# DISCRETIONARY REVIEW ABBREVIATED ANALYSIS 

## HEARING DATE：JUNE 3， 2021

| Record No．： | 2019－006578DRP |
| :--- | :--- |
| Project Address： | 2455 Harrison Street |
| Permit Applications： 2019.0430 .9262 |  |
| Zoning： | UMU［Urban Mixed Use］ |
|  | 48－X Height and Bulk District |
|  | Mission Area Plan－Eastern Neighborhoods |
| Block／Lot： | 4084／026 |
| Project Sponsor： | Edward Morris |
|  | Kerman Morris Architects <br>  <br>  <br>  <br> 139 Noe Street |
| Staff Contact： | San Francisco，CA 94114 |
|  | David Winslow－（628）652－7567 |
|  | David．Winslow＠sfgov．org |

Recommendation：Do Not Take DR and approve

## Project Description

The project proposes to demolish an existing one－story automotive repair building and construct a new four－story mixed－use building with laboratory use on the first and second stories，and residential dwelling units on the third and fourth stories．

## Site Description and Present Use

The site is a $26^{\prime}$ wide $\times 100^{\prime}-0^{\prime \prime}$ deep lot containing an existing 1 －story，industrial building．The existing building is a Category＇C＇－no historic resource present－built in 1983.

## Surrounding Properties and Neighborhood

The subject property is situated immediately adjacent to 2－story buildings．The DR Requestor＇s building to the north has full lot coverage which has a residential unit at the second floor．

## Building Permit Notification

| Type | Required <br> Period | Notification <br> Dates | DR File Date | DR Hearing Date | Filing to Hearing <br> Date |
| :---: | :---: | :---: | :---: | :---: | :---: |
| 311 Notice | 30 days | February 22, <br> 2021-March 24, <br> 2021 | March 24, 2021 | June 3, 2021 | 72 days |

## Hearing Notification

| Type | Required <br> Period | Required Notice <br> Date | Actual Notice Date | Actual Period |
| :---: | :---: | :---: | :---: | :---: |
| Posted Notice | 20 days | May 15, 2021 | May 15, 2021 | 20 days |
| Mailed Notice | 20 days | May 15, 2021 | May 15, 2021 | 20 days |
| Online Notice | 20 days | May 15, 2021 | May 15, 2021 | 20 days |

## Public Comment

|  | Support | Opposed | No Position |
| :--- | :---: | :---: | :---: |
| Adjacent neighbor(s) | 0 | 1 | 0 |
| Other neighbors on the block or <br> directly across the street | 0 | 0 | 0 |
| Neighborhood groups | 0 | 0 | 0 |

## Environmental Review

The Department, pursuant to CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, determined that the project is consistent with the project site's development density established by zoning, the community plan, and general plan policies in the Eastern Neighborhoods Rezoning and Area Plans, for which a programmatic environmental impact report was certified. Accordingly, the Department issued a community plan evaluation for the project on December 18, 2019.

## DR Requestor

DR requestor: Albert Urrutia owner of the adjacent property 2451 Harrison to the north of the proposed project.

## DR Requestor's Concerns and Proposed Alternatives

DR requestor Is concerned that the proposed project will:

1. Is out of context with the other buildings on the block.
2. Would block property line windows serving adjacent residential unit and remove bedrooms from the apartment.
3. The proposed building will impact solar panels.

## Proposed alternatives:

1. Set back the upper floors 3' to 5' from property line to allow retention of property line windows
2. Locate penthouse on south side of building
3. Remove a story.

See attached Discretionary Review Application, dated March 24, 2021.

## Project Sponsor's Response to DR Application

The proposed project is code-complying. The Planning Code does not regulate or protect property line windows. The DR requestor's unprotected property line windows serve an unpermitted dwelling unit and do not provide legal access to light, air, and emergency access. The project sponsor did relocate the stair penthouse to the south side of the property and is willing to reduce the height of the 30 " roof parapet But providing light wells to the adjacent windows would result in the loss of bedrooms and still render the DR requestor's windows deficient with respect to emergency access. The DR requestor should remedy their non-complying condition on their own property rather than requesting a code complying project to do so.

See attached Discretionary Review Response, dated May 13, 2021

## Department Review

Staff supports the proposed project without modification despite its impacts to the adjacent building and its dwelling unit. In this case, the windows of the DR requestor's residential unit are non-compliant - with respect to both the Planning Code per exposure and the Building Code - regardless of whether the neighboring property builds or not. It is generally accepted that the condition of any dwelling unit with respect to compliance is the responsibility of the property owner. A remedy from the project sponsor is not available to the correct this condition.

Solar panels are not protected by state or local law as doing so would allow them to act as de facto impediments to development.

[^0]
## Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
CEQA Determination
DR Application
Letter of opposition
Discretionary Review Response, dated May 13, 2021
311 plans

## Exhibits

Discretionary Review Hearing Case Number 2019-006578DRP

## Parcel Map



## Sanborn Map*


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflectexisting conditions.

Discretionary Review Hearing Case Number 2019-006578DRP
2455 Harrison Street

## Zoning Map



Discretionary Review Hearing
Case Number 2019-006578DRP
2455 Harrison Street

## Aerial Photo



Discretionary Review Hearing Case Number 2019-006578DRP

## Aerial Photo



Discretionary Review Hearing Case Number 2019-006578DRP

## Aerial Photo



## Aerial Photo



Discretionary Review Hearing
Case Number 2019-006578DRP
2455 Harrison Street

## Site Photo



Discretionary Review Hearing Case Number 2019-006578DRP 2455 Harrison Street

## NOTIGE OF BULDING PERMIT APPLICATION ［SECTION 311］

On April 30，2019，Building Permit Application No． 201904309262 was filed for work at the Project Address below．

Notice Date：2／22／21 Expiration Date：3／24／21

## PROJECT INFORMATION

Project Address：
Cross Streets：
Block／Lot No．：
Zoning District（s）：
Record No．：

2455 HARRISON ST
$20^{\text {th }}$ and $21{ }^{\text {st }}$ Streets
4084 ／ 026
UMU／48－X
2019－006578PRJ

## APPLICANT INFORMATION

Applicant：Edward D．Morris
Address： 139 Noe Street
City，State：San Francisco，CA 94114
Telephone：（415）749－0302
Email：toby＠kermanmorris．com

You are receiving this notice as an owner or occupant of property within 150 feet of the proposed project．You are not required to take any action．For more information about the proposed project，or to express concerns about the project，please contact the Applicant listed above or the Planner named below as soon as possible．If you believe that there are exceptional or extraordinary circumstances associated with the project，you may request that the Planning Commission review this application at a public hearing for Discretionary Review．Requests for a Discretionary Review hearing must be filed during the 30－day review period，prior to the close of business on the Expiration Date shown above，or the next business day if that date is on a week－end or a legal holiday．If no Requests for Discretionary Review are filed，this project will be approved by the Planning Department after the Expiration Date．

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．


To view plans or related documents，visit sfplanning．org／notices and search the Project Address listed above．

## For more information，please contact Planning Department staff：

Planner：Alex Westhoff
Telephone：628－652－7314
Email：Alex．Westhoff＠sfgov．org

## General Information About Procedures During COVID-19 Shelter-In-Place Order

Reduced copies of the proposed project plans have been included in this mailing for your information. If you have questions about the plans, please contact the project Applicant listed on the front of this notice. You may wish to discuss the plans with your neighbors or neighborhood association, as they may already be aware of the project. If you have specific questions about the proposed project, you should contact the planner listed on the front of this notice. If you have general questions about the Planning Department's review process, contact the Planning counter at the Permit Center via email at pic@sfgov.org.

If you believe that the impact on you from the proposed project is significant and you wish to seek to change the project, there are several procedures you may use. We strongly urge that steps 1 and 2 be taken.

1. Contact the project Applicant to get more information and to discuss the project's impact on you.
2. Contact the nonprofit organization Community Boards at (415) 920-3820, or online at www.communityboards.org for a facilitated. Community Boards acts as a neutral third party and has, on many occasions, helped reach mutually agreeable solutions.
3. Where you have attempted, through the use of the above steps or other means, to address potential problems without success, please contact the planner listed on the front of this notice to discuss your concerns.

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects that conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review ("DR"). If you believe the project warrants Discretionary Review by the Planning Commission, you must file a DR Application prior to the Expiration Date shown on the front of this notice.

To file a DR Application, you must:

1. Create an account or be an existing registered user through our Public Portal (https://acaccsf.accela.com/ccsf/Default.aspx).
2. Complete the Discretionary Review PDF application (https://sfplanning.org/resource/drp-application) and email the completed PDF application to

CPC.Intake@sfgov.org. You will receive follow-up instructions via email on how to post payment for the DR Applciation through our Public Portal.

To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at www.sfplanning.org. If the project includes multiple building permits, i.e. demolition and new construction, a separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you. Incomplete applications will not be accepted.

If no Discretionary Review Applications have been filed within the Notification Period, the Planning Department will approve the application and forward it to the Department of Building Inspection for its review.

## Board of Appeals

An appeal of the Planning Commission's decision on a Discretionary Review case may be made to the Board of Appeals within 15 calendar days after the building permit is issued (or denied) by the Department of Building Inspection. The Board of Appeals is accepting appeals via e-mail. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (628) 652-1150.

## 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 at www.sfplanning.org. 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 Board of Supervisors at bos.legislation@sfgov.org, 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.

## CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

| Project Address | Block/Lot(s) |  |
| :--- | :--- | :--- |
| 2455 HARRISON ST | 4084026 |  |
| Case No. | Permit No. |  |
| $2019-006578$ ENV | 201904309262 |  |
| Addition/ <br> Alteration | Nemolition (requires HRE for <br> Category B Building) | Construction |
| Project description for Planning Department approval. <br> The project sponsor proposes the demolition of the existing one-story industrial building and construction of a <br> 48-foot-tall (64-foot-tall with elevator penthouse), four-story over basement, mixed-use building approximately <br> 12,090 square feet in size. The project would provide approximately 4,288 square feet of non-life science <br> laboratory space at the ground-floor, second floor, and part of the basement. At the third and fourth floors, the <br> project would provide five residential units. The project would include an approximately 532-square-foot roof <br> deck. Off-street vehicle parking is not proposed. The project would require approximately 100 cubic yards of <br> excavation. |  |  |

## STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).
$\square \quad$ Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.

Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:
(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.
(c) The project site has no value as habitat for endangered rare or threatened species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
(e) The site can be adequately served by all required utilities and public services.

FOR ENVIRONMENTAL PLANNING USE ONLY
$\qquad$

Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment. FOR ENVIRONMENTAL PLANNING USE ONLY

|  | Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to The Environmental Information tab on the San Francisco Property Information Map) |
| :---: | :---: |
|  | Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? <br> Note that a categorical exemption shall not be issued for a project located on the Cortese List if box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant. (refer to The Environmental Information tab on the San Francisco Property Information Map) |
|  | Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities? |
|  | Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required. |
| $\square$ | Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of $20 \%$ or more? (refer to The Environmental Information tab on the San Francisco Property Information Map) If box is checked, Environmental Planning must issue the exemption. |
| $\square$ | Average Slope of Parcel $\mathbf{=}$ or $\mathbf{> 2 5 \%}$, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than $50 \%$, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? (refer to The Environmental Planning tab on the San Francisco Property Information Мар) If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption. |
| $\square$ | Seismic Hazard: $\square$ Landslide or $\square$ Liquefaction Hazard Zone: <br> Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than $50 \%$, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? (refer to The Environmental tab on the San Francisco Property Information Map) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption. |
| Comments and Planner Signature (optional): Don LewisPLEASE SEE ATTACHED |  |

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER
PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)
Category A: Known Historical Resource. GO TO STEP 5.
Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

## STEP 4: PROPOSED WORK CHECKLIST <br> TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.

| $\square$ | 1. Change of use and new construction. Tenant improvements not included. |
| :--- | :--- |
| $\square$ | 2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building. |
| $\square$ | 3. Window replacement that meets the Department's Window Replacement Standards. Does not include <br> storefront window alterations. |
| $\square$ | 4. Garage work. A new opening that meets the Guidelines for Adding Garages and Curb Cuts, and/or <br> replacement of a garage door in an existing opening that meets the Residential Design Guidelines. |
| $\square$ | 5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way. |
| $\square$ | 6. Mechanical equipment installation that is not visible from any immediately adjacent public <br> right-of-way. |
| $\square$ | 7. Dormer installation that meets the requirements for exemption from public notification under Zoning <br> Administrator Bulletin No. 3: Dormer Windows. |
| $\square$ | 8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each <br> direction; does not extend vertically beyond the floor level of the top story of the structure or is only a <br> single story in height; does not have a footprint that is more than 50\% larger than that of the original <br> building; and does not cause the removal of architectural significant roofing features. |
| Note: Project Planner must check box below before proceeding. |  |
| $\square$ | Project is not listed. GO TO STEP 5. |
| $\square$ | Project does not conform to the scopes of work. GO TO STEP 5. |
| $\square$ | Project involves four or more work descriptions. GO TO STEP 5. |
| $\square$ | Project involves less than four work descriptions. GO TO STEP 6. |

## STEP 5: ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PRESERVATION PLANNER

| Check all that apply to the project. |  |  |
| :--- | :--- | :---: |
| $\square$ | 1. Reclassification of property status. (Attach HRER Part I) <br> $\square$ Reclassify to Category A <br> a. Per HRER <br> b. Other (specify): |  |
| $\square$ | 2. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and <br> conforms entirely to proposed work checklist in Step 4. |  |
| $\square$ | 3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character <br> defining features. |  |
| $\square$ | 4. Window replacement of original/historic windows that are not "in-kind" but are consistent with <br> existing historic character. |  |
| $\square$ | 5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features. |  |


| $\square$ | 6. Raising the building in a manner that does not remove, alter, or obscure character-defining <br> features. |
| :--- | :--- |
| $\square$ | 7. Restoration based upon documented evidence of a building's historic condition, such as historic <br> photographs, plans, physical evidence, or similar buildings. |
| $\square$ | 8. Work consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties <br> (Analysis required): |
| $\square$ | 9. Work compatible with a historic district (Analysis required): <br> $\square$ |
| $\square$ | 10. Work that would not materially impair a historic resource (Attach HRER Part II). <br> Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below. |
| Preservation Planner and can proceed with exemption review. GO TO STEP 6. |  |

## STEP 6: EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER
No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.

| Project Approval Action: <br> Building Permit | Signature: <br> Don Lewis |
| :--- | :--- |
|  | If Discretionary Review before the Planning Commission is requested, <br> the Discretionary Review hearing is the Approval Action for the project. |

## Step 2: Environmental Screening Comments

Archeological Resources: The department's staff archeologist conducted preliminary archeological review on 7/2/2020 and determined that no CEQA-significant archeological resources are expected within project-affected soils.

Hazardous Materials: The project is subject to the Maher Ordinance (Article 22A of the Health Code), which is administered by the Department of Public Health. The project sponsor enrolled in the Maher Program on 6/6/2019

Traffic: The department's transportation staff reviewed the proposed project on 10/4/2019 and determined that additional transportation review is not required.

Noise: The project would use typical construction equipment that would be regulated by Article 29 of the Police Code (section 2907, Construction Equipment). No impact pile driving or nighttime construction is required Construction vibration would not be anticipated to affect adjacent buildings. The proposed project would not generate sufficient vehicle trips to noticeably increase ambient noise levels, and the project's fixed noise sources, such as heating, ventilation, and air conditioning systems, would be subject to noise limits in Article 29 of the Police Code (section 2909, Noise Limits).

Air Quality: The proposed project's construction would be subject to the Dust Control Ordinance (Article 22B of the Health Code). The proposed land uses are below the Bay Area Air Quality Management District's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis. The project site is located within an air pollutant exposure zone but would not add new stationary sources of toxic air contaminants. Pursuant to Director's Bulletin No. 2 for Type 3, Clean Construction projects, the project sponsor has committed to using Tier 4 engines on all diesel-fueled construction equipment. Thus, no significant construction or operational air quality impacts would occur.

Water Quality: The project's construction activities are required to comply with the Construction Site Runoff Ordinance (Public Works Code, article 2.4, section 146). The project would be required to implement BMPs to prevent construction site runoff discharges into the combined or separate sewer systems. Stormwater and wastewater discharged from the project site during operations would flow to the City's combined sewer system and be treated to the standards in the City's National Pollution Discharge Elimination System permit.

Natural Habitat: The project site, which currently paved and covered with a building, is within a developed urban area. The project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species. Thus, the project site has no value as habitat for rare, threatened, or endangered species.

Shadow: A consultant-prepared shadow study determined that the proposed project would not create new shadow that substantially and adversely affects the use and enjoyment of publicly accessible open spaces. Net new shadow would be cast upon the Mission Recreation Center soccer field until 8:15 a.m., which is 45 minutes before the Recreation Center opens at 9 a.m.

Public Notice: A "Notification of Project Receiving Environmental Review" was mailed on January 6, 2020 to adjacent occupants and owners of buildings within 300 feet of the project site and to the Mission neighborhood group list.

## STEP 7：MODIFICATION OF A CEQA EXEMPT PROJECT

## TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code，when a California Environmental Quality Act（CEQA）exempt project changes after the Approval Action and requires a subsequent approval，the Environmental Review Officer（or his or her designee）must determine whether the proposed change constitutes a substantial modification of that project．This checklist shall be used to determine whether the proposed changes to the approved project would constitute a＂substantial modification＂and，therefore，be subject to additional environmental review pursuant to CEQA．

## MODIFIED PROJECT DESCRIPTION

Modified Project Description：

## DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project，would the modified project：

| $\square$ | Result in expansion of the building envelope，as defined in the Planning Code； |
| :--- | :--- |
| $\square$ | Result in the change of use that would require public notice under Planning Code <br> Sections 311 or 312； |
| $\square$ | Result in demolition as defined under Planning Code Section 317 or 19005（f）？ |
| $\square$ | Is any information being presented that was not known and could not have been known <br> at the time of the original determination，that shows the originally approved project may <br> no longer qualify for the exemption？ |
| If at least one of the above boxes is checked，further environmental review is required． |  |

## DETERMINATION OF NO SUBSTANTIAL MODIFICATION

The proposed modification would not result in any of the above changes．
If this box is checked，the proposed modifications are exempt under CEQA，in accordance with prior project approval and no additional environmental review is required．This determination shall be posted on the Planning Department website and office and mailed to the applicant，City approving entities，and anyone requesting written notice．In accordance with Chapter 31，Sec 31．08j of the San Francisco Administrative Code，an appeal of this determination can be filed to the Environmental Review Officer within 10 days of posting of this determination．

| Planner Name： | Date： |
| :--- | :--- |
|  |  |
|  |  |

DISCRETIONARY REVIEW PUBLIC CDRP]
APPLICATION

## Discretionary Review Requestor's Information

| Name: Albert Urrutia |  |
| :---: | :---: |
| 2451 Harrison Street, San Francisco, CA 94110 | Email Address: ${ }^{\text {aurrutia@atriumstructural.com }}$ |
| Address: | Telephone: ${ }^{\text {415-642-7722 }}$ |
| Information on the Owner of the Property Being Developed |  |
| Name: Fahman Properties LLC |  |
| Company/Organization: <br> Fahman Properties LLC (415)290-1437 |  |
|  | Email Address: |
| Address: | Telephone: 415 -290-1437 |

## Property Information and Related Applications

Project Address: ${ }^{2455}$ Harxison Street
Block/Lot(s): 4084/026
Building Permit Application No(s): 2019-0430-9262

## ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

| PRIOR ACTION | YES | NO |
| :--- | :--- | :--- |
| Have you discussed this project with the permit applicant? |  |  |
| Did you discuss the project with the Planning Department permit review planner? |  |  |
| Did you participate in outside mediation on this case? (including Community Boards) |  |  |
| Changes Made to the Project as a Result of Mediation. <br> If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize <br> the result, including any changes that were made to the proposed project. |  |  |

[^1]
## DISCRETIONARY REVIEW REQUEST

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

1. What are the reasons for requesting Discretionary Review? The project meets the standards of the Planning Code and the Residential Design Guidelines. 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 building located at 2455 Harrison is much taller than all the other buildings on the block. At the parapet it is 52 feet above the sidewalk and at the top of the penthouse it is 65 feet. It is out of context with the other buildings on the block. 2451 Harrison Street, next door, is 34 feet at the parapet, the appartment building north of 2451 is 40 feet at the parapet. The next door buildin at 2463 is only 28 feet tall at the ridge.
The 2455 building would remove rented bedrooms from the 2451 Harrison building as it is being built to the north property line blocking existing bedroom windows in the property line wall. These windows have been in place since the building was originally built.
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 unreasonably affecter, please state who would be affected, and how.
The building at 2455 Harrison is to the south of my building at 2451 Harrison. At the top of the penthouse it is 65 feet tall and would cast a large shadow on my roof top solar panels. At their highest point my solar panels are at a height of 40 feet. The penthouses are on the north side of the building, casting a larger shadow. As California is moving away from natural gas to renewable electricity this will put a tremendous electrical burden on 2451 Harrison going forward. Commencing in 2021 all new buildings will be required to be $100 \%$ electric, no gas. 2451 Harrison at certain times of the day sends electricity back into the grid. We have an analysis by our solar energy company that is attached.
2451 Harrison Street is a zero-lot line building, the upper rear unit 2453 Harrison has been a continuously rented space for at least the 24 years that I have owned the property and I believe many years before. This unit has bedroom windows that face 2455. By building the 2455 building up to the property line it would block all these windows, removing bedrooms.
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?
4. Set back the upper stories at least 3 feet ( 5 feet better) to allow for the property line windows.
5. Place the penthouses on the south side of the building.
6. Remove a story from the project

## DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:
a) The undersigned is the DR requestor or their authorized representation.

|  |  | Albert Urrutia |
| :---: | :---: | :---: |
| Signature |  | Name (Printed) |
| Same | 415-642-7722 | aurrutia@atriumstructural.com |
| Relationship to Requestor <br> (i.e. Attorney, Architect, etc.) | Phone | Email |

Application received by Planning Department:
$\qquad$ Date: $\qquad$

For clarity, this is a copy of the response to question 2.
2. The building at 2455 Harrison is to the south of my building at 2451 Harrison. At the top of the penthouse, it is 65 feet tall and would cast a large shadow on my roof top solar panels. At their highest point my solar panels are only at a height of 40 feet. The penthouses are on the north side of the building, casting a larger shadow. As California is moving away from natural gas to renewable electricity this will put a tremendous electrical burden on 2451 Harrison going forward. Commencing in 2021 all new buildings will be required to be $100 \%$ electric, no gas. 2451 Harrison at certain times of the day sends electricity back into the grid. We have an analysis by our solar energy company that is attached.

2451 Harrison Street is a zero-lot line building, the upper rear unit 2453 Harrison has been a continuously rented space for at least the 24 years that I have owned the property and I believe many years before. This unit has bedroom windows that face 2455. By building the 2455 building up to the property line it would block all these windows, removing bedrooms.


2451 HARRISON WITH PROPERTY LINE WINDOWS AND NORTH STREET VIEW


2455 HARRISON WITH STREET VIEW


2463 HARRISON WITH SOUTH STREET VIEW

Albion Power Company
O: $415.558 .1786 \mid \mathrm{C}: 415.971 .3155$ |F: 708.232 .2635
cadams@albionpower.com | www.albionpower.com
Charles Adams
Regards,

## environmental goals.

 Any change in neighboring buildings may inhibit solar access and the ability for 2451 to receive value of this energy over the next 10 years would be $\$ 76,192$ for example. rebate programs and which this project was eligible for. Assuming a per kWh rate of $20 \phi$, the energy estimate is the same one employed by the State of California and City of San Francisco Attached are energy calculations from the California Solar Initiative (CSI) program indicating thatthis system is expected to produce 31,747 annual $\mathrm{kWh}(21,681 \mathrm{kWh}$ and $10,006 \mathrm{kWh}$
of 21.83 kW and has been inspected by the City of San Francisco and placed into operation by
PG\&E. The property at 2451 Harrison Street has a solar installation installed consisting of (72) Sharp 208
watt modules and (21) SUNPOWER 327 watt module. The installed system has a total capacity

RE: 2451 Harrison Street Solar Installation
March 3, 2021

## 


wasc

## CSI \& MASH Calculators

Developed by AESC, Inc.

## Incentive Calculator - CSI Standard PV

The CSI-EPGE calculator is a tool availaile io participants of the CSI Program to determine the EPGE Design Factor and calculate an appropriate incentive level bosed on a reasonable expectation of performance for an individual system. The CSI-EPGS Calculaior has also been created for consumer's to educate themsetves on the differences of solar system desigh and how changes to the Py sjstem's specifications will produce different kilowatt hour results over the course of a year. Please se aware that actual performance of an installed Py system is oased on numerous factors, including some factors that may not be considered in the CSI-EPBe Calculator. While this calculator relies on industr-standard assumptions, and is driven by hete ey wate v. 2 catolador, there may be other factors that affect the ouput of your py $S$ ystem.

## Proposed

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## 1 CSI \& MASH Calculators <br> Developed by AESC, Imc.

## Incentive Calculator - CSI Standard PV

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## RESPONSE TO DISCRETIONARY REVIEW

## Project Information

| Property Address: 2455 Harrison Street | Zip Code: 94110 |
| :--- | :--- |
| Building Permit Application(s): $2019-0430-9262$ | Discretionary Review Coordinator: David Winslow |
| Record Number: $2019-006578 \mathrm{DRP}$ | Phone: 415-377-6502 |
| Project Sponsor |  |
| Name: Edward D Morris ("Toby) |  |
| Email: toby@kermanmorris.com |  |

## Required Questions

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

## SEE ATTACHED

2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes and indicate whether they were made before or after filing your application with the City.

## SEE ATTACHED

3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Include an explaination of your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

## SEE ATTACHED

## Project Features

Please provide the following information about the project for both the existing and proposed features. Please attach an additional sheet with project features that are not included in this table.

|  | EXISTING | PROPOSED |
| :--- | :--- | :--- |
| Dwelling Units (only one kitchen per unit -additional kitchens count as additional units) | 0 | 5 |
| Occupied Stories (all levels with habitable rooms) | 1 | 4 |
| Basement Levels (may include garage or windowless storage rooms) | 0 | 1 |
| Parking Spaces (off-Street) | 0 | 0 |
| Bedrooms | 0 | 7 |
| Height | $29^{\prime}-6^{\prime \prime}$ | $48^{\prime}-0{ }^{\prime \prime}$ |
| Building Depth | $51^{\prime}-0^{\prime \prime}$ | $75^{\prime}-0^{\prime \prime}$ |
| Rental Value (monthly) | NA | NA |
| Property Value | NA | NA |
|  | * $75^{\prime}$ bldg. depth at residential |  |

Signature:


Printed Name:
Edward D. Morris (Toby)

Date: 05/13/2021

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

PLEASE SEE ATTACHED

## 2455 Harrison Street DR Response (2019-006578DRP)

Prepared by Kerman Morris Architects
05/22/2021

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

No extraordinary circumstances beyond those in the control of the DR Applicant (namely to reconfigure and legalize his dwelling unit to meet Planning and Building Codes, or seek variances and local equivalencies) occur with this proposal.

## Concerns of DR Requestor:

The DR requester raises three (3) concerns:

1) The building is too tall;
2) its construction would "remove existing rented bedrooms from the 2451 Harrison building," as this building's windows are on the common property line; and
3) the additional height would cast shadows on the extensive photovoltaic array on the DR Requestor's building.

## Concern \#1: The building is too tall and out of character with buildings in the block:

- The subject building is located in the UMU/48x zoning district. It is fully compliant with the code.
- Buildings in the area, as noted by the DR Requestor, are mixed (some residential, single family and multi-family, some industrial) in use and in heights. More recent buildings were constructed to the former height limit of 40 feet that pre-dates the rezoning of the Eastern Neighborhoods. The 48 foot height limit was expressly introduced into the Planning Code to enable mixed-use buildings (such as is being proposed at 2455 Harrison) to have adequate ceiling heights for their non-residential uses (in our case a laboratory) at the street level.
>> Our proposal is consistent with the code and general Plan's intent to maintain industry and housing in this district.


## Concern \#2: The proposed construction at 2455 Harrison would block existing bedroom windows in the property line wall.

This claim is problematic for several reasons:

- First, the Planning Code does not regulate property line windows (the Building Code does that) and,
- Second, the existing windows the DR Requestor seeks to protect serve an illegal/unpermitted dwelling unit without code required light and air to its bedrooms and living spaces and without legal emergency egress from its bedroom windows.


## Planning Code Issues:

The Residential Design Guidelines note: "Planning Code Section 101 states that one of the purposes of the Planning Code is to provide adequate light, air, privacy and convenience of access to property in San Francisco."

In reference to LIGHT, the guidelines (p. 16 RDG, Dec 2003) recommend matching lightwells (when lightwells are present on abutting properties). In this case there are no lightwells on the DR Requestor's property, only unpermitted property line windows providing light and air to an unpermitted dwelling unit, including its bedrooms. The RDGs are silent on property line windows.

## Building Code Issues:

Property line windows (such as the six property line windows on the DR Requestor's property at 2451/2453 Harrison, five of which are in the unpermitted residential unit at the second floor) are regulated by the San Francisco Building Code (SFBC). SFBC Administrative Bulletin 009 (AB-009) recognizes the inherent fire hazard introduced by property line windows (transfer of fire from one property to the abutter) and provides for safe implementation of their use:

- Property line windows must be fixed (cannot provide ventilation) and fire rated,
- they cannot be used to provide "required light, and ventilation, required egress, or for required emergency rescue" for any room, especially a bedroom; and
- a recorded statement must be filed with the City Recorder stating that said openings will be "closed or protected with approved fire resistive wall construction" should the neighboring property (in this case 2455 Harrison) be "improved in such a manner that the openings no longer comply with the provisions."


## Existing conditions at the DR Requestor's Property:

All windows in the DR Requestor's unpermitted dwelling unit ( 2453 Harrison Street) are unprotected property line windows, located on the side and rear property lines of that building. They are being used for the express purpose of providing light and air across property lines to illegal bedrooms with no emergency egress, in direct violation of the San Francisco and California Building Codes and the life safety provisions therein intended to provide for safe living conditions.
$\gg$ The DR Requestor should correct code violations on his own property to provide adequate light and air and exiting to his tenants instead of asking the Sponsor of 2455 Harrison to diminish a code complying design which delivers 5 new residential units.

## Concern \#3: The subject proposal will cast shadows on the DR Requestor's solar array:

The DR requestor has an extensive solar array on the roof of his property. We applaud the effort and expense he has gone to provide clean power to his building. That array, however is a story and a half below the allowable development height of the subject property. Attempts to protect solar access (especially in the winter months when the sun is low in the southern sky) to his panels would require removal of the proposed top floor at 2455 Harrison, or a significant setback of approximately 10 feet from the common side property line (resulting in a building width of approximately 15 feet). Either approach would result in the loss of (2) dwelling units (and require a variance to dwelling unit mix) or the loss of (3) of the 5 dwelling units.
>> Given that the Planning Code does not protect direct light access to solar arrays, this hardship and loss of dwelling units to the subject proposal is unjustified and unacceptable.
2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes and indicate whether they were made before or after filing your application with the City.

## Changes Already Effected to Increase solar access to DR Requestor's VE Array:

Subsequent to our 04/02/2019 pre-application community meeting and in response to concerns voiced by the DR Requestor on a site visit of his property on 07/30/2019, the Project Sponsor's Architect (Kerman Morris Architects) moved the stair and elevator shafts away from the common side property line with the DR Requestor to the south side of the subject property, in order to minimize the shadowing impacts of the proposed building on the DR Requestor's rooftop solar array. This change resulted in positive benefit of increased solar access to the DR Requestor's array.

## Reduce Height?:

We are unwilling to reduce the height of the proposed 48 foot tall mixed-use structure. A lower structure would result in loss of dwelling units (in the case of removal of a floor) or compromise the functionality of all levels and/or require us to seek a variance ground floor ceiling height (section 145.1(c)(4)). These hardships to the proposed design are unwarranted. We are willing to reduce the height of the 30" tall 1-hour parapet along our common property line should the DR Applicant agree to drop the DR Appeal.

## Lightwells to protect DR Requestor's Illegal Property line windows?:

Kerman Morris Architects also did a number of design studies to see if and how we could provide a lightwell along our common property line to preserve light to the DR Requestor's windows and noncode compliant bedrooms.

We found that any considered lightwell on the subject property in would,

- impact three stories of the proposed 2455 Harrison Street mixed-used building, and
- would result in loss of bedrooms to the subject property.

2455 Harrison proposes to bring (5) new dwelling units to this lot ( 2 two-bedroom units; 1 one-bedroom and 2 studios). The units are very small, but still meet dwelling unit mix requirements of section 207.6 (40\% 2-Bedroom units).

- We feel the loss of proposed legal dwelling units at the subject property are not justified to protect a single unpermitted illegal dwelling unit at the DR Requestor's property.
- This is reinforced by the conclusion that even if we were to forgo units or bedrooms to provide light and air to the DR Requestor's unit (by incorporating a lightwell), he would still not have legal/code compliant emergency egress from his bedrooms.

3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Include an explanation of your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

The DR Requestor has (3) three requested changes to our design:

1) Place the penthouses on the south side of the building:

- Placing the penthouses on the south side of the building has already been done for the benefit of the DR Applicant.

2) Setback the upper stories 3-5' to honor his property line windows:

- Setting the upper stories away from the property line results in loss of units.

3) Place the penthouses on the south side of the building:

- Placing the penthouses on the south side of the building has been done.

4) Remove a story from the project:

- Removing a story will result in the loss of 2 or 3 of the proposed 5 dwelling units.

We are unwilling to make further changes to the proposed 5 dwelling units over laboratory uses building at the subject property.

- UMU/48x: Everything proposed for the subject property follows code (no variances are requested).
- In order to have code complying open space for the proposed dwelling units it must occur on the roof and hence requires access (stairs and elevator) for egress and handicapped accessibility. That vertical circulation has already been located away from the DR Requestor.
- Proposed is an ambitious mix of lab and residential uses, bringing (5) units to the subject property; those safe and code complying units should not be compromised or diminished in order to provide partial building code (addressing light/air; but not addressing emergency egress) at the DR Requestor's property.
- The impacts, shadows on private property are common and expected in San Francisco's urban environment. The Residential Design Guidelines say (p. 16), "In areas with a dense building pattern some reduction of light to neighboring buildings can be expected with a building expansion."
- The scale of the development is consistent with the neighborhood, development patterns and with the Planning Code and the use proposed supportive of goals embedded in the Eastern Neighborhoods rezoning and the goals and intent of San Francisco's General Plan.



PROPERTY LINE WINDOWS AT 2451 HARRISON (DR APPLICANT)




```
From: Mee Zee
To: Winslow, David (CPC)
Subject: RE: Case No. 2019-006578DRP
Date: Thursday, May 20, 2021 1:09:01 PM
```

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## to whom it may concern,

## this email is in regard to;

2019-006578DRP: 2455 Harrison Street - between 20th \& 21st Streets; Lot 026 in Assessor's Block 4084 (District 9) - Discretionary Review of Building Permit No. 2019.0430.9262 to demolish an existing one-story automotive repair building and construct a new four-story mixed-use building with laboratory use on the first and second stories, and residential dwelling units on the third and fourth stories within the UMU (Urban Mixed Use) - Mission Eastern Neighborhoods Zoning District and 48-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).).

I am emailing to notify you that in the plans for the building project at 2455 Harrison St.,

NOWHERE in the plans is the residence 2453 Harrison St. acknowledged. 2453 Harrison St. is directly next door to 2455 Harrison St.

2453 Harrison St. has 5 windows that WILL be entirely covered by this 4 story project at 2455 Harrison St.

I do not know how this would be legal...
please put this into the record for the June 3rd hearing AND please get back to me with any information you can give me to shed some light on this matter.
attached are the plans for the 2455 Harrison St. project; which you will see that 2453 Harrison St. is NOT acknowledged in any way.
thank you for your time,

Matthew G. Methner
(lease holder @ 2453 Harrison St.)

## 2455 HARRISON

SITE PERMIT - NEW CONSTRUCTION MIXED USE BUILDING


LOCATION MAP


BUILDING DATA:


## DESCRIPTION OF WORK







## SITE PERMIT

SFDBI BPA\#: 201904309262



## general notes






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general notes:

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being a part of mission block no 142
bLOCK 4084; LOT 026 .

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(1) ${ }^{\text {Street View }}$

(3) View of Restaurant from Mezzanine

(2) +Exterior View of Entry from street

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Revisions
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3D VIEWS




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| NON-LIFE SCIENCE <br> LABORATORY (T.I. / N.I.C.) | NESS Office | 2466 |  | ${ }^{\text {® }}$ | 20 | 14 | $7{ }^{7}$ |

OCCUPANCY SCHEDULE BY FLOOR


GROSS BUILDING AREA BREAKDOWN BY USE.



$\underset{\text { LEVEL }}{\text { GROSS BUILDING AREA BREAKDOWN BY FLOOR }}$










## GS5: San Francisco Green Building Submittal Form for Residential Alteration + Addition Projects






(1) $\frac{\text { PROPOSED SITE PLAN - ROOF }}{18=1: 10 \cdot 0}$




(2)
(3)
(4)


## PARTITION LEGEND

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[^0]:    Recommendation: Do Not Take DR and Approve

[^1]:    Suggested changes to architect to allow for property line windows but the architect says the owner refused

