



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: NOVEMBER 30, 2017
Continued from the October 5, 2017 Hearing

Date: November 22, 2017
Case No.: 2015-018474DRM/VAR
Project Address: **982 GREEN STREET**
Permit Application: 2015.11.23.3374
Zoning: RH-2 (Residential, House, Two-Family)
40-X Height and Bulk District
Block/Lot: 0120/008A
Project Sponsor: Alice Barkley, Esq.
Duane Morris, LLP
Spear Tower, One Market Plaza, Suite 2200
San Francisco, CA 94105
Staff Contact: Eiliesh Tuffy – (415) 575-9191
eiliesh.tuffy@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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This memorandum serves to inform the Planning Commission that Case No. 2015-018474DRM has been withdrawn by Department staff, as all Department requirements for the related enforcement case (12728_ENF) have been adequately addressed.

BACKGROUND

The subject property has been subject to review with the Planning Department Enforcement Division since September 2013 (Case No. 12728_ENF). Prior to the most recent submittal, dated November 15, 2017, the sponsor had sought to legalize all unpermitted work, including horizontal additions to the sides and rear of a contributory building within the Russian Hill-Macondray Lane National Register District, and construction of two separate garage structures in the required front setback. All active permits have been suspended since March 2014. To date, the project sponsor has submitted a revised proposal to reflect all work per Planning Department recommendations from Preservation staff and the Residential Design Advisory Team, and a Variance Application to legalize the work that the Department supports.

A staff-initiated Discretionary Review hearing before the Planning Commission was previously scheduled for October 5, 2017; however, due to a change in legal counsel and architect, the item was continued to November 30, 2017. On November 15, 2017, the project sponsor submitted a revised proposal that addressed all of the Department's prior comments and requirements, eliminating the need for a DR hearing.

CURRENT PROPOSAL

The initial proposal for which the staff-initiated Discretionary Review was filed was to legalize all work completed without the benefit of permits on the contributory building within the Russian Hill-Macondray Lane National Register Historic District and to make additional alterations, per plans dated

March 20, 2017. On November 15, 2017, the project sponsor submitted a revised proposal that addressed all of the Department's prior design comments and requirements, eliminating the need for a DR hearing.

The revised proposal is for expansion of a two family residential building through horizontal additions at all levels of the rear façade, minor below-grade additions, and basement-level excavation. Unpermitted horizontal additions at the east and west (side) elevations will be removed to restore the historic massing of the property. Exterior work includes restoration of the historic residence, including replacement of all windows with double-hung wood sash windows and all trim elements including corner boards, window sills, and the window hood at the second story. Two open carports at the front property line were previously reconstructed as fully enclosed, single-car garages with gable roofs. The garage structure along the east property line is proposed for removal to meet Section 144 of the Planning Code and restore visibility of the historic building; the garage structure at the west property line will be retained, although it will be reduced in height by removing the gable and a Class 1 bicycle parking space will be added. There is historic evidence of a parking structure at this location on the property dating to 1913, and therefore Preservation and Residential Design Advisory Team staff support retention of one minimal-sized garage structure. The project requires the approval of Variances from Sections 132 (Front Setback) and 134 (Rear Yard) of the Planning Code.

REQUIRED COMMISSION ACTION

Staff finds that, due to the substantial revisions submitted by the project sponsor, no action is required by the Planning Commission, and the staff-initiated Discretionary Review has been withdrawn. The project will require Variances from Sections 132 (Front Setback) and 134 (Rear Yard) of the Planning Code, and the Variance hearing has been continued to January 24, 2018.

All required noticing, including 311, notification for the CPC hearing, and Variance was completed as noted below. At that time, the Department received one letter in response to the project from the Russian Hill Neighbors (attached), noting that they support the recommendations of the Department, all of which have been met.

On September 22, 2017, the project sponsor submitted a payment of \$23,750 for the accrued penalties in addition to \$8,434 for the cost of time and materials related to the enforcement case accrued by Planning Staff.

NOTIFICATIONS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Hearing Notice	20 days	September 15, 2017	September 15, 2017	20 days
Mailed Hearing Notice	20 days	September 15, 2017	September 15, 2017	20 days
311 Notice	30 Days	N/A	September 5, 2017 – October 5, 2017	30 Days

BASIS FOR WITHDRAWAL

The Department finds that the project sponsor has adequately responded to all prior requirements provided by the RDAT and Preservation staff, as outlined below. Therefore the Department finds that no further action is required by the Commission.

- Full restoration of the building's primary (south) façade, as recommended by staff, is an acceptable concession that meets all applicable requirements of the Planning Code, the *Secretary of the Interior's Standards*, and conforms to the Residential Design Guidelines. Restoration of the 2nd floor massing facing Green Street requires minimal loss of the building's overall square footage and allows for retention of the east-facing bay projection.
- The project as presently proposed by the applicant does not create exceptional or extraordinary circumstances because it would restore character-defining elements of a contributing building in a designated National Register Historic District.

Attachments:

Planning Enforcement Notice of Penalty dated February 27, 2017
Letter from Russian Hill Neighbors



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October 1, 2017

San Francisco Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

Attn: Eiliesh Tuffy

eiliesh.tuffy@sfgov.org

RE: Case No. 2015-018474DRMVAR

982 Green St., Mandatory Discretionary Review and Variance

Dear Ms. Tuffy:

We are aware of the Notice of Violation for this project and the upcoming MDR and Variance hearing on October 5. As a neighborhood organization, a key part of our mission is the preservation of historic resources, and we were instrumental in the establishment of the Macondray Lane National Historic District, within which this project lies. To this end, we also believe it is essential that project sponsors “play by the rules” in obtaining all required approvals prior to commencing construction. We are encouraged by the ongoing and vigorous enforcement actions by the City in this case.

We endorse your recommendation to require the Owner to fully restore the historic Green Street façade in rigorous compliance with the Secretary of the Interior’s Standards. As has been our position in previous instances, we also believe that resolution of all other requirements should be based solely on achieving the best urban design outcome for the neighborhood, without any special deference being accorded to the Owner. Lastly, we urge that the level of required remedies and penalties be set appropriately so as to provide effective future deterrence.

Very truly yours,

Monique Olivier, RHN Secretary

for Board of Directors’ Executive Committee of Russian Hill Neighbors

cc: Director John Rahaim
Planning Commission

John.Rahaim@sfgov.org

Commissions.Secretary@sfgov.org



SAN FRANCISCO PLANNING DEPARTMENT

NOTICE OF PENALTY

February 09, 2017

Property Owner

Owen Trust
Alexandra G Owen, Trustee
3450 Sacramento Street #444
San Francisco, Ca, 94118

Project Sponsor

Santos & Urrutia
2451 Harrison Street
San Francisco, CA, 94110

Site Address: 982 Green St
Assessor's Block/Lot: 0120/ 008A
Zoning District: RH-2,
Complaint Number: 12728_ENF
Code Violation: Section 175 – Approval of Permits
Administrative Penalty: Up to \$250 Each Day of Violation
Staff Contact: Alexandra Kirby, (415) 575-9133, alexandra.kirby@sfgov.org

The above referenced property is deemed to be in violation of the Planning Code. As the owner and/or leaseholder of the subject property, you are a 'responsible' party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

The subject property ("Property") is in violation for exceeding scope of work under Building Permit Applications Nos. 201308235073, 201308235072, 201308235066, 201111309810, 201107140207, and 201012036032. Specifically, the building envelope of the Property has been illegally expanded by enclosing two balconies on the top floor at the front elevation and enclosure of the previously existing carports.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

TIMELINE OF INVESTIGATION

On October 3, 2012, a Notice of Planning Department Requirements (attached) was issued to you regarding the status of Building Permit Application No. 201208288343.

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On March 7, 2014, Planning Department staff, Kimberly Durandet and Kelly Wong, conducted an inspection and confirmed the violation.

On March 10, 2014, the Planning Department requested that the Department of Building Inspection (DBI) suspend Building Permit Application Nos. 201308235073, 201308235072, 201308235066, 201111309810, 201107140207, and 201012036032 because the building envelope had been expanded enclosing two balconies on the top floor of the front elevation and enclosure of the previously existing carports (attached). This request was not appealed to the Board of Appeals.

On April 2, 2014, the Planning Department issued a Notice of Enforcement (attached) informing you about the violation and the abatement process. In that notice, you were advised to take corrective actions and provide evidence of compliance to the Planning Department within fifteen (15) days from April 2, 2014. That notice also advised you about the appeal process and accrual of penalty for failure to comply by the deadline.

On November 23, 2015, Building Permit Application No. 201511233374 was submitted, however, the plans and application did not address the issues outlined in the October 3, 2012, Notice of Planning Department Requirements. In addition, a Variance Application for the unpermitted construction within the required front setback was not received, nor was the requested Historic Resource Evaluation.

On September 1, 2016, a second Notice of Requirements was issued that gave notice to address all outstanding requirements to abate the violation. The following required steps have not been completed and therefore the application is not deemed complete:

1. Plans.

a. Required Rear Yard. Please note the required rear yard line for the subject property in the existing and as-built site plans. The alternative method of averaging outlined in Section 134 of the Planning code may be utilized for this project. Please note that the Required Rear Yard for properties within the RH-2 Zoning District is 45% of the lot depth.

b. Required Front Setback. Please note the required front setback for the property in the existing and as-built site plans.

~~c. Floor Plans. Please highlight or poché all completed new construction in the as-built floor plans for clarity.~~

~~d. Side Elevations. Please provide both east and west as built and original elevations. All side elevations should include outlines of immediately adjacent properties and any neighboring windows.~~

e. Sections. Please provide as-built and existing lateral sections through the residence and garages.

2. Demolition Calculations. Provide clear calculations of the scope of removal of historic materials in accordance with the attached form, which refers to Article 10 of the Planning Code.

On October 12, 2016, revised plans were submitted; however, no modifications were made to address the violation. The submitted plans do not address the required steps to restore the property, which is a

designated contributor within the Russian Hill – Macondray Lane Historic District on the National Register.

On December 21, 2016, the project sponsor submitted a Variance Application. The application was reviewed by Planning Staff and a Notice of Requirements was issued on February 1, 2017, requesting additional information.

On December 21, 2016, Planning Staff emailed David Cincotta, Alexandra Owen, and Rodrigo Santos to inform them that the requirements outlined in the Notice of Violation had not yet been met. On December 22, 2016, David Cincotta and Planning Staff discussed the requirements over the phone.

On January 10, 2017, Carey and Company, a qualified preservation consultant, provided a report on the history of the subject property per Department specifications.

On January 19, 2017, Planning Staff emailed the project sponsor to notify them that the requirements had not yet been met and that penalty fees were accruing.

To date, the subject property remains out of compliance and is in violation of Planning Code Section 174.

ADMINISTRATIVE PENALTY

Pursuant to Planning Code Section 176, the Planning Department Zoning Administrator has the authority to enforce the Planning Code and impose penalty against violations for each day a violation continues unabated excluding the appeal period if violations are not corrected within the required time limit upon serving of notices. You did not contest or appeal the Notice of Violation issued on October 21, 2016, within the 15-day appeal period provided in this notice. Nor did you submit adequate documentation to demonstrate compliance with the Planning Code. Therefore, beginning on November 6, 2016, **administrative penalty of \$250 per day** has been assessed for each day the above violation continues unabated.

As of this notice writing, the **accrued penalty amount is \$23,750** and shall be paid **within 30 days** from the date of this notice. **Additional penalty will continue to accrue until corrective actions are taken to abate the violation.** Please be advised that the payment of penalty does not excuse failure to correct the violation or bar further enforcement action.

If the accruing penalty amount is not received within 30 days, the Planning Department will forward the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of **\$4,367** for 'Time and Materials' cost associated with the Code Enforcement investigation. Additional fees will continue to accrue until the violations are abated. This fee is separate from the administrative penalty as noted above and is not appealable.

To pay the 'Administrative Penalty' and 'Time and Materials' fee, please make two separate checks payable to '**San Francisco Planning Department**' for 'Code Enforcement' with reference to the above property address and Complaint No. and send to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Alexandra Kirby - Code Enforcement Division).

HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation by providing (1) adequate plans including previously existing and proposed sections and demolition calculations, in accordance with the Notice of Planning Department Requirements issued on September 1, 2016; and (2) proof of a Pre-Application meeting. Please submit the revised plans via the Department of Building Inspection as revisions to permit number 2015.11.23.3374.

Please note that any deadlines provided by Planning Staff for the active variance application that are not met will additionally reinstate the accrual of fees.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

Enc.: Notice of Enforcement dated April 2, 2014
Notice of Violation dated October 21, 2016
Notice of Planning Requirements, dated September 1, 2016
Notice of Planning Requirements, dated February 1, 2017

cc: Daniel Lowrey, Deputy Director, Department of Building Inspection, San Francisco
David Cincotta, Jeffer Mangels & Mitchell, LLP, Two Embarcadero Center, 5th Floor, San Francisco, CA, 94111
Carly Grob, San Francisco Planning Department