:ams

- c: Anne Pearson, Deputy City Attorney
- Kristen Jensen, Deputy City Attorney
- Austin Yang, Deputy City Attorney
- Andrea Ruiz-Esquide, Deputy City Attorney
- Rich Hillis, Planning Director, Planning Department
- Lisa Gibson, Environmental Review Officer, Planning Department
- Devyani Jain, Deputy Environmental Review Officer, Planning Department
- Debra Dwyer, Principal Environmental Planner, Planning Department
- Joy Navarrete, Environmental Planning, Planning Department
- Don Lewis, Environmental Planning, Planning Department
- Josh Switzky, Acting Director of Citywide Planning, Planning Department
- Corey Teague, Zoning Administrator, Planning Department
- Tina Tam, Deputy Zoning Administrator, Planning Department
- Dan Sider, Director of Executive Programs, Planning Department
- Aaron Starr, Manager of Legislative Affairs, Planning Department
- Elizabeth Watty, Current Planning Division, Planning Department
- Jonas Ionin, Planning Commission Secretary, Planning Department
- Ashley Lindsay, Staff Contact, Planning Department
- David Winslow, Staff Contact, Planning Department
- Julie Rosenberg, Executive Director, Board of Appeals
- Alec Longaway, Legal Process Clerk, Board of Appeals



# CATEGORICAL EXEMPTION APPEAL TIMELINESS DETERMINATION

**Date:** March 13, 2024  
**To:** Angela Calvillo, Clerk of the Board of Supervisors  
**From:** Devyani Jain, Deputy Environmental Review Officer – (628) 652-7574  
  
**RE:** 72 Harper Street Categorical Exemption;  
Planning Department Case No. 2023-002706ENV

On March 8, 2024, Brian O’Neill and Ryan Patterson of Patterson & O’Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli (Appellants) filed an appeal with the Office of the Clerk of the Board of Supervisors of the Categorical Exemption for the proposed project at 72 Harper Street. As explained below, the appeal is timely.

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?
Thursday, February 8, 2024	Saturday, March 9, 2024	Monday, March 11, 2024	Friday, March 8, 2024	Yes

**Approval Action:** On December 14, 2023, the Planning Department issued a Categorical Exemption for the proposed project. The Approval Action for the project was the Discretionary Review hearing by the Planning Commission, which occurred on February 8, 2024 (Date of the Approval Action).

**Appeal Deadline:** Sections 31.16(a) and (e) of the San Francisco Administrative Code state 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 30th day after the Date of the Approval Action was Saturday, March 9, 2024. The next day when the Office of the Clerk of the Board of Supervisors was open was Monday, March 11, 2024 (Appeal Deadline).

**Appeal Filing and Timeliness:** The Appellant filed the appeal of the exemption determination on Friday, March 8, 2024, prior to the end of the Appeal Deadline. Therefore, the appeal is timely.

**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [Hillis, Rich \(CPC\)](#)  
**Cc:** [PEARSON, ANNE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [YANG, AUSTIN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Dwyer, Debra \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Switzky, Joshua \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Tam, Tina \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Watty, Elizabeth \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Lindsay, Ashley \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** Appeal of CEQA Exemption Determination - Proposed 72 Harper Street Project  
**Date:** Tuesday, March 12, 2024 9:32:02 AM  
**Attachments:** [Appeal Ltr 030824.pdf](#)  
[COB Ltr 031224.pdf](#)  
[image001.png](#)

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Dear Director Hillis,

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Exemption Determination for the proposed project at 72 Harper Street. The appeal was filed by Brian O’Neill of Patterson & O’Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli.

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 and respond by no later than Friday, March 15, 2024. Thank you.

Best regards,

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
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TDD/TTY No. (415) 554-5227

March 12, 2024

To: Rich Hillis  
Planning Director

From: ~~AC~~ Angela Calvillo  
Clerk of the Board of Supervisors

**Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption From Environmental Review - 72 Harper Street**

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed 72 Harper Street project was filed with the Office of the Clerk of the Board on March 8, 2024, by Brian O'Neill of Patterson & O'Neill, PC, on behalf of Krishna Ramamurthi, Tusi Chowdhury, and David Garofoli.

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.

Please feel free to contact our office at [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org) or call 415-554-5184 if you have any questions.

c: Anne Pearson, Deputy City Attorney  
Kristen Jensen, Deputy City Attorney  
Austin Yang, Deputy City Attorney  
Lisa Gibson, Environmental Review Officer, Planning Department  
Devyani Jain, Deputy Environmental Review Officer, Planning Department  
Debra Dwyer, Principal Environmental Planner, Planning Department  
Joy Navarrete, Environmental Planning, Planning Department  
Don Lewis, Environmental Planning, Planning Department  
Josh Switzky, Acting Director of Citywide Planning, Planning Department  
Corey Teague, Zoning Administrator, Planning Department  
Tina Tam, Deputy Zoning Administrator, Planning Department  
Dan Sider, Chief of Staff, Planning Department  
Aaron Starr, Manager of Legislative Affairs, Planning Department  
Elizabeth Watty, Current Planning Division, Planning Department  
Jonas Ionin, Planning Commission Secretary, Planning Department  
Ashley Lindsay, Staff Contact, Planning Department  
Julie Rosenberg, Executive Director, Board of Appeals  
Alec Longaway, Legal Process Clerk, Board of Appeals

# Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*



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

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor  inquiries..."
- 5. City Attorney Request
- 6. Call File No.  from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: