



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: December 5, 2017
TO: Planning Commission
FROM: Richard Sucre, Senior Planner
RE: Planning Commission Action – No. DRA -- 0026

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On November 30, 2017, the Planning Commission (Commission) reviewed the application for Conditional Use Authorization for the project at 2906 Folsom Street. The proposed project consists of demolition of the existing one-story garages, subdivision of the existing lot into two lots, a residential merger at 2906 Folsom Street, and new construction of two dwelling units (addressed at 2904 Folsom Street and 3203 25th Street) on the newly formed lot at the corner of 25th and Folsom Street. Currently, 2906 Folsom Street possesses four dwelling units. Citing concerns over the loss of rent-controlled housing, the Commission adopted a motion of intent to deny the application at 2906 Folsom Street (Case No. 2014.1302CUA).

Included with this memorandum is a draft motion, which denies the Conditional Use Authorization at 2906 Folsom Street (Case No. 2014.1302CUA).



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414A)
- Eastern Neighborhoods Impact Fee (Sec. 423)

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Planning Commission Motion No. XXXXX

HEARING DATE: DECEMBER 14, 2017

Case No.: **2014.1302CUA**
 Project Address: **2906 FOLSOM STREET**
 Zoning: **RH-2 (Residential, House, Two-Family) Zoning District**
40-X Height and Bulk District
 Block/Lot: **6525/001**
 Project Sponsor: **Yakuh Askew, YA Studio**
777 Florida Street, Ste. 306
San Francisco, CA 94110
 Staff Contact: **Rich Sucre – (415) 575-9108**
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ADOPTING FINDINGS RELATING TO THE DENIAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE MERGER OF FOUR DWELLING UNITS INTO TWO DWELLING UNITS AT 2906 FOLSOM STREET, LOCATED WITHIN THE RH-2 ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 26, 2016, Yakuh Askew of YA Studio (Project Architect) for Chris Giouzelis (Project Sponsor) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303 and 317 to merge four residential units at 2906 Folsom Street within an RH-2 (Residential, House, Two-Family) District and a 40-X Height and Bulk District.

On April 7, 2016, the Project was determined to be exempt from the California Environmental Quality Act (“CEQA”) as a Class 3 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project.

On November 30, 2017, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.1302CUA.

On November 30, 2017, the Commission adopted a motion of intent to deny the Project at 2906 Folsom Street, and continued the project to the public hearing on December 14, 2017.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2014.1302CUA at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

MOVED, that the Commission hereby denies the Conditional Use requested in Application No. 2014.1302CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project includes demolition of the existing one-story garages, subdivision of the existing lot into two lots, a residential merger at 2906 Folsom Street, and new construction of two dwelling units (addressed at 2904 Folsom Street and 3203 25th Street) on the newly formed lot at the corner of 25th and Folsom Street. Currently, 2906 Folsom Street possesses four dwelling units. The proposed project would retain and expand two dwelling units at 2906 Folsom Street, and would construct two new, four-story, single-family residences. The two new residences would each possess a single-car garage and a roof deck. Overall, the project would maintain four dwelling units on the project site. As part of the Project, the Project Sponsor would designate the two remaining dwelling units at 2906 Folsom Street as part of the City's Inclusionary Affordable Housing Program.
3. **Site Description and Present Use.** Currently, 2906 Folsom Street is a two-story residence with four dwelling units designed in an Italianate architectural style located on a corner lot at the southwest corner of Folsom and 25th Streets. Currently, the subject lot measures 46-ft by 85-ft or 3,910 square feet. Adjacent to the historic residence along 25th Street are seven, interconnected, one-story garages that occupy the same lot. Along Folsom Street and a portion of 25th Street, the site is bordered by a historic ornamental wrought iron fence. The historic residence at 2906 Folsom Street is located within the Shotwell Street Historic District, which was found eligible for the National Register of Historic Places, as part of the South Mission Historic Resource Survey. As noted by the Project Sponsor, two of the three dwelling units are currently occupied by tenants. Although Department of Building Inspection (DBI) denotes four dwelling units at the project site, only three dwelling units are evident within the subject building.
4. **Surrounding Properties and Neighborhood.** The surrounding neighborhood has a defined architectural character, and consists primarily of two- to-three-story, multi-family residences. Adjacent to the subject lot to the south is another historic, two-story, multi-family residence at 2908 Folsom Street. To the west of the subject lot along 25th Street are three, interconnected, one-

story garages, which are identical to the seven, interconnected one-story garages on the subject lot. Adjacent to these garages along Horace Street is a one-story single-family residence. The surrounding neighborhood includes a corner market at the northwest corner of 25th and Folsom Streets. Otherwise, the surrounding blocks are primarily residential in character. Other zoning districts within the vicinity of the project site include: RH-3 (Residential, House, Three-Family) and P (Public).

5. **Public Comment/Community Outreach.** The Department has received several public correspondences expressing opposition to the proposed project. The Project Sponsors have provided correspondence expressing support for the demolition of the seven garages along 25th Street.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Minimum Lot Width & Area.** Planning Code Section 121 requires newly created lots to have a minimum lot width of 25-feet and a minimum lot area of 2,500 square feet.

The proposed project would subdivide the existing lot and create two new lots, which would measure 21.88-feet by 85-feet (or approximately 1,860 square feet) and 24.12-feet by 85-feet (or approximately 2,050 square feet). Both of these new lots do not meet the minimum dimensions required for newly created lots. Therefore, the project requires a lot width and area variance from the Zoning Administrator (See Case No. 2014.1302V).

- B. **Rear Yard Requirement.** For corner parcels located in the RH-2 Zoning District, Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth.

The proposed project would construct two new residences with no rear yard. The two new residences would have full lot coverage. Therefore, the project requires a rear yard variance from the Zoning Administrator (See Case No. 2014.1302V).

- C. **Open Space.** Planning Code Section 135 requires 125 square feet of private useable open space per dwelling units in the RH-2 Zoning District.

The proposed provides roof decks for the new dwelling units. 2904 Folsom Street would possess a roof deck measuring 283 square feet, while 3203 25th Street would possess a roof deck measuring 260 square feet. Therefore, the proposed project complies with this requirement.

- D. **Dwelling Unit Exposure.** Planning Code Section 140 requires new dwelling units face onto a public street, public alley at least 20-feet in width, side yard at least 25-feet in width or code-complying rear yard.

The proposed project would construct two new dwelling units, which face onto 25th Street (a public street). Therefore, the project complies with this requirement.

- E. **Street Frontage in RH Districts.** Planning Code Section 144 requires entrances to off-street parking be no more than one-third the width of the ground story and no more than 20-feet per entrance, and be separated from other entrances by a minimum of 6-feet.

The proposed project would construct two new entrances to off-street parking. The entrances would each measure 10-feet wide and would be separated from one another by more than 24-feet. Therefore, the project complies with this requirement.

- F. **Off-Street Parking.** Planning Code Section 151 requires one parking space for each new dwelling unit.

The proposed project provides two off-street parking spaces for the two proposed dwelling units. Therefore, the project complies with this requirement.

- G. **Bicycle Parking.** Planning Code Section 155.2 requires one Class 1 bicycle parking space per dwelling units in the RH-2 Zoning District.

The proposed project provides two Class 1 bicycle parking spaces for the two proposed dwelling units. Therefore, the project complies with this requirement.

- H. **Dwelling Unit Density.** In the RH-2 Zoning District, pursuant to Planning Code Section 209.1, two dwelling units are principally permitted per lot.

Currently, the existing building is non-complying with four dwelling units on the existing lot, which measures 46-feet by 85-feet. The proposed project would: subdivide the existing lot into two new lots; would retain, reconfigure and expand two of the existing dwelling units in 2906 Folsom Street; and, would construct two new dwelling units on the newly created lot (addressed as 2904 Folsom Street and 3203 25th Street). Therefore, the project would result in two dwelling units per lot and would bring the existing building into conformity with the Planning Code.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed project is located in a 40-X Height and Bulk District, with a 40-foot height limit.

The proposed project would construct two new residences, which would measure 40-ft in height. Therefore, the project complies with this requirement.

- J. **Residential Merger.** Planning Code Section 317 defines a residential merger as “...the combining of two or more Residential or Unauthorized Units, resulting in a decrease in the number of Residential Units and Unauthorized Units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even if the number of units is not reduced. The Planning Commission may reduce the numerical element of this criterion by up to 20% of its value should it deem that adjustment is necessary to implement the intent of this Section [317](#), to conserve existing housing and preserve affordable housing.”

The proposed project would retain, reconfigure and expand two of the four existing dwelling units at 2906 Folsom Street, which would constitute a residential merger as defined in Planning Code Section 317. The Project Sponsor has applied for Conditional Use Authorization, which has been denied by the Planning Commission. See Below for Findings for the Denial.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use. On balance, the project does not comply with said criteria in that:

- (1) 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.

Although the design and scale of the project is compatible with the surrounding neighborhood, the expansion of two existing dwelling units at 2906 Folsom Street and the new construction of two new four-story dwelling units at 3203 25th Street and 2904 Folsom Street is not necessary or desirable. The proposed project would remove two dwelling units, which are subject to the Rent Stabilization and Arbitration Ordinance. The project would construct two larger dwelling units and would subdivide the existing lot in a manner which is not consistent with the minimum standards of the Planning Code. Although the project would be closer to conformity with the Planning Code in terms of dwelling unit density, the project does not result in any net new housing. The removal of rent-controlled dwelling units is not desirable given the current state of housing in San Francisco. Finally, the project would require deviation from the Planning Code requirements for rear yard and minimum lot width and area.

- (2) 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:

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

The proposed project is designed to be compatible with the surrounding neighborhood and historic district. The Project Sponsor has incorporated the recommendations from the Department's Residential Design Team (RDT). The project would demolish seven one-story interconnected garage structures and would construct two new four-story dwelling units. These new dwelling units are an appropriate response for a corner parcel, and would improve the street character of 25th Street between Folsom and Horace Streets. 2904 Folsom Street would have raised entryway along Folsom Street, while 3203 25th Street would have a direct access from the street. The new dwelling units would align to the existing historic residence, and would also retain important site features, such as the historic wrought iron fence. However, the new project would require a variance from the Planning Code.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section [166](#) of this Code;

The Planning Code requires two off-street parking spaces for the proposed project. The proposed project would remove seven off-street parking spaces through the demolition of the existing one-story garages.

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

The proposed project will comply with the City's requirements to minimize noise, glare, odors, or other harmful emissions.

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

Although designed in a contemporary aesthetic, the façade treatment and materials of the new dwelling units have been appropriately selected to be harmonious with the existing surrounding neighborhood and historic district.

- (3) Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.

The proposed project does not comply with all aspects of the Planning Code. The proposed project is requesting a variance from the Zoning Administrator to address the requirements for rear yard and minimum lot width and area. The Project is not consistent with certain aspects of the General Plan, as detailed below.

- (4) Such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

The Project would be consistent with the RH-2 Zoning District, which is described in the Planning Code Section 209.1:

These Districts are devoted to one-family and two-family houses, with the latter commonly consisting of two large flats, one occupied by the owner and the other available for rental. Structures are finely scaled and usually do not exceed 25 feet in width or 40 feet in height. Building styles are often more varied than in single-family areas, but certain streets and tracts are quite uniform. Considerable ground-level open space is available, and it frequently is private for each unit. The Districts may have easy access to shopping facilities and transit lines. In some cases, Group Housing and institutions are found in these areas, although nonresidential uses tend to be quite limited.

8. **Planning Code Section 317** establishes additional findings and criteria for the Planning Commission to consider when reviewing applications for a residential merger. The Project does not comply with several of the additional criteria:

- i. whether removal of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed have been owner occupied;

The proposed project would not remove owner-occupied housing. The property owner does not occupy any of the four dwelling units at 2906 Folsom Street. Currently, the existing four dwelling units are rental housing.

- ii. whether removal of the unit(s) and the merger with another is intended for owner occupancy;

The proposed project is not intended for owner occupancy.

- iii. whether removal of the unit(s) will remove an affordable housing unit as defined in Section 401 of this Code or housing subject to the Residential Rent Stabilization and Arbitration Ordinance;

Although the three dwelling units at 2906 Folsom Street would appear to be subject to the Rent Stabilization and Arbitration Ordinance, the Planning 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.

Based upon consultation with the San Francisco Rent Board on April 6, 2016, the subject property has no no-fault evictions filed with the Rent Board after December 10, 2013.

- iv. if removal of the unit(s) removes an affordable housing unit as defined in Section 401 of this Code or units subject to the Residential Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units being removed;

The proposed project does not remove an affordable housing unit. None of the units within the subject property are designated as affordable housing units, as defined in Planning Code Section 415.

The proposed project would not provide housing, which is affordable to households with children, as compared to the existing dwelling units. Although the two new dwelling units are larger with a greater number of bedrooms, which would be more suitable for households with children, the relative affordability of these new dwelling units is questionable, especially as compared with the existing dwelling units.

- v. how recently the unit being removed was occupied by a tenant or tenants

Currently, two of the three existing units are occupied by tenants. One unit is vacant.

- vi. whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;

The proposed project would provide a greater number of bedrooms in separate units as compared with the existing dwelling units. Currently, the existing building possesses one studio, two one-bedroom dwelling units, and one two-bedroom dwelling unit. The proposed project would provide two new three-bedroom dwelling units and would expand the number of bedrooms within the remaining two dwelling units at 2906 Folsom Street.

- vii. Whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations.

The proposed project is not required to correct design or functional deficiencies with the existing building.

- viii. the appraised value of the least expensive Residential Unit proposed for merger only when the merger does not involve an Unauthorized Unit;

Not Applicable

The proposed project does not

9. **General Plan Compliance.** The Project is not consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:

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

Policy 2.1:

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

Policy 2.2:

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

OBJECTIVE 3:

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

Policy 3.1:

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

The proposed project would remove two rent-controlled dwelling units and would maintain the same number of dwelling units on the project site that currently exist within the two-story building at 2906 Folsom Street. The proposal does not result in any net new housing on the project site and the proposal would not result in any affordable housing. Therefore, the project is not consistent with the important elements of the General Plan and is not supported by the Planning Commission.

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

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

Existing neighborhood-serving retail uses would not be displaced or otherwise adversely affected by the proposal, as the existing buildings do not contain commercial uses/spaces.

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

The proposed project includes removal of two rent-controlled dwelling units and the new construction of two new market-rate dwelling units. The proposed project maintains the number of dwelling units currently on the project site and does not result in any net new housing. Therefore, the proposed project does not impact the economic diversity of the surrounding neighborhood by the removal of the rent-controlled dwelling units without benefit to the larger City.

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

The existing building does not possess any designated affordable housing units. The proposed project does not include construction of new affordable housing units, as defined in Planning Code Section 415.

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

The proposed project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood.

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

The proposed project is a residential project in an RH-2 District; therefore the Project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the proposed project.

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

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

- G. That landmarks and historic buildings be preserved.

The project site is located within the Shotwell Street Historic District, which is eligible for the National Register of Historic Places. The existing building at 2906 Folsom Street is a contributing resource to the Shotwell Street Historic District. The proposed project does not negatively impact the existing residence at 2906 Folsom Street, and provides appropriate infill new construction within the historic district, and does not adversely impact any historic buildings.

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

The proposed project will not impact any existing parks and open spaces. The proposed project does not exceed the 40-foot height limit; therefore, the project is not subject to the requirements of Planning Code Section 295 – Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission. The height of the proposed structures is compatible with the established neighborhood development.

11. The Project is not consistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.
12. The Commission hereby finds that denial of the Conditional Use Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DENIES Conditional Use Application No. 2014.1302C**, subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

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

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on December 14, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 14, 2017