



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: FEBRUARY 9, 2017

Continued from the November 3, 2016 and December 1, 2016 Hearings

Date: January 30, 2017
Case No.: **2015-018150CUA**
Project Address: **137 CLAYTON STREET**
Zoning: RH-3 (Residential, House - Three-Family)
40-X Height and Bulk District
Block/Lot: 1194 / 006
Project Sponsor: Jeremy Schaub, Gabriel Ng Architects
1360 9th Avenue
San Francisco, CA 94122
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BACKGROUND

On June 1, 2016, the Project Sponsor filed an application with the Planning Department for a Conditional Use Authorization under Planning Code Sections 303 and 317 proposing to demolish a two-story, single-family dwelling and construct a new four-story, 3-unit replacement building within the RH-3 (Residential, House – Three-Family) Zoning District and 40-X Height and Bulk District.

On November 3, 2016, the Planning Commission conducted a duly noticed public hearing and, after taking and closing public comment, adopted a motion of intent to disapprove the project on the basis that the proposed demolition of the existing building and construction of a 4-story, three-unit replacement building does not respect the existing neighborhood character, and therefore does not meet the objectives of the General Plan.

The City Attorney advised the Commission that the California Housing Accountability Act requires local governments to adopt findings relating to public health and safety when denying a housing project, imposing conditions that reduce its density, or rendering the project infeasible. The Commission would have to find that such a housing project would have a “specific adverse effect” on the public health or safety and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact other than disapproval. As such, the Commission continued the item to the December 1, 2016, public hearing at which the Commission further continued the item to the February 9, 2017, hearing to allow Planning staff an opportunity to prepare a draft motion of disapproval, including the aforementioned findings in accordance with the California Housing Accountability Act.

CURRENT PROPOSAL

No changes have been made to the proposal.

REQUIRED COMMISSION ACTION

In order to disapprove the project, the Commission must adopt the attached Draft Motion.

Attachments:

Draft Motion of Disapproval

Project Sponsor Submittal



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input checked="" type="checkbox"/> Child Care Requirement (Sec. 414A) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Eastern Neighborhoods Impact Fee (Sec. 423) |

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Planning Commission Draft Motion

HEARING DATE: FEBRUARY 9, 2017

CONTINUED FROM: NOVEMBER 3, 2016

Date: January 30, 2017
Case No.: **2015-018150CUA**
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ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 TO DEMOLISH AN EXISTING TWO-STORY, SINGLE-FAMILY DWELLING AND CONSTRUCT A NEW FOUR-STORY, 3-UNIT BUILDING WITHIN THE RH-3 (RESIDENTIAL, HOUSE – THREE-FAMILY) ZONING DISTRICT AND 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 1, 2016, Jeremy Schaub (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for a Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish an existing two-story, single-family dwelling and construct a new four-story, 3-unit building (hereinafter “Project”) within the RH-3 (Residential, House – Three-Family) Zoning District and 40-X Height and Bulk District.

On November 3, 2016, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2015-018150CUA. The Commission moved an intent to disapprove the project on the basis that the proposed demolition of the existing building and construction of a 4-story, three-unit replacement building does not meet the objectives of the General Plan. After hearing and closing public comment, the Commission indicated its intent to disapprove the project and continued the item to December 1, 2016, to allow Planning staff an opportunity to prepare a draft motion of disapproval.

On December 1, 2016, the Commission further continued Conditional Use Application No. 2015-018150CUA, to a hearing on February 9, 2017.

On February 9, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2015-018150CUA.

On June 26, 2016, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 1 and Class 3 Categorical Exemption under CEQA, as described in the determination contained in the Planning Department files for this Project. During the CEQA review, it was determined that the subject building is not a historic resource.

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 disapproves the Conditional Use requested in Application No. 2015-018150CUA, 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. **Site Description and Present Use.** The Project is located on the west side of Clayton Street, between Grove Street and Hayes Street, Lot 006 in Assessor's Block 1194. The property is located within the RH-3 (Residential, House – Three-Family) Zoning District and 40-X Height and Bulk District. The subject property has approximately 25 feet of frontage on Clayton Street and is approximately 112.5 feet deep. The property is mostly flat and is currently occupied by a two-story, single-family dwelling constructed circa 1908, which covers approximately 42% of the lot.
3. **Surrounding Properties and Neighborhood.** The project site is located midblock between Grove Street and Hayes Street in the Haight Ashbury neighborhood, north of the Panhandle and south of the University of San Francisco campus. The subject site is located in an RH-3 Zoning District and is surrounded primarily by two- and three-family dwellings ranging in height from three to four stories. Immediately adjacent to the subject property to the north is a three-and-a-half story, three-family dwelling and immediately to the south, at the northwest corner of Clayton Street and Hayes Street, is a three-story, 4-unit residential building. Also directly south of the subject property is the Asian American Recovery Services outpatient facility located in adjacent one- and two-story buildings fronting onto Hayes Street. Directly across the street are a three-story, single-family dwelling and a four-story, six-unit residential building. Immediately behind and to the west of the subject property is the New Traditions Elementary School. While the portion of Grove Street near the subject property is within the RM-1 (Residential – Mixed, Low-Density) Zoning

District, the majority of the surrounding neighborhood is within the RH-3 (Residential, House – Three-Family) Zoning District. The subject property is also within .25-miles of stops for the 7X – Noriega Express, 21 – Hayes, and 43 – Masonic MUNI transit lines.

4. **Project Description.** The Project proposes the demolition of the existing two-story, single-family dwelling, which is currently occupied by several individual tenants, and the construction of a four-story, 40-foot tall, three-family residential building. Located on separate floors, the three units would range in size from approximately 1,220 square feet to 1,411 square feet and would each have three bedrooms and two bathrooms. Three independently accessible off-street parking spaces and three Class 1 bicycle parking spaces, one for each unit, are proposed in the garage on the ground floor.

The project is not seeking any exceptions or variances from the Planning Code. The proposal requires neighborhood notification, pursuant to Section 311 of the Planning Code, which was conducted in conjunction with the Conditional Use Authorization process.

5. **Public Comment.** As of October 24, 2016, the Department had received one telephone call, from the current tenant of the building, inquiring about the proposed timing of the project. At the November 3, 2016, Planning Commission hearing, the current master tenant of the building spoke in opposition to the project on the basis that the proposed project would result in her displacement.
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. **Residential Demolition – Section 317.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to demolish a residential unit in an RH-3 Zoning District. This Code Section establishes criteria that Planning Commission shall consider in the review of applications for Residential Demolition.

The Project Sponsor applied for Conditional Use Authorization. See Subsection 8 “Additional Findings pursuant to Section 317” below.

- B. **Front Setback Requirement.** Planning Code Section 132 states that the minimum front setback depth shall be based on the average of adjacent properties or a Legislated Setback.

The required front setback for the subject property, based on the average of the two adjacent buildings, is 0.75 feet. The replacement project proposes a front setback of 1.5 feet. The proposed front bay windows on the third and fourth floors project approximately 1 foot into the required front setback. These bay windows meet the requirements of Planning Code Section 136(c), which regulates permitted obstructions into yards and over streets.

- C. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard equal to 45 percent of the total depth, at grade and above, for properties containing dwelling units in RH-3 Zoning Districts. Planning Code Section 134(c)(1) allows for the reduction in the rear yard

requirement to the average between the depths of the rear building walls of the two adjacent buildings. In the case of any lot that abuts along one of its side lot lines upon a lot with a building that fronts on another street or alley, the lot on which it so abuts shall be disregarded, and the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building fronting on the same street or alley.

The subject property is approximately 112.5 feet in depth and therefore the 45 percent requirement is 50.6 feet. The subject property abuts along its south lot line a building that fronts another street (Hayes Street), therefore, that lot is disregarded in the consideration of a reduction in the rear yard requirement. The subject property abuts along its north lot line a building with a rear yard setback of approximately 38.6 feet. Accordingly, the replacement project provides a matching rear yard of approximately 38.6 feet which complies with the rear yard requirement of the Planning Code. A one- and two-story rear portion of the proposed building, set back approximately 5 feet from each side lot line, projects into the required rear yard by approximately 10.5 feet. This structure meets the requirements of Planning Code Section 136(c)(35)(ii), which allows structures not exceeding the floor level of the second floor of occupancy, excluding the ground story, to project up to 12 feet into the required rear yard provided that they shall be no closer than five feet to any interior side lot line.

- D. **Useable Open Space.** Planning Code Section 135 requires 100 square feet of useable open space for each dwelling unit if all private, or a total of 400 square feet of common usable open space.

The replacement project contains three dwelling units. Each unit has access to approximately 700 square feet of common open space in the rear yard as well as private balconies and roof decks totaling approximately 456 square feet. As such, all dwelling units have access to usable open space which exceeds the minimum required by Section 135 of the Planning Code.

- E. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street or public alley at least 30 feet in width, a side yard at least 25 feet in width, a rear yard meeting the requirements of the Code or other open area that meets minimum requirements for area and horizontal dimensions.

All proposed dwelling units in the replacement project have direct exposure onto the public street.

- F. **Street Frontages.** Section 144 of the Planning Code requires that no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is setback from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width.

The replacement project proposes a Code-complying garage door width of 9.75 feet.

- G. **Off-Street Parking.** Planning Code Section 151 requires one parking space for each dwelling unit and a maximum of 150 percent of the required number of spaces where three or more spaces are required.

The replacement project will provide three (3) off-street parking spaces.

- H. **Bicycle Parking.** Planning Code Section 155.2 requires at least one Class 1 bicycle parking space for each dwelling unit and one Class 2 bicycle parking space for every 20 dwelling units.

The project requires three Class 1 bicycle parking spaces and no Class 2 bicycle parking spaces. The replacement project proposes three Class 1 bicycle parking spaces, located in the garage.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. For properties in RH-3 Zoning Districts, height is measured at the center of the building starting from curb to a point 40 feet high at the required front setback.

The existing building has a height of approximately 26.5 feet, as measured from curb to the midpoint of its pitched roof. The proposed four-story, three-family dwelling will be approximately 40 feet high at the required front setback and for a building depth of approximately 62.5 feet. The remaining 20.5 feet of building depth would range in height from approximately 10 feet to 30 feet in height.

- J. **Child Care Requirements for Residential Projects.** Planning Code Section 414A requires that any residential development project that results in at least one net new residential unit shall comply with the imposition of the Residential Child Care Impact Fee requirement.

The replacement project proposes new construction of a three-unit residential building. Therefore, the project is subject to the Residential Child Care Impact Fee and must comply with the requirements outlined in Planning Code Section 414A.

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:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The demolition of the existing building, which appears to maintain a significant degree of architectural integrity, is not desirable. Although the design and scale of the proposed four-story replacement building would be compatible with the surrounding neighborhood, it is not necessary to demolish the existing building in order to achieve the increased dwelling-unit density proposed on the site. A thoughtful alteration of the existing building would allow for a project at the contemplated size and

intensity and would provide a development that is both necessary, desirable and compatible with the neighborhood character.

- B. 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:

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

The four-story massing of the replacement building at the street front is appropriate given the context of the immediate neighborhood and the proposed new construction is entirely within the buildable area as prescribed by the Planning Code and Residential Design Guidelines.

- 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;

The proposed replacement building's garage is designed to accommodate the three required off-street parking spaces, in addition to the three required Class 1 bicycle parking spaces.

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

As the proposed replacement project is residential in nature, unlike commercial or industrial uses, the proposed residential use is not expected to produce noxious or offensive emissions.

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

The façade treatment and materials of the replacement building, including the angled front bay windows, have been appropriately selected to be compatible with the surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code, but is inconsistent with some of the Objectives and Policies of the General Plan, as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Use District.

The proposed Project is consistent with the stated purpose of RH-3 Zoning Districts which are devoted to one-family, two-family and three-family houses that are finely scaled and usually do not exceed 25

feet in width or 40 feet in height. Additionally, the Project is in conformance with the Planning Code requirements for dwellings in RH-3 Zoning District.

8. **Additional Findings pursuant to Section 317.** Section 317 of the Planning Code establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does not comply with said criteria in that:

- i. Whether the property is free of a history of serious, continuing code violations;

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- ii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

The existing dwelling appears to be in decent, safe, and sanitary condition with no recent Code violations.

- iii. Whether the property is an “historical resource” under CEQA;

Although the existing building is more than 50 years old, a review of supplemental information resulted in a determination that the property is not an historical resource.

- iv. Whether the removal of the resource will have a substantial adverse impact under CEQA;

The structure is not an historical resource and its removal will not have a substantial adverse impact under CEQA.

- v. Whether the Project converts rental housing to other forms of tenure or occupancy;

The existing single-family dwelling is currently being rented. The replacement project proposes one owner-occupied unit and two new rental dwelling units. Although the single-family dwelling is technically 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.

- vi. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

The existing single family dwelling is currently being rented. Although the single-family dwelling is technically 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.

- vii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

The project proposes the demolition of an existing older single-family house, which generally tends to be more affordable. The new construction project will result in three dwelling units, which tend to be less affordable than older dwelling units, which may adversely affect the economic diversity in the neighborhood.

- viii. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

By demolishing the existing building, which exhibits a significant degree of architectural integrity, the Project would not conserve neighborhood character, which may threaten the economic diversity in the neighborhood.

- ix. Whether the Project protects the relative affordability of existing housing;

The Project would remove an older dwelling unit from the City's housing stock. While the Project would provide an additional two dwelling units, the relative affordability of these new dwelling units is questionable, compared with the existing older dwelling unit which would generally be considered more affordable than more recently constructed units.

- x. Whether the Project increases the number of permanently affordable units as governed by Section 415;

The Project is not subject to the provisions of Planning Code Section 415, as the project proposes fewer than ten units.

- xi. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Infill projects in established neighborhoods are more appropriately located on vacant, underutilized sites or to replace structurally unsound or otherwise substandard buildings. The existing dwelling appears to be structurally sound and therefore does not represent an appropriate site for the proposed type of infill new construction development.

- xii. Whether the project increases the number of family-sized units on-site;

The Project proposes enhanced opportunities for family-sized housing on-site by constructing three family-sized dwelling units whereas the property currently contains only one family-sized dwelling rented to multiple individuals.

- xiii. Whether the Project creates new supportive housing;

The Project does not create supportive housing.

- xiv. Whether the Project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

The overall scale, traditional design, and materials of the proposed building are consistent with the existing block-face. The removal of an existing dwelling with a significant degree of architectural integrity, however, would not enhance the existing neighborhood character.

- xv. Whether the Project increases the number of on-site dwelling units;

The Project would add two additional dwelling-units to the site.

- xvi. Whether the Project increases the number of on-site bedrooms.

The existing dwelling contains four bedrooms. The proposal includes three 3-bedroom units, a net increase of five bedrooms.

- xvii. Whether or not the replacement project would maximize density on the subject lot; and,

The Project will maximize the allowed density on-site by providing three dwelling units.

- xviii. If replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all the existing units with new dwelling units of a similar size and with the same number of bedrooms.

The existing single family dwelling is currently being rented and the new project will replace the existing unit with three slightly smaller dwelling units that contain one fewer bedroom each, but cumulatively would add five additional bedrooms to the subject property. Although the single-family dwelling is technically 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.

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.

The existing building appears to be structurally sound, and although there would be an increase in the number of dwelling units from one to three within the replacement building, none would be technically “affordable”. In fact, newer units tend to be less affordable than older units of similar size. Furthermore, the existing building and property could accommodate an alteration that would achieve the desired density, while preserving the existing sound housing.

OBJECTIVE 3:

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

Policy 3.4:

Preserve “naturally affordable” housing types, such as smaller and older ownership units.

The proposed demolition of the existing single-family dwelling would remove a “naturally affordable” housing type from the City’s housing stock.

OBJECTIVE 5:

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.6:

Offer displaced households the right of first refusal to occupy replacement housing units that are comparable in size, location, cost, and rent control protection.

There has been no evidence provided to the City that the existing tenants were offered the right of first refusal to occupy the replacement housing.

OBJECTIVE 11:

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO’S NEIGHBORHOODS.

Policy 11.1:

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.3:

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Growth can be accommodated by adding additional dwelling units to the existing building without adversely impacting the existing neighborhood character. The rehabilitation and expansion of the existing building would better respect the existing neighborhood character than would its complete demolition.

URBAN DESIGN ELEMENT

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Principle 7:

Renovation and restoration of older, well-designed buildings can preserve the character and interest of the streetscape if the original building design is respected in use of materials and details.

The renovation and restoration of the existing older building, perhaps with a vertical and horizontal rear expansion in order to accommodate additional dwelling units, would better preserve the character and interest of the streetscape.

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 not 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 building does not contain commercial uses.

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

The demolition of the existing building, which appears to have significant architectural integrity, would not conserve the neighborhood character and would not protect existing housing, which could jeopardize the economic diversity of the neighborhood.

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

The existing, older dwelling would generally be considered to be more naturally affordable when compared with the three new proposed dwelling-units.

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

The replacement project meets the density, off-street parking and bicycle parking requirements of the Planning Code and is therefore not anticipated to impede transit service or overburden our streets with neighborhood parking.

- 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 Project would not displace any service or industry establishment. 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 this Project.

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

The Project is designed and would be constructed to conform to the structural and seismic safety requirements of the City's Building Code. This proposal would not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The Project would not adversely affect impact any existing parks and open spaces, nor their access to sunlight and vistas.

11. **California Housing Accountability Act Compliance.** When a proposed housing development project complies with objective General Plan and zoning standards and criteria, including design review standards in effect at the time, local governments may not deny the housing project or impose conditions that reduce its density or render the project infeasible without making certain findings. Accordingly, the Commission hereby finds that the Project would have a "specific adverse effect" on the public health or safety and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact other than disapproval, as set forth below.

- A. **Applicability.** The California Housing Accountability Act applies to proposed housing development projects that "comply with objective General Plan and zoning standards and criteria", including design review standards in effect at the time.

The Project does not fully comply with several of the Objectives and Policies of the General Plan, as outlined in Subsection 9 above. Furthermore, the Commission finds that there are feasible methods to satisfactorily mitigate or avoid the adverse impact caused by the Project, since the Commission's concerns with Project are related to the demolition of the existing sound structure, not the proposed Project's density. Because an alteration to the existing building could achieve the same density while retaining the sound existing structure, the Commission finds that the Sponsor has not satisfactorily considered alternatives that lessen the adverse impact of the proposed demolition while maintaining the proposed density. As such, it is questionable as to whether the California Housing Accountability Act

applies to the Commission's disapproval of the proposed demolition. Nonetheless, additional findings supporting the Commission's decision regarding the Project's adverse effects on public health and safety are outlined below.

B. Public Health and Safety. The California Housing Accountability Act requires local governments make findings relating to "specific adverse effects" on the public health or safety when disapproving a housing project. The Act defines a "specific adverse impact" as a "significant, quantifiable, direct and unavoidable impact based on objective, identified written public health or safety standards, policies or conditions" that existed on the date the application was deemed complete. The Planning Commission finds that the proposed project would have the following specific adverse effects on public health and safety:

- i. Affordability. The Project would have a specific adverse effect on public health and safety in that the existing, older dwelling unit proposed for demolition represents a more affordable alternative to the proposed new dwelling units, which would likely be more expensive. According to the Center for Housing Policy, affordable housing can alleviate crowding and frees up household resources to pay for health care, insurance and more nutritious food, which results in improved health outcomes.*
- ii. Stability. As a result of the demolition of the older, "naturally affordable" dwelling unit, existing neighborhood residents would have fewer opportunities to maintain a stable residence in their neighborhood. According to the Center for Housing Policy, access to stable and affordable housing supports mental health by limiting stressors related to frequent relocation and the financial burden that displacement can cause.*
- iii. Quality Neighborhoods. According to the Center for Housing Policy, when displaced from quality neighborhoods such as this one, individuals who can only access affordable housing in areas with higher poverty levels may be prone to greater psychological distress and risk being exposed to violent crime. Being able to maintain a standard of living in their established neighborhood allows residents to reduce stress, maintain their access to amenities, and to retain vital societal connections.*

12. The Commission hereby finds that disapproval of the Conditional Use Authorization request 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 **DISAPPROVES Conditional Use Application No. 2015-018150CUA**.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal the disapproval of this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. 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 February 9, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

REUBEN, JUNIUS & ROSE, LLP

January 30, 2017

Delivered via E-Mail

President Rich Hillis
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: 137 Clayton Street
Planning Department Case No. 2015-018150CUA
Hearing Date: February 9, 2017
Our File No.: 10566.01**

Dear President Hillis and Commissioners:

Our office represents Matthew and Lisa Williams, the owners of a single-family residence at 137 Clayton Street (Block 1194, Lot 006) ("**Property**") and the project sponsors ("**Project Sponsor**") for a proposal to allow the construction of a three-unit building at the Property after demolition of the existing building ("**Project**"). On November 3, 2016, the Commission heard the request for a conditional use ("**CU**") authorization for the Project, and at the conclusion of the hearing it moved to continue the item with a motion of intent to deny. We respectfully ask the Commission to reconsider its November 3, 2016 motion and instead of proceeding with a denial approve the CU and the Project for the following reasons:

- The Project will replace an existing larger, approx. 2,160-sf, 4-bedroom single-family residence with three (3) smaller, 1,220 - 1,410 sf units with a total of 9 bedrooms, and thereby will result in more housing units, more bedrooms, and more modestly sized housing;
- The Project will have no impact on historically significant buildings since the Property is not historically significant as has been concluded by a qualified preservation consultant and by Planning Department staff;
- The proposed density, height and building volume are fully consistent with the applicable RH-3 zoning and 40-X height designations, the Project is in compliance with all Planning Code requirements and is consistent with existing context;
- Denial of the Project would conflict with California Government Code Section 65589.5 (the "**Housing Accountability Act**");
- Denial of the Project would conflict with the City's housing policies and the applicable Section 317 demolition and Section 303 CU criteria; and
- Denial of the Project would conflict with the Commission's actions on other similar projects.

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A. Project Description

Matthew and Lisa Williams, the Project Sponsors, have owned the Property since 1985 and lived at the Property with their family until 2000 when a move to San Diego became relevant for family reasons in order to allow Matthew and Lisa to be closer to their daughter during her college and subsequent years. During the last approx. 16 years while the owners have lived in San Diego, the Property has been a rental. Matthew and Lisa are now planning to move back to San Francisco and to the Property they have owned for approx. 28 years. Prior to moving back, they are planning to renovate the Property and instead of enlarging the existing single-family unit, they are planning to add two (2) new units and to make all of the units relatively smaller than the existing unit.

B. Project complies with all applicable criteria

- 1. Project is Code compliant and from density perspective more consistent with current and neighborhood context than current improvements*

The permitted density in RH-3 zoning districts is 3 units, and thus with only one (1) existing unit, the Property is underutilized with respect to its ability to contribute to the City's housing supply. As shown in the images below, the surrounding context is made up of larger, mostly up to 40-foot tall buildings with multiple units.

137 and other buildings on the same side of street:



153-159 Clayton
(4 units)

137 Clayton
(1 unit)

131-135 Clayton
(3 units)

125 Clayton
(12 units)

119 Clayton
(2 units)

111-115 Cl.
(3 units)

2001 Grove
(12 units)

Source: Google maps. Not to scale; illustrative only.

Clayton Street across the street from 137 Clayton:



1985 Grove	110-14 Cl.	116-120 Cl.	122-126 Cl.	130-134 Cl.	180-188 Cl.	192 Clayton	1994-1998 Hayes
(10 units)	(3 units)	(2 units)	(3 units)	(3 units)	(6 units)	(1 unit)	(3 units)
						Built in 1997	Built in 1996

As examined in detail in the Planning Department's staff report, dated October 24, 2016 and attached hereto as Exhibit A, the Project is fully Code compliant with respect to all Code requirements, from height to setbacks and beyond.

2. Project complies with Section 317 criteria

Demolition of a residential unit, even if the same unit is proposed to be replaced by another unit, or in this case by several units, is subject to evaluation against Section 317 criteria. According to the City's Housing Element, applicants "...must meet a majority of the criteria for dwelling loss to be approved, in order to retain the city's existing sound housing stock."¹ The Project complies with more than a majority of Section 317 criteria, and as concluded by the Department's original October 24, 2016 draft approval motion, the Project, on balance, complies with the applicable criteria.

It should also be noted that the Project Sponsor did not attempt to circumvent Section 317 evaluation by submitting the project as an alteration that could have turned into a de facto demolition during the course of construction. Instead, the Project Sponsor proceeded in accordance with the applicable requirements and submitted the Project as a demolition, without unnecessarily increasing the Project construction costs (and thereby decreasing their affordability), and without being limited by existing inefficiencies, which could result the proposed, already moderately sized three (3) units to become even smaller (thereby reducing the Project's ability to provide three (3), approx. 1,220-1,410-sf units and decreasing their overall per sf affordability).

¹ General Plan, Housing Element, Discussion under Objective 2.

Even if the Project were submitted as an alteration, it would still be deemed a "demolition"² under Section 317, and thus the Project would still require Planning Commission approval as a demolition. In sum, beyond the fact that the Project is fully consistent and compliant with Section 317 criteria, the Project as the proposed demolition and new construction is the most cost-effective and most feasible way to allow the Project to add two (2) new, relatively smaller and more affordable units than could be accomplished via an alteration project that does not have any benefits beyond keeping portions of an existing building that has not been deemed to be historically significant warranting preservation.

Section 317 compliance is evaluated in the Department's October 24, 2016 draft approval motion and is also summarized below:

Section 317 criteria	Project compliance
(A) whether the property is free of a history of serious, continuing Code violations;	<u>Project complies</u> ; there is no such history of violations.
(B) whether the housing has been maintained in a decent, safe, and sanitary condition;	<u>Project complies</u> ; the existing Property has been properly maintained.
(C) whether the property is an "historical resource" under CEQA;	<u>Project complies</u> ; a full Historic Resource Evaluation ³ ("HRE") was prepared by Chris VerPlanck (a respected consultant with long history of evaluating San Francisco properties), Planning staff concurred with HRE findings, and <u>no</u> historic significance was found. More specifically, the HRE concluded that the Property was "...ineligible for listing in the California Register ... because the building lacks the individual historical or architectural distinction required for listing." Furthermore, the Property "...is also located outside any of the California Register-eligible historic districts..." Planning staff concurred in concluding that the Property is "not a historical resource under CEQA." ⁴
(D) whether the removal of the resource will have a substantial adverse impact under CEQA;	<u>n/a</u> ; Property is not a resource. (See HRE and Department's CEQA determination.)

² Demolition under Section 317(b)(2) means: "(A) Any work on a Residential Building for which the Department of Building Inspection determines that an application for a demolition permit is required, or (B) A major alteration of a Residential Building that proposes the Removal of more than 50% of the sum of the Front Facade and Rear Facade and also proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level, or (C) A major alteration of a Residential Building that proposes the Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the existing building, as measured in square feet of actual surface area."

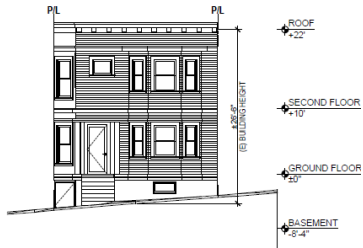
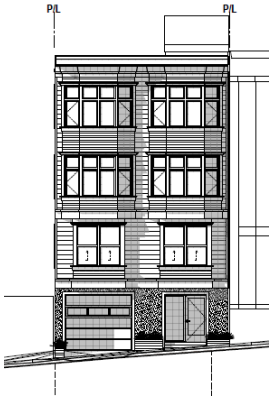

³ See Historic Resource Evaluation Part I, by VerPlanck Historic Preservation Consulting, dated December 15, 2015.

⁴ See Planning Department's Preservation Team Review Form, dated March 31, 2016, and executed on April 8, 2016, attached to the CEQA Categorical Exemption Determination, dated June 21, 2016.

(E) whether the project converts rental housing to other forms of tenure or occupancy;	<u>Project complies</u> ; the property owner intends to move back to San Francisco and to the Property, and thus the occupancy of one of the units will become owner-occupied. However, with the addition of two (2) new units that are intended as rental units, the Project will have a positive contribution to the City's rental housing stock.
(F) whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;	<u>Project complies</u> ; the Property is not affordable based on the current \$4,296 monthly rent or the rent that could be charged had the Project Sponsor priced the unit according to market conditions. ⁵
(G) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;	<u>Project complies</u> ; while the Project does not retain the existing unit, the Project will not have a negative impact on cultural and/or economic neighborhood diversity. Instead of one (1) 4-bedroom unit, the Project will result in three (3) 3-bedroom units, all of which are relatively smaller than the existing unit allowing new occupants at the Property and thereby contributing to neighborhood diversity.
(H) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;	<u>Project complies</u> ; Residential Design Guidelines (" RDG ") are "intended to promote design that will protect neighborhood character, enhancing the attractiveness and quality of life in the City. The Guidelines address basic principles of urban design that will result in residential development that maintains cohesive neighborhood identity, preserve historic resources, and enhances the unique setting and character of the City and its residential neighborhoods." ⁶ help ensure that new residential development respects the unique character of many of San Francisco's neighborhoods. The Project was reviewed by the Department's RDT, incorporated changes in order to comply with the comments provided by RDT, and is supported by RDT as being consistent with the RDG. As can be seen from the exterior front elevations, the Project as currently proposed will have no negative impact on neighborhood character.

⁵ E.g. according to zillow.com (checked on January 30, 2017), the estimated rent for the Property would be \$5,800 per month, far in excess of the current \$4,296 monthly rent.

⁶ See Residential Design Guidelines, Introduction, p. 3 (December 2003).

 <p>EXISTING FRONT</p>	 <p>PROPOSED</p>	 <p>POTENTIAL ALTERATION</p>
(I) whether the project protects the relative affordability of existing housing;	Project complies; although the Project removes an older unit, it removes an approx. 2,160-sf unit, and replaces it with 1,220-sf, 1,390-sf and 1,410-sf units, increasing the overall floor area and bedroom count.	
(J) whether the project increases the number of permanently affordable units as governed by Section 415;	n/a; The Property does not contain any affordable units.	
(K) whether the project locates in-fill housing on appropriate sites in established neighborhoods;	Project complies; Project involves an underutilized site in an existing residential neighborhood and proposes a density of 3 units per lot, consistent with zoning and neighboring properties. Between 2007-2013, almost 3,100 housing units, or 17% of all housing production, were developed in existing residential neighborhoods According to the Housing Element, the "City has been able to locate this substantial amount of new housing in existing residential areas without significant adverse impacts to prevailing neighborhood character." ⁷ Thus,	
(L) whether the project increases the number of family-sized units on- site;	Project complies; Project will add two (2) new housing units for a total of three (3) units all with 3 bedrooms.	
(M) whether the project creates new supportive housing;	n/a.	
(N) whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;	Project complies; as noted above and in the Department's October 24, 2016 staff report and draft approval motion, the Project "meets all applicable requirements of the Planning Code and Residential Design Guidelines" and was recommended for approval by the Department.	

⁷ General Plan, Housing Element, discussion under Objective 11 (Support and respect the diverse and distinct character of San Francisco's neighborhoods).

(O) whether the project increases the number of on-site Dwelling Units;	<u>Project complies</u> ; Project will result in the net addition of two (2) units.
(P) whether the project increases the number of on-site bedrooms;	<u>Project complies</u> ; Project will result in the net addition of five (5) bedrooms.
(Q) whether or not the replacement project would maximize density on the subject lot; and	<u>Project complies</u> ; Property is currently underutilizes as a single-unit building in an RH-3 district. The Project will maximize density by proposing a 3-unit building.
(R) 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.	<u>Project complies</u> ; although the proposed units will be smaller than the existing approx. 2,160-sf, 4-bedroom unit, the Project will increase the total number of units and the total number of bedrooms.

3. Project complies with Section 303 criteria

Per Section 317(d)(2), "...the Commission shall consider the replacement structure as part of its decision on the Conditional Use application." The Project is necessary and desirable because it adds two (2) new housing units and a total of five (5) new bedrooms at the Property. It is not necessary or desirable to deny a project that adds housing. It is also not necessary or desirable to disapprove demolition of an existing house that has not been found to be historically significant. The Planning Department's October 24, 2016 staff report and draft approval motion included a thorough analysis of the ways in which the Project complies with the CU criteria and how the Project is necessary or desirable and compatible with the neighborhood. The Project Sponsor concurs with those initial findings.

C. Housing Accountability Act

The Housing Accountability Act was adopted by State legislature because "...lack of housing ... is a critical problem that threatens the economic, environmental, and social quality of life in California."⁸ Housing Accountability Act prohibits local governments from rejecting or making housing development infeasible unless certain analysis and findings pursuant to the Act are made. Such findings must be based on substantial evidence in the record, and require written findings that:

- 1) The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
- 2) there is not feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

⁸ Cal. Gov't Code, Sec. 65589.5(a)(1).

“A ‘specific, adverse impact’ impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.”⁹ The applicable standard is incredibly high standard, and the Project does not violate any existing public health and safety standards to the extent of causing significant, quantifiable, direct and unavoidable impacts, and thus the denial of the Project does not satisfy the requirements under the Housing Accountability Act.

The termination of the existing tenancy is not a significant adverse impact on public health and safety, and is unavoidable whether or not the Project is approved. The owners of the Property are planning to move back to San Francisco and to the Property they have owned for approx. 28 years. Irrespective of whether the Project is a demolition or alteration, or whether the Project even occurs, the existing tenancy will come to an end. The existing tenant has known about the Project at least since November 10, 2014, when the Project Sponsor informed her of the need for Mr. VerPlanck to access the house for HRE research purposes.

Denial of the Project as a demolition and potential willingness to entertain it as an alteration project is also not consistent with the Housing Accountability Act. Although an alteration project is physically possible, it would increase the constructions costs by approx. 10-20%, making the project more expensive, thus translating to less affordable pricing for its occupants. An alteration would also limit the project's ability to deliver three (3) moderately sized units ranging from 1,220 sf to 1,410 sf, and would likely result in less overall square footage, potential loss of bedroom(s) and overall decrease in affordability. An alteration project may make more sense as a two-unit project, instead of the proposed three-unit project, thus resulting in the potential loss of a unit. None of consequences resulting from an alteration project outweigh the benefits, which is primarily comprised of the partial retention of the existing house, which is not historically significant, warranting its preservation per with the City's policies. Therefore the "benefits" of retaining the existing building are very minimal, and certainly on balance are not superior to the Project and benefits that can be delivered as a demolition and new construction, and most certainly do not meet the threshold from the Housing Accountability Act that is necessary to disapprove the Project.

The City's Board of Appeals ("**BOA**") has previously examined the applicability of the Housing Accountability Act in the 2013-2014 evaluation of an appeal of five-story residential-over-commercial building at 1050-1058 Valencia Street ("**1050 Valencia Appeal**"). In that case, at issue was the removal of the top, approx. 2,600-sf floor of a 12-unit project. After a closed session between the BOA and the City Attorney, the BOA

⁹ Cal. Gov't Code, Sec. 65589.5(j).

decided base a 4-0 vote to allow the top floor to remain citing the Housing Accountability Act as the reason for its decision.

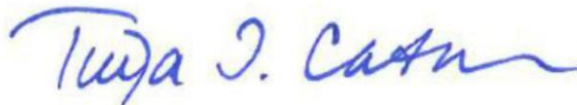
There is no case law to support a conclusion either that the required findings under the Housing Accountability Act could be satisfied by denying a housing Project that complies with objective general plan and zoning standards.¹⁰ There are a number of important reasons why the Housing Accountability Act exists and why the standard for denial of housing projects is high. Simply stated, there is a real need for more housing in California and in San Francisco. It is also no secret that San Francisco's demographics include less and less families with underage kids. The Planning Department recently initiated a task, in cooperation with Supervisor Yee, to create more family-friendly housing policies. Relatively affordability of and bedroom count within units matters. Instead of asking to enlarge the existing 2,160-sf single unit, the Project is asking to create three (3) new, more moderately sized units ranging from 1,220 sf to 1,410 sf, all containing three (3) bedrooms. Denial of the Project is not consistent with the City's housing policies, and cannot be justified in light of the Housing Accountability Act requirements.

D. Conclusion

For all of the reasons noted above, we respectfully request that the Planning Commission disregard its prior motion of intent to deny and instead approve the Project.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Tuija I. Catalano

Exh. A - October 24 ,2016 Planning staff report and draft approval motion

¹⁰ In *Honchariw v. County of Stanislaus*, 200 Cal.App.4th 1066 (2011), the court stated that “On the issue of whether approval of the appellant's project would have a specific, adverse impact upon the public health or safety, the Board may consider any evidence any interested person may wish to present in accordance with the Board's usual and customary procedures.” (At 1082.) In other case, *Sequoyah Hills Homowners Assn. v. City of Oakland*, 23 Cal. App. 4th 704 (1993), the court wrote: “In this case, the city council found that the Oak Knoll project complied with all general plan, zoning, and development policies. As discussed in part B, post, we believe that these findings are supported by substantial evidence. Thus, the only way appellant can avoid the impact of section 65589.5, subdivision (j)(1), is by establishing that the project, at the approved density, will have a “specific, adverse impact upon the public health or safety.” This they cannot do. There is no evidence to support such a conclusion, and the city specifically found that no such impact would result from the project. We conclude that the city did not abuse its discretion when it found that any decreased density alternative would be legally infeasible and approved the mitigated alternative.”

President Hillis
Planning Commission
January 30, 2017
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cc: Vice President Dennis Richards
Commissioner Rodney Fong
Commissioner Christine Johnson
Commissioner Joel Koppel
Commissioner Myrna Melgar
Commissioner Kathrin Moore
Jonas Ionin – Commission Secretary
John Rahaim - Planning Director
Christopher May – Project Planner
Jeremy Schaub, Schaub Ly Architects
Matthew and Lisa Williams - Project Sponsor

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SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT A

Executive Summary Conditional Use / Residential Demolition

HEARING DATE: NOVEMBER 3, 2016

Date: October 24, 2016
Case No.: **2015-018150CUA**
Project Address: **137 CLAYTON STREET**
Zoning: RH-3 (Residential, House – Two-Family)
40-X Height and Bulk District
Block/Lot: 1194 / 006
Project Sponsor: Jeremy Schaub, Gabriel Ng Architects
1360 9th Avenue
San Francisco, CA 94122
Staff Contact: Christopher May – (415) 575-9087
christopher.may@sfgov.org
Recommendation: Approval with Conditions

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PROJECT DESCRIPTION

The project proposes the demolition of the existing two-story, single-family dwelling and the construction of a four-story, 40-foot tall, three-family residential building. Located on separate floors, the three units would range in size from approximately 1,220 square feet to 1,411 square feet and would each have three bedrooms and two bathrooms. Three independently accessible off-street parking spaces and three Class 1 bicycle parking spaces, one for each unit, are proposed in the garage on the ground floor. The project is not seeking any exceptions or variances from the Planning Code.

Pursuant to Planning Code 317(c), “where an application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use Authorization by other sections of this Code, the application for a replacement building or alteration permit shall also be subject to Conditional Use requirements.” This report includes findings for a Conditional Use Authorization in addition to Demolition Criteria established in Planning Code Section 317. The design of the new structure is analyzed in the Design Review Checklist.

EXISTING CONDITIONS		PROPOSED CONDITIONS	
Number Of Existing Units	1	Number Of New Units	3
Existing Parking	0	New Parking	3
Number Of Existing Bedrooms	4	Number Of New Bedrooms	9
Existing Building Area	±3,342 Sq. Ft.	New Building Area	±6,788 Sq. Ft.

SITE DESCRIPTION AND PRESENT USE

The project is located on the west side of Clayton Street, between Grove Street and Hayes Street, Lot 006 in Assessor's Block 1194. The property is located within the RH-3 (Residential, House – Three-Family) District and a 40-X Height and Bulk District. The subject property has approximately 25 feet of frontage on Clayton Street and is approximately 112.5 feet deep. The property is mostly flat and is currently occupied by a two-story, single-family dwelling constructed circa 1908, which covers approximately 42% of the lot.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located midblock between Grove Street and Hayes Street in the Haight Ashbury neighborhood, north of the Panhandle and south of the University of San Francisco campus. The subject site is located in an RH-3 District and is surrounded primarily by two- and three-family dwellings ranging in height from three to four stories. Immediately adjacent to the subject property to the north is a three-and-a-half story, three-family dwelling and immediately to the south, at the northwest corner of Clayton Street and Hayes Street, is a three-story, 4-unit residential building. Also directly south of the subject property is the Asian American Recovery Services outpatient facility located in adjacent one- and two-story buildings fronting onto Hayes Street. Directly across the street are a three-story, single-family dwelling and a four-story, six-unit residential building. Immediately behind and to the west of the subject property is the New Traditions Elementary School. While the portion of Grove Street near the subject property is within the RM-1 (Residential – Mixed, Low-Density) District, the majority of the surrounding neighborhood is within the RH-3 (Residential, House – Three-Family) District. The subject property is also within .25-miles of stops for the 7X – Noriega Express, 21 – Hayes, and 43 – Masonic MUNI transit lines.

ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 3 categorical exemption. During the CEQA review, it was determined that the subject building is not a historic resource.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	October 21, 2016	October 19, 2016	22 days
Posted Notice	20 days	October 21, 2016	October 21, 2016	20 days
Mailed Notice	20 days	October 21, 2016	October 21, 2016	20 days

The proposal requires neighborhood notification, pursuant to Section 311 of the Planning Code, which was conducted in conjunction with the Conditional Use Authorization process.

PUBLIC COMMENT

As of October 24, 2016, the Department had received one telephone call, from the current tenant of the building, inquiring about the proposed timing of the project.

ISSUES AND OTHER CONSIDERATIONS

- The project will demolish an existing four-bedroom, single-family dwelling.
- The new construction proposal will replace the lost unit and add two additional units, providing a total of three family-sized dwellings containing a total of nine bedrooms.
- The proposed new construction will be in conformity with the Planning Code and Residential Design Guidelines.

RESIDENTIAL DESIGN TEAM REVIEW

The request for demolition and new construction was reviewed by the Department's Residential Design Team (RDT). The RDT's comments in response to the proposal included:

- Lowering the roofline in order to continue the pattern of rooflines that step down laterally with the slope of the street
- Raising and aligning the residential entry with the bay window above so that the front door is more prominent and easily visible from the street.
- Aligning the garage door entry with the bay windows above.
- Providing a matching light well to a depth of 3-feet for at least 75% of the length of the light well of the adjacent building to the north.

The Project Sponsor made the above changes to the proposal per RDT comments. The RDT supports the project as proposed.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow the demolition of a dwelling unit within an RH-3 Zoning District, pursuant to Planning Code Section 317(d).

BASIS FOR RECOMMENDATION

- The Project will result in three family-sized dwelling units and a net gain of five bedrooms.
- The Project maximizes the allowed density of the site.
- Given the scale of the Project, there will be no significant impact on the existing capacity of the local street system or MUNI.
- The Project is an appropriate in-fill development within the RH-3 Zoning District.
- Although the existing structure is more than 50 years old, a review of the Historic Resource Evaluation resulted in a determination that the existing building is not an historic resource or landmark.

- The proposed Project meets all applicable requirements of the Planning Code and Residential Design Guidelines.

RECOMMENDATION: Approval with Conditions.

Attachments:

Block Book Map
Sanborn Map
Zoning Map
Height & Bulk Map
Aerial Photographs
Site Photos
Environmental Evaluation
Historic Resources Evaluation
No-Fault Eviction History
Project Sponsor Submittal
Color Rendering
Reduced Plans

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Context Photos | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Site Photos | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Environmental Determination |

Exhibits above marked with an "X" are included in this packet

_____ CM

Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|---|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input checked="" type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion

HEARING DATE: NOVEMBER 3, 2016

Date: October 24, 2016
Case No.: **2015-018150CUA**
Project Address: **137 CLAYTON STREET**
Zoning: RH-3 (Residential, House - Three-Family)
40-X Height and Bulk District
Block/Lot: 1194 / 006
Project Sponsor: Jeremy Schaub, Gabriel Ng Architects
1360 9th Avenue
San Francisco, CA 94122
Staff Contact: Christopher May – (415) 575-9087
christopher.may@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 TO DEMOLISH AN EXISTING TWO-STORY, SINGLE-FAMILY DWELLING AND CONSTRUCT A NEW FOUR-STORY, 3-UNIT BUILDING WITHIN THE RH-3 (RESIDENTIAL, HOUSE – THREE-FAMILY) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 1, 2016, Jeremy Schaub (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish an existing two-story, single-family dwelling and construct a new four-story, 3-unit building within the RH-3 (Residential, House – Three-Family) District and a 40-X Height and Bulk District.

On November 3, 2016, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2015-018150CUA.

On June 26, 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. During the CEQA review, it was determined that the subject building is not a historic resource.

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 authorizes the Conditional Use requested in Application No. 2015-018150CUA, 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. **Site Description and Present Use.** The project is located on the west side of Clayton Street, between Grove Street and Hayes Street, Lot 006 in Assessor's Block 1194. The property is located within the RH-3 (Residential, House – Three-Family) District and a 40-X Height and Bulk District. The subject property has approximately 25 feet of frontage on Clayton Street and is approximately 112.5 feet deep. The property is mostly flat and is currently occupied by a two-story, single-family dwelling constructed circa 1908, which covers approximately 42% of the lot.
3. **Surrounding Properties and Neighborhood.** The project site is located midblock between Grove Street and Hayes Street in the Haight Ashbury neighborhood, north of the Panhandle and south of the University of San Francisco campus. The subject site is located in an RH-3 District and is surrounded primarily by two- and three-family dwellings ranging in height from three to four stories. Immediately adjacent to the subject property to the north is a three-and-a-half story, three-family dwelling and immediately to the south, at the northwest corner of Clayton Street and Hayes Street, is a three-story, 4-unit residential building. Also directly south of the subject property is the Asian American Recovery Services outpatient facility located in adjacent one- and two-story buildings fronting onto Hayes Street. Directly across the street are a three-story, single-family dwelling and a four-story, six-unit residential building. Immediately behind and to the west of the subject property is the New Traditions Elementary School. While the portion of Grove Street near the subject property is within the RM-1 (Residential – Mixed, Low-Density) District, the majority of the surrounding neighborhood is within the RH-3 (Residential, House – Three-Family) District. The subject property is also within .25-miles of stops for the 7X – Noriega Express, 21 – Hayes, and 43 – Masonic MUNI transit lines.
4. **Project Description.** The project proposes the demolition of the existing two-story, single-family dwelling and the construction of a four-story, 40-foot tall, three-family residential building. Located on separate floors, the three units would range in size from approximately 1,220 square feet to 1,411 square feet and would each have three bedrooms and two bathrooms. Three

independently accessible off-street parking spaces and three Class 1 bicycle parking spaces, one for each unit, are proposed in the garage on the ground floor.

The project is not seeking any exceptions or variances from the Planning Code. The proposal requires neighborhood notification, pursuant to Section 311 of the Planning Code, which was conducted in conjunction with the Conditional Use Authorization process.

5. **Public Comment.** As of October 24, 2016, the Department had received one telephone call, from the current tenant of the building, inquiring about the proposed timing of the project.
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. **Residential Demolition – Section 317.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to demolish a residential unit in an RH-3 Zoning District. This Code Section establishes criteria that Planning Commission shall consider in the review of applications for Residential Demolition.

As the project requires Conditional Use Authorization per the requirements of the Section 317, the additional criteria specified under Section 317 have been incorporated as findings in Subsection 8 “Additional Findings pursuant to Section 317” below.

- B. **Front Setback Requirement.** Planning Code Section 132 states that the minimum front setback depth shall be based on the average of adjacent properties or a Legislated Setback.

The required front setback for the subject property, based on the average of the two adjacent buildings, is 0.75 feet. The project proposes a front setback of 1.5 feet. The proposed front bay windows on the third and fourth floors project approximately 1 foot into the required front setback. These bay windows meet the requirements of Planning Code Section 136(c), which regulates permitted obstructions into yards and over streets.

- C. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard equal to 45 percent of the total depth, at grade and above, for properties containing dwelling units in RH-3 Zoning Districts. Planning Code Section 134(c)(1) allows for the reduction in the rear yard requirement to the average between the depths of the rear building walls of the two adjacent buildings. In the case of any lot that abuts along one of its side lot lines upon a lot with a building that fronts on another street or alley, the lot on which it so abuts shall be disregarded, and the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building fronting on the same street or alley.

The subject property is approximately 112.5 feet in depth and therefore the 45 percent requirement is 50.6 feet. The subject property abuts along its south lot line a building that fronts another street (Hayes Street), therefore, that lot is disregarded in the consideration of a reduction in the rear yard requirement. The subject property abuts along its north lot line a building with a rear yard setback of approximately 38.6 feet. Accordingly, the project provides a matching rear yard of approximately 38.6

feet which complies with the rear yard requirement of the Planning Code. A one- and two-story rear portion of the proposed building, set back approximately 5 feet from each side lot line, projects into the required rear yard by approximately 10.5 feet. This structure meets the requirements of Planning Code Section 136(c)(35)(ii), which allows structures not exceeding the floor level of the second floor of occupancy, excluding the ground story, to project up to 12 feet into the required rear yard provided that they shall be no closer than five feet to any interior side lot line.

- D. **Useable Open Space.** Planning Code Section 135 requires 100 square feet of useable open space for each dwelling unit if all private, or a total of 400 square feet of common usable open space.

The Project contains three dwelling units. Each unit has access to approximately 700 square feet of common open space in the rear yard as well as private balconies and roof decks totaling approximately 456 square feet. As such, all dwelling units have access to usable open space which exceeds the minimum required by Section 135 of the Planning Code.

- E. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street or public alley at least 30 feet in width, a side yard at least 25 feet in width, a rear yard meeting the requirements of the Code or other open area that meets minimum requirements for area and horizontal dimensions.

All proposed dwelling units have direct exposure onto the public street.

- F. **Street Frontages.** Section 144 of the Planning Code requires that no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is setback from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width.

The Project proposes a Code-complying garage door width of 9.75 feet.

- G. **Off-Street Parking.** Planning Code Section 151 requires one parking space for each dwelling unit and a maximum of 150 percent of the required number of spaces where three or more spaces are required.

The Project will provide three (3) off-street parking spaces.

- H. **Bicycle Parking.** Planning Code Section 155.2 requires at least one Class 1 bicycle parking space for each dwelling unit and one Class 2 bicycle parking space for every 20 dwelling units.

The project requires three Class 1 bicycle parking spaces and no Class 2 bicycle parking spaces. The project proposes three Class 1 bicycle parking spaces, located in the garage.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. For properties in RH-3 Zoning Districts,

height is measured at the center of the building starting from curb to a point 40 feet high at the required front setback.

The existing building has a height of approximately 26.5 feet, as measured from curb to the midpoint of its pitched roof. The proposed four-story, three-family dwelling will be approximately 40 feet high at the required front setback and for a building depth of approximately 62.5 feet. The remaining 20.5 feet of building depth would range in height from approximately 10 feet to 30 feet in height.

- J. **Child Care Requirements for Residential Projects.** Planning Code Section 414A requires that any residential development project that results in at least one net new residential unit shall comply with the imposition of the Residential Child Care Impact Fee requirement.

The Project proposes new construction of a three-unit residential building. Therefore, the Project is subject to the Residential Child Care Impact Fee and must comply with the requirements outlined in Planning Code Section 414A.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. The proposal would demolish an existing single-family dwelling that contains four bedrooms and has approximately 2,158 square feet of floor area, excluding the basement level. The new building will contain three 3-bedroom dwelling units ranging in size from approximately 1,457 square feet to 1,727 square feet. The siting of the new building will be in conformity with the requirements of the Planning Code and consistent with the objectives of the Residential Design Guidelines.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

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

The four-story massing at the street front is appropriate given the context of the immediate neighborhood and the proposed new construction is entirely within the buildable area as prescribed by the Planning Code and Residential Design Guidelines.

- 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;

The proposed garage is designed to accommodate the three required off-street parking spaces, in addition to the three required Class 1 bicycle parking spaces.

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

As the proposed project is residential in nature, unlike commercial or industrial uses, the proposed residential use is not expected to produce noxious or offensive emissions.

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

The façade treatment and materials of the new building, including the angled front bay windows, have been appropriately selected to be compatible with the surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Residential District.

The proposed project is consistent with the stated purpose of RH-3 Districts which are devoted to one-family, two-family and three-family houses that are finely scaled and usually do not exceed 25 feet in width or 40 feet in height. Additionally, the project is in conformance with the Planning Code requirements for dwellings in RH-3 Zoning District.

- 8. **Additional Findings pursuant to Section 317.** Section 317 of the Planning Code establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the property is free of a history of serious, continuing code violations;

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- ii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

The existing dwelling appears to be in decent, safe, and sanitary condition with no recent Code violations.

- iii. Whether the property is an “historical resource” under CEQA;

Although the existing building is more than 50 years old, a review of supplemental information resulted in a determination that the property is not an historical resource.

- iv. Whether the removal of the resource will have a substantial adverse impact under CEQA;

The structure is not an historical resource and its removal will not have a substantial adverse impact.

- v. Whether the Project converts rental housing to other forms of tenure or occupancy;

The existing single-family dwelling is currently being rented. The project proposes one owner-occupied unit and two new rental dwelling units. Although the single-family dwelling is technically 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.

- vi. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

The existing single family dwelling is currently being rented. Although the single-family dwelling is technically 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.

- vii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Although the project proposes the demolition of an existing dwelling, the new construction project will result in three family-sized dwellings, containing more habitable square feet and bedrooms.

- viii. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

The Project conserves neighborhood character with appropriate scale, design, and materials, and improves cultural and economic diversity by constructing three family-sized dwellings that are consistent with the RH-3 Zoning District.

- ix. Whether the Project protects the relative affordability of existing housing;

The project removes an older dwelling unit, which is generally considered more affordable than more recently constructed units. However, the project also results in two additional units, greater habitable floor area, and more bedrooms that contribute positively to the City’s housing stock.

- x. Whether the Project increases the number of permanently affordable units as governed by Section 415;

The Project is not subject to the provisions of Planning Code Section 415, as the project proposes fewer than ten units.

- xi. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

The Project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xii. Whether the project increases the number of family-sized units on-site;

The Project proposes enhanced opportunities for family-sized housing on-site by constructing three family-sized dwelling units whereas the property currently contains only one family-sized dwelling.

- xiii. Whether the Project creates new supportive housing;

The Project does not create supportive housing.

- xiv. Whether the Project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character with a traditional design.

- xv. Whether the Project increases the number of on-site dwelling units;

The Project would add two additional dwelling units to the site.

- xvi. Whether the Project increases the number of on-site bedrooms.

The existing dwelling contains four bedrooms. The proposal includes three 3-bedroom units, a net increase of five bedrooms.

- xvii. Whether or not the replacement project would maximize density on the subject lot; and,

The project will maximize the allowed density on-site by providing three dwelling units.

- xviii. If replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all the existing units with new dwelling units of a similar size and with the same number of bedrooms.

The existing single family dwelling is currently being rented and the new project will replace the existing unit with three slightly smaller dwelling units that containing one fewer bedroom each, but cumulatively would add five additional bedrooms to the subject property. Although the single-family dwelling is technically 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.

9. **General Plan Compliance.** The Project is, on balance, 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.

The project proposes demolition of a sound residential structure containing a four-bedroom single-family dwelling. However, the new building will contain three dwelling units and results in a net increase of family-sized 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.

Policy 3.3:

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

Policy 3.4:

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

The existing single family dwelling is currently being rented. The project will result in an increase in the number of dwelling units, two of which will be rental units, as well as the total number of bedrooms. Although the single-family dwelling is technically 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.

**OBJECTIVE 11:
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.**

Policy 11.1:

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2:

Ensure implementation of accepted design standards in project approvals.

Policy 11.3:

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.5:

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

The proposed new construction conforms to the Residential Design Guidelines and is appropriate in terms of material, scale, proportions and massing for the surrounding neighborhood. Furthermore, the proposal

results in an increase in the number of dwelling units, while maintaining general compliance with the requirements of the Planning Code.

URBAN DESIGN

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related topography.

The project proposes new construction that will reinforce the existing street pattern as the building scale is appropriate for the subject block's street frontage.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The proposed façade and massing are compatible with the existing neighborhood character and development pattern, particularly by proposing a building of similar mass, width and height as the existing structures along the block-face.

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 building does not contain commercial uses.

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

The project is compatible with the existing housing and neighborhood character of the immediate vicinity. The project proposes a height and scale compatible with the adjacent neighbors and is consistent with the Planning Code, while providing three family-sized dwellings.

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

The proposed three-family dwelling adds appropriately scaled and family-sized units to the city's housing stock.

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

The project meets the density, off-street parking and bicycle parking requirements of the Planning Code and is therefore not anticipated to impede transit service or overburden our streets with neighborhood parking.

- 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 Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval 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 **APPROVES Conditional Use Application No. 2015-018150CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 21, 2016, and stamped "EXHIBIT B", 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. XXXXX. 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 94102.

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 November 3, 2016.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 3, 2016

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to demolish a two-story single-family dwelling and to construct a four-story, two-family dwelling located at 137 Clayton Street, Lot 006 in Assessor's Block 1194, pursuant to Planning Code Sections 303 and 317(d) within the RH-3 District and a 40-X Height and Bulk District; in general conformance with plans, dated October 21, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2015-018150CUA and subject to conditions of approval reviewed and approved by the Commission on November 3, 2016 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on November 3, 2016 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

6. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly

labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9087, www.sf-planning.org

PARKING AND TRAFFIC

7. **Bicycle Parking.** The Project shall provide no fewer than three (3) Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

8. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide three (3) independently accessible off-street parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

9. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9087, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

10. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

11. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

12. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

13. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>