



SAN FRANCISCO PLANNING DEPARTMENT

Conditional Use Authorization Appeal 1420 Taraval Street

DATE: March 16, 2020
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Rich Hillis, Planning Director – Planning Department (415) 558-6411
Linda Ajello Hoagland, Case Planner – Planning Department (415) 575-6823
RE: Board File No. 200261, Planning Case No. 2018-011904CUA
Appeal of Conditional Use Authorization for 1420 Taraval Street
HEARING DATE: March 24, 2020
PROJECT SPONSOR: William Pashelinsky, 1937 Hayes Street, San Francisco, CA 94117
APPELLANTS: Eileen Bokenon, for Sunset Parkside Education Action Committee (SPEAK), 1329
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INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (“Board”) regarding the Planning Commission’s (“Commission”) approval of the application for Conditional Use Authorization under Planning Department Case Number 2018-011904CUA pursuant to Planning Code Sections 303 (Conditional Use Authorization) and 317 (Demolition), to demolish an existing single-family home and replace it with mixed-use building comprised of three residential units over a commercial space.

This memorandum addresses the appeal to the Board, filed on March 2, 2020 by Eileen Bokenon, representing the Sunset Parkside Education Action Committee (SPEAK).

The decision before the Board is whether to uphold, overturn, or amend the Planning Commission’s approval of an application for Conditional Use Authorization to demolish an existing single-family home and replace it with mixed-use building comprised of three residential units over a commercial space.

SITE DESCRIPTION & PRESENT USE

The Project is located on the north side of Taraval Street, between 24th and 25th Avenues; Lot 010 in Assessor’s Block 2353 within the Taraval Street Neighborhood Commercial District (NCD) Zoning District with a 65-A Height and Bulk District. The site is an approximately 2,500 square foot uphill sloping lot with 25 feet of frontage and a depth of 100 feet. The project site has an existing approximately 2,176 square foot, three-story, single-family home constructed circa 1900. The structure is currently used as a rental property with the current lease set to expire prior to the start of construction. There is no off-street parking for the property.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The subject property is in the Parkside neighborhood. Parcels within the immediate vicinity consist of two- to three-story single- and multi-family dwellings, single- and two-story commercial buildings and two- to four-story mixed-use buildings of varied design and construction dates. The block-face is characterized by two- to three-story buildings of mixed architectural style. The adjacent properties to the east and west are improved with a two-story commercial building and a three-story multi-family dwelling constructed in 1968 and 1936, respectively, and a three-story multi-family dwelling to the north, constructed in 1927. The surrounding properties are in the Taraval Street NCD, RH-1 (Residential-House, One-Family), and RM-1 (Residential-Mixed, Low Density) Zoning Districts. The subject property is also within .25-miles of stops for the L and L-OWL MUNI transit lines.

PROJECT DESCRIPTION

The Project includes the demolition of an existing 2,176 square foot, three-story, single-family home and construction of a new four-story, 45-ft tall, mixed use building (approximately 6,219 square feet) with three dwelling units, approximately 1,731 square feet of ground floor commercial use, 1,392 square feet of open space through a combination of private and common opens space, including a roof deck, and three Class 1 bicycle parking spaces. No off-street parking is proposed. The Project includes a dwelling-unit mix consisting of three (approximately 1,600 square foot each), three-bedroom and two bath units.

BACKGROUND

On August 30, 2018, William Pashelinsky filed an application with the Planning Department for a Conditional Use Authorization to demolish an existing three-story single-family dwelling and construct a new four-story, 45-ft tall, mixed-use building with three dwelling units and 1,731 square feet of ground floor commercial use.

On December 12, 2019, the Planning Commission heard the proposed Conditional Use application for 1420 Taraval Street and continued the case to January 30, 2020. With this action, the Commission directed the applicant to provide more information and updated plans to better substantiate the Project. In response, the Project Sponsor submitted revised plans providing the following additional information and amendments:

1. Printing errors from the last packet of information were resolved, making the proposed elevations visible;
2. The location of the master bedroom and living room were reversed so the that the living room faced the street;
3. The rear yard roof deck was setback 5-feet from the eastern property line and planters were added along the north and east sides;
4. Planters were added on the north and south sides of the roof deck;
5. The location of elevator has been shifted further toward the rear of the building;
6. The width of the storefront display area was increased;
7. A 6-foot high opaque screen was added at the north and east sides of the roof deck to address privacy concerns; and
8. The 30-inch high roof parapet was eliminated.

No changes were made to the total building area, residential gross square footage, or number of residential units.

After reviewing the revised project, and taking public comment, the Planning Commission then voted unanimously, with three commissioners absent, to approve the project with conditions.

CONDITIONAL USE AUTHORIZATION REQUIREMENTS

Planning Code Section 303 establishes criteria for the Commission to consider when reviewing all applications for Conditional Use approval. To approve the project, the Commission must find that these criteria have been met:

1. That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and
2. That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
 - a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
 - c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.
4. That such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

In addition, Planning Code Section 317 sets forth the following the following additional criteria that the Planning Commission shall consider in the review of applications for Residential Demolition:

1. Whether the property is free of a history of serious, continuing Code violations;
2. Whether the housing has been maintained in a decent, safe, and sanitary condition;
3. Whether the property is an "historical resource" under CEQA;
4. Whether the removal of the resource will have a substantial adverse impact under CEQA;
5. Whether the project converts rental housing to other forms of tenure or occupancy;
6. Whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;
7. Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

8. Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
9. Whether the project protects the relative affordability of existing housing;
10. Whether the project increases the number of permanently affordable units as governed by Section 415;
11. Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
12. Whether the project increases the number of family-sized units on-site;
13. Whether the project creates new supportive housing;
14. Whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;
15. Whether the project increases the number of on-site Dwelling Units;
16. Whether the project increases the number of on-site bedrooms;
17. Whether or not the replacement project would maximize density on the subject lot; and
18. If replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all of the existing units with new Dwelling Units of a similar size and with the same number of bedrooms.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

ISSUE 1: The proposed project is not consistent with the San Francisco General Plan Housing Element and SF Planning Code 101.1 (b). The 1420 Taraval project is not consistent with Objectives 2 and 3.

The 1420 Taraval project is not consistent with Objectives 2 and 3 and several policies of the San Francisco General Plan Housing Element. These include:

Policy 2.1 Discourage the demolition of sound existing housing unless the demolition results in a net increase in affordable housing.

The 1420 Taraval project would replace naturally affordable housing with market-rate housing and therefore is not consistent with Policy 2.1.

Policy 3.1 Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

1420 Taraval is subject to the Residential Rent Stabilization and Arbitration Ordinance. Three tenants who comprise three separate households (in that they are not a family unit) have naturally affordable rent. Therefore, the project is not consistent with Policy 3.1.

Policy 3.4 Preserve "naturally affordable" housing types, such as smaller and older ownership units.

1420 Taraval is a "naturally affordable" older housing type with annual property tax of \$1,869.32 for this fiscal year. The economics of demolishing existing rental property with a very low tax base and replacing it with market-rate housing with a tax base more than twenty times higher plus

recovery of new construction costs (highest in the world in SF, according to the New York Times) further renders the existing housing type "naturally affordable" housing that should be preserved. Therefore, the project is not consistent with Policy 3.4.

Further, the 1420 Taraval project is not in compliance with the San Francisco Planning Code Section 101.1(b) which provides for general plan consistency and implementation including Priority Policies 2 and 3 (see Exhibit B: SF Planning Code Section 101.1(b) attached hereto and incorporated by reference)

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

"That the City's supply of affordable housing be preserved and enhanced."

RESPONSE 1: On balance, the Planning Commission found that the proposed project was consistent with the General Plan.

In passing resolution 20643, the Planning Commission acknowledged the loss of existing rental housing likely subject to rent control; however, it also found the project to be consistent with policies 4.1, 11.1, 11.2, 11.3, 11.4, and 11.5 of the Housing Element; policies 2.11, and 3.6 of the Recreational and Open Space Element; Policies 24.2, 24.4, 28.1, and 28.3, 34.3, 34.5 of the Transportation Element; and 1.2, 1.3, 2.6, of the Urban Design Element.

When making General Plan Consistency, the Planning Commission must often balance competing policies and come to a decision as to whether or not the proposed project is, on balance, consistent with the General Plan. In this case, the Commission found that, on balance, the proposed project was consistent with the General Plan. In addition to finding consistency with other policies in the General Plan, the Commission also found that the resulting project would include an increase of two new dwelling units, and a net addition of seven bedrooms.

ISSUE 2: The proposed project decreases "naturally affordable" housing in the Parkside district.

The existing three-story structure currently houses at least three current tenants living cooperatively in a three-bedroom house and paying naturally affordable rent for 2,176 square feet of space (725 square feet per person). In contrast, average rent in San Francisco is \$3,688 for an average-sized apartment of 747 square feet, according to RentCafe.

The proposed project would replace "naturally affordable" housing with market-rate housing. Considering that San Francisco has the highest housing construction costs in the world, only high-income tenants would be able to afford living in the proposed new structure.

It should be noted that it is misleading that the three-bedroom, three-story, 2,176 square foot house has been represented variously as a two-bedroom and even a one-bedroom house (seep. 10 of decision, bottom of page). According to the project plans, the second floor contains four good-sized rooms. The plans label two of the rooms as bedrooms and the other two rooms as family room and sitting room.

RESPONSE 2: The Planning Commission found that proposed project's benefits outweighed negative impacts associated with the loss of existing housing.

While the Project removes an older dwelling unit, which is generally considered more affordable than new construction, the project will add two family-sized dwelling units to the City's housing stock. This will result in three, three-bedroom units. In this instance the Planning Commission found that proposed project's benefits outweighed negative impacts associated with the loss of existing housing.

ISSUE 3: Displaces a minimum of three current tenants paying naturally affordable rent.

These tenants comprise three separate naturally affordable rate households in that they arrived at 1420 Taraval at different times and are not part of a family unit. Multiple households living cooperatively and sharing existing structures are some of the most affordable housing available in San Francisco.

RESPONSE 3: Tenant rights and eviction controls are under the purview of the Rent Board; the Planning Department and Commission are not qualified or authorized to adjudicate tenant displacement issues.

The existing single-family dwelling is used as a rental property. According to the applicant, the lease for the current tenant will expire prior to construction beginning on this project. Although the Planning Department assumes that the subject unit is subject to the Rent Stabilization and Arbitration Ordinance because it was constructed before 1979, the Department cannot definitively determine which aspects of the Ordinance are applicable. The Rent Stabilization and Arbitration Ordinance includes provisions for eviction controls, price controls, and other controls, and it is the purview of the Rent Board to determine which specific controls apply to a building or property.

ISSUE 4: Destroys a rare historical resource and negatively impacts the look, feel and character of the Parkside district.

The 1420 Taraval project would demolish one of Parkside's earliest houses, a 1907-1909 craftsman which is the last remaining house in a row built by Hugh Keenan who also built the Grateful Dead house at 710 Ashbury Street. It was constructed following the 1906 earthquake. According to the Preservation Team Review Form attached to the CEQA Categorical Exception Determination (see Exhibit C: Preservation Team Review Form attached hereto and incorporated by reference), "The subject property is significant under Criterion 1 as part of the early residential development of Parkside and the later evolution to accommodate commercial uses and under Criterion 3 as a rare example of early twentieth century residential architecture in the Parkside."

However, the subjective review concludes that the property "does not retain integrity due to significant alterations."

According to Woody LaBounty, local historian and co-author of the Parkside District historic context statement adopted by the City of San Francisco, "With proper contextual consideration of the materials, design, feeling, location, association and setting, 1420 Taraval easily retains a majority of the seven aspects of historic integrity." (see attached Exhibit D: letter from local historian Woody LaBounty attached hereto and incorporated by reference). LaBounty also states that the only modifications are minor, utilitarian and

"entirely reversible." Further, LaBounty states "This proposed project would destroy one of the last, best, early buildings on the Parkside District's main street."

In summary, the 1420 Taraval project is not consistent with the SF General Plan Housing Element and the project is not consistent with the Priority Policies of the SF Planning Code section 101.1 (b) including affordable housing, existing housing and neighborhood character. Further, the Planning Department's preservation team was correct in determining that 1420 Taraval is significant and a rare example but its subjective determination that the structure has lost integrity is not consistent with the views of local historians, preservationists and community members.

RESPONSE 4: The property does not retain historic integrity and appeals of the Planning Department's historic determination are adjudicated through the CEQA appeal process.

The appropriate way to appeal a historic determination is through the CEQA appeal process and not the CU appeal process because the historic determination is done as part of environmental review.

The subject property was found to be significant under Criterion 1 as part of the early residential development of Parkside and the later evolution to accommodate commercial uses. It was also found to be significant under Criterion 3 as a rare example of early twentieth century residential architecture in the Parkside. However, the subject property does not retain integrity due to significant alterations, including alterations to the vacant commercial space. Further, the subject building is not eligible for listing in the California Register as part of a historic district. To contrast, the property at 1409 Taraval is also significant under Criteria 1 and 3 for the same reasons the subject property is; however, 1409 Taraval is a more intact representative example of single-family residential architecture from the early period of development in Parkside.

ISSUE 5: Demolition of the existing structure has a negative environmental impact.

There are significant negative environmental consequences of demolishing the existing structure. According to the Chicago Metropolitan Agency for Planning (CMAP), demolition and construction now account for 25% of the solid waste that ends up in US landfills each year. Also, hauling all of the debris to the dump is bad for climate change among many other environmental impacts.

RESPONSE 5: San Francisco has strong construction and demolition debris disposal requirements, which are enforced by the San Francisco Department of the Environment.

Any person applying for a permit for full demolition of an existing structure must submit a Demolition Debris Recovery Plan (DDRP) to the San Francisco Department of the Environment (SFE). This report must provide for a minimum of 65% diversion from landfill of construction and demolition debris, including materials source separated for reuse or recycling. The DDRP must be submitted to and approved by SFE before the Department of Building Inspection will issue a Full Demolition Permit. The Planning Commission and the Planning Department do not have jurisdiction over debris disposal, and therefore it is not considered as part of the conditional use application.

ISSUE 6: Proposed project would cover up side windows of occupant apartments of small apartment building next door.

The 1420 Taraval project would cover up the side windows of the small apartment building next door at 1414 Taraval Street built in 1936. This will substantially impact the quality of life for existing occupants of 1414 Taraval Street next door to the project.

RESPONSE 6: Side windows are not protected under the Residential Design Guidelines or the Planning Code.

In general, property-line windows are not protected in the Residential Design Guidelines or the Planning Code. An exception would be if the property-line window was the only window onto a bedroom, the removal of which would make it incapable of remaining a bedroom. In this case, the two property-line windows that will be covered are in rooms with windows that have exposure onto the street. Further, the proposed project does match the adjacent property's lightwell, preserving light in the middle of the neighboring structure where exposure to the mid-block open space and the street are not available.

SUMMARY RESPONSE

The appellant brings up several issues in their application that are either not germane to the CU appeal, including the historic determination made by the Planning Department, tenant rights, or the City's demolition debris disposal requirements. The appellant also brings up the issue of property line windows, which are not protected by the Planning Code or the Residential Design Guidelines, except in limited circumstances. The remaining issues have to deal with the proposed project's compliance with the City's General Plan and the loss of existing sound housing. On these issues, the Planning Commission did consider the benefits of the proposed project against the impacts of losing one unit of sound existing housing. On that issue, the Planning Commission came to the conclusion that the loss of the one unit was offset by the construction of three new family-size units. It also found after considering the whole of the General Plan that, on balance the proposed project was consistent with the General Plan.

CONCLUSION

For the reasons stated in this document, in the attached Resolution, and in the Planning Department case file, the Planning Department recommends that the Board uphold the Planning Commission's decision in approving the Conditional Use authorization to demolish an existing single-family home and replace it with mixed-use building comprised of three residential units over a commercial space, and deny the requests from Appellants to overturn or modify the Commission's decision.