

## SAN FRANCISCO PLANNING DEPARTMENT

## Discretionary Review Abbreviated Analysis

**HEARING DATE: DECEMBER 14, 2017** 

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

Reception:

415.558.6378

Fax:

415.558.6409

Planning Information: 415.558.6377

Date: December 7, 2017

Case No.: 2017-004562DRP

Project Address: 3878-3880 21st Street & 799 Castro Street

Permit Application: 2017.04.04.3134

Zoning: RH-2 (Residential-House, Two Family)

40-X Height and Bulk District

*Block/Lot:* 3603/024

Project Sponsor: Thomas Tunny

1 Bush Street

San Francisco, CA 94104

*Staff Contact:* Nancy Tran – (415) 575-9174

nancy.h.tran@sfgov.org

Recommendation: Do not take DR and approve as proposed

### PROJECT DESCRIPTION

The subject property contains three dwelling units – two units in a building at the rear of the property (3878-3880 21st Street) and one unit in a mixed-use building at the front (799 Castro Street). The proposal is to construct an Accessory Dwelling Unit (ADU) in the rear building. Under a separate building permit, 2014.09.19.6883, demolition of the existing front structure (limited commercial office with single-family) and construction of a three-story over basement single-family residence are proposed. The latter proposal also requires Variances from the Zoning Administrator to construct within the required front setback and rear yard.

### ISSUES AND CONSIDERATIONS

- The proposed massing/scale and façade for the front building (under a separate building permit) are deemed to be compatible with the neighborhood and consistent with the Residential Design Guidelines.
- In order to construct the ADU within the existing rear building footprint (Building Permit Application #2017.04.04.3134), the Project Sponsor seeks Zoning Administrator waivers, as eligible per Sections 207(c)(4) and 307(l) of the Planning Code, for the following:
  - Density The property is existing nonconforming with respect to density as it is located within the RH-2 (Residential-House, Two Family) and presently contains three units where two are allowed based on lot area. The project will maintain the three units and introduce an Accessory Dwelling Unit in the existing rear building. The waiver is to intensify the density on site beyond the quantity permitted in the Zoning District.
  - Open Space The property is existing nonconforming with respect to open space. A waiver is requested from open space requirement for the proposed ADU.

### SITE DESCRIPTION AND PRESENT USE

The project is located at the northeast corner of Castro and 21st Streets, Block 3603, Lot 024. The subject property is located within the RH-2 (Residential-House, Two Family) and the 40-X Height and Bulk District. The property is developed with a one-story commercial/residential building at the corner and a two-story building with two units along 21st Street.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The subject property is located at the southern edge of the Castro/Upper Market neighborhood, bordering Noe Valley and within Supervisor District 8. Parcels within the immediate vicinity consist of residential single-, two- and three-family dwellings of varied design and construction dates. Architectural styles, building heights, building depth and front setbacks vary within the neighborhood.

### **BUILDING PERMIT NOTIFICATION**

No notification is required for building permit applications proposing Accessory Dwelling Units.

### **HEARING NOTIFICATION**

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	Dec 4, 2017	Dec 4, 2017	10 days
Mailed Notice	10 days	Dec 4, 2017	Dec 4, 2017	10 days

### **PUBLIC COMMENT**

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	-	1 ( DR Requestor)	-
Other neighbors on the block or directly across the street	-	-	-
Neighborhood groups	-	-	-

• The Project Sponsor held a pre-application meeting with neighbors to discuss the pending Conditional Use Authorization Application submittal, Variance Application changes and proposed Accessory Dwelling Unit.

### DR REQUESTOR

Denise A. Leadbetter, 789 Castro Street, San Francisco, CA 94114 Requestor is the adjacent abutter located north of the subject property.

The DR Requestor is concerned that "the size and configuration of the proposed buildings degrades the housing stock, exceeds the permitted density, and walls off the mid-block open space."

### DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

See attached Discretionary Review Application, dated October 4, 2017.

SAN FRANCISCO
PLANNING DEPARTMENT

### PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached Response to Discretionary Review, dated November 27, 2017.

### **ENVIRONMENTAL REVIEW**

The Project is exempt from the California Environmental Quality Act ("CEQA") as Class 1 & Class 3 categorical exemptions.

### RESIDENTIAL DESIGN TEAM REVIEW

The Residential Design Advisory Team (RDAT) reviewed the Project following the submittal of the Request for Discretionary Review and found that the proposed Project complies with the Residential Design Guidelines (RDGs) and, as a corner building, does not cut off the mid-block open space. Therefore, the Project does not present any exceptional or extraordinary circumstances.

Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.

**RECOMMENDATION:** 

Do not take DR and approve project as proposed

#### **Attachments:**

Rent Board Eviction History Parcel Map See CUA Attachments for:

Sanborn Map, Aerial Photograph, Zoning Map, Site Photo, CEQA Determination DR Response (See CUA Attachment - Project Sponsor Brief Submittal) dated November 27, 2017 DR Application dated October 4, 2017

NHT: I:\Cases\2017-004562DRP - 799 Castro and 3880 21st St\DR - Abbreviated Analysis - 3880 21st St.docx

# Rent Board Response to Request from Planning Department for Eviction History Documentation

Re: 3878-3880 21st St/799 Castro

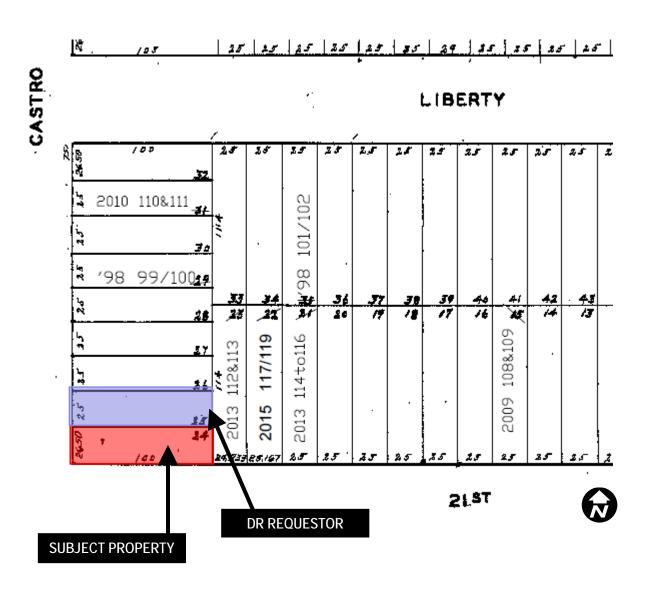
This confirms that the undersigned employee of the San Francisco Rent Board has reviewed its records pertaining to the above-referenced unit(s) to determine whether there is any evidence of evictions on or after the date specified. All searches are based upon the street addresses provided.
No related eviction notices were filed at the Rent Board after:  12/10/13  03/13/14  10 years prior to the following date:
Yes, an eviction notice was filed at the Rent Board after:  12/10/13  03/13/14  10 years prior to the following date:  See attached documents.
There are no other Rent Board records evidencing an eviction after:  12/10/13  03/13/14  10 years prior to the following date:  12/10/13
Yes, there are other Rent Board records evidencing a an eviction after:  12/10/13  03/13/14  10 years prior to the following date:  See attached documents.
Signed: Dated: 7 - // - /7  Van Lam Citizens Complaint Officer

The Rent Board is the originating custodian of these records; the applicability of these records to

Planning permit decisions resides with the Planning Department.

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PLANNING DEPARTMENT

## **Parcel Map**



Discretionary Review Hearing

Case Number 2017-004562DRP

3878-3880 21st Street & 799 Castro Street

# APPLICATION FOR Discretionary Review

OCT 0 4 2017

CITY & COUNTY OF S.F.

1. Owner/A	pplicant li	nformation			PLANNING DEPARTMENT PIC
DR APPLICANT'S					
Denise A. Lea	idbetter				
DR APPLICANT'S	ADDRESS:			ZIP CODE:	TELEPHONE:
789 Castro S	treet, San F	rancisco, CA		94114	(415 ) 956-8100
PROPERTY OWNE	ER WHO IS DOIN	NG THE PROJECT ON WE	HICH YOU ARE REQUES	TING DISCRETIONARY REVIEW NAME:	
	azab & Gill	ian Allen / Tecta	Associates		
ADDRESS:				ZIP CODE:	TELEPHONE:
2747 19th St	treet, San F	rancisco, CA		94110	(415 ) 362-5857
CONTACT FOR DE	R APPLICATION:				
Same as Above	Zacks,	Freedman & Pat	terson, PC c/o Ry		
ADDRESS:				ZIP CODE:	TELEPHONE:
235 Montgo	mery Stre	et, Suite 400, Sar	rancisco, CA	94104	(415 ) 956-8100
e-mail address ryan@zfplaw					
3878-3880 2 CROSS STREETS Castro Stree	1st Street				ZIP CODE: 94114
ASSESSORS BLO	CK/LOT:	LOT DIMENSIONS:	LOT AREA (SQ FT):	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:
3603	/024	26.5x100	2650	RH-2	40-X
3. Project E Please check all tha Change of Us  Additions to Present or Pre	Building:	ange of Hours Rear Fr Residential	] New Constru ront □ Heigl		Demolition ☐ Other ☑ .
Building Perr	nit Applica	2017040	043134	Dat	e Filed. April 4, 2017

### 4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<b>X</b>	
Did you discuss the project with the Planning Department permit review planner?	<b>X</b>	
Did you participate in outside mediation on this case?		<b>X</b>

### 5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project. The project sponsor has not made significant changes to the project. He is attempting to demolish a legal rent-controlled unit and replace it with a basement ADU in another building.

### Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

The project sponsor is attempting to replace a legal rent-controlled unit with a basement ADU in another building, in order to clear the way for a non-code-compliant, non-rent-controlled single-family home.

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

The entire neighborhood would be adversely affected by the proposed project, which is being "piecemealed" under multiple permits. The size and configuration of the proposed buildings degrades the housing stock, exceeds the permitted density, and walls off the mid-block open space.

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

The project sponsor proposes to demolish an existing, legal rent-controlled unit and to convert a nonconforming office use (in the same building) to a non-rent-controlled single-family-home, while replacing the rent-controlled unit with a basement ADU in another building. Instead, the project sponsor should expand the existing rent-controlled unit to fill the space occupied by the nonconforming office use (within the existing envelope).

### Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Date: 10/4/17

Print name, and indicate whether owner, or authorized agent:

Ryan J. Patterson, Esq.

Owner / Authorized Agent (circle one)



## SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street, Suite 400 • San Francisco, CA 94103 • Fax (415) 558-6409

### NOTICE OF PUBLIC HEARING

Hearing Date: Thursday, October 12, 2017

Time: Not before 1:00 PM

Location: City Hall, 1 Dr. Carlton B. Goodlett Place, Room 400

Case Type: Conditional Use & Variance

Hearing Body: Planning Commission & Zoning Administrator

PROPERTY INFORMATION		APPLICAT	APPLICATION INFORMATION		
Project Address:	799 Castro Street 3878-3880 21 <sup>st</sup> Street	Case No.:	2017-004562CUA 2008.0410V		
Cross Street(s): Block /Lot No.: Zoning District(s): Area Plan:	Castro & 21 <sup>st</sup> Streets 3603 / 024 RH-2 / 40-X N/A	Building Permit: Applicant: Telephone: E-Mail:	2014.09.19.6883 Tom Tunny (415) 567-9000 ttunny@reuben.com		

### PROJECT DESCRIPTION

The proposal is for Conditional Use Authorization, pursuant to Planning Code Sections 303 and 317, to demolish an existing mixed-use structure (commercial office/single-family) and construct a three-story over basement single-family residence. The subject property contains three dwelling units, two units in a building at the rear of the property, and one unit with office in a building at the front. See attached plans.

The project also requests **Variances** from the Zoning Administrator to construct within the required front setback and rear yard. Planning Code Section 132 requires a front setback of 4 feet - 5 inches and construction is proposed to the front property line. Section 134 requires a rear yard of 25% of the total lot depth or 15 feet between the two buildings on the lot and the proposal provides only a 10 foot separation. The property is legally non-complying in regards to the rear yard requirement because there is a two-story over basement with two dwelling units located entirely within rear yard.

Under a separate building permit, 2017.04.04.3134, one new accessory dwelling unit is proposed in the rear building (3878-3880 21st St).

A Planning Commission approval at the public hearing would constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

### ADDITIONAL INFORMATION

**ARCHITECTURAL PLANS:** If you are interested in viewing the plans for the proposed project please contact the planner listed below. The plans and Department recommendation of the proposed project will be available prior to the hearing through the Planning Commission agenda at: <a href="http://www.sf-planning.org">http://www.sf-planning.org</a> or by request at the Planning Department office located at 1650 Mission Street, 4<sup>th</sup> Floor.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

FOR MORE INFORMATION, PLEASE CONTACT PLANNING DEPARTMENT STAFF:

Planner: Nancy Trán Telephone: (415) 575-9174 E-Mail: Nancy.H.Tran@sfgov.org

### **GENERAL INFORMATION ABOUT PROCEDURES**

### HEARING INFORMATION

You are receiving this notice because you are either a property owner or resident that is adjacent to the proposed project or are an interested party on record with the Planning Department. You are not required to take any action. For more information regarding the proposed work, or to express concerns about the project, please contact the Applicant or Planner listed on this notice as soon as possible. Additionally, you may wish to discuss the project with your neighbors and/or neighborhood association as they may already be aware of the project.

Persons who are unable to attend the public hearing may submit written comments regarding this application to the Planner listed on the front of this notice, Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103, by 5:00 pm the day before the hearing. These comments will be made a part of the official public record and will be brought to the attention of the person or persons conducting the public hearing.

Comments that cannot be delivered by 5:00 pm the day before the hearing may be taken directly to the hearing at the location listed on the front of this notice. Comments received at 1650 Mission Street after the deadline will be placed in the project file, but may not be brought to the attention of the Planning Commission at the public hearing.

### BUILDING PERMIT APPLICATION INFORMATION

Pursuant to Planning Code Section 311 or 312, the Building Permit Application for this proposal may also be subject to a 30-day notification of property owners and residents within 150-feet of the subject property. This notice covers the Section 311 notification requirements.

### APPEAL INFORMATION

An appeal of the approval (or denial) of a Conditional Use application and/or building permit application associated with the Conditional Use application may be made to the Board of Supervisors within 30 calendar days after the date of action by the Planning Commission pursuant to the provisions of Section 308.1(b). Appeals must be submitted in person at the Board's office at 1 Dr. Carlton B. Goodlett Place, Room 244. For further information about appeals to the Board of Supervisors, including current fees, contact the Clerk of the Board of Supervisors at (415) 554-5184.

An appeal of the approval (or denial) of a **building permit application** by the Planning Commission may be made to the **Board of Appeals within 15 calendar days** after the building permit is issued (or denied) by the Director of the Department of Building Inspection. Appeals must be submitted in person at the Board's office at 1650 Mission Street, 3rd Floor, Room 304. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (415) 575-6880.

Pursuant to California Government Code Section 65009, if you challenge, in court, the decision of an entitlement or permit, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the Planning Commission prior to, or at, the public hearing.

### **ENVIRONMENTAL REVIEW**

This project has undergone preliminary review pursuant to California Environmental Quality Act (CEQA). If, as part of this process, the Department's Environmental Review Officer has deemed this project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained through the Exemption Map, on-line, at <a href="https://www.sfplanning.org">www.sfplanning.org</a>. An appeal of the decision to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.

www.sfplanning.org



1650 MISSION STREET, SUITE 400 SAN FRANCISCO, CA 94103 TEL: 415.575.9121

Date: September 22, 2017

The attached notice is provided under the Planning Code. It concerns property located at 799 Castro Street ( 2017-004562CUA

2008.0410V) ~ NT. A hearing may occur, a right to request review may expire or a development approval may become final unless appealed by October 12, 2017.

To obtain information about this notice in Spanish, Tagalog or Chinese, please call (415) 575-9010. Please be advised that the Planning Department will require at least one business day to respond to any call.

附上的是三藩市城市規劃局的通告。

此通告是與位於 799 Castro Street (2017-004562CUA

2008.0410V) ~ NT 的建築計劃有關。如果在 October 12, 2017 之前沒有人申請聽證會來檢討這一個建築計劃,這計劃可會被核准。

如果你需要用華語獲得關於這通告的細節,請電 415-575-9010, 然後, 請按 "8"及留言.

規劃部門將需要至少一個工作天回應。華語資料提供只是城市規劃局的一項服務, 此項服務不會提供額外的權利或延伸任何要求檢討的期限。

El documento adjunto es referente a la siguiente dirección: **799 Castro Street ( 2017-004562CUA 2008.0410V ) ~ NT**. Es un requisito del Codigo de Planeamiento (Planning Code). La posibilidad de una audiencia puede occurrir. El derecho pa-ra revisar el archivo de este projecto puede expirar o una decisión puede ser final si usted no presenta un documento de apelación antes de: **October 12, 2017.** 

Para obtener más información en Español acerca de este projecto, llame al siguiente telefono (415) 575-9010. Por favor tome en cuenta que le contestaremos su llamada en un periodo de 24 horas. El servicio en Español es proporcionado por el Departamento de Planeamiento (Planning Department) de la ciudad de San Francisco. Eso no garantiza ningun derecho adicional o extensión del tiempo requerido por la ley.

Ang nakalakip na paunawa ay ibinibigay alinsunod sa Planning Code. Tinatalakay nito ang propyedad na matatagpuan sa **799 Castro Street ( 2017-004562CUA** 

2008.0410V) ~ NT. Maaring may paglilitis na mangyayari, may mapapasong paghiling ng isang pagrerepaso (review), o ang na-aprobahang pagpapatayo ay malapit nang ipagtibay sa October 12, 2017.

Para humiling ng impormasyon tungkol sa paunawang ito sa Tagalog, paki tawagan ang (415) 575-9121. Mangyaring tandaan na mangangailangan ang Planning Department ng di-kukulangin sa isang araw ng pangangalakal para makasagot sa anumang tawag.

