

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
SCOTT PLUTA,)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent)

Appeal No. **21-109**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on December 16, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on December 9, 2021, of a Variance Decision (DENIAL of a Lot Size and Rear Yard Variance; the project proposes to construct a new 3,128 gross-square-foot, 3-story, 2-unit building on a new 1,458 square foot lot; the new lot would be created through a subdivision of an existing 2,916 square foot corner lot; an Accessory Dwelling Unit would be added at the ground floor of the existing 4,382 gross-square-foot 3-story, 2-unit building (4300 17th Street) that is located on the remaining 1,458 square feet of the original lot; Planning Code Section 121 requires that the minimum lot area for any lot having its street frontage entirely within 125 feet of an intersection is 1,750 square feet; the project proposes a subdivision of the existing lot to create two 1,458 square foot lots, therefore both lots would require a variance for lot size; Planning Code section 134 requires properties in the RH-2 Zoning District to maintain a rear yard equivalent to 45% of the total lot depth at grade level and at each succeeding story of the building, which may be reduced down to 25% of the lot depth based on the qualifying adjacent buildings; both the existing and proposed building would extend practically the full depth of their respective lots, resulting in nearly full lot coverage on both lots, exceeding the depth of the required rear yards of 18 feet 2 inches and 16 feet 2 inches; the Zoning Administrator denied both the Lot Size and Rear Yard Variances) at 4300 17th Street.

APPLICATION NO. Case No. 2019-013808VAR

FOR HEARING ON January 12, 2022

Address of Appellant(s):

Address of Other Parties:

Scott Pluta, Appellant(s) 4300 17th Street San Francisco, CA 94114	N/A
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Date Filed: December 16, 2021

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 21-109

I / We, **Scott Pluta**, hereby appeal the following departmental action: **ISSUANCE of a Variance Decision (Denial of a Rear Yard Variance) (Case No. 2019-013808VAR)** by the **Zoning Administrator** which was issued or became effective on: **December 9, 2021**, to: **Scott Pluta**, for the property located at: **4300 17th Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **December 23, 2021, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org and tina.tam@sfgov.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **January 6, 2022, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and scott.pluta@gmail.com.

Hard copies of the briefs do NOT need to be submitted.

Only photographs and drawings may be submitted by the parties at the hearing.

Hearing Date: **Wednesday, January 12, 2022, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the preliminary Statement of Appeal.

Appellant

Signature: Via Email

Print Name: Scott Pluta, appellant

December 16, 2021

Board of Appeals
49 South Van Ness Avenue
Suite 1475 (14th Floor)
San Francisco, CA 94103

RE: APPEAL OF VARIANCE DECISION / 2019-013808VAR

To whom it may concern:

The purpose of this letter is to appeal the Variance Decision for Case No. 2019-013808VAR dated December 9, 2021.

Applicant is prepared to provide the Board of Appeals with a cover letter and detailed memorandum in support of his appeal by the December 23rd deadline.

In the meantime, the summary basis of appeal rests on the Zoning Administrator's failure to:

- Properly apply Section 305(c) criteria
- Respect 20 years of lot subdivision variance precedent
- Respect the Planning Department's recommendation of approval
- Follow various policies with the San Francisco General Plan and Housing Element
- Follow applicable legal requirements including but not limited to the Housing Accountability Act

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Scott Pluta", with a long horizontal flourish extending to the right.

Scott Pluta

4300 17th Street
San Francisco, CA 94114
scott.pluta@gmail.com
202-360-2289



VARIANCE DECISION

Date: December 9, 2021
Case No.: 2019-013808VAR
Project Address: 4300 17th Street
Block/Lots: 2626 / 014A
Zoning: RH-2 (RESIDENTIAL- HOUSE, TWO FAMILY)
Corona Height Large Residence Special Use District
Height/Bulk: 40-X Height and Bulk District
Applicant: Scott Pluta
4300 17th Street
San Francisco, CA 94114
Owner: Scott Pluta
4300 17th Street
San Francisco, CA 94114
Staff Contact: Jeffrey Horn – 628-652-7366
Jeffrey.Horn@sfgov.org

Description of Variance – Lot Size and Rear Yard Variance Sought:

The project proposes to construct a new 3,128 gross-square-foot 3-story 2-unit building on a new 1,458 square foot lot. The new lot would be created through a subdivision of an existing 2,916 square foot corner lot. An Accessory Dwelling Unit would be added at the ground floor of the existing 4,382 gross-square-foot, 3-story, 2-unit building (4300 17th Street) that is located on the remaining 1,458 square feet of the original lot.

Planning Code Section 121 requires that the minimum lot area for any lot having its street frontage entirely within 125 feet of an intersection shall be 1,750 square feet. The project proposes a subdivision of the existing 2,916 square foot corner lot to create two 1,458 square foot lots. Therefore, both proposed lots would require a variance for lot size.

Planning Code Section 134 requires properties in the RH-2 Zoning District to maintain a rear yard equivalent to 45 percent of the total lot depth at grade level and at each succeeding story of the building, which may be reduced down to 25 percent of lot depth based on the depth of qualifying adjacent buildings. Both the existing and proposed buildings would extend practically the full depth of their respective lots, resulting in nearly full lot coverage on both lots, exceeding the depth of the required rear yards of 18 feet 2 inches and 16 feet 2 inches. Therefore, both proposed lots would require a variance for rear yard.

Procedural Background:

1. The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.
2. On November 19, 2020, the Planning Commission and Zoning Administrator held a joint public hearing on the Project and the Planning Commission provided guidance to the Project Sponsor to work with the

Department to revise the Project to a scale and building typology that increases the density on the site but within a building that would be less impactful to the mid-block open space and maintains adjacent properties' access to light and air.

After working with Department Staff on design proposals, the Sponsor submitted a final revised proposal for a reduction in the Project's scope. The revised plans, dated May 21, 2021 (Exhibit A), proposed to construct a 3,128 gross-square-foot 3-story 2-unit building on the new 1,458 square foot lot. The revised project included the following modifications from the proposal originally reviewed by the Planning Commission and Zoning Administrator.

- Removal of the 4th floor, reducing the height of the building from 40 feet to 30 feet;
- At the proposed lot's rear yard line, the 2nd and 3rd floors would provide 12-foot setbacks;
- At the proposed lot's western side property line, the 1st floor would provide a 5-foot setback and the 2nd and 3rd floors would provide 3-foot setbacks;
- The total area of the building is reduced from 5,042 square feet to 3,128 square feet; and
- The proposed one-vehicle garage and unpermittable Accessory Dwelling Unit were removed from the scope of work.

The project required new neighborhood notification for the Planning Commission and Variance hearing for the new revised project. In August 2021, the Project was noticed for the September 2, 2021 Planning Commission Hearing, but was continued without being heard to the October 18, 2021 Planning Commission hearing. At the start of the hearing on October 18, the project was continued without being heard to November 18, 2021.

3. The Zoning Administrator and Planning Commission held a second joint public hearing at the regularly scheduled Planning Commission hearing on **Variance and Conditional Use Case No. 2019-013808CUA/VAR** on **November 18, 2021**. The Planning Commission disapproved the project through Motion No. 20752.

Decision:

DENIED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to subdivide the existing corner lot into 2 substandard lots and construct a new 3,128 gross-square-foot 3-story, 2-unit building on a new 1,458 square foot lot that would obstruct into the lot's required rear yard.

Findings:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Not Met.

- A. There are no exceptional or extraordinary circumstances applying the subject property. The existing corner lot has a regular, rectangular shape and is a bit larger than a typical lot, with a width of 36 feet and an area of nearly 3,000 square feet. There is no significant slope on the lot. The lot is already developed with an existing 4,382 gross-square-foot, 3-story, 2-unit building.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Not Met.

- A. As stated above, there are no exceptional or extraordinary circumstances that result in any unnecessary hardship or practical difficulty related the subject property. The variances are triggered by the property owners proposed actions to subdivide the lot into 2 substandard lots, which would create a noncomplying rear yard for the proposed lot to contain the existing building, and the proposed new building is designed in a manner that does not meet the required rear yard.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Not Met.

- A. The subject property is in the RH-2 Zoning District and is already developed with an existing 4,382 gross-square-foot, 3-story, 2-unit building. The property is currently eligible to at a third unit as an Accessory Dwelling Unit. As such, the variance is not necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.
- B. Planning Code Section 305(a) states that “No variance shall be granted in whole or in part which would have an effect substantially equivalent to a reclassification of property.” The proposal would take one conforming 2-unit lot in the RH-2 Zoning District and create 2 nonconforming lots that would each contain 2 or more dwelling units. As such, the proposed variance would have the effect of a reclassification of the property to a higher-intensity zoning district, which is not a property right possessed by other property in the same class of district.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Not Met.

- A. Granting the variance would result in a 3 to 4-story building mass covering almost the entire lot, leaving no rear yard and impacting the adjacent building at 90 Ord Street.
- B. The Planning Commission determined the project was not necessary or desirable, nor compatible with the neighborhood or community, and denied the proposed Conditional Use Authorization for the project.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Not Met.

- A. This development is not consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project does not meet all relevant policies, including conserving neighborhood character.
 - 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 - 2. The proposed project will not be in keeping with the existing housing and neighborhood character. The proposed project would encroach into the required rear yard of both proposed lots with nearly full lot coverage, and would create noncomplying conditions on a lot that is currently developed with a Code-complaint structure.
 - 3. The proposed project will have no effect on the City's supply of affordable housing.
 - 4. The proposed project does not adversely affect neighborhood parking or public transit.
 - 5. The project will have no effect on the City's industrial and service sectors.
 - 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 - 7. The project will have no effect on the City's landmarks or historic buildings.
 - 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

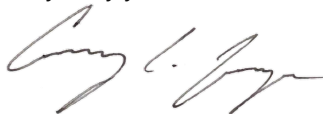
Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020.

The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

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

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit www.sfgov.org/bdappeal.

Very truly yours,



Corey A. Teague, AICP
Zoning Administrator

This is not a permit to commence any work or change occupancy. Permits from appropriate departments must be secured before work is started or occupancy is changed.

BRIEF SUBMITTED BY THE APPELLANT(S)

December 22, 2021

Board of Appeals
49 South Van Ness Avenue
Suite 1475 (14th Floor)
San Francisco, CA 94103

RE: APPEAL OF VARIANCE DECISION / 2019-013808VAR

Board of Appeals,

The purpose of this letter is to appeal the Variance Decision for Case No. 2019-013808VAR dated December 9, 2021.¹

In the midst of a historic housing crisis, one that is disproportionately felt by those seeking below market rate affordable and “missing middle” housing opportunities near public transit here in San Francisco, the Zoning Administer denied three common sense variances for a small-scale, infill, mixed-affordable housing project that his own Planning Department recommended approving.

The text of Section 305(c) is by itself not particularly instructional. In order to understand how Section 305(c) criteria would or should be applied to new applications, it is necessary to understand *how* they have been applied in the past. Before undertaking this project almost three years ago, I reviewed and analyzed all 111 lot subdivision variance decisions covering the last 20 years. Attached to and in support of my original application (and enclosed here as

¹ Separately, the Planning Commission disapproved a Conditional Use Authorization (“CUA”) through Motion No. 20752. If the present appeal is successful, I will likely reduce the size of this project to avoid the need for a CUA, *i.e.*, increase the rear yard setback to 45% and reduce the gross square footage below 3,000. This would also eliminate the need for one of the two Section 134 rear yard variances requested here, although maintain the proposed deed restricted, below market rent affordable housing unit.

Exhibit A) was a detailed memorandum containing the results of that analysis and the application of variance precedent to this project.²

In summary, of the 111 variance applications heard by the Zoning Administrator over the last 20 years, 92 (or 82.9%) were granted outright and 19 were denied. Of the 19 that were denied, 10 were appealed, two were upheld, one was withdrawn, and seven were overturned (and granted) on appeal. **Including successful appeals, therefore, 99 of 111 (or 89.2%) variance applications were eventually granted.** Among the 12 applications that were denied, nine were largely due to the loss of affordable housing generally and rent-controlled housing specifically, one involved illegal housing, and two proposed lot patterns drastically inconsistent with the surrounding areas³ (none of which are remotely applicable here).

A plain reading of the last 20 years of decision precedent suggests that the requested variances *should* or at least *could have* been granted, and yet, they weren't. Instead, throughout the Variance Decision the Zoning Administrator regularly took positions in direct contradiction to well established variance precedent. In one example, under Finding 3, the Zoning Administrator states that "the proposed variance would have the effect of a reclassification of the property to a higher-intensity zoning district, which is not a property right possessed by other property in the same class of district." This statement is belied by 20 years of variance precedent. Of the 99

² See Exhibit A. The enclosed memo was submitted as part of the original application and shared directly with the Zoning Administrator (See Exhibit C). While the entire document is germane to the merits of this Appeal, I would humbly direct the Board to Sections V and VI, which deal with the analysis and application, respectively, of Sections 305(c) Variance Criteria.

³ In one case, the applicant was seeking to create the two smallest lots (~1,600 sqft each) on a block where the typical lot size was over 3,000 sqft. In the other decision, the standard development pattern was single family homes on ~2,500 sqft lots, whereas the applicant was seeking to create one lot as small as 1,390 sqft. These stand in stark juxtaposition to what is being proposed here; lot patterns and sizes wholly consistent with the surrounding area.

applications granted over the last 20 years, 32 proposed additional units of housing; among those where data is available (28), 22 (or 79%) in fact resulted in densification above that permitted by the zoning of the original, undivided lot. The incontrovertible fact is that the Zoning Administrator has regularly approved densification under similar circumstances.

In another example, to support his conclusion for Findings 2, 4, and 5, the Zoning Administrator points to the creation of a non-complying rear yard setback; and yet of the 99 applications granted by the Zoning Administrator over the last 20 years, 92% of subdivided lots created non-conforming rear yard setbacks, one half created lots with rear yard setbacks of 33% or less, and 25% created lots with little or no rear yard setback at all.⁴

The fact is that this project is not being treated like other similarly situated projects have been in the past.

One question to for the City to consider is “should the Zoning Administrator be bound by precedent,”⁵ but perhaps more practically, “should the City exercise its variance authority to allow projects that add affordable housing in San Francisco?” With all humility I would submit that the answer to both questions is “yes”.

Let me share with you a little bit about the location of this Project, the wealthy Corona Heights neighborhood. Over the last ten years the population (+20%) and household income (+79%) of

⁴ Here, the Project is proposing an *effective* rear yard of 33%, that is while the design includes a first floor that technically extends to the rear lot line, due to the significant slope of the rear yard, this first floor would be largely subterranean and therefore flush with the neighbor’s mid-block contribution. See rendering provided in Exhibit C.

⁵ Policy 10.1 of the General Plan - and administrative law - encourages and arguably requires certainty in the development entitlement process (“Policy 10.1 - Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations. The ultimate goal of a ‘certain’ development entitlement process is to create greater transparency and accountability in the process for all parties, empowering both the public and developers.”).

the Corona Heights neighborhood has increased dramatically. But unbelievably housing supply has actually decreased over that same time - in terms of both overall housing units (-28) and more acutely rental units (-222). More people and more money combined with a shrinking housing supply means predictably that home values (+114%) and rents (+53%) have exploded. This of course has been great news for incumbent homeowners and landlords but very bad news for those that have been priced out of our neighborhood, including disproportionately people of color, those with limited or fixed incomes, and those in working class professions like teachers, firefighters, artists, and restaurant staff. Unfortunately, the socioeconomic and demographic trends we see in Corona Heights are typical of the 86% of San Francisco neighborhoods without a single unit of the City's 22,797 affordable housing units.

To that end, one last data point to share with you; of the 99 applications that were granted, not a single one has ever added any deed restricted, below market rent affordable housing (as this project has proposed to do). I implore the Board of Appeals to rescue this mixed-affordable housing project and establish the precedent that the City will approve common sense variances for affordable housing projects supported by the Planning Department.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Scott Pluta", with a long horizontal line extending to the right.

Scott Pluta

4300 17th Street
San Francisco, CA 94114
scott.pluta@gmail.com
202-360-2289

Exhibit List

- **Exhibit A.** Combined Memo in Support of Entitlement Applications - 4300 17th Street - Pluta
- **Exhibit B.** Applicant Presentations for Hearings (Nov. 19, 2020 and Nov. 18, 2021)
- **Exhibit C.** Emails Evidencing Proof Exhibit A Submission as Part of the Original Record

EXHIBIT A

Attachment in Support of Entitlement Applications - 4300 17th Street / Pluta

- I. **Background**
 - A. Site Description
 - B. Project Description
 - C. Surrounding Neighborhood & Properties
 - D. Community Outreach
 - II. **Application of the Planning Code**
 - A. Planning Code Compliance
 - III. **Application of the Conditional Use Authorization Requirements**
 - A. San Francisco General Plan
 - B. Planning Code Section 303 Criteria
 - C. Planning Code Section 101.1(b) Priorities
 - IV. **The Special Use District and Ordinance**
 - A. Corona Heights Large Residence Special Use District
 - B. Application of the Special Use Ordinance
 - V. **Analysis of Section 305(c) Variance Criteria**
 - A. Authority
 - B. Analysis of the Zoning Administrator’s Application of Section 305(c) Criteria
 - C. Examples of the Most Factually Relevant Precedent
 - VI. **Application of Section 305(c)’s Variance Criteria**
 - A. Application of Section 305(c)
-

I. BACKGROUND

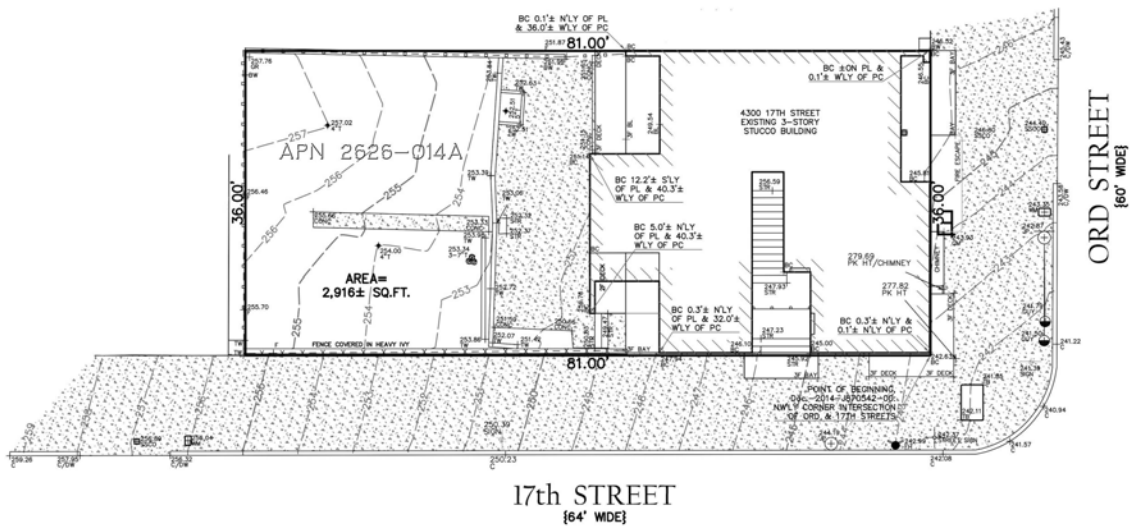
- A. **Site Description.** 4300 17th Street (the “Property” or “Subject Lot”) is a 2,916 square feet (“sqft”) corner lot (2626/014A) zoned multi-unit residential (RH-2).¹ Built in 1953 and vertically expanded in 1960, an existing two-unit residential building (the “Existing Building”) currently occupies the eastern half of the Subject Lot. The Existing Building has 2,544 sqft of living space across three floors; a rent-controlled dwelling on each of the top two floors and a ground floor with garage, utility, and storage space.

¹ The Applicant is the owner of the Property and resides in one of the two units in the Existing Building. The other unit has been occupied by the same tenant (the “Tenant”) for the last 16 years. The Existing Building is subject to rent- and eviction-control. No evictions have occurred at the Property to the Applicant’s knowledge. Exhibit A (Accessor Blocks 2626 and 2646)

Attachment in Support of Conditional Use Application - 4300 17th Street / Pluta



The Property is located on the northwest corner of the intersection of 17th Street and Ord Street in the Corona Heights neighborhood of San Francisco, District 8.



The western half and backyard of the Subject Lot is sloped, fenced in, vacant land. **The Property is unique in that it contains a large, undeveloped section of land adjacent to the public right of way in a transit-rich part of San Francisco.**²

² Exhibit B (Photographs of the Property and Surrounding Area).



B. Project Description. The main purpose of this project is to build Below Market Rate (“BMR”) affordable housing rental units in the Corona Heights neighborhood of San Francisco. In order to do so, Applicant is seeking variance from Sections 121 (lot size), 134 (rear yard setback), and 135 (usable open space) of the Planning Code in order to subdivide the Subject Lot into two legally-distinct lots (the “Proposed Lots”) and a Conditional Use Authorization as necessitated by Planning Code Sections 249.77(d)(1) (gross floor area exceeding 3,000 square feet) and 249.77(d)(4) (less than 45% rear yard depth), both conditions within the *Corona Heights Large Residence Special Use District* (“Special Use District” or “Special Use Ordinance”).³ Approvals would allow the Applicant to construct:

1. **New Building.** A new two regulation-unit plus accessory dwelling unit (“ADU”) building (the “New Building”) on the western, now-vacant half of the Subject Lot. The New Building would have approximately 3,099 sqft of living space across three units and four levels (plus a 235 sqft ground floor garage with one-vehicle and three Class 1 bicycle parking spaces). Individually, the New Building would contain:
 - a. **ADU.** A ground floor ADU-studio apartment with 473 sqft of living space and an independent entryway with direct access to 17th Street.
 - b. **Middle Unit.** A second floor two-bedroom apartment with 972 sqft of living space.
 - c. **Upper Unit.** A third- and fourth-floor, three-bedroom apartment with 1,419 sqft of living space.

³ San Francisco, California, Municipal Code, Art. III, §§ [121](#), [134](#), [135](#) and [249.77](#). The original version of this Project proposed roof decks for both the New and Existing Buildings in order to satisfy the open space requirements of Section 135. Based on guidance from Planning Department staff, those roof decks have been removed and variance from Section 135 added. At the option of the City, the Applicant is open to adding one or both roof decks back to the Project to satisfy the requirements of Section 135.

2. **ADU in Existing Building.** A new one-bedroom ADU would be constructed within the ground floor of the Existing Building.⁴ The ADU would have ~607 sqft of living space, access to one-vehicle and three Class 1 bicycle parking spaces, and an independent entryway with direct access to the street.⁵

No.	Unit	Building	Type	Rental Type	Floor(s)	Bedroom(s)	Area (sqft)
1	Existing	Existing	Regulation	Rent-controlled	Upper	2	1,103
2	Existing	Existing	Regulation	Rent-controlled	Middle	2	934
3	New	Existing	ADU	BMR Affordable Housing	Ground	1	607
4	New	New	Regulation	Market-rate	Upper	3	1,419
5	New	New	Regulation	Market-rate	Middle	2	972
6	New	New	ADU	BMR Affordable Housing	Ground	Studio	473

- C. **Surrounding Neighborhood and Properties.** The surrounding neighborhood consists of a diverse mixture of residential buildings representing a wide variety of architectural styles and features.⁶ West and upslope on 17th Street (adjacent to Applicant’s backyard), is a three-story, two-unit condominium (4302-4304 17th St.), a five-story, two-unit condominium (4306-4308 17th St.), and a two-building, three-unit dwelling (4310 17th St.), respectively.

⁴ As discussed in greater detail in footnote 34, the Existing Building BMR ADU is not a financially viable standalone project, and is therefore included in the scope of this Project.

⁵ To create additional living space for the ADU, a ground floor staircase in the existing building will likely be removed, which would add an additional ~30 sqft of living space to the Tenant’s middle unit.

⁶ In August 2017 the San Francisco Historic Preservation Commission adopted a Historic Context Statement commissioned specifically for the Corbett Heights neighborhood (which included the Property). Corbett, Michael R., [Corbett Heights Historic Context Statement](#), (Aug. 16, 2017). According to the *Historic Context Statement* the area contains a vast array of architectural styles, however “[t]he buildings of Corbett Heights are not generally distinguishable in their physical characteristics from buildings of the same periods in other San Francisco neighborhoods. The structural systems and materials, styles, forms and features, and siting of these buildings are associated with historic contexts that could be written for the entire city.” See also Section III.A.D., below.

Attachment in Support of Conditional Use Application - 4300 17th Street / Pluta



North and upslope on Ord Street is a three-story, single-unit dwelling (90 Ord St.), a four-story, two-unit dwelling (84-86 Ord St.), and a two-story, single-unit dwelling (80 Ord St.), respectively.



Applicant's downslope and across-the-street neighbors represent a similarly diverse mix of styles, features, densities, and sizes.

D. Community Outreach. Applicant lives in the Existing Building. His goal is to build the first ever BMR affordable housing in Corona Heights. From the very inception of the Project, Applicant has

been as open, transparent, and communicative as possible with his neighbors, the surrounding community, and the local neighborhood associations. Applicant's outreach efforts began in the spring of 2019 with handwritten cards and letters to his 30 closest neighbors, introducing himself, and offering an introductory meeting (and coffee). Throughout 2019 there were countless one-on-one briefings, phone calls, emails, sidewalk chats, and other interactions with his neighbors about the Project. Applicant is a dues paying member of both neighborhood associations, has attended quarterly member meetings for both, and committed to both that he will attend each and every membership meeting to be available to answer questions and receive feedback. Contemporaneous with filing this application in December 2019 Applicant distributed flyers to his closest ~150 neighbors and posted on *NextDoor.com* introducing himself, sharing details of the Project, and offered to meet and add any interested neighbor to a listserv Applicant created to provide updates on the status of the Project going forward.⁷ The onset of the Coronavirus pandemic made continued in-person engagement with the neighbors impossible. To overcome this challenge, in the month before Applicant's Planning Commission hearing date, Applicant intends to host several Zoom conference calls to further discuss the Project and answer questions from his neighbors. Applicant has also announced his intention to run for a seat on the Board of the one remaining Neighborhood Association on a platform focused on encouraging the addition of affordable housing in Corona Heights.

Applicant has also focused on engaging with the Existing Building's Tenant every step of the way. Tenant has provided invaluable feedback that materially changed and improved the Project; including a range of planned improvements to Tenant's rent-controlled apartment as well as steps to minimize any disruption related to future construction activity.

II. APPLICATION OF THE PLANNING CODE

A. Planning Code Compliance. The Project is consistent with relevant provisions of the Planning Code in the following manner:

1. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district.⁸ The Project is located in a 40-X Height and Bulk District; the New Building would comply fully with all related height and bulk limits.
2. **Front Setback.** Planning Code Section 132 requires, in RH-2 Districts, a front setback that complies with legislated setbacks (if any) or a front setback based on the average of adjacent properties (and in no case shall the required setback be greater than 15 feet).⁹ The New Building would adopt the required front setback based on the average of adjacent neighbors along 17th Street.

⁷ Indeed, anyone reading *this* document is invited to email Applicant (scott.pluta@gmail.com) and join the Project listserv, ask questions, and provide feedback.

⁸ S.F. Code [§ 260](#) (2018).

⁹ *Id.* at [§ 132](#) (2019).

3. **Side Yard.** Planning Code Section 133 does not require side yard setbacks in RH-2 Districts, however, the New Building would include a side yard set back of 3.5 feet on the eastern side of the New Building, symmetrical with the adjacent neighbor's building.¹⁰
4. **Street Frontage.** The ground floor of the New Building would meet the standards set forth in Planning Code Section 144 with respect to entrance dimensions and features; the off-street parking entrance would not exceed 10 feet and the minimum one-third width visual relief at the ground floor street frontage would be provided.¹¹
6. **Off-Street Parking.** Planning Code Section 151 requires one off-street parking space per dwelling unit.¹²
 - a. **Existing Building.** It is unclear the number of official parking spaces attributed to the Existing Building, however, in order to maximize living space for the new rent-controlled ADU, the garage space would be reduced by ~150 sqft, though one full off-street parking space would remain. Per City Ordinance, "[n]o parking is required for the ADU."¹³
 - b. **New Building.** The original design for the New Building included two off street parking spaces, however, based on direction from the Department of Planning staff the design was reduced to one off-street parking spot.¹⁴
7. **Bicycle Parking.** Planning Code Section 155.2 requires one Class 1 Bicycle Parking space per dwelling unit.¹⁵ The Project proposes to meet that requirement with three each Class 1 Bicycle Parking spaces for both the New and Existing Buildings.
8. **Density.** Planning Code Section 209.1 permits up to two dwelling units per lot in an RH-2 District.
 - a. **Existing Building.** The Project proposes construction of a BMR affordable housing ADU (in addition to the two existing regulation dwelling units); a legally permissible exception to the zone's density limit.¹⁶
 - b. **New Building.** The Project proposes the construction of two regulation dwellings units plus another BMR affordable housing ADU; a legally permissible exception to the District's density limit.¹⁷

III. APPLICATION OF THE CONDITIONAL USE AUTHORIZATION REQUIREMENTS

- A. **San Francisco General Plan.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization approval.

¹⁰ *Id.* at [§ 133](#) (2019).

¹¹ *Id.* at [§ 144](#) (2013).

¹² *Id.* at [§ 151](#) (2019).

¹³ Department of Building Inspection, San Francisco, [Accessory Dwelling Unit Program per Ordinance 162-16](#) (2016).

¹⁴ *Id.*

¹⁵ S.F. Code [§ 155.2](#) (2017).

¹⁶ [Ordinance No. 162-16](#) (2016).

¹⁷ *Id.*

¹⁸ One of Section 303's criterion specifically evaluates consistency with the Objectives and Policies of the San Francisco General Plan.¹⁹ Applicant's Project is not only consistent with but advances at least 22 important Objectives and Policies of the General Plan; the elements of which fall broadly into the following categories: **(1) Housing, (2) Transportation, (3) Environment, and (4) Design.**

1. **Housing.** The introduction to the General Plan's Housing Objective notes succinctly: "[a]ffordable housing is the most salient housing issue in San Francisco and the Bay Area"²⁰ Consistent with this statement, **Applicant's Project will add the first and only BMR affordable rental housing in the Corona Heights neighborhood.** To achieve these policy ends, the General Plan encourages and highlights (c) flexibility in the City's zoning and entitlement process, and (d) the essential role private capital plays in the development of housing in San Francisco.

- a. **Applicant's Project Will Add Affordable Rental Housing**

Policy 1.1 - Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing. San Francisco's housing policies and programs should provide strategies that promote housing at each income level, and furthermore identify sub-groups, such as middle income and extremely low income households that require specific housing policy. Policy 8.1 - Support the production and management of permanently affordable housing. Policy 1.5 - Consider secondary units in community planning processes where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households. Secondary units ("in-law" or "granny units") are smaller dwelling units within a structure containing another much larger unit(s), frequently in basements, using space that is surplus to the primary dwelling. Secondary units represent a simple and cost-effective method of expanding the housing supply. Such units could be developed to meet the needs of seniors, people with disabilities and others who, because of modest incomes or lifestyles, prefer or need small units at relatively low rents. Policy 4.1 - Develop new housing, and encourage the remodeling of existing housing, for families with children. Much of the new housing constructed in the last decade was smaller studios and one-bedroom units. Policy 4.4 - Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible. The City should make a concerted effort to do what is within its control to encourage the continued development of rental housing throughout the city, including market-rate rentals that can address moderate and middle income needs. Sixty-two percent of San Francisco's residents are renters. In the interest of the long term health and diversity of the housing stock the City should work to preserve this approximate ratio of rental units. Policy 4.5 - Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels. While San Francisco's neighborhoods are more economically integrated than their suburban counterparts, concentrations of low-income households still exist. Special efforts should be made to expand housing opportunities for households of lower-income levels in other areas of the city, and community planning efforts should include policies and programs that foster a diverse, integrated housing stock. These planning efforts should also include protections against the displacement of existing low- and moderate-income households by higher income groups. Construction of new affordable housing projects should likewise be

¹⁸ S.F. Code [§ 303](#) (2019). See Department of Planning, San Francisco, [General Plan](#) (1996). A substantially similar requirement is also found in an application for variance. See [Variance from the Planning Code Application](#).

¹⁹ S.F. Code [§ 303\(c\)\(3\)](#).

²⁰ *General Plan*, [Housing Element](#), Part II: Objectives and Policies, at 2 (2014).

*distributed throughout the city, to ensure equitable neighborhoods as well as equal access to residents living in different parts of San Francisco.*²¹

The very first policy of the first element in the very first section of the General Plan is Policy 1.1, entitled “Plan for the full range of housing needs in the City and County of San Francisco, **especially affordable housing.**”²² The Project’s diverse distribution of dwelling unit types and sizes is consistent with Policy 1.1 as well as 4.5 and 8.1 of the *General Plan*; the creation of housing, especially affordable housing, across multiple “sub-groups” including middle income and low income households. Consistent with these Policies two of the four proposed dwellings units would be BMR affordable housing units and therefore “permanently affordable to lower-income households.”²³

All four new dwelling units would add directly to the City’s *rental* housing inventory, consistent with Policies 3.1 and 4.4. This fact is positively unique among recent one- and two-unit new residential development in San Francisco. In 2018, eight *two-unit buildings* were completed, seven were condominiums and only the eighth added a single rental unit to the City’s inventory. In 2018, 29 *single family homes* were completed, and none appear to have been made available for rent.²⁴

Policy 4.5 seeks to ensure that “new permanently affordable housing is located in all of the city’s neighborhoods.” The Mayor’s Office of Housing and Community Development (“MOHCD”) currently manages approximately 22,797 affordable housing units across 376 locations throughout San Francisco.²⁵ **However, not a single affordable housing unit or location exists within the Corona Heights neighborhood.**

With respect to ADUs, since the inception of the program in 2014, of the ~150 “naturally affordable” ADUs completed in San Francisco to date, **only one ADU has been completed in the Corona Heights Special Use District** and none of the ~150 ADUs are BMR affordable units. Applicant’s Project would add two BMR affordable housing ADUs and advance Policy 4.5’s goal of inclusive housing in a neighborhood that has never had any affordable housing.

b. Applicant’s Project Will Add Rent-Controlled Housing

Policy 3.1 Preserve rental units, especially rent controlled units, to meet the City’s affordable housing needs. Sixty-two percent of San Francisco’s residents are renters. In the interest of the long term health and diversity of the housing stock the City should work to preserve this approximate ratio of rental units. The City should pay particular attention to rent control units which contribute to the long term existence and affordability of the city’s rental housing stock without requiring public subsidy, by continuing their protection and supporting tenant’s rights laws. Efforts to preserve rental units from physical deterioration include programs that support landlord’s efforts to maintain rental housing such as: maintenance assistance programs, programs to support and enhance

²¹ *Id.* at 20.

²² *Id.* at 10. (emphasis added).

²³ *Id.* at 10.

²⁴ Database the Department of Building Inspection maintains for ADUs, Public Records Request (Sept. 23, 2019).

²⁵ See [Mayor's Office of Housing and Community Development Affordable Rental Portfolio](#), DataSF.gov. See also [Inclusionary Housing Monthly Report](#) (Sept. 2019). [Ordinance 49-14](#) (the precursor/pilot ADU ordinance) an ADU that was constructed in February 2018 at 97 Saturn Street (Permit 201506017714) is one of 16 included in the City’s Inclusionary Housing Report however is not technically considered a BMR affordable housing unit. Subsequent ADUs (per [Ordinance 162-16](#)) are not included in the Report.

*property management capacity, especially for larger companies, and programs to provide financial advice to landlords.*²⁶

Approval of the Project would also ensure that the Existing Building remained rent-controlled rental housing into the future. Between 2007 and 2013 alone, 2,718 rent-controlled units in two-unit buildings were converted into condominiums in San Francisco.²⁷ Five of Applicant's most immediate seven neighbors on 17th Street previously took advantage of the condominium conversion process (4302-4304, 4306-4308, 4318 #1/#2, 4322 A/B, 4328-4328a 17th Street), removing rent-controlled units from the City's rental inventory. If the Project is approved, Applicant would not pursue the condominium conversion process in either the Existing or New Buildings nor in any other way remove rent-controlled housing from the City's inventory

c. Flexibility and Accommodations

Policy 7.5 - Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes. Local planning, zoning, and building codes should be applied to all new development, however when quality of life and life safety standards can be maintained zoning accommodations should be made for permanently affordable housing. For example exceptions to specific requirements including open space requirements, exposure requirements, or density limits, where they do not affect neighborhood quality and meet with applicable design standards, including neighborhood specific design guideline, can facilitate the development of affordable housing. Policy 10.1 - Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations. The ultimate goal of a 'certain' development entitlement process is to create greater transparency and accountability in the process for all parties, empowering both the public and developers.

Policy 7.5 of the *General Plan* encourages "the production of affordable housing through process and zoning accommodations."²⁸ Applicant's Project would add two new affordable housing units. These additions are wholly contingent upon the outcome of the Conditional Use Authorization and variance applications. Entitlements are exceptional privileges given by the City that, under the circumstances, would be consistent with and in furtherance of Policy 7.5 of the *General Plan*.

Policy 10.1 encourages certainty in the development entitlement process. Before undertaking this project, Applicant performed a substantial amount of research and reviewed, among other things, all lot subdivision-related variance decisions from January 2000 through May 2019 [and subsequently extended through June 2020]. During this time period, 111 unique variance applications were heard by the Zoning Administrator. Of those, 92 (or 82.9%) were granted outright and 19 were denied. Of the 19 that were denied, 10 were appealed, two were upheld, one was withdrawn, and seven were overturned (and granted) on appeal. **Including successful appeals, therefore, 99 of 111 (or 89.2%) variance applications were eventually granted.**²⁹ Among the 12 applications that were denied, nine were largely due to the loss of affordable housing generally and rent-controlled housing specifically, one involved

²⁶ *General Plan*, at 15.

²⁷ *General Plan*, at A-14.

²⁸ *General Plan*, at 28.

²⁹ Of the applications that sought variance from both Code Sections 121 and 134 as Applicant is seeking here, 59 of 59 (or 100%) were granted.

illegal housing, and two proposed lot patterns drastically inconsistent with the surrounding areas.³⁰ Applicant also reviewed the six Conditional Use Authorization applications filed pursuant to the Special Use Ordinance.³¹ Thus far all have been approved by the City. Applicant compared the facts of his Project with previously successful entitlement applications, concluded that his Project fit squarely within those precedents, and only then decided to move forward with this Project.

Where Policy 10.1 promotes certainty in the development entitlement process, nothing could provide more certainty than consistency and predictability in entitlement administration.

d. Private Sector Participation

Policy 7.7 - Support housing for middle income households, especially through programs that do not require a direct public subsidy. The City should support innovative market-based programs and practices that enable middle income housing opportunities. Creating smaller and less expensive unit types that are “affordable by design” can assist in providing units to households falling in this gap.³² Policy 2.4 - Promote improvements and continued maintenance to existing units to ensure long term habitation and safety. As the city’s housing stock ages, maintenance becomes increasingly important. The majority of San Francisco housing is more than 60 years old. Property owners should be encouraged and supported in efforts to maintain and improve the physical condition of housing units. Policy 3.1 Preserve rental units, especially rent controlled units, to meet the City’s affordable housing needs. Efforts to preserve rental units from physical deterioration include programs that support landlord’s efforts to maintain rental housing such as: maintenance assistance programs, programs to support and enhance property management capacity, especially for larger companies, and programs to provide financial advice to landlords.”³³

Policy 7.7 of the *General Plan* encourages market-based programs to help address the City’s housing crisis. The typical affordable housing development in San Francisco is a combination of market-rate and affordable housing units, where in part the market-rate units subsidize the affordable housing units. Applicant’s Project is no different; **the ability to bundle BMR affordable housing with market rate housing is absolutely essential to the economic viability of the overall Project.**³⁴

³⁰ In one case, the applicant was seeking to create the two smallest lots (~1,600 sqft each) on a block where the typical lot size was over 3,000 sqft. In the other decision, the standard development pattern was single family homes on ~2,500 sqft lots, whereas the applicant was seeking to create one lot as small at 1,390 sqft. These stand in stark juxtaposition to what Applicant is proposing here; lot patterns and sizes wholly consistent with the surrounding area. See Section III.B.2(a)(i).

³¹ Six Conditional Use Authorization applications have been filed and decided to date; four have been approved and one is currently pending. See 48 Saturn Street (Approved April 2018 after a 2nd Unit was added per the Commission); 143 Corbett Avenue (Approved June 2018); 88 Museum Way (Approved January 2019); and 42 Ord Court (Approved September 2019 with modifications); 271 Upper Terrace (Approved December 2018); 37 Saturn Street (Approved January 2020).

³² The middle unit in the New Building would fit solidly in this “middle income” sub-group. See *General Plan*, Part II, at p.29 (“Market rate housing in San Francisco is generally affordable to households making 180% of median income or above. Affordable housing programs, including City subsidized affordable housing and inclusionary housing, are provided to households making 120% of median income or below. This leaves a gap of housing options for households in between those two categories, referred to as ‘middle income’ households and defined for the purposes of this Housing Element as households making between 120 and 150% of median income. Unfulfilled demand for middle income housing impacts the supply and pressure on housing stock for lower income households.”).

³³ *Id.*

³⁴ For example, based solely on its individual economics, **the proposed BMR ADU in the Existing Building would not be a financially viable standalone project.** The average cost to construct an ADU in San Francisco is ~\$200,000. See Civil Grand Jury, at 9. Due to additional Code-related costs the average bid received to construct this ADU was \$311k. Assuming rent of \$2,050 per month (80% of the Unadjusted Area Median Income for the Department of Housing and Urban Development [Metro Fair Market Rent Area](#) that contains San Francisco is \$82,000 for two people, 30% of which is \$24,600, or \$2,050 per month), to cover *only the cost of construction*, the payback period would be 12 years and eight months. Including all other unit-related

Consistent with Policies 2.4 and 3.1 of the *General Plan*, approval of the Project would allow for the improvement and continued maintenance of the Existing Building and the rent-controlled units therein. As stated in the *General Plan*, “[i]n order to successfully deliver affordable housing the City and private sector must have the tools they need to develop and rehabilitate affordable housing. It is in the interest of the City to ensure that both public and private entities that participate in the delivery and maintenance of affordable housing have resources and materials, in addition to funding that are necessary to deliver affordable housing.”³⁵

The upper- and middle- market rate units in the New Building are required to subsidize, not only the addition of the two BMR affordable housing units, but also to address significant deferred maintenance and upgrades in the rent-controlled Existing Building. The Existing Building was built in 1953 and a third floor was added in 1960. Since then few if any improvements or upgrades were made to the two existing rent-controlled units. Applicant’s Project would include among other maintenance projects and upgrades: repair an unsafe balcony and roof; renovation of the kitchens and bathrooms; upgrading windows on the second and third floors; adding ceiling fans; in-unit washer and dryer units on the second and third floors, wood flooring on the third floor, new heating and air conditioning systems, and a wide range of additional fire and earthquake safety features including a sprinkler system and seismic retrofit.

2. Transportation

Policy 1.10 - Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips. Infill housing in transit-rich areas can provide lower income households, affordable unsubsidized housing opportunities. Housing with easy access to transit facilitates the City’s efforts to implement the City’s Transit First policy. Additionally, housing near transit can provide site efficient and cost effective housing. In reviewing reliance on public transportation, it is important to distinguish areas that are “transit-rich,” and located along major transit lines, from those that are simply served by transit. Policy 13.1 Support “smart” regional growth that locates new housing close to jobs and Transit. In San Francisco, and in many of the other job centers in the Bay Area, workers struggle to find housing they can afford. At the same time, employers have difficulty recruiting employees, because of the lack of affordable options near their locations. These trends exacerbate long-distance commuting, one of the primary sources of greenhouse gas emissions; they also negatively impact the working families struggling with such commutes by demanding more travel time and higher travel costs. The City should support efforts to construct more housing near jobs, and near transit. Policy 12.2 - Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units. These elements enable residents to continue to live in their neighborhood as their needs change, and encourage neighborhood relationships. Access to these amenities and services at a neighborhood level enables residents to make many trips on foot or public transportation. Policy 13.3 Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share. Sustainable land use patterns include those located close to jobs and transit, as noted above. But they also include easy access to, and multiple travel modes between, other services, shopping and daily needs. This could mean all services needed are located within an easy walk of the nearby housing; it could also mean that such services are available by bike or transit, or in the best cases, by all modes. The common factor in sustainable land use patterns is that the need for a private car is limited. Policy 12.1 - Encourage new housing that relies on transit use and environmentally sustainable patterns of movement. To the extent possible these trips should be easily accommodated on the existing transportation network with increased services. To that end the city should promote housing development in areas that are well

operating and maintenance expenses over that period of time would push the breakeven point to 20+ years. Neither time horizon would reasonably support investment in the Existing Building BMR ADU as a standalone project.

³⁵ *General Plan*, at 30.

served with transportation infrastructure including BART trains, and Muni light rail trains. Additionally, bicycle amenities can and should be an integral component to housing and supporting the City's Transit First policy.

Applicant is proposing to build new affordable and market rate housing in an area well-served by the City's public transit system. **The Property is located a mere 0.3 miles, or a five minute walk, from the Castro neighborhood mass transportation hub** which includes a Muni Metro Rail station (KT, L, M, S lines), Muni Bus lines (24, 35, 37), and a Historic Streetcar line (F).³⁶ Redfin.com describes the Corona Heights neighborhood as “a walker's paradise — daily errands do not require a car. It's a rider's paradise, with world-class public transportation.”³⁷

“Infill housing in transit-rich areas can provide lower income households, affordable unsubsidized housing opportunities” (Policy 1.10); exactly the type of opportunity envisioned by this Project's two BMR affordable housing units. San Franciscans living in the New and Existing Buildings would “easily rely on public transportation, walking and bicycling for the majority of daily trips” (Policy 1.10), be located “close to jobs and Transit” (Policy 13.1), be proximate to “quality of life elements” (Policy 12.2), and a range of multimodal, environmentally sustainable, transportation options (Policies 13.3 and 12.1).

3. Environment

Environmental Protection: Objective 13 - Enhance the Energy Efficiency of Housing in San Francisco. Actions taken to increase the efficient use of energy may raise initial housing costs for private owners in some cases. These actions will, however, promote affordable housing in the long run by reducing annual utility expenses. San Francisco residents can save substantial sums of money and energy by undertaking an aggressive energy management program that includes community education and promotion, regulation, creative financing, and some capital investment. Special emphasis should be devoted to programs that benefit the city's renter and elderly residents, since this portion of the population pays a higher proportion of their income on energy bills. Policy 13.4 - Promote the highest feasible level of “green” development in both private and municipally-supported housing. Green development specifically relates to the environmental implications of development. Green building integrates the built environment with natural systems, using site orientation, local sources, sustainable material selection and window placement to reduce energy demand and greenhouse gas emissions. Policy 4.7 - Consider environmental justice issues when planning for new housing, especially affordable housing. The City should promote new, and rehabilitated, low-income housing on sites that do not have negative health impacts, near services and supplies so that residents have access to transit and healthy fresh food, jobs, child care and youth programs.

Consistent with Objective 13 and Policy 13.4, the Existing and New Buildings seek to achieve the highest feasible levels of green development and operation.

As a greenfield opportunity, the New Building would provide an opportunity for a wide range of potential green building elements including but not limited to use of fly ash and otherwise recycled concrete aggregate, reclaimed bricks from demolished buildings, reused and recycled mortar mix, metal BONE Structure® framing (made from recycled steel and laser cut to eliminate waste), above-code insulation including closed cell green foam and other low embodied energy insulation, sustainable gypsum wall board throughout, Forest Stewardship Council (“FSC”) certified wood (for any rough framing infill and

³⁶ Municipal Transportation Agency, San Francisco, [Muni System Map](#) (2019).

³⁷ Redfin.com, [Transportation in Corona Heights](#).

exterior finish wood details), low volatile organic compound finish and FSC certified carcass material cabinetry and casework, an environmentally conscious flat roof membrane, stormwater harvesting and use system, a passive and active solar energy system, Energy Star® appliances, windows, and lighting, and maximum use of passive and natural ventilation systems (rather than mechanical).

Consistent with Policy 4.7, the Existing Building would be retrofitted with a number of energy-saving and efficient features including a new heating and air conditioning systems, additional insulation, and window upgrades to help minimize the rent-controlled tenants' electric bills and environmental footprints.

4. Design

Policy 11.1 - Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character. The General Plan notes that, San Francisco has a long standing history of beautiful and innovative architecture that builds on appreciation for beauty and innovative design. Residents of San Francisco should be able to live in well-designed housing suited to their specific needs. The City should ensure that housing provides quality living environments and complements the character of the surrounding neighborhood, while striving to achieve beautiful and innovative design that provides a flexible living environment for the variety of San Francisco's household needs." and "The City should also seek out creative ways to promote design excellence. Policy 11.9 Foster development that strengthens local culture sense of place and history. Elements of community heritage can include the public realm, including open space and streets; and the built environment, institutions, markets, businesses that serve local needs, and special sites. Other, non-physical aspects can include ethnicity, language, and local traditions. Development of new housing should consider all of these factors, and how they can aide in connecting to them. Housing types that relate to the community served, particularly the income, household and tenure type of the community, can help to address negative changes in socioeconomic conditions, and reduce displacement. Constructing housing that includes community components that build upon this sense of place, such as public plazas, libraries, community facilities, public art, and open spaces, can build a stronger sense of community heritage. And the development of neighborhood-specific design guidelines, as discussed above, should review local neighborhood characteristics that contribute to and define its character beyond the physical.³⁸

Consistent with Policy 11.1, the New Building perfectly threads the needle between blending into existing neighborhood character and innovative design.³⁹

Existing Neighborhood and Building Style. With respect to the existing neighborhood, the *Historic Context Statement* observed broadly that:

The buildings of Corbett Heights are not generally distinguishable in their physical characteristics from buildings of the same periods in other San Francisco neighborhoods. The structural systems and materials, styles, forms and features, and siting of these buildings are associated with historic contexts that could be written for the entire city.⁴⁰

Most buildings in the neighborhood might be defined as "vernacular" in the sense that they were not designed by trained architects. However, in this report vernacular refers to

³⁸ *General Plan*, at 39.

³⁹ The New Building was designed by distinguished local architect, [Craig O'Connell](#).

⁴⁰ *Historic Context Statement*, at 66.

*those buildings characterized by an absence or near absence of decorative details for which the overall form is the most noticeable feature. Buildings classified as vernacular from [1945-1973] may be simple rectangular boxes in form with channel rustic siding, gable roofs, double-hung windows, and paneled doors.*⁴¹

The Existing Building is a prime example of this vernacular style; and specifically **Contractor Modern**.⁴²

*Contractor Modern, occasionally referred to as Vernacular Modern, is not a style per se; rather it denotes the absence of style. The term is used to identify buildings that selectively borrow from the basic design tenets of Modern design, particularly the lack of exterior ornament, in the pursuit of inexpensive construction costs. Simple box-like forms, flat exterior surfaces, and inexpensive construction materials typify Contractor Modern buildings.*⁴³

New Building's Style. Without a distinct neighborhood style to adopt, Applicant modeled the New Building's design after that of the neighboring buildings, *i.e.*, a general lack of exterior ornament, bay windows, and a simple box-like form. From there, the New Building's design pulls in stylistic elements from other contemporaneously-built homes and related styles in the neighborhood, *e.g.*, Streamline Moderne (flat roof, wraparound windows at the corners, glass block windows, and stainless steel windows),⁴⁴ International Style (exterior walls of brick, flat roof, strong right angles and simple cubic forms, walls of glass, open interior floor plans, square and rectangular building footprints, stress on volume rather than mass),⁴⁵ Second Bay Tradition (plain, simple, or vernacular appearance, emphasis on volume rather than ornament, open floor plan),⁴⁶ and Midcentury Modern (large steel-framed windows, strong right angles and simple cubic forms, integrated planters).⁴⁷

New Building's Form and Scale. The form and scale of the New Building mimics that found in the neighborhood during the most recent period of development ("1945 – 1973 and beyond"), *i.e.*, easily graded, accessible sites, rectangular lot, rectangular core with some combination of projections at front and rear, walkable bay windows, flat roof, and built-in garage.⁴⁸ The New Building also borrows and abstracts from the "early suburban tract homes" built throughout San Francisco and the neighborhood during the first half of the 20th Century.⁴⁹ These building typologies were characterized broadly by a built-in garage on an asymmetrical first floor, popped-out subsequent floors for living space, and

⁴¹ *Id.* at 93.

⁴² [San Francisco Modern Architecture and Landscape Design Historic Context Statement](#), at 205 (2011). The initial two floors of the Existing Building (built in 1953) are particularly consistent with this description, featuring each and every one of the characteristics of Contractor Modern listed. When the third floor was added in 1960, some character was added to the overall design, namely: (1) horizontal punch out, push and pull forms on three of the four third-floor sides of the house, (2) opting for aluminum sliding casement windows as opposed to the wood-framed casement windows on the first two floors, and (3) some vertical wood board cladding on the street-facing pop outs (as opposed to the otherwise stucco finish). A simple four-sided box with a flat roof and built in garage, completely devoid of ornamentation on an easily graded, accessible site, the Existing Building is (for better or worse) as the *Historic Context Statement* notes, "not architecturally significant." *Id.* at 177.

⁴³ *Id.* at 176-177.

⁴⁴ *Id.* at 164-165.

⁴⁵ *Id.* at 175.

⁴⁶ *Id.* at 181-182.

⁴⁷ *Id.* at 189-190.

⁴⁸ *Id.* at 183.

⁴⁹ Brown, Mary, *Sunset District, Residential Builders 1925-1950*, [Historic Context Statement](#) (April 3, 2013).

recessed side entry access. The New Building has a built in garage on the first floor with an ADU front door and single window, bay windows in the front, and side entry access.⁵⁰

New Building's Framing and Cladding. While period-respectful on the outside, on the inside the framing of the New Building would utilize an ultra modern steel construction framing system, allowing for the most structurally sound, energy efficient, open floor plan possible. The New Building's stucco cladding would be both aesthetically-neighborhood-harmonious and also consistent with Policy 11.9's goal of "strengthen[ing] local culture and sense of place and history."

B. Planning Code Section 303, in addition to consistency with the *General Plan*, lays out additional criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization approval.⁵¹ The Project complies with said criteria in that:

1. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

a. **Necessary.** San Francisco is experiencing an acute housing crisis.⁵² And this nation, state, and city are also in the throes of a long overdue reckoning on social and racial justice inexorably connected to our housing crisis. The situation in Corona Heights is representative of both of these issues.

i. **Affordable Housing.**

- Not a single unit of the City's 22,797 affordable housing units is located in the SUD.
- The SUD is becoming less affordable over time for the market rate housing that is there; in May 2010 the average home price was \$846k and in March 2020 it was \$1.81m (a 114% increase).⁵³
- Since 2010, only two new homes have been constructed within the Special Use District.⁵⁴ In fact, the number of "housing units" in the SUD actually declined overall by 23 units from 2010 (4,249) to 2017 (4,226).⁵⁵

ii. **Diversity**

⁵⁰ *Id.*

⁵¹ S.F. Code [§ 303](#).

⁵² Civil Grand Jury, at 3-4 ("The housing crisis in San Francisco is an ongoing, well-known problem. A host of complications has created a dire shortage in affordable housing as we approach the end of the decade. Although the City's population has surged over the last 25 years, from 723,496 in 1990 to 884,363 in 2017 current studies and polls show the population starting to level out, and even decline, probably due to high housing costs. If a city can't sustain working class housing, then not only police, firefighters, teachers, and nurses will be gone, but also a large number of service industry workers."). "San Francisco is now the world's most expensive place to build. The city's construction costs rose 5% last year, and it's now more pricey than New York, according to a report released Thursday by consulting company Turner & Townsend." San Francisco Chronicle, *San Francisco Passes New York To Become World's Costliest Place To Build* (April 11, 2019). See also Curbed, *San Francisco rents declared highest worldwide—again* (Mar. 15, 2019).

⁵³ See [Corona Heights Home Prices & Values](#), Zillow.com.

⁵⁴ Adjacent buildings, [176-178 States Street](#) were completed in 2015 as part of one project.

⁵⁵ 2010, 2017 U.S. Census Data.

- The SUD lacks diversity. Corona Heights is overwhelmingly white (84%), male (61%), childless (92%), and wealthy (62% higher than median household income in San Francisco).⁵⁶
- These numbers are trending more, not less, homogeneous over time; for example since 2010 the already very low percentage of African Americans living in Corona Heights dropped by half (to 3%) and the Hispanic-Latino population dropped by a quarter (to 6%).
- The fact is that this lack of diversity is no accident; but instead the natural and too often intentional consequence of among other forces, long, medium, and short term institutional racism and exclusion.⁵⁷

This Project is necessary to counter an acute lack of housing and as importantly a lack of diversity in the area. Applicant's Project represents an infill housing opportunity in a transit-rich area that would turn a vacant ground floor and unused vacant land into four much-needed dwelling units, including two BMR affordable housing units that almost certainly will add much needed diversity to the Corona Heights Special Use District.

Specifically the average occupant in the Mayor's Inclusionary Housing Program for BMR Rentals is radically more diverse in the following ways:

- Of the 382 BMR applicants granted BMR housing in FY 2018-2019, a full 90% were non-white, people of color⁵⁸ versus the current 16% non-white, people of color.
- 58% were women⁵⁹ versus the current 39%.
- Applicant was unable to obtain the following data from the City, however, it is unquestionably true that affordable housing households have higher percentages of children present (only 8% in Corona Heights) and much lower median household incomes (\$174,166 in Corona Heights).

It is a near statistical certainty that this Project would add much needed diversity to the SUD.

- b. **Desirable.** The Project is desirable in that it adds new and potentially diverse tax-paying neighbors in new and affordable BMR housing units within an

⁵⁶ *Id.*

⁵⁷ See David, Todd and Cook, Stevon, [A Brief History of Institutional Racism in San Francisco's Land Use Choices—and the Impacts that Remain Today](#) San Francisco Housing Action Coalition (June 2020); Brinklow, Adam, [Young and black communities can't afford homes because cities won't build enough](#) SF Curbed (Dec. 2019); Pandell, Lexi, [The Racist Origins of San Francisco's Housing Crisis](#), The New Republic (May 31, 2019); Winkler, Elizabeth, ['Snob zoning' is racial housing segregation by another name](#), Washington Post (Sept. 2017).

⁵⁸ [Mayor's Office of Housing and Community Development, 2018-2019 Annual Progress Report.](#)

⁵⁹ Flannery, Eugene, email communication (July 24, 2020) (203 of 348 that declared a gender).

architecturally significant home on an unused piece of vacant land in a transit-rich area.⁶⁰

c. **Compatible.** The size and height contemplated is wholly compatible with the neighborhood:

i. **Area.** The New Building would include two regulation dwelling units (2,391 sqft combined) and one BMR ADU (473 sqft), totalling 3,099 sqft of living space. The average living area per unit for the New Building is 955 sqft/unit across all three units, 1,196 sqft/unit if limited to the two regulation units. **These averages would place the New Building in the 16th and 28th percentile, respectively, for sqft/unit among the 991 properties in the Special Use District.**⁶¹ The New Building’s units are therefore wholly compatible with the neighborhood.

ii. **Height.** The Existing Building is at its foundation and roofline the lowest of all 85 homes on both the 17th and Ord Street Assessor Blocks.⁶² As such, when evaluating height compatibility it is relevant to also consider the topography and relative elevation of neighboring buildings. As the following table illustrates, the New Building is wholly compatible with the neighborhood in both proposed building height and height relative to topographical elevation.

Direction	Address	Elevation*	Building Height**	Elevation + Building Height
North ↑	72 - 74 Ord St.	284	25	309
	80 Ord St.	279	25	304
	84 - 86 Ord St.	252	55	307
	90 Ord St.	247	31	278
Corner - 17th Street and Ord Street				
West ↓	Existing Building	245	30	275
	New Building	252	43	295
	4302 - 4304 17th St.	258	32	290
	4306 - 4308 17th St.	263	47	310
	4310 17th St.	281	25	306
	4314 - 4326 17th St.	286	32	318
	4318 17th St. #1 & 2	277	43	320
	4322 17th St. A & B	277	43	320

*survey data; otherwise measured via Google Earth at each lot’s curb midpoint

** site plans or permits; otherwise measured via drone

⁶⁰ Conservatively, this Project would add approximately \$60k in annual incremental income and property taxes to the city of San Francisco.

⁶¹ The San Francisco Assessor’s Office maintains living space sqft and unit count data on 991 of 1,003 unique Special Use District properties. Citywide, of the eight one-unit and 29 two-unit buildings completed in 2018, the average sqft/unit was 3,503 sqft/unit (3,764 sqft for one unit homes and 2,721 for two unit homes); **multiples of what the Applicant is proposing for the New Building.** See [Housing Inventory 2018](#) (March 2019).

⁶² The Subject Lot sits at the intersection of two Assessor Blocks, 2626 and 2646. See Exhibit B (Assessor Blocks 2626 and 2646).



The New Building's height would be wholly compatible with the neighborhood and surrounding buildings. The fit will become even more compatible if and more likely when over time the adjacent neighbors (the yellow, gray, and white homes above) expand vertically to their zoning height limits.

2. Such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
 - a. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures
 - i. **Size and Shape of Lots.** The Proposed Lots would not be detrimental to property, improvements, or potential development in the vicinity:
 - **Consistent in Lot Size.**
 - The Proposed Lots are wholly consistent with comparable lots in the immediate area. Corner and

corner adjacent lots, as Section 121(e) recognizes, are typically much smaller than their mid-block cousins (1,750 vs. 2,500 sqft).⁶³ For example, the blocks to the immediate south and east of the Subject Lot both have small non-conforming corner adjacent lots; on the south side of 17th Street, **a mere 63 feet from the Subject Lot is a 832 sqft lot (2652/031), and 128 feet east on 17th Street is a lot that is 1,210 sqft (2625/023)**. The Proposed Lots would be 1,458 sqft each. Within 1,200 feet there are a total of 27 lots that are smaller than the Proposed Lots, and hundreds that are the same or slightly larger in size.

- In terms of conformity with Planning Code requirements, among the 14 closest Assessor Blocks (~564 Lots) along the 17th Street Corridor over half are non-conforming lots sizes. Of the 87 lots in the two contiguous Assessor Blocks (2626/2646) that the Subject Lot is part of, 58 (or 67%) are non-conforming lot sizes.
- Examining the proposed lot sizes that have been granted variances since January 2000 (179 lots with data) , Applicant’s Proposed Lots (1,458 sqft) would be in the 81st percentile if compared to the smaller-of-the-two-lots created by subdivision (91) and in the 65th percentile overall when compared to the entire cohort of subdivided lots (all 179). In other words, the Proposed Lots would be well above average in terms of lot size conformity with respect to previously granted variances.
- Lastly, the amount that the Proposed Lots deviate from Section 121(e)’s 1,750 sqft requirement is relatively small (17%) and as the Board of Appeals has noted, “[t]he code has in the past permitted lots as small as 1,437.5 square feet to be developed as legal lots of record,” and “[t]he code currently allows the City Planning Commission under Section 121(f) to authorize new lots with an area as low as 1,500 square feet with widths less than 25 feet.”⁶⁴ The Proposed Lots would

⁶³ S.F. Code [§ 121](#).

⁶⁴ 1299 Quesada Avenue (2000.1201V).

deviate a mere 42 sqft (or 3%) from the authority granted the Commission outright in Section 121(f).

- **Consistent in Lot Shape.** The Proposed Lots would be similar in shape and pattern to other development in the area. Applicant was able to identify at least 25 substantially similar corner lots within a half mile of the Subject Lot with a similar pattern of use and intensity - subdivided corner lots with buildings on each - including an example on the same block (2626) and two examples on adjacent blocks.⁶⁵
- ii. **Proposed size, shape, and arrangement of structures.** Neither the New Building's size (Section III.B.1(c)(i)-(ii)), shape (Section III.A.4), nor arrangement (not applicable), would be detrimental to property in the vicinity.
- b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading
 - The New Building would provide one-vehicle and three Class 1 bicycle parking spaces. The Existing Building would continue to provide a single-vehicle parking space and would add three Class 1 bicycle parking spaces. Otherwise, this relatively small residential project will not have significant impacts on area traffic.
- c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor
 - The Project will comply with all applicable regulations relating to construction noise and dust. It will not produce, nor include any permanent uses that generate substantial levels of noxious or offensive emissions, such as noise, dust, glare, or odor.
- d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs
 - The proposal does not include loading or services areas, nor will it include atypical lighting or signage. The New Building's east-side egress will be screened appropriately by a gate.
 - To honor the loss of the Property's backyard:

⁶⁵ Exhibit C (Map and Addresses of Corner Lot Examples).

- The Project includes planting additional and replacement street trees and the installation of sidewalk planters in all existing and new street tree installations.⁶⁶
 - The Project would install trellises and green ivy on both the east and west side of the New Building as well as planters along the fourth floor setback.
3. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan

The Project complies with nearly all applicable requirements and standards of the Planning Code, with three exceptions, Sections 121, 134 and 135. Please see Section V-VI, below, for a detailed treatment of these exceptions.

And as detailed in Section III.A., above, the Project is wholly consistent with and advances the Objectives and Policies of the *General Plan*.

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

The Project is consistent with the stated purpose of a RH-2 District. The New Building is compatible with the height and size of development expected in this District, and is within the permitted density.

C. Planning Code Section 101.1(b) Priorities

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed alterations and demolitions are consistent with eight priority policies set forth in Section 101.1 of the Planning Code. The Project is wholly consistent with the eight priority-planning policies memorialized in Planning Code Section 101.1(b):

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.
 - The Project will not affect existing neighborhood-serving retail uses.
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
 - The Project is consistent with this policy, as detailed in Section III.A.4, above.
3. That the City's supply of affordable housing be preserved and enhanced;

⁶⁶ The Project's landscape improvements would be consistent with [Better Streets San Francisco Guidelines: Designing Great Streetscapes](#).

- The Project does not propose to remove any affordable housing units; in fact *it would add two BMR affordable housing units* to the City's housing stock.
- 4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;
 - The Project is located in an area well-served by the City's public transit systems, proposes an additional off street parking space (plus one existing) and provides six new Class 1 bicycle parking spaces (three in each of the New and Existing Buildings). The Castro MUNI Rail Station and several MUNI bus lines are in close proximity to the subject property (0.3 miles), therefore the Project will not overburden streets or neighborhood parking.
- 5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;
 - This policy does not apply to the Project, as it does not include commercial office development and will not displace industrial or service sector uses.
- 6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;
 - The New Building is designed to conform to the structural and seismic safety requirements of the City Building Code. The Existing Building would receive a seismic retrofit, and several fire-related upgrades.
- 7. That landmarks and historic buildings be preserved; and
 - The Project will not adversely affect any landmarks or historic buildings.
- 8. That our parks and open space and their access to sunlight and vistas be protected from development.
 - The Project will not affect any City parks, open space, nor their access to sunlight or vistas.

IV. THE SPECIAL USE DISTRICT AND ORDINANCE

A. Corona Heights Large Residence Special Use District

1. The Special Use Ordinance

The Project is located within the boundaries of the Special Use District and is subject to the conditions in the Special Use Ordinance. The Ordinance was adopted “to protect and enhance existing neighborhood character, encourage new infill housing at compatible densities and scale, and provide for thorough assessment of proposed large-scale residences that could adversely impact the area and affordable housing

opportunities.”⁶⁷ To meet these goals, the Ordinance requires Conditional Use Authorization for four types of development, two of which are triggered by Applicant’s Project:⁶⁸

- Section 249.77(d)(1) (“for residential development of vacant property that will result in total gross floor area exceeding 3,000 sqft”); and
- Section 249.77(d)(4) (“for residential development that results in less than 45% rear yard depth”).

2. Applicant’s Decision to Seek a Conditional Use Authorization

The triggering language of the Special Use District Ordinance is quite broad. Even so, the Applicant *could* propose a much narrower course of development that would likely avoid the Special Use Ordinance altogether. Given the greatly increased costs in terms of time, money, and overall project risk that a Conditional Use Authorization and corresponding Planning Commission review entails, this was a very tempting path. However, any project that would avoid the Special Use Ordinance would result in the loss of two and likely three of the proposed four additional dwelling units **including both BMR affordable housing units**.

After weighing the various pros and cons of each course of action, the Applicant remains committed to building new and affordable housing in San Francisco, and thus ultimately decided to pursue this Conditional Use Authorization.

3. Applicant’s Project is Consistent with the Spirit of the Special Use District

It bears repeating that the language of the Special Use District Ordinance is quite broad. **So much so that the vast majority of existing homes in the Special Use District would require Conditional Use Authorization to be built today.** For example, Section 249.77(d)(4) requires no “less than 45% rear yard depth”. There are approximately 1,003 lots in the Special Use District. While the City does not maintain property-level data on rear yard setbacks, accurate measurement and analysis is possible using tools available in Google Maps and Google Earth. Based on a random sample of 100 homes in the Special Use District, **74% of homes have “less than 45% rear yard depth.”**⁶⁹ The requirement that homes be no more than 3,000 sqft of total gross floor area produces similar results; conservative analysis suggests that **more than one third of homes in the Special Use District have more than 3,000 sqft of total gross floor area.**⁷⁰

⁶⁷ S.F. Code [§ 249.77\(b\)](#).

⁶⁸ *Id.* at [§ 249.77\(a\)](#).

⁶⁹ Exhibit D (List of Sample Properties and Map)). Random sample (n=100) selected (using “randbetween” in Microsoft Excel) from master sample set (n=1,003 lots) minus non-residential buildings and duplicates (same lot, multiple units).

⁷⁰ The City similarly does not maintain a dataset containing the total gross floor area for homes in San Francisco; the Assessor’s office only tracks “living area” or “building area”. In order to estimate total gross floor area for all Special Use District dwellings, Applicant created a dataset containing all RH-1, RH-2, and RH-3 homes with available living area data from the San Francisco Office of the Assessor. As the terms suggest, “living area” means the interior habitable area of a dwelling unit,” and excludes, *e.g.*, any garage, unfinished basement, storage, utility, or lightwell spaces. See Cal. Gov. Code [§ 65852.2](#). “Gross floor area”, on the other hand, is considerably broader and includes essentially anything interior to a building, *e.g.*, basement and cellar space,

Much like the vast majority of existing homes in the Special Use District, Applicant's Project is consistent with the spirit, even if not the letter, of the Special Use Ordinance. Specific to the two requirements triggered by the Project:

- **3,000 sqft of Gross Floor Area.** The total gross floor area of the New Building is 4,196. While technically this amount exceeds the 3,000 sqft limit in the Special Use Ordinance, **no single dwelling unit (2,029, 1,355, and 812 sqft) individually exceeds 3,000 sqft and the average is a mere 1,692 sqft (including all three units, 1,399 sqft excluding the ADU).**

As stated above, the Project could conceivably be scaled down to below 3,000 sqft of "gross floor area", however, that would require removing two of the three proposed dwelling units in the New Building including the BMR affordable housing unit. This outcome would run counter to at least part of the stated purpose of the Special Use Ordinance to "encourage new infill housing," and not "adversely impact...affordable housing opportunities."

- **45% rear yard depth.** The language of Section 249.77(d)(4) in the Special Use Ordinance mirrors [and significantly narrows] Planning Code Section 134(a)(2) which states that "[t]he minimum rear yard depth shall be equal to 45 percent of the total depth of the lot on which the building is situated, except [under certain circumstances] a depth equal to 25 percent...or to less than 15 feet, whichever is greater." The City has stated repeatedly that "[t]he intent of the rear yard requirement [in Section 134] is to preserve mid-block open areas."⁷¹ **This is relevant because the Subject Lot is completely cut off from the mid-block space, and thus any rear yard setback would be totally divorced from the legislative**




elevator shafts, stairwells, attic space, and interior balconies. See S.F. Code [§ 102](#). In order to calculate incremental gross floor area, the analysis conservatively assumed a figure equal to 50% of a single average floor of living space for each individual dwelling.

⁷¹ 47 - 75 Topaz Way; see also 1111-1133 Green Street ("The purpose of Section 134 of the Planning Code is to maintain a midblock corridor"); 1155-1157 Treat Avenue & 54 Balmy Street ("Granting the rear yard variance will not affect the mid-block open space."); 799 Castro Street & 3878-3880 21st Street ("The purpose of Section 134 of the Planning Code is to maintain a midblock corridor. However, the courtyard is surrounded by the subject building on the west side and the adjacent building on the east side. As a result, there is no well-defined pattern of mid-block open space adjacent to the courtyard. The two adjacent properties to the east are developed deep into their lots, which along with the existing rear building on the subject property, effectively cuts off the subject property from the block's mid-block open space.").

purpose of the underlying requirement.⁷²



Subject Lot = 

Mid-Block Open Space = 

B. Application of the Special Use Ordinance

According to the text of the Special Use District: “[i]n acting on any application for Conditional Use authorization within the Corona Heights Large Residence Special Use District, the Commission shall consider the Conditional Use authorization requirements set forth in subsection 303(c) and, in addition, shall consider whether facts are presented to establish, based on the record before the Commission, *one or more of the following*.”⁷³

a. The Proposed Project Promotes Housing Affordability By Increasing Housing Supply

The Project promotes housing affordability (1) by increasing housing supply and (2) by specifically building new BMR affordable housing. As detailed above, the Project would lead directly to the addition of four new dwelling units in San Francisco. Two of the four new units would be BMR affordable housing ADUs and all four new units would be rental units.

b. The Proposed Project Maintains Affordability of Any Existing Housing Unit; or

The Existing Building has two rent-controlled units. The middle unit has been occupied for 16 years by the Tenant. The affordability of this unit will continue apace with San Francisco’s rent control program. In fact Tenant’s middle unit will become at least in part more affordable with *a reduction* in his utility bills. Nothing in the Project would diminish the affordability of any existing housing units.

c. The Proposed Project is Compatible With Existing Development

The Project would be wholly compatible with existing development in the area:

⁷² For a detailed view, see Exhibit E (Aerial View of Property Relative to the Midblock Space). Not only is the Subject Lot noncontiguous with the mid-block space, but at 40-50 feet below the mid-block space in elevation it is even more cut off and isolated than the illustration suggests.

⁷³ *Id.* at [§ 249.77\(e\)](#)(emphasis added).

- **Compatible Lot.** As discussed above, the Proposed Lots would be compatible with existing lots in the area in terms of size and shape (Section III.B.2(a)(i)).
- **Compatible New Building.** As discussed above, the New Building would be compatible with existing development in area (Section III.B.1(c)(i)), height (Section III.B.1(c)(ii)), and all character defining features (Section III.A.4).

V. ANALYSIS OF SECTION 305(C) VARIANCE CRITERIA

A. Authority

Per the San Francisco Department of Planning website:⁷⁴

Under the City Charter (Section 4.105), the Zoning Administrator has the power to grant only those variances that are consistent with the general purpose and the intent of the Planning Code. The power to grant a variance shall be applied only when the plain and literal interpretation and enforcement of the Code would “result in practical difficulties, unnecessary hardships, or where the results would be inconsistent with the general purpose of the [Code].” Planning Code Section 305(c) outlines the five criteria that must be met in order for the Zoning Administrator to grant a variance.

The Section 305(c) criteria are as follows:⁷⁵

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;
4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

B. Analysis of the Zoning Administrator’s Application of Section 305(c) Criteria

Aside from the plain text of the above criteria, Applicant was unable to locate much in the public domain to help guide responses to the variance application. In an effort to better understand how to complete a

⁷⁴ Department of Planning, San Francisco, [Variance From the Planning Code, Informational Packet](#).

⁷⁵ S.F. Code [§ 305\(c\)](#) (2017).

successful application, as detailed in Section III.A.1(c), above, Applicant reviewed and analyzed all 111 lot subdivision-related variance decisions and listened to every available lot subdivision-related variance hearing⁷⁶ from January 2000 through June 2020. In reviewing the 20-year cohort of previous variance decisions, a handful of high-level themes emerged.

The most important factor in evaluating an application was how consistent (or inconsistent) the facts and measures of a given project were with the relevant surrounding area.⁷⁷

1. Consistency

The predominant theme that emerged from analyzing previous variance decisions was that of consistency. Over and over, the actual language that appeared in decisions was some form of the question: *whether or not a given project was consistent with the:*

- *neighborhood pattern*
- *neighborhood character*
- *pattern of development*
- *existing building pattern within the neighborhood*
- *prevailing pattern of development on the block*
- *existing housing and neighborhood character*
- *similar development pattern*
- *residential pattern*
- *existing housing and neighborhood character*
- *predominant pattern of residential development in the surrounding vicinity*
- *existing character and development pattern of the neighborhood*
- *character with the size of lots in the vicinity and prevailing lot size pattern*
- *manner consistent with the surrounding land uses*

Across 20 years and 111 variance decisions, seven particularly probative characteristics and measures relevant to evaluating the consistency of a given project emerged. A non-exhaustive list included:

- **Lot Frontage (or width).** Length, in feet, of the side of the lot directly adjacent to the [usually] public right of way.
- **Lot Depth (or length).** Length, in feet, of the side(s) of the lot [usually] perpendicular to the frontage/right of way.
- **Lot Size.** The total area of a lot in sqft.
- **Lot Shape.** The geometric shape of the lot; usually a four-sided rectangle, but occasionally ranging from a triangle to a multi-sided irregular polygon.

⁷⁶ San Francisco Department of Planning, [Online Variance Hearing Audio Recordings](#).

⁷⁷ Relevant to evaluating the consistency of a given project was and is the determination of the relevant geographic unit in comparison. A survey of recent decisions revealed a range of potential boundaries, for example (roughly from largest to smallest): surrounding vicinity, the area, immediate area, neighborhood, surrounding neighborhood, lots in the vicinity, adjacent block, block, block face, surrounding properties, neighboring property, and adjacent property. For purposes of the analysis used in this application, the Applicant attempted to mirror whichever geographic unit the Planning Department typically used for that criteria.

- **Lot Position on the Block.** The position of the lot relative to the typical layout of a block of lots. There were essentially four lot positions: (1) through lots (bisecting a block with frontage on two right of ways), (2) corner lots, (3) mid-block lots (a lot adjacent to only one right of way), and (4) other (*e.g.*, narrow triangle corner lots or oversized irregular shapes).
- **Other Relevant Variances Granted in the Area.** Whether or not and what type of variances had previously been granted in the area.
- **Conforming or Non-conforming to Code.** The degree to which other lots in the area did or did not conform to the relevant sections of the Planning Code.

2. Important Secondary Themes

In addition to evaluating a project’s consistency, important secondary themes emerged that were relied upon to help supplement the decision whether to grant or deny a given application:

- **Effect on the City’s Housing Stock.** It was widely acknowledged that San Francisco is and was experiencing a housing crisis.⁷⁸ Therefore, whether or not a given project added (or subtracted) dwelling units from the city’s housing stock was a material factor in evaluating variance applications. Indeed, this factor - additional housing - was the only one that across 111 decisions appeared in all five Section 305 criteria responses.
- **Effect on Existing Rent-Controlled Housing.** Any removal of rent-controlled housing was perceived as a material obstacle to granting any variance. This included even the possibility that a variance may put an applicant in a position to more easily remove rent-controlled housing later on, *e.g.*, where but for lot subdivision a property was ineligible for condo conversion (which can lead to the elimination of rent controlled housing).
- **Condo Conversion.** Tangentially related to the above, a material factor weighing against several recent variance applications was a perception that applicants were pursuing a lot subdivision in lieu of the statutory condo conversion process.⁷⁹ Indeed, the most recently denied applications cited the potential availability of the condo conversion process (or the ability to otherwise build additional units as a matter of right within the existing lot) as the principal factor weighing against those applications.

⁷⁸ See fn 52, above.

⁷⁹ In certain circumstances, the condo conversion process has arguably more controls and limits than outright subdivision. See Sirkin, Andy, [San Francisco Condominium Conversion Rules and Process](#) (7/30/17). And the number of avenues through which a condo conversion can occur have likewise narrowed over time. *Id.* (“Buildings with 2-4 residential units may qualify for conversion three ways: (i) automatic (lottery bypass) qualification for two-unit buildings where each unit is owner-occupied by a separate owner; (ii) the “Expedited Conversion Program”, created June 11, 2013, under which buildings owned as a TIC as of April 15, 2013, may convert between 2013 and 2020 (however, note that as of July 2017, the City is not accepting ECP applications from buildings with renters because of a recently-filed lawsuit challenging the constitutionality of the lifetime lease requirement); and (iii) the annual conversion lottery, which has been suspended but is expected to return beginning in 2024.”).

- **Neighborhood Support or Opposition.** Whether neighbors or tenants were in favor, neutral, or opposed to a given project was occasionally a supplemental factor in the City’s analysis of a given application. Where opposition did exist, whether or not the applicant actively communicated and engaged with neighbors, tenants, and Department of Planning staff seemed to be the deciding factor in the analysis.
- **Existing Non-compliance and Intensification of Non-compliance.** Parallel to Section 188 of the Code, the “intensification” of an existing non-conformity weighed against granting a variance.

3. Themes from Denied Variance Decisions

Of the 111 variance decisions that were analyzed, 12 (or 10.8%) were ultimately not granted. Individual examination of those decisions revealed four key themes that were particularly decisive to their outcome:

1. **Availability of an Alternative Procedure.** Five of the 12 denials were principally focused on the ability of the applicant to potentially achieve their purpose through alternative means, either constructing one or more additional units on the existing lot or taking advantage of the condo conversion process.
2. **Loss of or Potential Loss of Rent-Controlled Housing.** Four of the 12 denials were principally focused on the actual or potential loss of rent-controlled housing if the variance were granted.
3. **Illegal Housing as Bad Precedent.** One decision involved an applicant that had constructed an illegal ground floor dwelling and through the subdivision process was seeking in part to legalize that dwelling. The Zoning Administrator pointed out that “rewarding” a property owner who has already shown “disregard for the Planning Code” by adding an illegal dwelling unit would set a bad precedent.
4. **Inconsistent Lot Patterns.** The remaining two denials were broadly focused on the gross inconsistency that would have been created by granting a variance for lot subdivision. In one case, the applicant was seeking to create the two smallest lots (~1,600 sqft each) on a block where the typical lot size was 3,000+ sqft. In the other decision, the standard development pattern was single family homes on ~2,500 sqft lots, whereas the applicant was seeking to create one lot as small as 1,390 sqft.

Once again underlining the importance of housing, nine of the 12 (or 75%) denied variance decisions were largely based on the loss of affordable housing generally and rent-controlled housing specifically.

C. Examples of the Most Factually Relevant Precedent

As detailed further below, Applicant’s Project is wholly consistent with the subset of successful variance applications in the aggregate. The following represents a small subset of particularly noteworthy relevant precedent:

- **699 Paris Street** (2000.870V) was granted a variance from Sections 121(e) (minimum lot area), 132(d)(2) (special lot situations), and 134 (rear yard setback) of the Code to subdivide a 3,150 sqft corner lot for the purpose of building a single family home on the newly created 1,260 sqft lot. The new buildable lot in question was a vacant side yard adjacent to the public right of way.
- **1316 Bowdoin Street** (2004.0426V) was granted a variance from Sections 121(d) (minimum lot width) and 121(e) (minimum lot area) of the Code to subdivide a 3,150 sqft lot for the purpose of building a single family home on the newly created 1,330 sqft lot. The Zoning Administrator granted the variance, noting among other things: (1) “[t]he subject property is exceptionally large with an area of 3,150 square feet and a width of 45 feet..[t]his lot size does not apply generally to other properties in the same class of district, which more typically have lot sizes ranging from 1,750 to 2,500 square feet”, and (2) “subdivision of an oversized lot [would allow] for the development of a new single-family dwelling on what is a visually and functionally distinct portion of the property.”
- **1299 Quesada Avenue** (2000.1201V) was granted a variance from Section 121 (minimum lot area) of the Code to subdivide a vacant 5,000 sqft corner lot into three 1,667 sqft lots for the purpose of building new single family homes on each. A variance was granted on appeal, the Board noting among other things that: (1) “[t]here is a pattern of similarly sized and oriented lots in corner lot situations in this neighborhood and in the immediate vicinity”, (2) wider lots “promote a more efficient and livable floor plan”, and (3) “the site is available for new infill housing at a time when all policy makers have concluded that a critical housing shortage exists in the City”.
- **1806-1810 8th Avenue** (2019-006762VAR) was granted a variance from Section 121 (minimum lot area) of the Code to subdivide a vacant 2,945 sqft midblock lot into two lots (1,490 and 1,455) or only ~60% of that required by the Planning Code.⁸¹ The Zoning Administrator noted that the subject lot had “50 feet of frontage, which is double the typical 25 feet of frontage for residential lots in the City,” and therefore had “sufficient street frontage to accommodate two single-family structures.”
- **2255-2257 Pine Street** (2005.1128V) was granted a variance from Sections 121(e) (minimum lot area), 134 (rear yard setback), and 159(a) (off-street parking) of the Code to subdivide a 3,188 sqft lot for the purpose of building a single family home on a newly created 1,169 sqft lot. The original lot featured an existing duplex and was zoned RH-2; the addition of a new single family home on a newly created lot therefore effectively allowing densification of the original property.
- **690A Arkansas Street** (2009.0803V) was granted a variance from Sections 121(d) (minimum lot width), 121(e) (minimum lot area), and 132 (minimum front setback) of the Code to subdivide a

⁸⁰ Observing that the “vacant lot [was] just lying idle and difficult to maintain currently overgrown with weeds and infested with slugs”. Applicant’s neighbors and his tenant shared with him that the Property’s vacant backyard - given thick ivy along the fence and a fruit-bearing loquat tree - regularly attracts and is infested by rats.

⁸¹ A three unit building that had previously occupied the original lot was destroyed by fire the previous year (of “undetermined cause”) which displaced 13 people and killed one person. See Ravani, Sarah, [Neighbors mourn woman killed in fire in SF’s Inner Sunset](#), San Francisco Chronicle (April 2019). Despite being zoned RH-2 the Applicants were limited to building single-family structures without explanation, resulting in a net loss of housing for the City.

2,800 sqft lot for the purpose of building a new single family home on the newly created 900 sqft lot. The Zoning Administration noted that “[l]iteral enforcement of the lot area requirements in this case would require that a functionally separate unit of property remain a part of a larger lot in a situation where there is no public benefit to be gained by such a requirement.”

- **70 Douglass Street & 67 Ord Street** (2008.1233V) was granted a variance from Sections 121(e) (minimum lot area) and 134 (rear yard setback) of the Code to subdivide a 3,690 sqft lot for the purpose of building a new single family home on a 1,267 sqft lot. Notably, the property in question is only 137 feet from the Subject Lot.
- **653-655 Fell Street** (2013.0712V) was granted a variance from Sections 121(e) (minimum lot area), 134 (rear yard setback), and 135 (open space) of the Code to subdivide a code-compliant 3,240 sqft lot in order to demolish a garage and construct a new residential building.

VI. APPLICATION OF SECTION 305(C)'S VARIANCE CRITERIA

A. Application of Section 305(c)

Applicant has made every effort to match, criteria-by-criteria, the reasoning applied in previous variance decisions to this Project. As such, any and all citations within a given numbered criterion come directly from the same in a previous variance decision (or appeal).

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.

Based on a review of past variance decisions, the Subject Lot has numerous exceptional and extraordinary circumstances that do not apply generally to other properties in the same class of district. Among these circumstances are the many ways in which the Subject Lot is currently inconsistent with the surrounding area:

- **Break in Block Face.** The Subject Lot is one of 29 lots that make up the 17th Street block face between Ord Street and Temple Street. The Subject Lot’s vacant backyard is the only material break in the entire length of the block face.⁸² This is true for at least a quarter mile in both directions on the north side of 17th Street, and in fact, almost every other building on 17th Street *is in direct physical contact* with their neighbors.⁸³
- **Inconsistent in Lot Frontage.** The Subject Lot has substantially more width and street frontage - 81 feet - than almost any other lot in the neighborhood.⁸⁴ Examining the 14 closest Assessor

⁸² Exhibit F (Panoramic of 17th Street Block Face); *see also 35 Wilder Street* (“Future development of the site will strengthen neighborhood character by filling a void in the urban street wall.”), *5 Upper Terrace* (“There is generally continuous frontage of residential or accessory buildings along the subject block face on Masonic Avenue.”).

⁸³ *Id.*

⁸⁴ *See, e.g., 800 Bay Street* (“The subject lot is 57’ wide and approximately 69’ deep, for a total of 3,933 square feet. The subject lot contains...over twice the amount of street frontage.”), *28 Sweeny Street* (“The subject property has more lot frontage than other properties within the vicinity. The subject property has 50’ of lot frontage and other properties in the vicinity have 25’ to 33’ of lot frontage.”), *1457 Florida St.* (“The subject lot is unique in that it is 43.469 in width, substantially wider than the standard 25’ lot width found in the RH-2 District...”), *1850 Palou Avenue* (“The subject property is a corner lot with a lot width of

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Blocks (and 564 lots)⁸⁵ along the 17th Street Corridor, the Subject Lot is in the 97th percentile in terms of frontage, 2.6x (81 ft/31 ft) the average lot frontage, and 3.2x (81 ft/25 ft) median lot frontage.⁸⁶

- **Inconsistent with Existing Lot Patterns.** 50% of the Subject Lot is vacant and is adjacent to the public right of way.⁸⁷ This fact makes it exceptionally unique to the area. Applicant was unable to locate a single half-vacant-corner-lot-adjacent-to-the-public-right-of-way within at least a half mile of the Subject Lot.⁸⁸
- **Inconsistent in Lot Size.** The Subject Lot is materially larger than other lots in the area.⁸⁹ The Subject Lot is 2,916 sqft; which is 30% larger than the median lot size in the neighborhood. And as the Planning Code envisions corner lots being smaller on average than their mid-block cousins (minimum lot size requirements of 1,750 and 2,500 sqft, respectively), the oversized nature of the Subject Lot is even more striking.
- **Corner Lot.** The Property is on a block corner, situated at the northwest intersection of 17th Street and Ord Street. While not *per se* extraordinary, corner lots do receive unique treatment in the Planning Code and variance administration, coloring relevant analysis, and informing the appropriate cohort for what is considered “consistent” in a given area, *e.g.*, lot pattern and configuration.⁹⁰

40 feet along Cortland Avenue and 75 feet deep along Nevada Street.”), *60 Teddy Avenue* (“The subject parcel is 50 feet wide by 65 feet deep. The width is double the code minimum lot width of 25 feet. 25 feet is the predominate lot width for residential development in all zoning districts except the RH-1 (D) district.”), *690A Arkansas Street* (“The lot is irregularly shaped but has sufficient frontage [50 feet] equal to the width of two standard lots.”), *35 Wilder Street* (“The subject property is irregularly shaped with 50-feet of frontage on Wilder Street.”).

⁸⁵ Exhibit G (Map of 14 Accessor Blocks Along 17th Street Corridor).

⁸⁶ *Id.*

⁸⁷ A number of variance applications that were granted effectively split the lot in half. *See, e.g., 800 Bay Street* (“Only half of the lot is developed.”), *2686-2694 McAllister Street* (45% proposed vacant lot), *325 Bowdoin Street* (51% proposed vacant lot), *699 Paris Street* (55% proposed vacant lot).

⁸⁸ The three corner lots within a half mile that come the closest are: (1) 4682 19th St. (existing dwelling plus deck on 3,131 sqft lot takes up 72% of the lot), (2) 3786 16th St. (existing dwelling on 3,555 sqft lot takes up 62% of the lot), and (3) 100 Corbett Ave. (existing dwelling takes up ~50% of the lot however hypothetical split lots would only be ~1,147 sqft each).

⁸⁹ *See 1316 Bowdoin Street* (“The subject property is exceptionally large with an area of 3,150 square feet and a width of 45 feet. This lot size does not apply generally to other properties in the same class of district, which more typically have lot sizes ranging from 1,750 to 2,500 square feet.”), *4200 Moraga Street* (“The existing lot is...substantially larger than the average lot in the immediate neighborhood.”), *1850 Palou Avenue* (“When compared to the majority of other lots on the block, the existing subject lot is much larger in size...[t]he subject property with a lot area of 3,300 square feet is substantially larger than the predominant lot size in this district.”), *1286-1298 Treat Avenue* (“The subject lot is unusually large for the area and is atypical for RH-2 lots.”).

⁹⁰ The Municipal Code contains dozens of distinct references to “corner lots”, *e.g.*, § 101.1 [General Plan Consistency and Implementation](#) (unique definition for “Lot, Corner”), § 121(e)(2) [Minimum Lot Width and Area](#) (“In all other zoning use districts: 2,500 square feet, except that the minimum lot area for any lot having its street frontage entirely within 125 feet of the intersection of two streets that intersect at an angle of not more than 135 degrees shall be 1,750 square feet.”), § 125(a) [Floor Area Premiums](#), § 132(d)(1) [Front Setback Areas](#). And previous variance decisions favorably differentiate corner lots from other types of lots, *see, e.g., 1850 Palou Avenue* (“The subject property is a corner lot...”), *4200 Moraga Street* (“The existing lot is located at the intersection of two streets...”), *161-165 Newman Street* (“The Unit located on a large corner lot.”). The *San Francisco Residential Design Guidelines* contain an entire sub-section labeled “Special Building Locations” dedicated to “Corner Buildings”, another example of the exceptional and extraordinary circumstances a corner lot presents. [San Francisco Residential Design Guidelines](#) (December 2003).

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While the Subject Lot is inconsistent in many ways with the surrounding lots, the Proposed Lots on the other hand would be wholly consistent with other lots in the neighborhood in a number of important ways:

- **More Consistent Lot Frontage.** The street frontage of the Proposed Lots would be much more in line with the other lots in the neighborhood; 40.5 feet (down from 81 feet) versus the neighborhood median of 25 feet.⁹¹ Furthermore, the proposed newly created vacant lot would retain the relatively wider-than-deep ratio which according to the Board of Appeals provides “more efficient and livable floor plans” than narrow lots.⁹²
- **Consistent with Existing Lot Patterns and Previous Lot Splits.** “The proposed lot split would not alter the pattern of use” for the surrounding area and would be similar to previous lot splits in the area.⁹³ Applicant was able to identify at least 25 substantially similar corner lots within a half mile of the Subject Lot with a similar pattern of proposed use - subdivided corner lots with buildings on each - including one example on the same block and two examples on adjacent blocks.⁹⁴
- **Consistent with Previous Variances.** Applicant was able to identify at least 14 examples of variance-related lot subdivisions within a half mile of the Subject Lot, including one a mere 137 feet away and another 239 feet away.⁹⁵ Expanding the analysis to all types of variances and narrowing to the 14 closest Assessor Blocks (and 564 lots) along the 17th Street corridor, at least 61 (or 11% of homes) variances were recently granted.⁹⁶

⁹¹ See 2779 Diamond Street (“As a result of the lot split, the undeveloped portion at the rear of the existing lot would become a separate lot with its own 25-foot frontage on Surrey Street and would not be out of character with the existing properties in the area.”), 435-441 Burnett Avenue (“As a result of the requested lot subdivision, the current undeveloped portion of the subject lot (opposite Diamond Street frontage) would become a separate lot with its own 25-foot frontage on Surrey Street. Both of the newly created lots will be compatible with the surrounding lot pattern on the subject block.”); see also Teague, Corey, Acting-Zoning Administrator, Variance Hearing [Audio Recording re 653-655 Fell Street](#), at 40:49 (Oct. 23, 2013) (“It is true there is a pattern of this type of split and development on the lot and I know that there is one in particular that received a variance in in 2008”).

⁹² See 1299 Quesada Avenue (“This code section does not address wider, shallower lots for special conditional use treatment. The lots proposed have an area greater than 1,500 square feet and provide better access to light and air for all rooms due to the wide street frontage and rear yard exposure for the units. This allows all the rooms within the building to derive light and exposure without interior courts. On the whole the wider lot promotes a more efficient and livable floor plan.”); see also 1806-1810 8th Avenue (2019-006762VAR).

⁹³ 2285 and 2299 40th Avenue; see also 1299 Quesada Avenue (“There is a pattern of similarly sized and oriented lots in corner lot situations in this neighborhood and in the immediate vicinity.”), 2775 Diamond Street (“Both of the newly created lots will be compatible with the surrounding lot pattern on the subject block.”), 2255-2257 Pine Street (“With the proposed lot split, the existing two-family dwelling and the proposed new single family dwelling would be deficient in rear yard depth. Some adjacent lots have a similar development pattern and lot size pattern on the subject block. Lots were either split prior to 1946 and therefore considered lots of legal record, or variances were granted for the subdivision of these parcels.”), 5 Upper Terrace (“The proposed lot split will be similar to other properties..”), 1138 Treat Avenue (“The subject property is in a neighborhood containing similarly split lots.”), 537 Grove Street (“Other properties on the block have been subdivided into two smaller parcels, or have been developed with separate structures, one fronting on Grove Street and the other on Ivy Street.”).

⁹⁴ Exhibit C.

⁹⁵ Exhibit H (Maps and Addresses of Other Variance Examples). See 2255-2257 Pine Street (“With the proposed lot split, the existing two-family dwelling and the proposed new single family dwelling would be deficient in rear yard depth. Some adjacent lots have a similar development pattern and lot size pattern on the subject block. Lots were either split prior to 1946 and therefore considered lots of legal record, or variances were granted for the subdivision of these parcels.”).

⁹⁶ *Id.* Only those recent enough to be reflected on the San Francisco Department of Planning’s Property Information Map are included in this figure.

- **Consistent in Lot Size.** The Proposed Lots (1,458 sqft each) would have similarly sized comparables in the neighborhood. Corner and corner adjacent lots, as Section 121(e) recognizes, are typically much smaller than mid-block lots (1,750 vs. 2,500 sqft).⁹⁷ For example, the blocks to the immediate south and east of the Subject Lot both have small non-conforming corner adjacent lots; **on the south side of 17th Street, a mere 63 feet from the Subject Lot is a 832 sqft lot (2652/031), and 128 feet east on 17th Street is a lot that is 1,210 sqft (2625/023).** Within 1,200 feet there are a total of 27 lots that are smaller than the Proposed Lots, and hundreds that are the same or slightly larger in size. Furthermore, the amount that the Proposed Lots deviate from Section 121(e)'s 1,750 sqft requirement is relatively small (83%) and as the Board of Appeals has noted, “[t]he code has in the past permitted lots as small as 1,437.5 square feet to be developed as legal lots of record,” and “[t]he code currently allows the City Planning Commission under Section 121(f) to authorize new lots with an area as low as 1,500 square feet with widths less than 25 feet.”⁹⁸ The Proposed Lots would deviate a mere 42 sqft (or 3%) from the authority granted the Commission outright in Section 121(f).⁹⁹

The Subject Lot is materially inconsistent with other lots in the area (and the Proposed Lots would be materially more consistent). Exceptional and extraordinary circumstances that apply to the Subject Lot do not apply to other lots in the same class of district.

In addition to the question of consistency (and inconsistency) detailed above, previous variance decisions have also evaluated the impact on the mid-block space and housing stock.

- **Mid-block Space.** According to the text of several decisions, one of the “principal purposes” of Section 134’s rear yard requirement is the maintenance of a given block’s mid-block space.¹⁰⁰ It is noteworthy therefore that the Subject Lot is completely cut off from the Subject Lot’s mid-block space.¹⁰¹ As such, the proposed lot subdivision and subsequent new home construction would have no effect whatsoever on the mid-block open space and thus any rear yard setback would be totally divorced from the legislative purpose of the underlying requirement.

⁹⁷ S.F. Code [§ 121](#).

⁹⁸ *1299 Quesada Avenue* (“This code section does not address the wider, shallower lots for special conditional use treatment. The subject lots proposed have an area of 1,666.66 square feet, a minor deviation of 4.7%.”); *see also 4200 Maraga Street* (“The dimension of the usable open space being two feet shorter than required by Code is inconsequential compared to the benefit to the City of having two more dwelling units in its housing stock.”), *1316 Bowdoin Street* (“The existing structure was built in 1969 and occupies 26ft-2in of the 45-foot-wide lot, leaving 18ft-10in for a second lot, which, at 1,330 square feet is only 170 square feet less than the minimum 1,500 square feet required to avoid the variance process altogether.”).

⁹⁹ *See Sanchez, Scott, Zoning Administrator, Variance Hearing Audio Recording re 563-565 Haight Street*, at 59:52 (Nov. 17, 2010) (“[T]here really is a solid pattern of these smaller lots and I think that’s a key when reviewing lots splits and subdivisions that result in lots that are substandard.”); *Sanchez, Scott, Zoning Administrator, Variance Hearing Audio Recording re 537 Grove Street*, at 35:50 (Feb. 22, 2012) (“[T]here is a clear pattern here of small lots and you have demonstrated that successfully as well.”).

¹⁰⁰ *1111-1133 Green Street*; *see also 47 - 75 Topaz Way* (“The intent of the rear yard requirement is to preserve mid-block open areas.”), *1542-1544 Vallejo Street and 39-41 Bonita Terrace* (“One intent of the rear yard requirement is to preserve the mid-block pattern of open areas.”), *1155-1157 Treat Avenue & 54 Balmy Street* (“Granting the rear yard variance will not affect the mid-block open space.”).

¹⁰¹ Exhibit A. *See 799 Castro Street & 3878-3880 21St Street* (“The purpose of Section 134 of the Planning Code is to maintain a midblock corridor. However, the courtyard is surrounded by the subject building on the west side and the adjacent building on the east side. As a result, there is no well-defined pattern of mid-block open space adjacent to the courtyard. The two adjacent properties to the east are developed deep into their lots, which along with the existing rear building on the subject property, effectively cuts off the subject property from the block's mid-block open space.”).

- **Additional Housing Stock.** “Although the granting of the subject variance will create lots that do not have the minimum lot size required by the Planning Code, this is necessary to maintain the City policy of encouraging infill residential units and the project does not seem to have any adverse effect on the City.”¹⁰² Of the 99 variance applications that were granted - and data was available (96) - the amount of proposed housing varied: 64 (or 67%) proposed no additional housing, 20 (or 21%) planned to add one unit, four projects (4%) planned to add two additional units, four projects (4%) planned to add three units, three applications planned to add four units, and one actually removed a unit of housing. Granting this variance application and related Conditional Use Authorization would lead directly to the addition of four incremental dwelling units to San Francisco’s housing stock. **Not a single variance granted by the City in 20 years has added a single BMR affordable housing unit to the City’s housing stock.**

2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

Based on a review of past variance decisions, the test for the second criterion appears to be that, “[l]iteral enforcement of the Planning Code requirements for lot area imposes undue hardship on the applicant/owner without any compensating public benefit since there are other parcels”¹⁰³ in the area that are smaller,¹⁰⁴ developed similarly,¹⁰⁵ or both¹⁰⁶ and that “[d]isapproving the variance would deny the owners parity of treatment.”¹⁰⁷

¹⁰² 2779 Diamond Street; see also 1299 Quesada Avenue (“This site is available for new infill housing at a time when all policy makers have concluded that a critical housing shortage exists in the City.”), 1850 Palou Avenue (“The new lot would utilize the existing vacant space and allow the construction of a new single-family dwelling.”), 690A Arkansas Street (“Although the granting of the subject variance will create a new lot that does not meet the lot requirements prescribed by the Planning Code, this is necessary to support the City policy of encouraging individual home ownership and the project does is [sic] not anticipated to have any adverse effect on the City.”).

¹⁰³ 1542-1544 Vallejo Street and 39-41 Bonita Terrace. (emphasis added).

¹⁰⁴ See 537 Grove Street (“Approximately 53% of the lots on the subject Assessor’s block are less than 2,500 square feet in area. Other blocks in the area feature a higher percentage of substandard lots”), 266 Wailer Street (“The existing neighborhood character features a pattern of small lots. Of 23 lots on the subject block, 19 are of substandard lot size (less than 2,500 square feet.”), 1299 Quesada Avenue (“The exceptional feature is that hundreds of lots of comparable or similar size in the South Bayshore area and the City as a whole have been permitted as legal lots and have been permitted to construct buildings of various sizes and residential densities...seventeen (17) specific properties in the immediate South Bayshore area that have areas less than the proposed Quesada Avenue lots, with some lots having substantially less lot area. In addition at least 37 lots have frontage on north-south oriented streets, including areas no greater than 1,750 square feet.”).

¹⁰⁵ See 2255-2257 Pine Street (“Literal enforcement of the Planning Code requirements for lot area, [and] rear yard depth” would preclude the applicant “from developing their property in the manner proposed and would result in an unnecessary hardship with no compensating benefit since other parcels on the subject block have been developed similarly to that proposed.”), 266 Wailer Street (“The pattern of development on the subject block includes several properties subdivided in a similar manner. Granting these variances will allow the subject property to be subdivided into two separate lots, a substantial property right possessed by other properties in the same class of district.”).

¹⁰⁶ See 1138 Treat Avenue (“The literal enforcement of the Planning Code requirements for minimum lot area and rear yard imposes an undue hardship on the applicant/owners without any compensating public benefit since there are many other parcels in the surrounding area that are either smaller or split in a manner similar to the subject property.”).

¹⁰⁷ 1542-1544 Vallejo Street and 39-41 Bonita Terrace. The second criteria also requires that the “unnecessary hardship not [be] created by or attributable to the applicant or the owner of the property.” One of Applicant’s neighbors suggested to him that since Applicant bought the Property with current Code requirements in place, he may be ineligible for a variance. Applicant researched this issue and learned that even though Applicant only recently purchased the property (May 10, 2019), this fact does not make Applicant unique among other applicants of granted variances. Of the 95 variances that were granted in the analysis, for those properties where data is available (92) **the median amount of time between filing the variance and the previous sale of the associated property was only two years (the shortest being a mere 11 days)**. All 95 successful applicants were granted a variance for Code sections that were in place when they purchased their respective properties.

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- **Smaller Existing Lots.** The Proposed Lots would be 1,458 sqft each. In an analysis of the surrounding neighborhood, as noted above, there would be at least 27 smaller lots in terms in absolute square footage nearby, and several substantially smaller lots (680, 832, 1,210, 1,260, 1,267, 1,213, and 1,211 sqft) all within a few hundred feet of the Subject Lot.¹⁰⁸
- **Similar Development.** At least 25 lots in the area have similar corner lot patterns and there are no examples of other half-vacant corner lots adjacent to the right of way in the area.¹⁰⁹
- **Similar Variances.** At least 14 lots within a half mile of the Subject Lot “have enjoyed lot splits creating substandard lots.”¹¹⁰ Numerous variances unrelated to lot splits have also been granted in the area, *e.g.*, neighbors two (84-86 Ord St.) and three (80 Ord St.) doors down from Applicant received variances from rear yard setback requirements.

The Proposed Lots would be wholly in line with the current pattern and development of the area. The Project would also provide:

- **Additional Housing Stock.** Previous variance decisions and appeals consistently held that the denial of a variance application with one (let alone four) additional units of housing was itself an unnecessary hardship without “compensating public benefit” and therefore weighed heavily in favor of granting a variance.¹¹¹

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Based on a review of past variance decisions, it is considered a substantial property right to develop property consistent with similarly situated properties in the area; “[t]he granting of this variance is the only feasible manner by which the applicant/owner can enjoy the same full use of his property that similarly situated property owners enjoy.”¹¹² Past variance decisions have focused analysis for this

¹⁰⁸ Exhibit G.

¹⁰⁹ Exhibit C.

¹¹⁰ Exhibit H. *See also 1860 Lombard Street* (“A number of other properties in the neighborhood have enjoyed lot splits creating substandard lots”).

¹¹¹ *699 Paris Street* (“The application precisely requests for a variance from the minimum lot size in order to utilize an empty side lot to construct one additional housing unit in San Francisco, which is the compensating public benefit.”); *see also 1148-1150 Treat Ave. & 47 Lucky St.* (“The two smaller lots each present an opportunity for more affordable home-ownership.”), *2779 Diamond Street* (“The creation of a separate lot...will enable the owner to provide another residential unit..”), *28 Sweeny Street* (“Literal enforcement of the Planning Code would prevent a dwelling unit from being added to the City's housing stock.”), *1316 Bowdoin Street* (“As such, to deny this variance represents a hardship in that...this would result in...one less dwelling than the proposal, which would benefit no one.”), *1850 Palou Avenue* (“Literal enforcement of the minimum lot size requirement of the Planning Code would prevent...the development of approximately 1,687 square feet of existing vacant lot area.”), *60 Teddy Avenue* (“The result would be the loss of a potential housing opportunity for residents in San Francisco.”), *40-42 Cortland Avenue* (“The newly created lots each present an opportunity for more affordable homeownership.”).

¹¹² *5 Upper Terrace; see also 1316 Bowdoin Street* (“The granting of this variance is the best and most feasible manner by which the owners of the subject property can enjoy the same full use of their property that owners of similarly situated property owners enjoy because it only allows the subdivision of an oversized lot for the development of a...dwelling on what is a visually and functionally distinct portion of the property..”), *1850 Palou Avenue* (“The approval of this variance will allow the applicant to use the subject property in a manner consistent with the surrounding land uses and substantially in conformance with the requirements of the Planning Code.”), *1299 Quesada Avenue* (“A property right should be vested to permit this variation when it furthers a property right enjoyed by other properties in this and other residential zoning districts.”).

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criterion on the existence of similarly small lots,¹¹³ similar subdivisions,¹¹⁴ and similarly non-conforming lots.

As detailed previously, there are abundant examples of similarly small lots and similar subdivisions in the area.¹¹⁵ It is also the case that there are numerous examples of **similarly non-conforming lots** in the area:

- **Non-conforming Lot Sizes.** Of the 87 lots in the two contiguous Assessor Blocks¹¹⁶ that the Subject Lot is part of, 58 (or 67%) are non-conforming based on lot size.¹¹⁷ The most common lot

¹¹³ See *35 Wilder Street* ("The granting of this variance would allow the subject property owners to create a lot that is smaller than required by Code but similar in size to other small lots within the neighborhood, a substantial property right given the irregular character of the properties within the neighborhood."), *2255-2257 Pine Street* ("The proposed subdivision would create two lots with dimensions compatible with those of other lots in the vicinity. Some adjacent lots on the subject block have a similar development pattern and lot size pattern."), *1299 Quesada Avenue* ("The following examples cited by President Chin illustrate this fact. Lots 31, 34, 35 and 36 in Block 5341 have been resubdivided and developed with the same lot area and lot width as the proposal."), *161-165 Newman Street* ("Under the proposal, the larger lot would be 1,550 square feet and the smaller lot would be 1,100 feet. There are twenty-two (22) lots located within a quarter mile of the Property equal to or less than 1,100 square feet in lot area. This includes lots which resulted from previously subdivided lots directly across Newman street from the Property, and at the corner of Andover and Ellert Street.").

¹¹⁴ See *740 Church Street* ("There are a number of corner properties in the neighborhood that have been subdivided resulting in lots that are smaller than the average lot size."), *537 Grove Street* ("Many of the other lots on the subject block have been subdivided in a manner similar to what is proposed for this project."), *1327-1329 Kearny Street and 28-30 Sonoma Street* ("On the same portion of Assessor's Block 0115 (bounded by Sonoma, Kearny, Union, and Green Streets), there have been two other similar subdivisions, including the granting of Variance Case No. 2004.1144V at 1347-1349 Kearny Street in 2005."), *653-655 Fell Street* ("Other properties on the block have enjoyed the ability to split lots and create development on Hickory Street, a substantial property right possessed by other properties in the same class of district. Variances were granted to other similar projects on the subject block."), *161-165 Newman Street* ("Since the planning code was adopted in 1946, the City has approved six lot split requests in the surrounding neighborhood with lot sizes as small or smaller than the Proposal, and with smaller rear yard and unusable open space dimensions.").

¹¹⁵ Exhibits C and G.

¹¹⁶ The Subject Lot sits at the intersection of two Assessor Blocks, 2626 and 2646, and while technically in the former (2626), block face and address-wise (4300 17th Street) it is comparable with the latter (2646). For purposes of this analysis, therefore, the blocks are examined together. See Exhibit ___.

¹¹⁷ *Id.* See *537 Grove Street* ("More than half of the properties on the block do not comply with the minimum 2,500 sq. ft. lot requirement of Planning Code Section 121. Subdivision of the subject property would create two lots that are similar in size and character to the majority of others on the block. The property is 3,150 square feet in area and it would not be possible to subdivide the lot into two code-compliant parcels."), *329-31 Waller Street* ("Of the twenty-four lots on the subject block, only five currently meet the minimum lot size requirement."), *35 Wilder Street* ("Due to the angled nature of the streets within the neighborhood there are several properties that are smaller than required by the Code. Including but not limited to 10, 14, 18, and 22 Wilder Street and 56 and 62 Natick Street. Other smaller lots include 600, 612, 616, 624, and 632 Arlington Street. The granting of this variance would allow the subject property owners to create a lot that is smaller than required by Code but similar in size to other small lots within the neighborhood."), *1327-1329 Kearny Street and 28-30 Sonoma Street* ("Of the 53 lots on the subject block (Assessor's Block 0115 bounded by Kearny, Green, Grant, and Union Streets), 41 (71 percent) are noncomplying with respect to minimum lot width and minimum lot area requirements. There is a precedent on the subject block for noncomplying lots, and the granting of this variance is necessary for the enjoyment of a substantial property right possessed by other properties in this district."), *2907 Octavia Street* ("Subject Block 519 contains forty-six lots with twenty-seven of the lots being smaller than the 2,500 square feet (sf) required by Planning Code Section 121. Twenty-seven lots on the block are substandard in lot size and do not meet Planning Code lot size requirements."), *1860 Lombard Street* ("Within an approximately four-block radius there are twenty-one lots which are substandard in lot size (being smaller than the 2,500 square feet (sf) required by Planning Code Section 121)."), *1327-1329 Kearny Street and 28-30 Sonoma Street* ("Of the 53 lots on the subject block (Assessor's Block 0115 bounded by Kearny, Green, Grant, and Union Streets), 41 (71 percent) are noncomplying with respect to minimum lot width and minimum lot area requirements. There is a precedent on the subject block for noncomplying lots, and the granting of this variance is necessary for the enjoyment of a substantial property right possessed by other properties in this district."), *20-30 Jansen Street* ("The existing neighborhood character features a pattern of small lots. Of 24 lots in the vicinity of the subject lot, 19 are of substandard lot size (less than 2,500 square feet). Of the 19 substandard lots, 15 have a lot area less than 1,650 square feet, similar to the proposed lot sizes resulting from the lot split. Given the nature of the subject block and properties in the vicinity, granting the variances will provide the property owners with a property right similar to others in the neighborhood."), *2010-2012 Filbert Street* ("The pattern of development on the subject and adjacent block includes several properties with non-complying lots sizes and structures in the rear yard. Granting these variances will

size (42 of the 87 lots are 25 ft x 87.5 ft = 2,188 sqft) is 88% in compliance with minimum lot size requirements. The Proposed Lots would be approximately 83% (1,458/1,750) compliant with their minimum lot size requirement. In other words, the Proposed Lots would be substantially in line with the average conformity of the other lots in the neighborhood. Examining the proposed lot sizes that have been granted variances (179 lots with data), Applicant's proposed lot sizes (1,458 sqft) would be in the 81st percentile if compared to the smaller-of-the-two-lots created by subdivision (91) and in the 65th percentile overall when compared to the entire cohort of subdivided lots (179). In other words, the proposed lots would be well above average in terms of size and conformity with respect to past variance decisions.

- **Non-conforming Rear Yards.** The archetypical lot size in San Francisco is 2,500 sqft (25' x 100'). As noted above, however, the predominant lot depth on 17th Street (Block 2646, the closest mid-block space) is only 87.5 feet. As detailed above, the surrounding lots are smaller than typical, which naturally diminished rear yard setbacks in the area. While the City does not maintain data on actual rear yard setback measurements for the surrounding area, a visual inspection via Google Maps suggests that the vast majority of area lots are non-conforming.¹¹⁸
- **Additional Housing Stock.** And as with all other Section 305 criteria, the need for incremental housing stock was an important factor weighing in favor of successful applications; "[g]iven the corner lot site and the housing needed to satisfy the jobs housing nexus for the City, this owner should be granted the right granted other similar properties."¹¹⁹

The consistent administration of variance applications creates substantial property rights for property owners. Sections III-V, above, detail the consistency of the Applicant's Project with the 99 successful variance applications (and dissimilarity with the 12 that have been denied). The following additional data analysis strengthens this point.

- **Approval by These Planning Code Sections.** Of the 99 applications that were granted variance from Code Sections 121 (lot size) and 134 (rear yard setback), and 135 (open space), 30 of 35 (or 86%) were granted.

allow the subject property to add an additional dwelling unit, a substantial property right similar to others in the neighborhood.").

¹¹⁸ See *5 Upper Terrace* ("A number of buildings with abutting rear yards on the subject property are separated by less than the 25 percent of lot depth required for building separation on the subject property."), *132 Cortland Avenue* ("There are three other properties on the same block with similar building size, lot coverage, and lot sizes."), *2255-2257 Pine Street* ("With the proposed lot split, the existing two-family dwelling and the proposed new single family dwelling would be deficient in rear yard depth. Some adjacent lots have a similar development pattern and lot size pattern on the subject block."), *4200 Moraga Street* ("Other properties in the vicinity contain buildings that encroach into the required open areas, thereby establishing a precedence of properties having usable open space dimensions less than required by Code."), *537 Grove Street* ("Expansive rear yards are not typical on the subject block. Some of the properties fronting on Octavia and Laguna Streets have little to no rear yard space."), *10-12 Lucky Street* ("Many of the lots on the same block do not meet the 25 percent required rear yard or open space requirements."), *329-31 Waller Street* ("Of the twenty-four lots on the subject block, only five currently meet the minimum lot size requirement. Additionally nearly all of the lots on this block have little to no rear yard open space which is consistent with the subject property."). For in depth analysis specific to the Corona Heights Special Use District, see related *Attachment in Support of Conditional Use Application* ("Based on a random sample of 100 homes in the Special Use District, 74% of homes have "less than 45% rear yard depth.").

¹¹⁹ *1299 Quesada Avenue*; see also *1316 Bowdoin Street* ("Subdivision of this property with lot size and width variances is the only method by which the family can create a new Code-complying dwelling unit...the provision of a new lot and new dwelling...provides new and more affordable home ownership opportunities.").

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- **Incidence and Approval by Lot Type.** Of the 99 applications that were granted, 44 were through lots but most (56%) were not; 24 were corner lots, 25 mid-block rectangles, 3 L-shaped lots, and 3 mid-block polygons. And 75% (24/32) of all corner lot applications were successful.
- **Approval by Housing Added.** Of the 99 applications that were granted, a full 67% (66/99) did not add a single unit of housing to the San Francisco housing stock. 20% added one unit, 4% added two units, 5% added three units, and 3% added four units of housing. Of the eight applications that sought to add three or more units of housing 100% were granted. Of the 99 applications that were granted, not a single one added a unit of affordable housing.
- **Approval by Rear Yard Setback.** 92% (121 of 131) had non conforming rear yard setbacks, 50% (65/131) were 33% or less conforming, and 23% (30 of 131) had no rear yard setback at all.

To deny the variances being sought would be to deny Applicant's established substantial property right to "enjoy the same full use of his property that similarly situated property owners enjoy."

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Based on a review of past variance decisions, if the proposed development is "consistent with other properties" in the area, it was *per se* not materially detrimental or injurious to the property in the vicinity.¹²⁰ As detailed in the previous Sections, the Project is wholly consistent with what exists and has been permitted in the area by the City.

Potential Neighborhood Support or Opposition. As of the date of this submission, it is unclear whether on balance Applicant's neighbors will be supportive, neutral, or opposed the Project.¹²¹ Previous variance decisions held, however, that neighborhood opposition could be addressed if the Applicant actively communicated and engaged with neighbors, any tenants, and City staff.¹²²

¹²⁰ 3559, 3559A, 3561, and 3561A 17th Street ("This variance is granted to allow a level of development consistent with other properties or improvements in the vicinity."), 2285 and 2299 40th Avenue ("The variance is granted to allow a level of development consistent with, rather than injurious to the property and improvements in the vicinity."), 537 Grove Street ("The requested variances would simply make the development on the property consistent with the pattern of development on the block and in the area in general"), 161-165 Newman Street ("Due to the presence of lots that do not meet the Code required lot area in the immediate and general vicinity, the granting of these Variances will be consistent with the established neighborhood character.").

¹²¹ Unfortunately Applicant anticipates strong opposition from at least one of his neighbors. Once Applicant made a final decision on the scope of the Project and obtained initial site plans, he wanted to provide an update to those neighbors that would be most directly impacted, 4302-4304 17th Street. Applicant invited his neighbors over to his home and shared details of the Project. Unfortunately, one of Applicant's neighbors became very upset. He said that the Project was "unacceptable," he called the Applicant a "liar", a "DC type", that Applicant was "everything that is wrong with San Francisco" and used profanity - including the "f" word - on several occasions. This neighbor indicated that he would fight Applicant's Project "tooth and nail" and "the neighborhood" would as well. He ended by saying "we don't care if you want to be liked, we don't like you" and left shortly thereafter.

¹²² See 2686-2694 McAllister Street ("The granting of the rear yard variance at 2686 will have an impact on the neighbors immediately to the north and east, but will be significantly mitigated by the fact that the building will be stepped back 6 to 8 feet at each story to preserve as much light and air as possible to these adjacent properties."), 47 - 75 Topaz Way ("The Department received one phone call from a homeowner residing at the Topaz Townhomes, who was concerned about the practicality of the proposed lot subdivision and a second phone call from a representative of the Diamond Heights Community Association, who was concerned about the impact on the neighborhood character as a result of future development of the proposed vacant lot fronting on Diamond Heights Boulevard. The Zoning Administrator, however, believes that the proposed project limited by the conditions of this variance decision in conjunction with the circumstantial evidence filed under this variance application would not be materially detrimental to the public welfare or materially injurious to the improvements in the vicinity and, in fact, would improve the urban design of the area by defining the street wall of Diamond Heights

Additional Housing Stock. As with all other criteria, past variance applications have noted the material benefits of additional housing; “[g]ranting the variances would add one new residence to the City’s housing stock and would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.”¹²³

5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

Based on a review of past variance decisions, the fifth and last criterion weighs whether “[t]he proposal is in harmony with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development.”¹²⁴ Variance decisions often cited housing-related policies from the San Francisco *General Plan* which “encourage[s] residential development when it preserves or improves the quality of life for residents of the City.”¹²⁵ Applicant’s Project is not only consistent with but advances at least 22 important Objectives and Policies of the General Plan (see Section III.A., above).

The last criterion also often discussed:

Parking. The provision of off street parking was occasionally cited as an important factor in some variance decisions. Here, “[n]eighborhood parking would not be impacted because the Applicant has

Boulevard.”), 740 Church Street (“Residents of neighboring properties have expressed concerns regarding the proposed lot subdivision because the light, air, and privacy of these residents would be inhibited by the removal of the existing trees and the construction of a building. To address their concerns the Applicant has agreed to [do five things including limit hours of construction and plant trees.]”), 1050, 1052, 1054 and 1054A Guerrero Street (“The Department received telephone calls and letters from neighbors residing or owning properties in this block, who expressed opposition to the proposed lot subdivision and the second floor addition to the existing rear building fronting Ames Alley. These neighbors were concerned about the negative impact on their properties and the neighborhood character as a result of the project. The project sponsor was advised by the Zoning Administrator after the variance hearing to work with these neighbors on their concerns.”), 144 Lexington Street (“Addition of a 3rd story at 144 Lexington Street would likewise have no apparent adverse effect. The Project Sponsor has worked with the adjacent property to the north to resolve privacy/light/air concerns. These modifications are represented on the plans on file with this application.”).

¹²³ 2010-2012 Filbert Street; see also 4200 Moraga Street (“The granting of this variance will allow four new housing units to be built that are compatible with surrounding development, and increase the city’s overall housing stock.”), 1514 25th Street (“The granting of this variance will create additional housing opportunity...”), 1316 Bowdoin Street (“Also as stated earlier, the existing dwelling could be expanded to greater lot coverage without a variance, but this would only create a larger and less affordable dwelling. The variance is the only way to subdivide the lot for the creation of a new smaller dwelling, which the City urgently needs.”), 35 Wilder Street (“The granting of this variance will be beneficial to the City in that it could result in additional in-fill housing within an established neighborhood that is well served by transit.”), 2010-2012 Filbert Street (“Granting the variances would add one new residence to the Cites housing stock and would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.”).

¹²⁴ 1138 Treat Avenue.

¹²⁵ San Francisco General Plan, *Housing Element* (2014). 2285 and 2299 40th Avenue; see also 1138 Treat Avenue (“The proposal is consistent with Objective 12 of the Residence Element of the General Plan, which is to provide a quality living environment. Under this Objective, Policy 4 is to promote construction of well designed housing that conserves existing neighborhood character.”), 2285 and 2299 40th Avenue (“The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.”), 28 Sweeny Street (“The proposal is also consistent with the following Objectives and Policies of the General Plan, Objective 1, Policy 4 of the Residence Element to locate infill housing on appropriate sites in established neighborhoods, and Objective 12, Policy 4 of the Residence Element to promote construction of well designed housing that conserves existing neighborhood character.”), 2775 Diamond Street (“The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City: Policy 1-4: Locate in-fill housing on appropriate sites in established neighborhoods. Policy 2-1: Set allowable densities in established residential areas at levels, which will promote compatibility with prevailing neighborhood scale and character. Policy 12-4: Promote construction of well-designed housing that conserves existing neighborhood character.”).

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agreed to provide two off-street parking spaces with any proposed building for the property” and will replace any lost vehicle parking in the Existing Building with Class 1 Bicycle Parking spaces.¹²⁶

Additional Housing Stock. Applicant is proposing the addition of four additional units of housing, two of which are considered affordable options, and one would be rent-controlled. Overall, “[g]ranting this variance will add to the quality of the City’s housing stock by helping to retain the existing supply of housing while preserving the aesthetics and functionality of the subject property”¹²⁷ and “improve the supply of affordable housing.”¹²⁸

And in all variance decisions, the “eight priority-planning policies” codified in Planning Code Section 101.1 were relied upon when evaluating this criterion (in Section III).

¹²⁶ 740 Church Street.

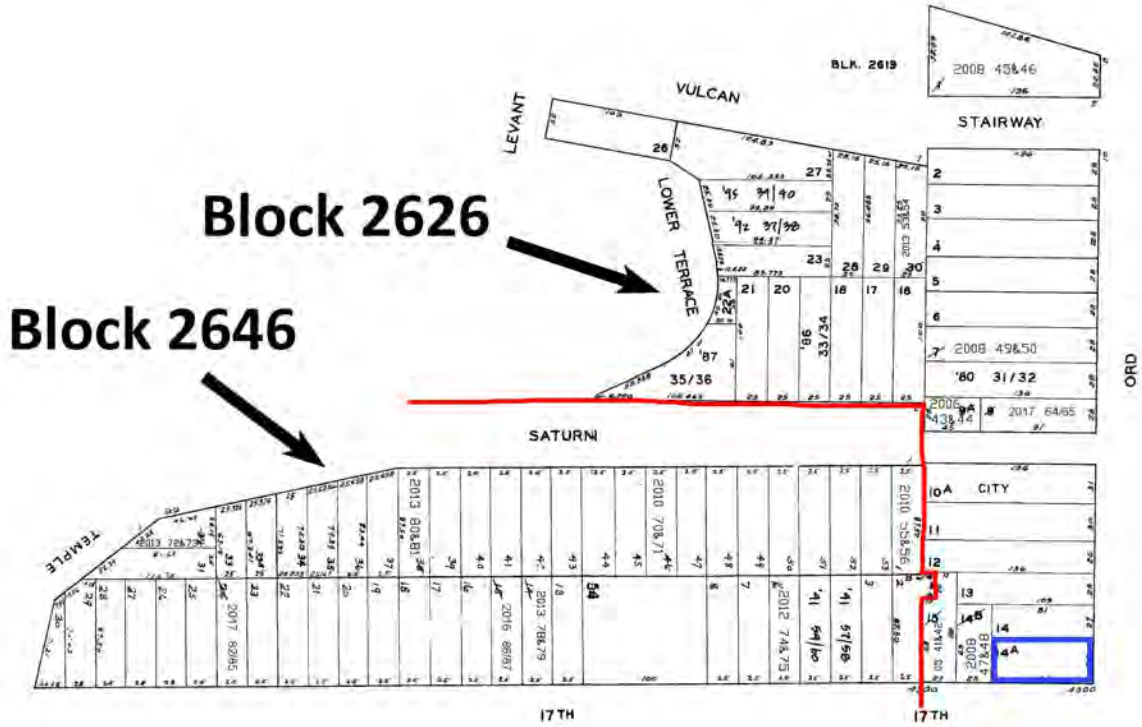
¹²⁷ 2255-2257 Pine Street; see also 740 Church Street (“The proposal would add one dwelling unit to the city’s [sic] housing stock.”), 1963-65 Oakdale Ave/ 1955 Oakdale Ave (“[A]llowing for the construction of three additional, smaller units will enhance the natural affordability for future residents.”).

¹²⁸ 1860 Lombard Street; see also 2686-2694 McAllister Street (“The project would maintain on the City’s supply of affordable housing by providing four new family-sized dwelling units, and would protect.”), 410 Hearst Avenue (“The proposed project will be relatively affordable, given the small floor area of the building.”); but see 1286-1298 Treat Avenue (“At the public hearing, many speakers voiced concern about the possible loss of affordable units and about the possibility of being displaced. The subdivision of a property of seven units into properties with four or fewer units enables the properties to be possibly divided into condominiums, where it would not be possible with the existing condition.”).

Exhibit List

- Exhibit A (Accessor Blocks 2626 and 2646)
- Exhibit B (Photographs of the Property and Surrounding Area)
- Exhibit C (Map and Addresses of Corner Lot Examples)
- Exhibit D (List of Sample Properties and Map)
- Exhibit E (Aerial View of Property Relative to the Midblock Space)
- Exhibit F (Panoramic of 17th Street Block Face)
- Exhibit G (Map of 14 Accessor Blocks Along 17th Street Corridor)
- Exhibit H (Maps and Addresses of Other Variance Examples)

Exhibit A (Accessor Blocks 2626 and 2646)



Subject Lot = []

Boundary between Blocks = []

Exhibit B - Photographs and Links to Video of the Property and Surrounding Area



Attachment in Support of Conditional Use Application - 4300 17th Street / Pluta



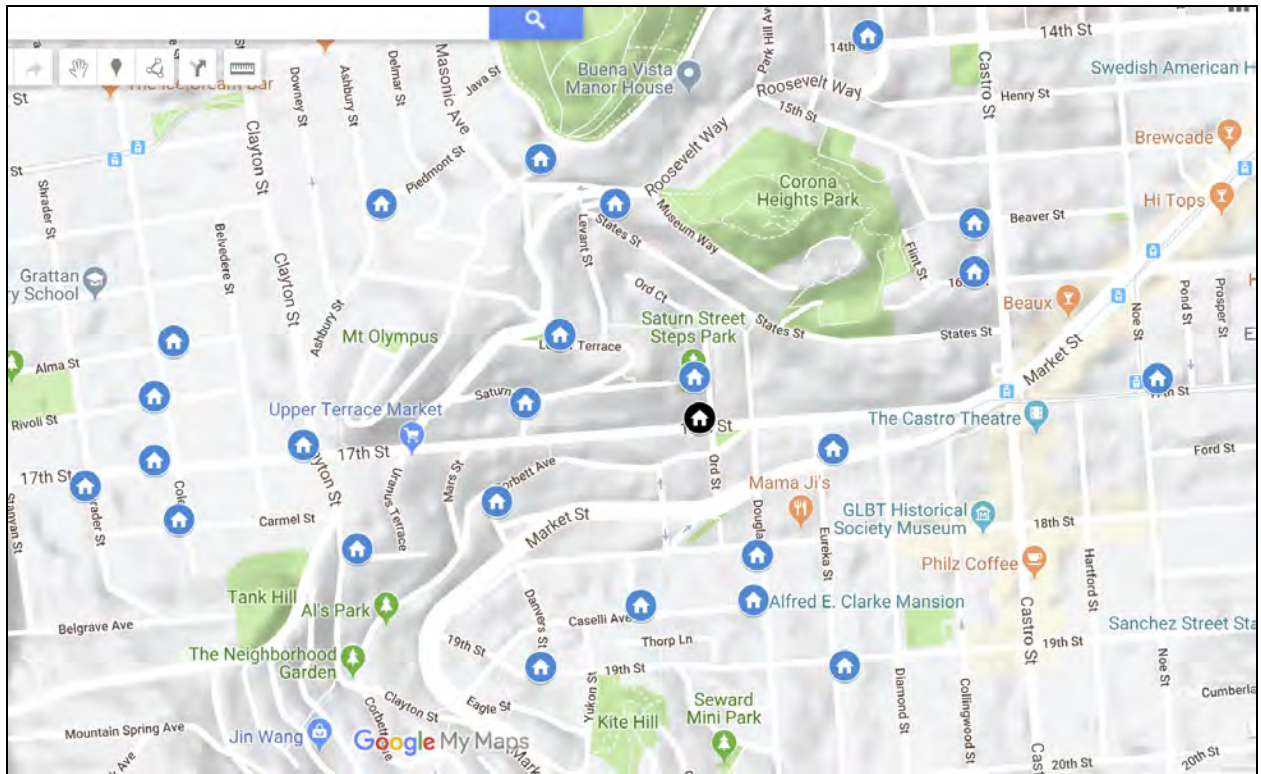
Attachment in Support of Conditional Use Application - 4300 17th Street / Pluta



Applicant uploaded drone video of the Property and surrounding area on YouTube:

- [Approach to 4300 17th Street from the South East](#)
- [Pan of Ord Street Block Face](#)
- [Pan of 17th Street Block Face](#)
- [View of Adjacent Neighbors on 17th Street with Height Perspective](#)

Exhibit C (Map and Addresses of Corner Lot Examples)



	<p>201 & 203 Eureka St.</p>	
<p>201 & 203 Eureka St.</p>	<p>3716-18 & 3700 16th St</p>	<p>1066-68 & 1070-72 14th St</p>

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<p>111 Beaver St. & 250 Castro St.</p>	<p>4812 17th St & 4800 17th St.</p>	<p>1 Saturn St. & 58-60 Ord St.</p>
<p>4903 & 4911 17th St</p>	<p>102 & 112 Carmel St.</p>	<p>1175 Clayton St. & 4614 17th St.</p>
<p>1154 Cole St & 56 Alma St.</p>	<p>930 Ashbury St. & 85 Piedmont St.</p>	<p>1290 Clayton St & 76 Deming St.</p>
<p>3894 17th St & 389 Noe St.</p>	<p>101 & 125 Saturn St.</p>	<p>122 & 100 Rivoli St.</p>

Attachment in Support of Conditional Use Application - 4300 17th Street / Pluta

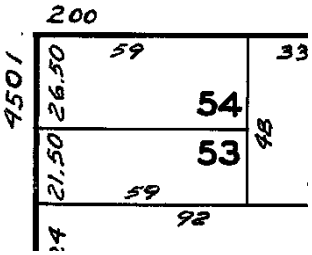
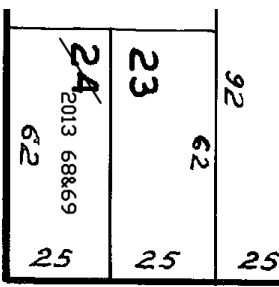
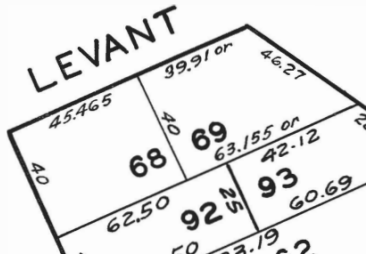
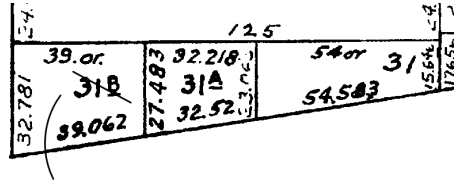
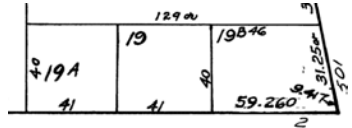
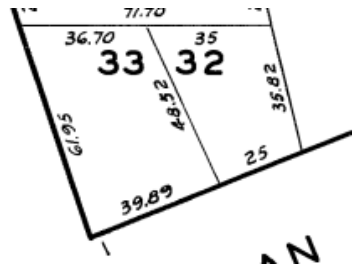
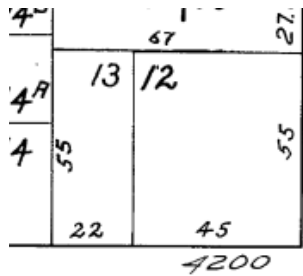
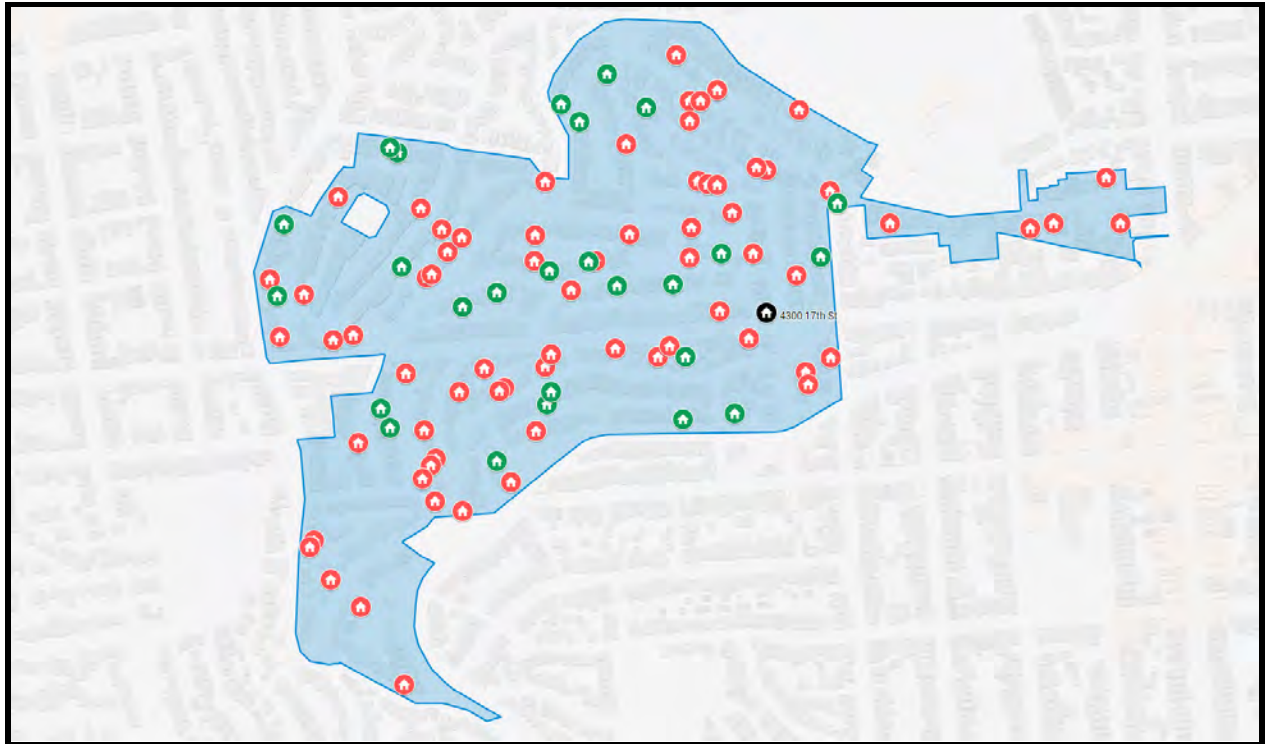
<p>477 Roosevelt Way & 180 Lower Terrace Way</p>	<p>222 Danvers St. & 4750 19th St.</p>	<p>246 Douglass St. & 20 Caselli Ave.</p>
		
<p>4501 & 4503 18th St.</p>	<p>90 & 96 Caselli Ave</p>	<p>333 Roosevelt Way & 288 States Street</p>
	 <p>TERRACE</p>	
<p>2650 & 2640 & 2630 Market St.</p>		<p>22 Upper Terrace & 24 Upper Terrace & 67 Buena Vista Ave W</p>
		
<p>5 Danvers St. & 249-253 Corbett Ave</p>	<p>4202 17th St. & 99 Ord St</p>	

Exhibit D (List of Sample Properties and Map)



Sampleset (n=100): 24 Levant St, 66 Levant St, 429 Roosevelt Way, 419 Roosevelt Way, 1474 Clayton St, 26 Vulcan Stairway, 50 Vulcan Stairway, 37 Levant St, 1 Douglass St, 44 Vulcan Stairway, 44 Ord Ct, 16 Ord Ct, 261 States St, 263 States St, 276 States St, 254 States St, 252 States St, 110 Museum Way, 120 Douglass St, 5 Douglass St, 65 States St, 25 States St, 85 States St, 85 States St, 163 States St, 71 Ord St, 66 Douglass St, 8 Saturn St, 22 Saturn St, 50 Ord St, 46 Lower Ter, 1 Vulcan Stairway, 80 Saturn St, 84 Saturn St, 112 Saturn St, 124 Saturn St, 121 Lower Ter, 183 Lower Ter, 20 Ord Ct, 520 Roosevelt Way, 550 Roosevelt Way, 552 Roosevelt Way, 245 Upper Ter, 4508 17th St, 4528 17th St, 534 Roosevelt Way, 223 Upper Ter, 232 Upper Ter, 1180 Clayton St, 1150 Clayton St, 1138 Clayton St, 1082 Ashbury St, 147 Clifford Ter, 155 Clifford Ter, 169 Saturn St, 137 Saturn St, 97 Saturn St, 69 Saturn St, 37 Saturn St, 4318 17th St, 56 Mars St, 123 Ord St, 1 Clifford Ter, 4347 17th St, 4381 17th St, 4351 17th St, 4307 17th St, 2805 Market St, 156 Corbett Ave, 210 Corbett Ave, 236 Corbett Ave, 242 Corbett Ave, 37 Mars St, 4411 17th St, 4441 17th St, 353 Upper Ter, 78 Mars St, 4311 17th St, 55 Uranus Ter, 37 Uranus Ter, 4485 17th St, 82 Mars St, 68 Uranus Ter, 3012 Market St, 3090 Market St, 225 Corbett Ave, 223 Corbett Ave, 31 Hattie St, 40 Danvers St, 315 Corbett Ave, 62 Danvers St, 368 Corbett Ave, 26 Deming St, 32 States St, 381 Corbett Ave, 308 Corbett Ave, 401 Upper Ter, 135 Ord St, 1320 Clayton St, 1316 Clayton St

Exhibit E (Aerial View of Property Relative to the Midblock Space)



Exhibit F (Panoramic of 17th Street Block Face)

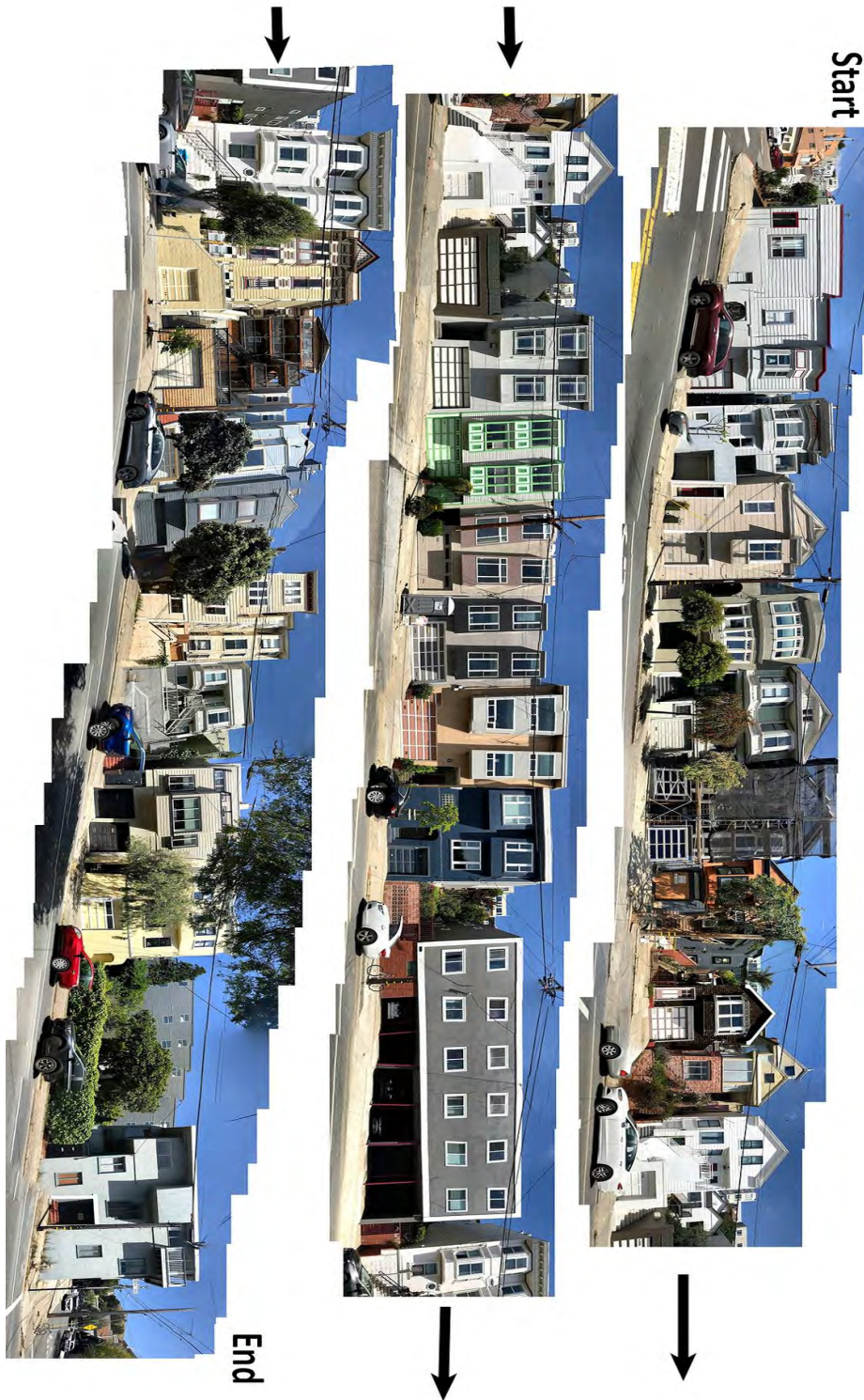


Exhibit G (Map of 14 Accessor Blocks Along 17th Street Corridor)

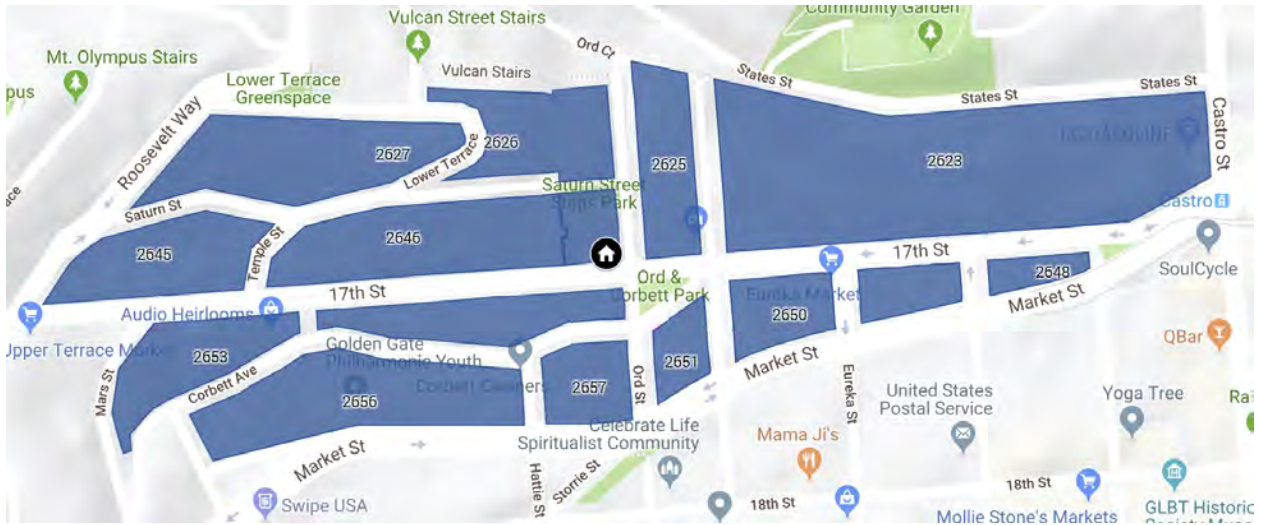


Exhibit H (Maps and Addresses of Other Variance Examples)

1. 122 Rivoli Street
2. 441 Burnett Avenue
3. 4822 19th Street
4. 570 Corbett Avenue
5. 5 Upper Terrace
6. 270 States Street
7. 4501 18th Street
8. 128 Eureka Street
9. 229 Douglass Street
10. 4134 19th Street
11. 3878 21st Street
12. 52 Alpine Terrace
13. 48 Douglass Street
14. 70 Douglass Street

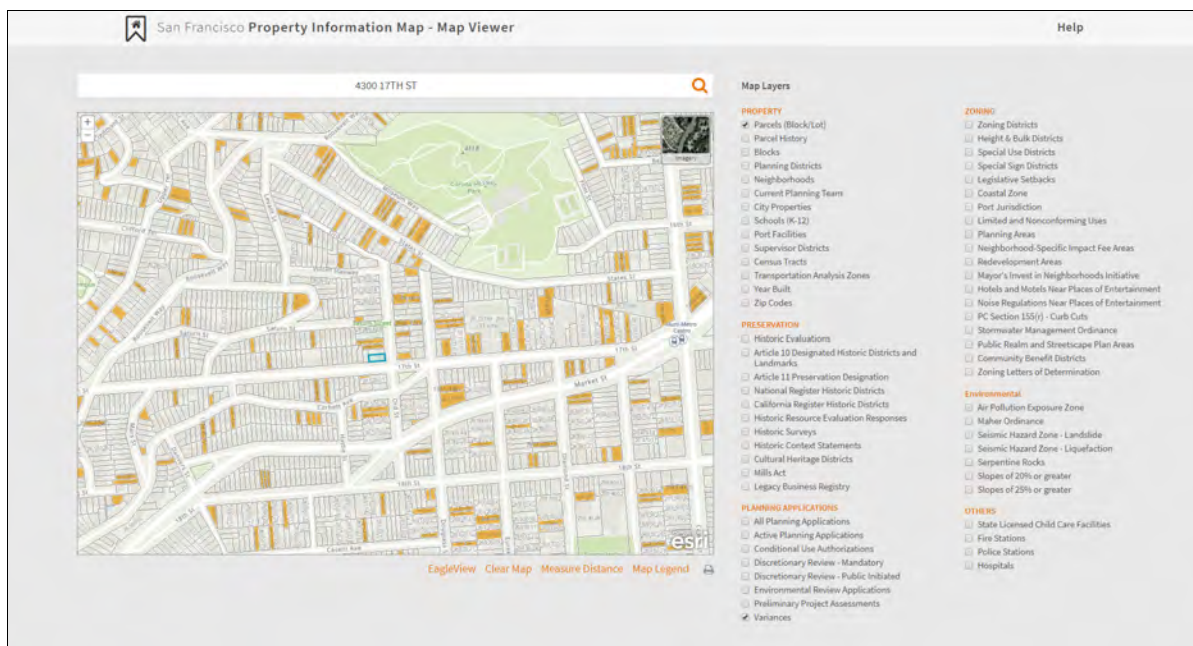
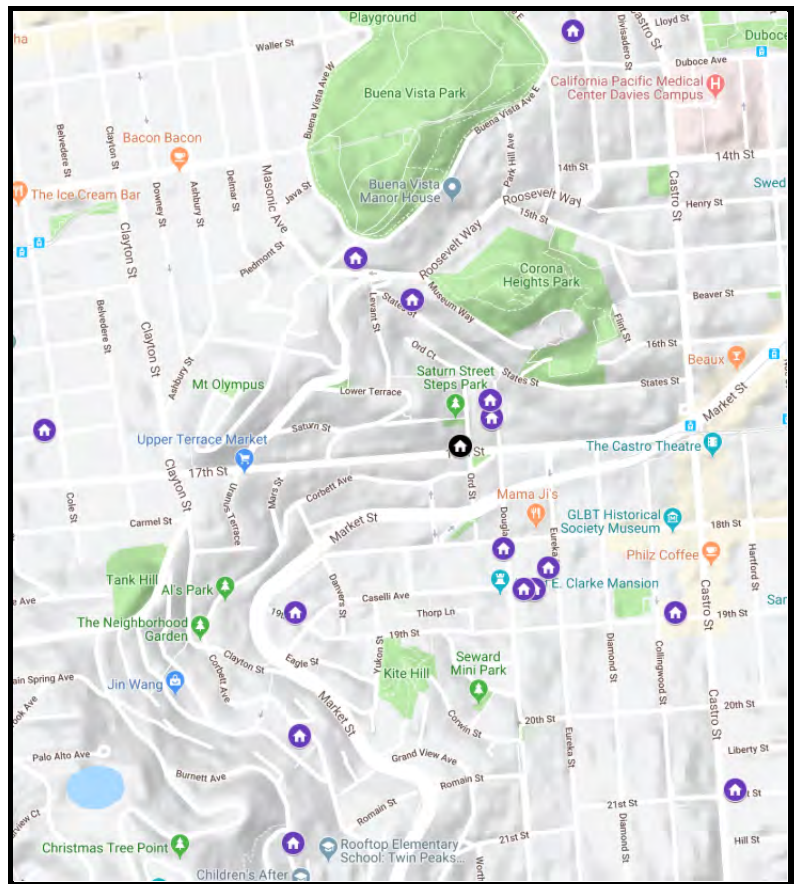


EXHIBIT B



November 19, 2020 | Homeowner and Project Sponsor - Scott Pluta



SEC. 305. Variances

- 92 applications (or 82.9%) were granted outright and 19 were denied. Of the 19 that were denied, 10 were appealed, two were upheld, one was withdrawn, and seven were overturned (and granted) on appeal. Including successful appeals, therefore, **99 of 111 (or 89.2%) lot subdivision variance applications were granted.**
- Of the 12 applications that were denied, the vast majority (9) were largely due to the loss of housing generally and rent-controlled housing specifically, one involved illegal housing, and two proposed lot patterns drastically inconsistent with the surrounding areas.
- Of the 99 applications that were granted variances from all three of Code Sections 121 (lot size), 134 (rear yard setback), and 135 (open space), **30 of 35 (or 86%) were granted.**
- Of the 99 applications that were granted, 44 were “through” lots but most (56%) were not; **24 were corner lots**, 25 mid-block rectangles, 3 L-shaped lots, and 3 mid-block polygons. **And 75% of all corner lot applications were successful.**
- Of the 99 applications that were granted, 92% of severed lots had non conforming rear yard setbacks, one half were 33% or less conforming, **and one in four had no rear yard setback at all.**
- The proposed lots for this project (both 1,458 sqft) would put them in the **65th percentile of post-subdivided lots.**
- Of the 99 applications that were granted, 32 proposed additional units of housing. Among those where data is available (28), **22 (or 79%) resulted in densification above that permitted by the zoning of the original lot.**
- Of the 95 variances that were granted in the analysis, for those properties where data is available (92) the median amount of time between filing the variance and the previous sale of the associated property was only two years (the shortest being a mere 11 days). **All 95 successful applicants were granted a variance for Code sections that were in place before they purchased their respective properties.**
- Of the 99 applications that were granted, **not a single one has ever added any affordable housing.**

SEC. 249.77.

Corona Heights large residence special use district:

According to the text of the Special Use District ordinance: “[i]n acting on any application for Conditional Use authorization within the Corona Heights Large Residence Special Use District, the Commission shall consider the Conditional Use authorization requirements set forth in Subsection 303(c) and, in addition, shall consider whether facts are presented to establish, based on the record before the Commission, one or more of the following:”

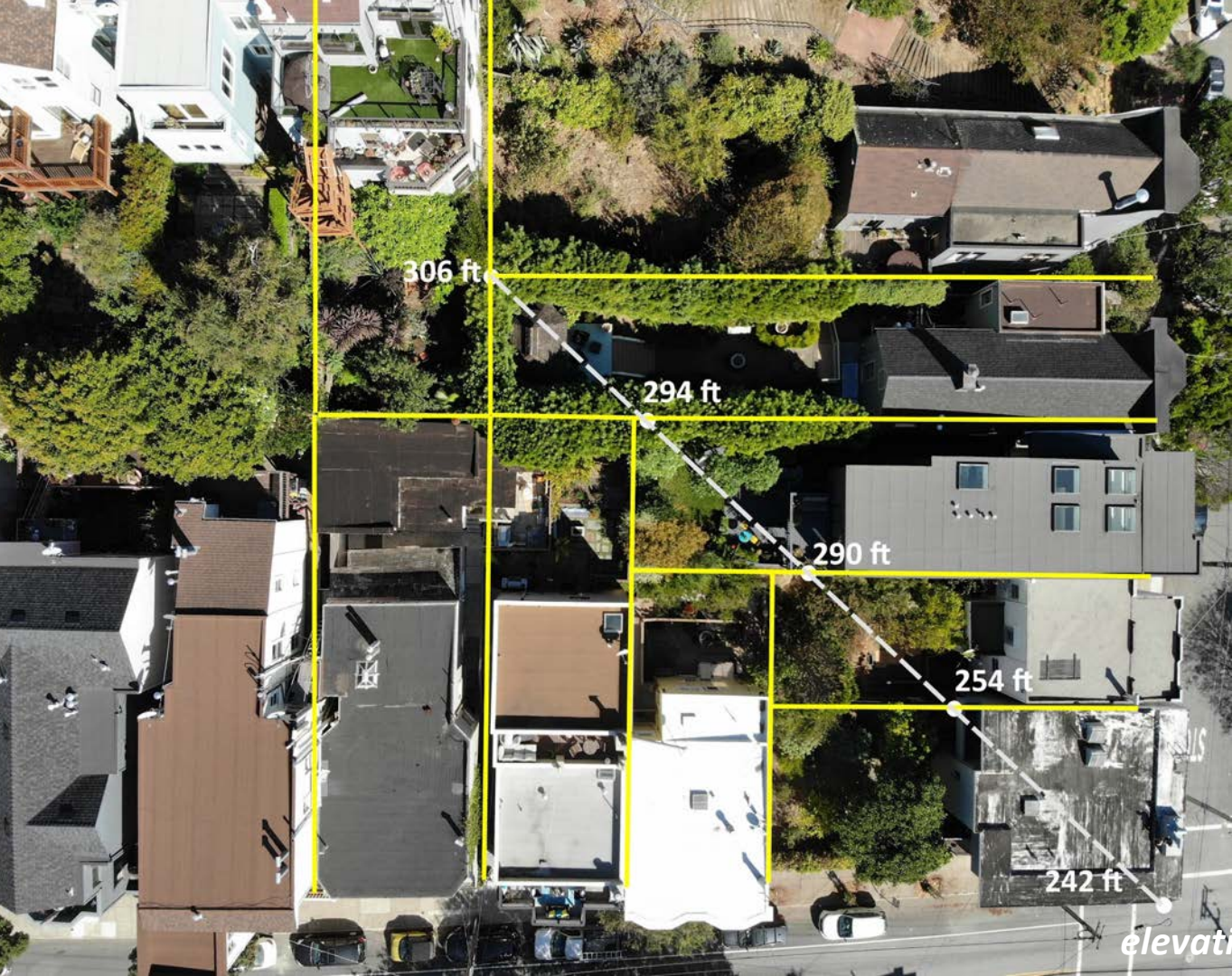
- a. **The Proposed Project Promotes Housing Affordability By Increasing Housing Supply**
- b. The Proposed Project Maintains Affordability of Any Existing Housing Unit; or
- c. The Proposed Project is Compatible With Existing Development

SEC. 303(c)

Conditional Uses

After its hearing on the application, or upon the recommendation of the Director of Planning that no hearing is required, the Planning Commission shall approve the application and authorize a Conditional Use if the facts presented are such to establish that:

- a. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is **necessary** or desirable for, and **compatible** with, the neighborhood or the community.
- b. Such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
- c. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan
- d. Such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District



Cut off from the Mid-block Space

1111-1133 Green Street (“The purpose of Section 134 of the Planning Code is to maintain a midblock corridor. However, the courtyard is surrounded by the subject building on the west side and the adjacent building on the east side. As a result, there is no well-defined pattern of mid-block open space adjacent to the courtyard.”)

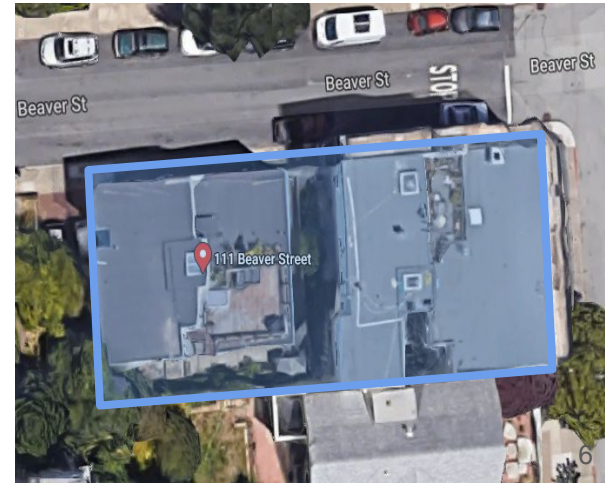
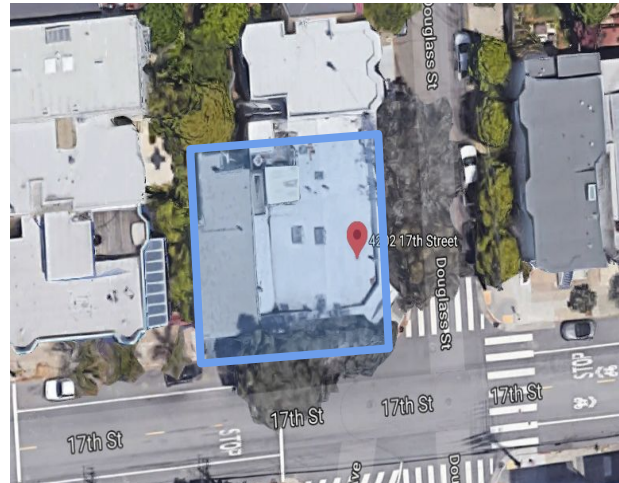
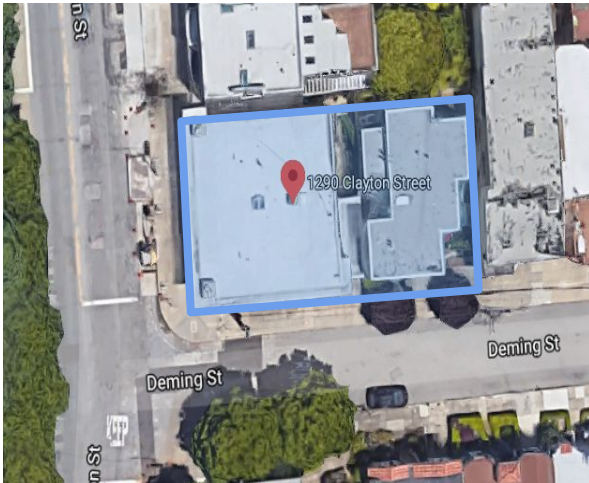
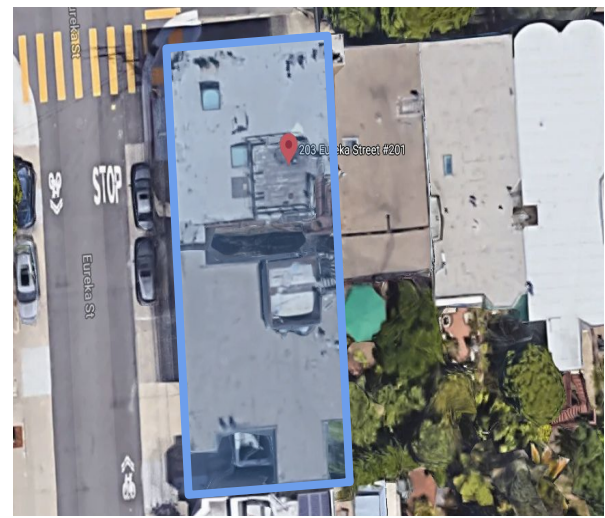
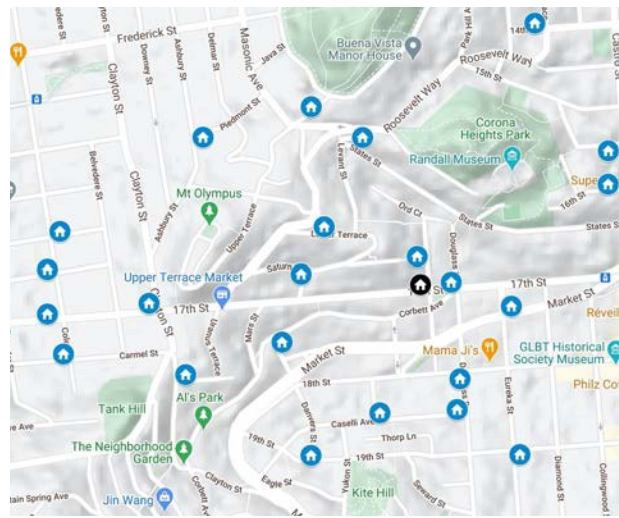
47 - 75 Topaz Way (“The intent of the rear yard requirement is to preserve mid-block open areas.”),

1542-1544 Vallejo Street and 39-41 Bonita Terrace (“[I]ntent of the rear yard requirement is to preserve the mid-block pattern of open areas.”),

1155-1157 Treat Avenue & 54 Balmy Street (“Granting the rear yard variance will not affect the mid-block open space.”).

799 Castro Street & 3878-3880 21st Street (“The two adjacent properties to the east are developed deep into their lots, which along with the existing rear building on the subject property, effectively cuts off the subject property from the block's mid-block open space”). (emphasis added)

Typical Corner Lot Massing in Corona Heights



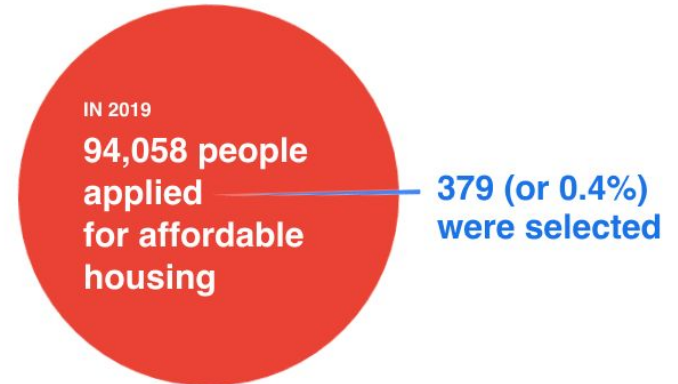
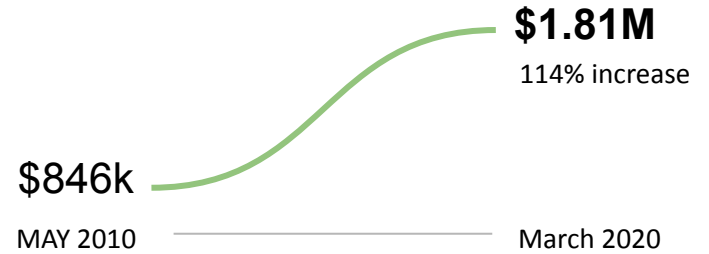
Misconception	Fact
That I am a Developer	I am not a developer.
That I should only build the two affordable housing units	An affordable housing-only project is not financially feasible and no bank would ever lend me the money to do it.
This is a get-rich-quick scheme	I'm happy to walk through the numbers, but building 50% affordable housing projects is not a get-rich-quick scheme.
That I don't actually care about affordable housing	From the very beginning this project had two "naturally affordable" ADU units and once I learned about BMR housing (in February 2020) I began the process of designating both units as deed restricted BMR units.
That I just barged ahead without regard to my neighbors or the Planning Department	I have met with countless members of the community and been actively engaged with the City for 18 months trying to find a middle path to building housing.
That I am building a "mammoth 5,000 square foot building"	The proposed new building has 2,892 square feet of living area spread out across three units.
That I am building a "two-level luxury penthouse condominium" for myself	When I first conceived of this project, I envisioned moving into the upper unit in the new building. This is no longer the case.

In the last 7 years

-23 units

Not a single unit of the City's 22,797 affordable housing units is located in Corona Heights.

Median home price in Corona Heights







November 18, 2021 | Homeowner and Project Sponsor - Scott Pluta



Planning Commission Hearing

November 19, 2020



“

Work with the department to develop a scale and building typology here that does add density without maybe some of the negatives that this project brings.

- Commissioner Tanner



“

Work out a project that indeed meets broad objectives of densification, affordability, social racial equity, but also something that is approvable under the code constraints and compliance rules that we have.

- Commissioner Moore



“

I am also okay if the developer wants to continue to work with the Department to come up with a project that is more code compliant, retains open space, and tries to expand the density in a way that doesn't require the significant number of variances.

- Commissioner Diamond

Original Design



Revised Design



4 floors (new building)

5 (§§ 121, 134, 135)

3.75' on the east side

5,042 sqft new building, 3,410 sqft existing building

4 (2 new building, 1 existing building)

4 (3 new building, 1 existing building)
2 (1 new building, 1 existing building)

Floors

Variances

Setbacks

Gross Sqft

Parking

Total Units
BMR Units

3 floors (new building)

3 (§§ 121, 134)

5' on western 1st floor + **12 feet in the rear (2nd/3rd floor)**

3,128 sqft new building, 3,410 sqft existing building

2 (0 new building, 1 existing building)

3 (2 new building, 1 existing building)
1 (existing building)

Corona Heights over the last 10 years

+20% Population increase (7,463 residents)

+79% Increase median household income

- 28 Decrease housing units

-222 Decrease rental units

+114% Increase in medium home value (\$1.81m)

+53% Increase in median rent (+\$851)

-35% Decrease in Black population

-36% Decrease in Latinx population)

0

Units of
affordable
housing



Option A
Revised Design

Option B
Detached ADU via State Law

Variances,
Conditional Use Authorization,
CEQA Environmental Review,
Neighborhood Notice
Robust Appeals

Process

Ministerial Process (60-day review),
No CEQA Environmental Review,
No Discretionary Review,
No Residential Design Guidelines,
No Neighborhood Notice

2 *Missing Middle* Market Rate Units,
1 *Below Market Rate* (BMR) Unit

Units

1 Market Rate Unit

1,129 Qualifying Open Space

Open Space

0 sqft Qualifying Open Space



EXHIBIT C



Scott Pluta <scott.pluta@gmail.com>

project intake request - 4300 17th Street

Scott Pluta <scott.pluta@gmail.com>

Fri, Nov 1, 2019 at 9:16 AM

To: CPC.Intake@sfgov.org

Cc: Craig O'Connell <Craig@craig-oconnell.com>

Good morning,

I would like to submit a project, documentation for which can be found [in this google drive](#), for intake at the Department of Planning.

I am a little unsure of process. I think all required documentation is included i the drive, save the associated fees and none of the shared applications are signed (I can do that when needed). My assumption is that the next step is for me come into the Department of Planning Office for an official intake appointment in which hard copies can be provided, fees paid, etc. though like I said I'm not quite sure.

Thank you!

Scott



RE: 4300 17th Street (2019-013808PRJ)

6 messages

Scott Pluta <scott.pluta@gmail.com>

Mon, Nov 16, 2020 at 10:44 AM

To: corey.teague@sfgov.org

Cc: joel.koppel@sfgov.org, kathrin.moore@sfgov.org, deland.chan@sfgov.org, sue.diamond@sfgov.org, frank.fung@sfgov.org, theresa.imperial@sfgov.org, Rachael.Tanner@sfgov.org, "Hillis, Rich (CPC)" <rich.hillis@sfgov.org>, "Horn, Jeffrey (CPC)" <jeffrey.horn@sfgov.org>

Bcc: "Hayward, Boe (boe@lh-pa.com)" <boe@lh-pa.com>

Zoning Administrator Teague,

I was hoping to share with you some additional context regarding the above [mixed-affordable housing project](#) that will be before you this Thursday, November 19, 2020.

I am not a developer (just a homeowner) so this is all very new to me. And because of that I had to do a lot of homework before deciding to undertake this project. Among other things, I studied the *San Francisco General Plan Housing Element*, the San Francisco Planning Code, and the variance decision letters for each and every lot subdivision variance application for the last 20 years. I wanted to share with you in brief my thinking in the hope that it will provide a more complete picture as to why I believe this project is worthy of the exceptions to the Planning Code I am seeking.

Policy 10.1 of the *General Plan* states:

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations. The ultimate goal of a 'certain' development entitlement process is to create greater transparency and accountability in the process for all parties, empowering both the public and developers.

This policy made a lot of sense to me, not only as a former attorney who used to rely heavily on case law precedent to make legal arguments, but also from the perspective of providing some level of predictability to those considering the very time consuming and expensive process of building new housing in San Francisco.

To understand what the "consistent application" of entitlements looked like, I researched what you and former Zoning Administrators [and Board of Appeals] had previously granted. Through public records requests I obtained and analyzed the last 20 years - 111 applications in all - of decision precedent. The following represents a handful of the top line precedent I was able to ascertain that was directly relevant to my project:

- 92 applications (or 82.9%) were granted outright and 19 were denied. Of the 19 that were denied, 10 were appealed, two were upheld, one was withdrawn, and seven were overturned (and granted) on appeal. Including successful appeals, therefore, **99 of 111 (or 89.2%) lot subdivision variance applications were granted.**
- Of the 12 applications that were denied, the vast majority (9) were largely due to the loss of housing generally and rent-controlled housing specifically, one involved illegal housing, and two proposed lot patterns drastically inconsistent with the surrounding areas.
- Of the 99 applications that were granted variances from all three of Code Sections 121 (lot size), 134 (rear yard setback), and 135 (open space), **30 of 35 (or 86%) were granted.**

- Of the 99 applications that were granted, 44 were “through” lots but most (56%) were not; **24 were corner lots**, 25 mid-block rectangles, 3 L-shaped lots, and 3 mid-block polygons. **And 75% of all corner lot applications were successful.**
- Of the 99 applications that were granted, 92% of severed lots had non conforming rear yard setbacks, one half were 33% or less conforming, **and one in four had no rear yard setback at all.**
- The proposed lots for this project (both 1,458 sqft) would put them in the **65th percentile of post-subdivided lots.**
- Of the 99 applications that were granted, 32 proposed additional units of housing. Among those where data is available (28), **22 (or 79%) resulted in densification above that permitted by the zoning of the original lot.** (fn1)
- Of the 99 applications that were granted, **not a single one** has ever added one, let alone two, units of BMR affordable housing.

After reviewing this data it felt as though my project would be squarely consistent with all previous successful lot subdivision applications.

Putting my lawyer hat back on, I then dug deeply into the Section of the Planning Code that allows for variance. Again, when I compared the language of Section 305 and the textual reasoning of the 111 variance decision letters to what I was proposing to do, it felt as though my project was in line with both. Specifically and briefly examining each of the criteria of Section 305(c) individually here (and in much greater detail in the attached memo):

1. Exceptional or Extraordinary Circumstances. The Subject Lot is currently inconsistent with the surrounding area (break in the block face with vacant land on the public right of way, excessive lot frontage and square footage) and the Proposed Lots would be wholly consistent with other lots in the neighborhood (lot size, shape, and patten, and consistent with other variance-related lot subdivisions).
2. Practical difficulty or unnecessary hardship. In the immediate surrounding neighborhood, there are numerous examples of smaller lots, similar development, and similar variances having been granted. (fn2)
3. Enjoyment of a Substantial Property Right. Past variance decisions have focused on the existence of similarly small lots, similar subdivisions, and similarly non-conforming lots, all of which are numerous in the immediate neighborhood. For example, the vast majority of lots in the two contiguous Assessor Blocks (87) are currently non-conforming in lot size and or rear yards.
4. Not be Materially Detrimental to the Public Welfare. Based on a review of past variance decisions, if the proposed development is “consistent with other properties” in the area, it was deemed *per se* not materially detrimental or injurious to the property in the vicinity, which as represented in Nos. 1-3 above, this project as proposed is consistent with the surrounding area.
5. Harmony with the General Purpose and Intent of this Code and will not adversely affect the Master Plan. The project is not only consistent with but advances at least 22 important Objectives and Policies of the General Plan with emphasis on housing and specifically permanently affordable housing.

I respect that it is within your discretion to deny my entitlement applications. I also fully acknowledge that I am asking for exceptions to the Planning Code and the grant of such is a privilege. And, in speaking with affordable

housing advocacy groups around the City, the general consensus is that small scale, infill projects like this - that require some flexibility with the Planning Code - is the only near term path to adding affordable housing in the parts of San Francisco like mine where none exists today.

My hope is that you will conclude as I did that (1) my project is consistent with those variance applications that have been granted in the past, and (2) that the mission of this project - to add housing and specifically to add BMR affordable housing units to the City's housing stock - supports a strong equitable justification for being granted.

I would very much appreciate the opportunity to discuss my project in more detail with you ahead of this week's hearing. It will be a challenge in only five minutes on Thursday to fully present my project; I would welcome the opportunity to more comprehensively discuss it with you with the luxury of additional time. Please let me know if you have the time to meet this week and I will clear my calendar to make myself available.

Respectfully,

Scott Pluta

4300 17th Street
San Francisco, CA 94114
scott.pluta@gmail.com
202-360-2289

Cc:

Department of Planning, Senior Planner Jeff Horn
Department of Planning, Director Rich Hillis
Department of Planning, Planning Commissions

Enclosure

-
1. This application is consistent with the requirements of S.F. Code [§ 305\(a\)](#), ("No variance shall be granted in whole or in part which would have an effect substantially equivalent to a reclassification of property...").
 2. The second criteria also requires that the "unnecessary hardship not [be] created by or attributable to the applicant or the owner of the property." One of my neighbors suggested to him that since Applicant bought the Property with current Code requirements in place, he may be ineligible for a variance. I researched this issue and learned that even though I only recently purchased the property (May 10, 2019), this fact does not make me unique among other applicants of granted variances. Of the 95 variances that were granted in the analysis, for those properties where data is available (92) **the median amount of time between filing the variance and the previous sale of the associated property was only two years (the shortest being a mere 11 days)**. All 95 successful applicants were granted a variance for Code sections that were in place when they purchased their respective properties.

2 attachments



Communication to ZA Teague re 4300 17th 11162020.pdf
83K



Combined Memo in Support of Entitlement Applications - 4300 17th Street - Pluta.pdf
13074K

PUBLIC COMMENT



Brief in Opposition to Appeal No. 21-109

To: City and County of San Francisco Board of Appeals (boardofappeals@sfgov.org)

From: Corbett Heights Neighbors (info@corbettneighbors.com)
Paul A. Allen, Corbett Heights Neighbors Secretary (sfcapaul@mac.com)
William Holtzman, Corbett Heights Neighbors President (wmmia@icoud.com)

Re: Appeal No. 21-109, Pluta v. ZA; Denial of a Variance
Hearing Date January 12, 2022; Case No.2019-013808VAR

Date: January 4, 2022

Statement of Interest

Corona Heights Neighbors (“CHN”) is an 18 year old neighborhood association in the Corona Heights neighborhood. The development implicated in this appeal is within CHN’s boundaries.¹

Executive Summary

This is not a close case; the appeal should be summarily denied.

One. Procedurally, over almost three years of meetings with Planning Department staff, two Planning Commission hearings, and abundant if disingenuous

¹CHN has filed numerous memoranda with the Planning Commission in opposition to Appellant’s project. CHN was also instrumental years ago advocating for the Corona Heights Large Residence Special Use District code provision (“Corona Heights SUD”) that requires a conditional use authorization in connection with lot size, Sec. 249.77(d)(1), and 45% rear yard/set back, Sec. 249.77(d)(4), for Appellant’s project. These CUAs were denied by the Planning Commission at its hearing of November 19, 2021 and are discussed beginning at p. 5.

marketing, Appellant has benefited from unquestioned due process and been afforded ample opportunity to propose a code compliant project. Appellant has failed to do so.

Two. On the merits, Appellant's project manifestly does not meet the standard for the grant of the two zoning variances requested, lot size (Sec. 121) and rear yard (Sec. 134). Understandably omitted from Appellant's brief is that, for the same reasons implicated in the need for the two zoning variances, the project also requires two conditional use authorizations ("CUAs") pursuant to the Corona Heights SUD (p.1, fn. 1), one CUA for gross floor area and the other for the same 45% rear yard/set back standard at issue in this appeal. At its November 18, 2021 hearing less than three months ago the Planning Commission denied the CUAs, with several Commissioners criticizing proposed "full lot coverage" and Appellant's apparent attempt to use variances "to get around the Planning Code." In this context, there is no basis on the merits to reject or modify the Zoning Administrator's decision.

Three. Confirming the project's cavalier disregard for Code and neighbors alike, at the November 18, 2021 Planning Commission hearing on this matter there was *not one* proponent other than the sponsor; yet there were more than 20 speakers in opposition and more than 200 letters filed in opposition.

Four. For 33 months, and most recently in its December 22, 2021 brief, Appellant has extolled, indeed marketed, his project as one of "below market rate," "affordable," and/or "mixed-affordable" housing. The affordable housing claim has been specious from the start but finally was relegated to its proper place by the Zoning Administrator's Variance Decision that the project "... will have no effect on the City's

supply of affordable housing.”² Still, the assertion lingers stubbornly in Appellant’s brief to this Board and has been continually proffered as absolution for the project’s disregard for Code, neighbors, and neighborhood, so we address it on p. 8.

For the foregoing reasons, the appeal should be summarily denied.

Discussion

I. For More Than 33 Months Appellant has Benefited From Unquestioned Due Process and Has Been Afforded Ample Opportunity to Propose a Code Compliant Project. Appellant Has Failed To Do So.

To the Appellant, a 33 month-and-counting promotion of substantially the same project in the face of a whirlwind of opposition from Planning Department Staff, the Planning Commission, and neighbors alike no doubt reflects perseverance; to us, perversity.

The 2021 version of Appellant’s project is correctly summarized in the Board’s hearing notice mailed to neighbors: Subdivision of an existing 2,916 square foot corner lot; the addition of an ADU to the extant building; and the construction of a new 3,128 square foot, two unit building on the newly severed lot. At issue here is the denial of zoning variances for lot size and the 45% rear yard/set back requirement. But Appellant’s project would also need conditional use authorizations for lot size (Sec. 249.77(d)(1)) and the 45% rear yard/set back requirement (Sec. 249.77(d)(4)) pursuant to the Corona Heights SUD. These CUAs were denied by the Planning Commission in late November, as we discuss beginning at page 5 below.

At least in so far as relevant Code provisions are concerned, the project has not materially changed over almost three years. Public records reveal that an informational

² Variance Decision, December 9, 2021, at p. 5.

meeting with Planning Department staff was held August 9, 2019.³ The project was touted as one of “mixed affordable housing” (more on that at page 8 below), a promotional website prepared, and more meetings held (though none with neighbors). Three months later, Appellant’s November 2, 2019 pre-application packet proposed a project that would have required multiple zoning variances, multiple conditional use authorizations, and reprieve from the Residential Design Guidelines.⁴ Planning Staff objected to the project as so designed.

Then on April 27, 2020 Planning staff issued its Check Letter in which it opposed the project because of its “intensity of non-compliance” and inconsistency with the Residential Design Guidelines, urged that it be re-designed, and offered to work with Appellant to prepare a code conforming project.⁵ Four months later on August 20, 2020 sponsor submitted its Final Plans to the Department. Significantly, there is nothing in that document, nor in so far as we have been able to determine in any sponsor document or on the Planning Department website, that suggests the project was modified in any way to account for staff’s objections.

At the November 19, 2020 Planning Commission hearing the Commission tacitly endorsed the Department’s denial recommendation, sending the matter back for sponsor-Department consultation. The Department’s Executive Summary Conditional Use/Variance memo dated November 19, 2020 that was reviewed by the Commission is replete with descriptions of the extraordinary scope of non compliance and the

³ 2019-013456PRV Project Review Meeting. Planning Department website.

⁴ See San Francisco Planning, Pre-Application Meeting Packet, November 2, 2019.

⁵ Plan Check Letter, April 27, 2020 at page 2, highlight added. Exhibit A, attached.

consequent detriment to neighbors and neighborhood alike. It is attached as Exhibit B; highlights added.

Was the project thereafter redesigned, to paraphrase the Planning Department, to a less intense scale and in a manner consistent with residential design guidelines? In a word, no.⁶ Immediately below we address the substantive merits of Appellant's argument, but the foregoing history is important because it reveals that over the course of 33 months Appellant has benefited from unquestioned due process and been afforded every opportunity to propose a code conforming project that was less detrimental to neighbors and neighborhood alike. Appellant chose not to do so.

II. On the Merits, the Project Manifestly does not meet the Standards for the Grant of The Zoning Variances; and the Planning Commission has Already Denied Relevant Conditional Use Authorizations.

We defer to the City Attorney's Office to address Appellant's substantive claims of error by the Zoning Administrator, e.g. the application of Sec. 305(c), subdivision lot precedent, the General Plan, and the Housing Accountability Act.

While the size of the new, second building has been reduced and the second and third floors somewhat set back, the project's essential defect remains: the first floor footprint of the building would occupy virtually the entirety of the new lot, thereby contravening the 45% rear yard/set back standard. This is "full lot coverage." As the Variance Decision correctly notes:

Granting the variance would result in a 3 to 4-story building mass covering almost the entire lot, leaving no rear yard and impacting the adjacent building at 9 Ord Street. Variance Decision at p. 4.

⁶ The revised plans are dated May 21, 2021 and can be found as Exhibit A to the Zoning Administrator's Variance Decision that you have before you.

Although we acknowledge that the November 18, 2021 Planning Commission decision involving this Appellant, similar facts, and similar code provisions is not a part of this appeal, we bring to the Board's attention that the Planning Commission by a vote of 4-2, one absentee, voted to disapprove the project precisely because of, *inter alia*, impermissible "full lot coverage." Commissioner Diamond declared that the project "...doesn't come close to being a code compliant project as it completely fills the backyard of the lot being created...I don't think we should get there [adding density on corner lots] on a property by property basis using variances to try to get around the Planning Code." Commission Vice-President Moore seconded those comments: "Commissioner Diamond, you couldn't have said it better. Thank you and I support and echo every comment you made." Commissioner Imperial then added, "I too will not support this project for the reasons Commissioner Diamond and Moore have stated already."⁷

In short, while we defer to the City Attorney's Office in defending the Zoning Administrator's Decision, surely it is of more than passing interest that for reasons stated by the above quoted Commissioners, the Planning Commission rejected the

⁷ See Exhibit C at pages 15-17. That Exhibit contains the entirety of the Planning Commission transcript for that part of the hearing that addressed the 4300 17th Street Project. The pages prior to 15-17 contain the Appellant's presentation, which is followed by pages of testimony from opponents. As previously noted and this transcript reveals, Appellant was the only person who testified in favor of the project. Although the computer generated transcript is garbled in parts, a careful reading will confirm that the first quotes, in text, are from Commissioner Diamond.

CUAs in connection with lot size and the 45% rear yard/set back requirement, both of which are implicated in the Zoning Administrator's Decision.⁸

III. Confirming the Near Universal Disapproval of the Appellant's Proposed Project, Not One Speaker Supported it at the Commission Hearing on November 18, 2021.

At the Planning Commission's remote hearing that began at 1:00 pm, more than 20 neighbors waited for hours to voice their opposition to the grant of variances and conditional use authorizations;⁹ the Planning Department documents more than 130 letters in opposition although CHN's President confirms the number exceeds 200;¹⁰ and a graphic submitted to the Planning Commission visually depicted the location of many of the neighbors who submitted letters of opposition.¹¹ The speakers were persuasive as they described the importance of the 45% rear yard/set back standard, the need to protect neighbors' access to light and air, the unreasonable scale of the

⁸ Appellant's December 16, 2021 notice of appeal to this Board identifies five summary bases of appeal, one of which is the Administrator's purported failure to "respect the Planning Department's recommendation of approval." Because that basis appears nowhere in Appellant's brief we do not address it in text above. Nonetheless, we make three points. First, because the Planning Department released its recommendation *after* public comments were due for the originally scheduled October 2021 meeting on this project, CHN did not respond in writing to the Department's puzzling change of position. Second, in an oral statement at the November hearing a CHN representative criticized the Department's 180 degree pirouette from its prior position opposing the project on substantially the same facts; worse, the Department offered no explanation or articulated any principle, simply an *ex cathedra* pronouncement that it is so. Third, the Department's own draft Motion for the Commission at the November hearing contained the conclusion of the Residential Design Team condemning the project as "detrimental to subject properties and adjacent block." Planning Commission Draft Motion, November 18, 2021 at pp. 9-10. The November 2021 Executive Summary and Draft Motion are here: <https://commissions.sfplanning.org/cpcpackets/2019-013808CUAVAR.pdf>

⁹ See Exhibit C.

¹⁰ Executive Summary Conditional Use/Variance, 4300 17th St., October 14, 2021 at p. 2-3 for the 130 number. The Department apparently ceased itemizing the letters in opposition after the rescheduled October hearing; hence, the larger number does not appear in their report.

¹¹ See Exhibit D.

project, and of course the myth that the proposed project is all about affordable housing, a subject to which we now turn.

IV. For 33 Months, Appellant's Project has been Marketed as One of "Affordable Housing." It is Nothing of the Sort.

The Zoning Administrator's December 9, 2021 Variance Decision dealt a fatal blow to the 33 month Myth of "affordable housing" that has enveloped Appellant's project as fog obscures the Bay Bridge on a typical late summer evening. Wrote the Zoning Administrator: "3. The Proposed project will have no effect on the City's supply of affordable housing." Variance Decision, p. 4. To which we can only add: Indeed.

Appellant's "affordable housing" myth is of more than passing interest: since the first Application in November 2019, throughout 2020, in Appellant's May 2021 Application, on Appellant's three year old website,¹² in media interviews,¹³ in Appellant's testimony (twice) to the Planning Commission, and now in his December 22, 2021 brief,¹⁴ the seduction of "affordable housing" has been central to the marketing plan.

But it is mostly a mirage: the project at issue would call for one ADU in the extant building and 2 large units in the new building planned for the newly severed lot. While it is true that city nomenclature characterizes an ADU as inherently "affordable," the 2 units in the new 3128 square foot building will be market rate. Further, there is no legally enforceable obligation to maintain the 2 new units as "affordable," to ensure

¹² <https://430017th.com>

¹³ <https://www.sfchronicle.com/sf/bayarea/heatherknight/article/One-housing-project-has-turned-into-an-epic-San-16417714.php>

¹⁴ "I implore the Board of Appeals to rescue this mixed-affordable housing project..." Brief of Appellant Scott Pluta, December 22, 2021, unnumbered page but the last page of Pluta's cover letter transmitting the brief.

they are not available as short term rentals, or even to ensure they are made available only to San Francisco residents.¹⁵

Ignoring unknowable motivations and perfervid marketing, the 33 month history of Appellant's project belies the notion that affordable housing is the project's loadstar: first, the 2020 version of the project had *two* ADUs, not one as in the current version; second, last year the Planning Department offered to work with the Appellant to place two ADUs on the extant lot in a manner that was code compliant.¹⁶ But the project implicated in this appeal has only one ADU and two new market rate units in the new building. At last, someone in authority — the Zoning Administrator — concludes what has been manifest for 33 months: the project at issue would have no effect on the city's affordable housing stock; any emotive appeal to this Board on such a basis should be disregarded.

Conclusion

This appeal should be summarily rejected. Procedurally, Appellant has been afforded ample opportunity and unquestioned due process over more than 33 months, numerous meetings with Planning Department staff, and two Planning Commission hearings to devise a project that is code compliant. He has not done so. On the merits, the project would yield "full lot coverage" contrary to the zoning code; Appellant has offered no persuasive reason to tamper with the Zoning Administrator's decision. Less than two months ago, the Planning Commission came to a like

¹⁵ Apparently, a unit in the existing building has been a short term rental. Occasionally, as he does at footnote 1, page 1 of his December 22, 2021 letter transmitting his brief, Appellant refers to a "deed restriction" on one or more of the units. But as we say in text, there is nothing in the record making this anything more than a representation, utterly barren of binding effect.

¹⁶ This was made clear as early as the April 27, 2020 in Staff's Plan Check Letter, see Exhibit A; and repeated at the November 2020 Planning Commission hearing.

conclusion when it voted 4-2 to deny lot size and rear yard/set back conditional use authorizations pursuant to the Corona Heights SUD. As expressed previously in writing as well as orally at the November 18, 2021 Planning Commission hearing, scores of neighbors are unanimous in opposing this non compliant project. Finally, the facts belie the notion that Appellant’s project is all about “affordable housing.”

The appeal should be denied.

Exhibits

- Exhibit A: San Francisco Planning, Plan Check Letter, April 27, 2020, Project 4300 17th St., addressee Scott Pluta.
- Exhibit B: San Francisco Planning, Conditional Use/Variance, Hearing Date November 19, 2020, Record No. 2019-0138208CUAVAR
- Exhibit C: Excerpt from transcript of San Francisco Planning Commission virtual hearing, November 18, 2021, Planning Commission Archives.
- Exhibit D: Chart depicting approximate location of some of the neighbors who wrote in opposition to the Appellant’s proposed project.

Exhibit A



San Francisco
Planning

1650 MISSION STREET, SUITE 400
SAN FRANCISCO, CA 94103
SFPLANNING.ORG / 415.575.9010

PLAN CHECK LETTER

April 27, 2020

Scott Pluta
4300 17th Street, Apt. A
San Francisco, CA

Project Address: **4300 17th Street**
Assessor's Block/Lot: **2626/014A**
Zoning District: **RH-2/40-X**
Special Use District: **Corona Heights Large Residence**

Building Permit Number: **2019.1218.9888, 2019.1231.1087 and 2019.1231.1092**
Planning Record Number: **2019-013808PRJ**

Project Manager: Jeff Horn, Senior Planner, Jeffrey.Horn@sfgov.org, (415) 575-6925
Environmental Planner: Kristina Phung, Env. Planner kristina.phung@sfgov.org, (415) 558-6373

The Project Application for the above address has been reviewed by the Planning Department. This Plan Check Letter indicates (1) any information required to proceed with environmental analysis, (2) any missing information or modifications that must be provided to demonstrate compliance with the Planning Code and proceed with environmental analysis, and (3) any other modifications the Department is seeking in order to support the project. **Please review this Plan Check Letter carefully, and follow the instructions provided in order to advance the review process.**

PROJECT REVIEW HISTORY

On November 6, 2019, a project application was submitted to the Planning Department.

On December 5, 2019, the Planning Department deemed the Project Application accepted, and Environmental and Current Planners were assigned.

On March 18, 2020, the Residential Design and Advisory Team (RDAT) reviewed the project.

RESPONSES REQUIRED FOR ENVIRONMENTAL ANALYSIS

The Department is unable to proceed with environmental analysis for the project until the following information or modifications are provided or addressed:

1. All modifications and requirements identified in the Planning Code Review Checklist (**Appendix A**). These project modifications and missing materials or information are necessary to confirm that the project is compliant with applicable Planning Code requirements.
2. All requirements identified in the Environmental Review Checklist (**Appendix B**). These outstanding materials and next steps are required for environmental analysis to proceed. Please note these may require changes to previously provided documents or technical reports (e.g., Historic Resource Evaluation).

PROJECT REVIEW COMMENTS

1. The Department's priority is to maximize the development of housing units that can be reasonably accommodated under the site's zoning and applicable density bonus programs while maintaining quality of life and adherence to applicable standards. However, the Department's Senior Management has reviewed the proposed project and does not support the intensity of non-compliance the proposal seeks to achieve higher density at the site (a lot-split and new construction with variances). The Department recommends the project be revised to be code-conforming within the existing lot, and if the Sponsor seeks density greater than that allowed in the RH-2 District, please continue to pursue accessory dwelling units within the existing structure and within an detached auxiliary structure (Section 207(c)(6)), if feasible.
2. The Residential Design Advisory Team (RDAT) has reviewed the project and does not find the current proposal to be consistent with the Residential Design Guidelines. Eliminating (by developing upon) the subject property's rear yard would have significant negative impacts to neighboring properties. RDAT does not support the project as designed, including lot split and variance request. RDAT recommends re-designing the proposal as a code compliant project that maintains the required 45% rear yard. RDAT also recommends the project explore options in Section 136 (permitted obstructions) of the Planning code for allowable projections into rear yard and to consider options for ADUs in the rear yard. All requirements are identified in the attached Residential Design Guideline Matrix.
3. The existing "Office/Studio" has direct access to the street, a half-bath, and is independent from all other units in the building, please complete and submit an Unpermitted Dwelling Unit Screening Request and Affidavit. <https://sfplanning.org/resource/udu-screening-request-form-affidavit>.
4. Please ensure any proposed ADU's meet the requirements of the Checklist for Multi-Family properties. <https://sfplanning.org/resource/accessory-dwelling-units-adu-checklists>

5. Please review the Department's Plan Submittal Guidelines, and address as outstanding issues outlined in the attached Appendix A.
6. Please review the height of the proposed new construction project for compliance with Planning Code Sections 260(a) and 261.

TARGET REVIEW TIMEFRAME

Based on to the scope of your project and the anticipated level of environmental review, the target timeframe for the Planning Department to complete its review and approval will be 9 months from the date a complete response to this Plan Check Letter is received and verified for accuracy. Please note, this timeframe may be modified if there is a substantive change to the project description.

REQUIRED ACTION

1. Please include a written response to this letter that discusses how you have addressed the items outlined above and in each of the attachments. Please note that the Department may request further revisions to the project as part of the environmental review process (e.g., to avoid a significant impact), or to ensure conformity with the Planning Code, design guidelines and other local ordinances and policies.
2. Within ninety (90) days from the date of this letter, please submit the requested information, or contact the project manager listed above if more time is needed to prepare the requested information. If the Department has not received the requested information or a request for additional time within 90 days, the application will be cancelled.

All building permit plan revisions must be filed at the Department of Building Inspection (DBI), Permit Processing Center (PPC), 1660 Mission Street, 2nd floor. To officially submit a change to the building permit plans, do not submit building permit plans directly to the Planning Department. Plan revisions will not be accepted by mail or messenger.

All revisions to Planning Department entitlement cases (e.g., CUA) must be submitted to the Planning Department, 1650 Mission Street, 4th floor, or via email to the Planner's attention. This is a separate submittal from any building plan revisions submitted to DBI.

Please do not come to the Planning Department to discuss this letter without an appointment. Please direct all general questions or meeting requests to the project manager listed above. For questions related specifically to environmental review, please contact the environmental planner listed above.

Thank you,

Jeff Horn, Senior Planner
Southwest Team, Current Planning Division

Plan Check Letter

Case No. 2019-013808PRJ
4300 17th Street

CC: Scott Pluta, 4300A 17th Street, San Francisco
Kristina Phung, Environmental Planning Division
Trent Greenan, Residential Design Advisory Team

APPENDIX A: PLANNING CODE REVIEW

Record No. 2019-013808PRJ

Contact: Jeff Horn | jeffrey.horn@sfgov.org; | (415) 575-6925

4300 17th Street

PLAN SUBMITTAL GUIDELINES:

Provided	Not Provided	Not Required	Description & Comment	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General Information	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Title Sheet & Details	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site Survey	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site Plan	-Dimension the width of the proposed lots. -Draw and label the 45% setback lines on the Proposed Site Plan. -Under "Setback", please determine and provide the dimensions. "Average of Adjacent Properties" is not sufficient information. -Include the existing and proposed buildings' footprints and projections (bays, decks). Add labels is needed for clarity. It is important to know the location of building walls at grade. This is drawn correctly on the Survey.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Floor & Roof Plans	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Elevations	Include the outline of the adjacent properties' windows at shared property lines.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sections	Provide existing and proposed Section drawings.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Landscaping Plan	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Streetscape Plan	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Material Specifications	Provide a typical window section detail for the proposed window systems. The glazing should have a minimum 2" depth reveal from the exterior wall.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Photographs	Provide photos of the existing office/studio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Renderings	Provide renderings of a street view of the front façade, and of the rear of the building to provide context of the new structure's relation to the rear yards of adjacent properties and the larger midblock open space.

LAND USE:

Permitted Use	Conditional Use	Planning Code Section & Comment	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>209.1</u>	RH-2
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>249.77</u>	Special Use Districts 249.77(d)(1) and 249.77(d)(4)
<i>Comments:</i> The project has submitted a Conditional Use Authorization Supplemental Application with findings required under Planning Codes Section 249.77.			

CONDITIONAL USE AUTHORIZATION:

Required	Planning Code Section	
<input checked="" type="checkbox"/>	<u>303</u>	Conditional Use Authorization
<i>Comments:</i> The project has submitted a Conditional Use Authorization Supplemental Application with findings required under Planning Code Section 303(c)		

OTHER REQUIRED APPROVALS:

Required	Planning Code Section	
<input checked="" type="checkbox"/>	<u>305</u>	Variance
<i>Comments:</i> The project has submitted a Variance Application for Planning Code Sections 121 (lot size) and 134 (rear yard setback). Both proposed ADU's require a waiver for Planning Code Section 135 (open space).		

APPENDIX A: PLANNING CODE REVIEW

Record No. 2019-013808PRJ

Contact: Jeff Horn | jeffrey.horn@sfgov.org; | (415) 575-6925

4300 17th Street

ADDITIONAL PLANNING CODE REQUIREMENTS:

Complies	Does Not Comply	Needs Info	Planning Code Section		Comments
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>121</u>	Lot Area/Width	Variance sought for proposed non-conforming lot size (Section 121)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>132</u>	Front Setback	The upper floors extend beyond the front setback
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>132(g)</u>	Green Landscaping	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>132(h)</u>	Permeability	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>134</u>	Rear Yard	The project seeks a rear yard variance.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>135</u>	Open Space	Open Space provided on roof decks, ADUs require a waiver.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>136</u>	Permitted Obstructions	The project proposes non-conforming obstructions over the sidewalk at the 2 nd and 3 rd floors, please redesign. Note, Section 136 has recently been amended to allow 4-foot deep projections.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>138.1</u>	Streetscape Plan	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>140</u>	Dwelling Unit Exposure	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>141</u>	Rooftop Screening	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>142</u>	Parking Screening & Greening	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>155.2</u>	Bicycle Parking	Provide Class I bicycle parking as required, 1 space per unit.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>207(c)(6)</u>	Accessory Dwelling Units	As proposed, the ADUs require a waiver for open space. Complete ADU checklist
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>260(a)</u>	Height	For the new structure, height measurements should be measured starting at curb level at the center of the new lot. Please review Section 260(a)(1)(C) for measurement methods on upsloping lots.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>260(b)</u>	Exemptions from Height	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>261</u>	Height Limits	Please review Section 261(c)(1). Height measurement should start at the front property line, on the plans for the new structure the measurement begins at the front wall of the 2 nd and 3 rd floor projection.

DEVELOPMENT IMPACT FEES:

Required	Planning Code Section	
<input checked="" type="checkbox"/>	<u>414A</u>	Child-Care for Residential Projects

This table outlines the missing material necessary for Environmental Planning to conduct their review. If you have specific questions regarding the requested items, please contact the Environmental Planner, Kristina Phung, kristina.phung@sfgov.org , (415) 558-6373			
ENVIRONMENTAL TOPIC	MISSING MATERIALS/ INFORMATION	DETAILED DESCRIPTION	<i>(For Dept. Use after accepted Project Application and response to Plan Check Letter)</i> SUBMITTED
Project Description	Location of Bicycle Parking	The project plans (both for existing building and proposed new building) should show the location of proposed bicycle parking.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Geology and Soils	Foundation Information	The project sponsor must provide a description of the proposed building foundation, and whether drilled or driven piers would be required.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Greenhouse Gases	Review GHG Checklist Attachment	The environmental planner has updated the checklist previously submitted by the sponsor.	<input type="checkbox"/> YES <input type="checkbox"/> NO
Noise	Construction Equipment List	The project sponsor must submit a construction equipment list, detailing construction phases and any proposed equipment to be used.	<input type="checkbox"/> YES <input type="checkbox"/> NO

Abbreviations:

CEQA: California Environmental Quality Act

EIR: Environmental Impact Report

Attachments

- Greenhouse Gases Checklist for Private Development Projects, 4300 17th Street, with Planning Comments
- Construction Equipment Information Sheet

RESIDENTIAL DESIGN GUIDELINES MATRIX			
Project address	4300 17th Street	REVIEW TYPE	RDAT
Application number	2019-013808PRJ	Date of Review / Response	3/18/2020
Quadrant	SW	Date of Drawings	10/25/2019
Assigned Planner	JH	Comment author	Trent Greenan
Assigned Design Review staff		Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
#	Guideline Chapter, Topic	Subtopic	Guideline
Neighborhood Character			
II1	WHAT IS THE CHARACTER OF THE NEIGHBORHOOD?	Defined Visual Character	GUIDELINE: In areas with a defined visual character, design buildings to be compatible with the patterns and architectural features of surrounding buildings.
II2		Mixed Visual Character	GUIDELINE: In areas with a mixed visual character, design buildings to help define, unify and contribute positively to the existing visual context.
Site Design			
III 1	TOPOGRAPHY		Guideline: Respect the topography of the site and the surrounding area.
III 2	FRONT SETBACK		GUIDELINE: Treat the front setback so that it provides a pedestrian scale and enhances the street.
III 3		Varied Front Setbacks	GUIDELINE: In areas with varied front setbacks, design building setbacks to act as a transition between adjacent buildings and to unify the overall streetscape.
III 4		Landscaping	GUIDELINE: Provide landscaping in the front setback.
III 5	SIDE SPACING BETWEEN BUILDINGS		GUIDELINE: Respect the existing pattern of side spacing.

RESIDENTIAL DESIGN GUIDELINES MATRIX				
Project address		4300 17th Street	REVIEW TYPE	RDAT
Application number		2019-013808PRJ	Date of Review / Response	3/18/2020
Quadrant		SW	Date of Drawings	10/25/2019
Assigned Planner		JH	Comment author	Trent Greenan
Assigned Design Review staff			Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
III 6	REAR YARD		GUIDELINE: Articulate the building to minimize impacts on light and privacy to adjacent properties.	Eliminating the rear yard would have significant negative impacts to neighboring properties. RDAT does not support the project as designed including lot split and variance. Recommend re-designing a code compliant project that maintains the required 45% rear yard. Explore options in section 136 of the Planning code for allowable projections into rear yard. Consider options for ADUs in the rear yard.
III 7	VIEWS		GUIDELINE: Protect major public views from public spaces.	NA
III 8	SPECIAL BUILDING LOCATIONS	Corner Buildings	GUIDELINE: Provide greater visual emphasis to corner buildings.	MEETS GUIDELINE
III 9		Building Abutting Public Spaces	GUIDELINE: Design building facades to enhance and complement adjacent public spaces.	NA
III 10		Rear Yard	GUIDELINE: Articulate the building to minimize impacts on light to adjacent cottages.	NA
Building Scale and Form				
IV 1		Building Scale	GUIDELINE: Design the scale of the building to be compatible with the height and depth of surrounding buildings.	See comment III 6.

RESIDENTIAL DESIGN GUIDELINES MATRIX			
Project address	4300 17th Street	REVIEW TYPE	RDAT
Application number	2019-013808PRJ	Date of Review / Response	3/18/2020
Quadrant	SW	Date of Drawings	10/25/2019
Assigned Planner	JH	Comment author	Trent Greenan
Assigned Design Review staff		Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
IV 2		Building Scale at the Street	GUIDELINE: Design the height and depth of the building to be compatible with the existing building scale at the street. MEETS GUIDELINE
IV 3		Building Scale at the Mid-Block Open Space	GUIDELINE: Design the height and depth of the building to be compatible with the existing building scale at the mid-block open space. See comment III 6.
IV 4	BUILDING FORM		GUIDELINE: Design the building's form to be compatible with that of surrounding buildings. See comment III 6.
IV 5		Facade Width	GUIDELINE: Design the building's facade width to be compatible with those found on surrounding buildings. MEETS GUIDELINE
IV 6		Proportions	GUIDELINE: Design the building's proportions to be compatible with those found on surrounding buildings. MEETS GUIDELINE
IV 7		Rooflines	GUIDELINE: Design rooflines to be compatible with those found on surrounding buildings. MEETS GUIDELINE
Architectural Features			
V 1	BUILDING ENTRANCES		GUIDELINE: Design building entrances to enhance the connection between the public realm of the street and sidewalk and the private realm of the building. MEETS GUIDELINE
V 2		Location of Building Entrances	GUIDELINE: Respect the existing pattern of building entrances. See comment III 6.
V 3		Front Porches	GUIDELINE: Provide front porches that are compatible with existing porches of surrounding buildings. NA

RESIDENTIAL DESIGN GUIDELINES MATRIX				
Project address		4300 17th Street	REVIEW TYPE	RDAT
Application number		2019-013808PRJ	Date of Review / Response	3/18/2020
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Assigned Planner		JH	Comment author	Trent Greenan
Assigned Design Review staff			Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
V 4		Utility Panels	GUIDELINE: Locate utility panels so they are not visible on the front building wall or on the sidewalk.	Show location of panels in plans.
V 5	BAY WINDOWS		GUIDELINE: Design the length, height and type of bay windows to be compatible with those on surrounding buildings.	NA
V 6	GARAGES	Garage Structures	GUIDELINE: Detail garage structures to create a visually interesting street frontage.	NA
V 7		Garage Door Design and Placement	GUIDELINE: Design and place garage entrances and doors to be compatible with the building and the surrounding area.	MEETS GUIDELINE
V 8		Garage Door Widths	GUIDELINE: Minimize the width of garage entrances.	MEETS GUIDELINE
V 9		Curb Cuts	GUIDELINE: Coordinate the placement of curb cuts.	MEETS GUIDELINE
V 9	ROOFTOP ARCHITECTURAL FEATURES		GUIDELINE: Sensitively locate and screen rooftop features so they do not dominate the appearance of a building.	See comment III 6.
V 10		Stair Penthouses	GUIDELINE: Design stair penthouses to minimize their visibility from the street.	See comment III 6.
V 11		Parapets	GUIDELINE: Design parapets to be compatible with overall building proportions and other building elements.	See comment III 6.
V 12		Dormers	GUIDELINE: Design dormers to be compatible with the architectural character of surrounding buildings.	NA

RESIDENTIAL DESIGN GUIDELINES MATRIX				
Project address	4300 17th Street		REVIEW TYPE	RDAT
Application number	2019-013808PRJ		Date of Review / Response	3/18/2020
Quadrant	SW		Date of Drawings	10/25/2019
Assigned Planner	JH		Comment author	Trent Greenan
Assigned Design Review staff			Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
V 13		Windscreens	GUIDELINE: Design windscreens to minimize impacts on the building's design and on light to adjacent buildings.	See comment III 6.
Building Details				
VI 1	ARCHITECTURAL DETAILS		GUIDELINE: Design the placement and scale of architectural details to be compatible with the building and the surrounding area.	See comment III 6.
VI 2	WINDOWS		GUIDELINE: Use windows that contribute to the architectural character of the building and the neighborhood.	See comment III 6.
VI 3		Window Size	GUIDELINE: Relate the proportion and size of windows to that of existing buildings in the neighborhood.	See comment III 6.
VI 4		Window Features	GUIDELINE: Design window features to be compatible with the building's architectural character, as well as other buildings in the neighborhood.	See comment III 6.
VI 5		Window Material	GUIDELINE: Use window materials that are compatible with those found on surrounding buildings, especially on facades visible from the street.	See comment III 6.
VI 6	EXTERIOR MATERIALS		GUIDELINE: The type, finish, and quality of a building's materials must be compatible with those used in the surrounding area.	Propose a material pallette and propoertions that are compatible with those used in the surrounding area.
VI 7		Exposed Building Walls	GUIDELINE: All exposed walls must be covered and finished with quality materials that are compatible with the front facade and adjacent buildings.	See comment III 6.

RESIDENTIAL DESIGN GUIDELINES MATRIX			
Project address	4300 17th Street	REVIEW TYPE	RDAT
Application number	2019-013808PRJ	Date of Review / Response	3/18/2020
Quadrant	SW	Date of Drawings	10/25/2019
Assigned Planner	JH	Comment author	Trent Greenan
Assigned Design Review staff		Meeting Attendees	Jeff Horn, Trent Greenan, Jeff Joslin, David Winslow, Allison Albericci, Luiz Barata, Glenn Cabrerros, Oscar Hernadez-Gomez, Claudine Asbagh
VI 8		Material Detailing	GUIDELINE: Ensure that materials are properly detailed and appropriately applied. See comment III 6.



EXECUTIVE SUMMARY CONDITIONAL USE / VARIANCE

HEARING DATE: November 19, 2020

Record No.: 2019-013808CUAVAR

Project Address: 4300 17th Street

Zoning: RH-2 (Residential House, Two-Family
40-X Height and Bulk District
Corona Height Large Residence Special Use District

Block/Lot: 2626/014A

Project Sponsor: Scott Pluta
4300 17th Street
San Francisco, CA 94114

Property Owner: Scott Pluta
4300 17th Street
San Francisco, CA 94114

Staff Contact: Jeff Horn – (628) 652-7633
jeffrey.horn@sfgov.org

Recommendation: Disapproval

Project Description

The Project proposes to construct a new 5,042 gross-square-foot four-story two-family dwelling on a new 1,458 square foot lot. The lot would be created through a subdivision of an existing 2,916 square foot (36' x 81') corner lot. An existing 4,382 gross-square-foot three-story two-family dwelling (4300 17th Street) would be located on the remaining 1,458 square feet of the original lot. A total of two Accessory Dwelling Units are proposed, one to be added to the existing two-family dwelling by converting and one to be included within the new two-family dwelling proposed for construction. A 500 square foot roof deck is proposed to be added to the existing two-family dwelling.

Required Commission Action

In order for the Project to proceed, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 303, 249.77(d)(1) and 249.77(d)(4) to allow residential development on a vacant lot that results in a total gross floor area exceeding 3,000 square feet and to allow residential development that results in both lots having a rear yard less than 45% lot depth within the Corona Heights Large Residence Special Use District.

Issues and Other Considerations

- **Public Comment & Outreach.**

- **Support/Opposition:** The Department has received 40 comments/emails in support and three letters in opposition to the Project, including one from the Corbet Heights Neighbors.
 - The support for the Project is centered on the addition of housing units and the addition of affordable units.
 - The opposition to the Project is centered on projects non-compliance with the Planning Code and the Corona Heights Large Residence Special Use District
- **Outreach:** The Sponsor presented the project to the Corbet Heights Neighbors on October 26, 2020. As stated in the Sponsor's brief, the Sponsor has meet individually with adjacent neighbors and members of Corbet Heights Neighbors.

- **Corona Heights Large Residence Special Use District:** The project is located within the boundaries of the Corona Heights Large Residence Special Use District (SUD). The SUD was adopted to protect and enhance existing neighborhood character, encourage new infill housing at compatible densities and scale, and provide for thorough assessment of proposed large-scale residences that could adversely impact the area and affordable housing opportunities, to meet these goals, the SUD requires Conditional Use Authorization for five (5) types of development. The proposed Project exceeds two of these development standards; thereby requiring Conditional Use Authorization pursuant to Planning Code Section 249.77(d)(1), for residential development of vacant property that will result in total gross floor area exceeding 3,000 square-foot and pursuant to Planning Code Section 249.77(d)(4) for residential development that results in less than 45% rear yard depth.

- **Subdivision:** The project seeks to subdivide the existing 2,916 square foot lot into two separate 1,458 square foot lots. The existing two-family dwelling would be located on the newly created corner lot. The second lot would be comprised of the area of land currently existing as the subject property's rear yard, the vacant lot would have 40 feet, 6 inches of frontage on 17th Street and a depth of 36 feet.

- **Variances:** The project requests variances from the Zoning Administrator to address the Planning Code requirements for lot size (Section 121), rear yard (Section 134), and usable open space (Section 135).

- Planning Code Section 121 requires that the minimum lot area for any lot having its street frontage entirely within 125 feet of an intersection shall be 1,750 square feet. The project proposes a subdivision

to create two 1,458 square foot lots, therefore both proposed lots would require a variance for lot size.

- Planning Code Section 134 requires that a lot within an RH-2 District provide a minimum rear yard equal to 45% of the lot's depth. The existing two-family dwelling has a depth of 40 feet, 6 inches and the proposed two-family dwelling has a depth of 36 feet. Both structures would be developed to a depth equal to their respective rear property lines, resulting in full lot coverage, therefore both lots would require a variance for rear yard.
- Planning Code Section 135 requires that each dwelling unit is provided 125 square feet of private usable open space or 166.25 square feet of common usable open space. The dwelling unit located on the second floor of the proposed new construction has no access to a rear yard or deck, therefore the unit would require a variance for usable open space.
- **Accessory Dwelling Units:** Per Section 207(c)(4), Accessory Dwelling Units in Multifamily Buildings, the Project Sponsor will seek ministerial approval to add an accessory dwelling unit at the ground floor of the existing two-family dwelling and at the ground floor of the proposed two-family dwelling. However, the new construction project would not be eligible for an ADU under Section 207(c)(4) since this building is not located entirely within the lot's buildable area.
- **Affordable Units:** The project sponsor has stated an intent to voluntarily designate both of the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").
- **Design Review Comments:** On March 18, 2020, the Residential Design Advisory Team reviewed the project and found that the proposal to not be consistent with the Residential Design Guidelines. Eliminating (by developing upon) the subject property's rear yard would have significant negative impacts to neighboring properties, and therefore Residential Design Advisory Team does not support the project as designed, including lot split and variance request.

The Department recommends that a proposal at this site be redesigned at a less intense scale that respects the mid-block open space and maintains adjacent properties' access to light and air by providing adequate setbacks and yards.

Environmental Review

CEQA does not apply to projects which a public agency rejects or disapproves, under CEQA Guidelines Section 15270.

Basis for Recommendation

The Department finds that the Project is, on balance, not consistent with the Corona Heights Large Residence SUD or the Objectives and Policies of the General Plan and does not meet all applicable requirements of the Planning Code. The Department's priority is to maximize the development of housing units that can be reasonably accommodated under a site's zoning and applicable density bonus programs while maintaining

quality of life and adherence to applicable standards. However, the Department's does not support the intensity of non-compliance the proposal seeks to achieve higher density at the site. The Department also finds the project not to be necessary, desirable, and compatible with the surrounding neighborhood, and to be detrimental to persons or adjacent properties in the vicinity.

Attachments:

Draft Motion – Conditional Use Authorization

Exhibit B – Plans

Exhibit C – Land Use Data

Exhibit D – Maps and Context Photos

Exhibit E – Project Sponsor Brief

Exhibit F – Corbett Height Neighbors letter



PLANNING COMMISSION DRAFT MOTION

HEARING DATE: NOVEMBER 19, 2020

Record No.: 2019-013808CUA/VAR
Project Address: 4300 17th Street
Zoning: RH-2 (Residential House, Two-Family)
40-X Height and Bulk District
Corona Height Large Residence Special Use District
Block/Lot: 2626/014A
Project Sponsor: Scott Pluta
4300 17th Street
San Francisco, CA 94114
Property Owner: Scott Pluta
4300 17th Street
San Francisco, CA 94114
Staff Contact: Jeff Horn – (628) 652-7633
jeffrey.horn@sfgov.org

ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 249.77(D)(1), 249.77(D)(4) AND 303(C) TO CONSTRUCT NEW 5,042 GROSS-SQUARE-FOOT FOUR-STORY TWO-FAMILY DWELLING ON A NEW 1,458 SQUARE FOOT LOT. THE LOT WOULD BE CREATED THROUGH A SUBDIVISION OF AN EXISTING 2,916 SQUARE FOOT (36' X 81') CORNER LOT. AN EXISTING 4,382 GROSS-SQUARE-FOOT THREE-STORY TWO-FAMILY DWELLING (4300 17TH STREET) WOULD BE LOCATED ON THE REMAINING 1,458 SQUARE FEET OF THE ORIGINAL LOT LOCATED WITHIN THE CORONA HEIGHTS LARGE RESIDENCE SPECIAL USE DISTRICT (SUD), A RH-2 (RESIDENTIAL-HOUSE, TWO FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 4, 2019, Scott Pluta (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 249.77(D)(1), 249.77(D)(4) and 303(c) to construct a new 5,042 gross-square-foot four-story two-family dwelling on a new 1,458 square foot lot. The lot would be created through a subdivision of an existing 2,916 square foot (36’ x 81’) corner lot. An existing 4,382 gross-square-foot three-story two-family dwelling (4300 17th Street) would be located on the remaining 1,458 square feet of the original lot located within the Corona Heights Large Residence Special Use District (SUD), a RH-2 (Residential-House, Two-Family) Zoning District and a 40-X Height and Bulk District.

CEQA does not apply to projects which a public agency rejects or disapproves, under CEQA Guidelines Section 15270.

On November 19, 2020, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-013808CUA.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2019-013808CUA is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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

MOVED, that the Commission hereby disapproves the Conditional Use requested in Application No. 2019-013808CUA, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.**
- 2. Project Description.** The Project proposes to construct a new 5,042 gross-square-foot four-story two-family dwelling on a new 1,458 square foot lot. The lot would be created through a subdivision of an existing 2,916 square foot (36' x 81') corner lot. An existing 4,382 gross-square-foot three-story two-family dwelling (4300 17th Street) would be located on the remaining 1,458 square feet of the original lot. A total of two Accessory Dwelling Units are proposed, one to be added to the existing two-family dwelling by converting and one to be included within the new two-family dwelling proposed for construction. A 500 square foot roof deck is proposed to be added to the existing two-family dwelling.
- 3. Site Description and Present Use.** The subject property is located on the northwest side of the intersection of 17th Street and Ord Street, within the Corona Heights neighborhood. The project is a 2,916 square foot corner lot with 36 feet of frontage on Ord Street and 81 feet of frontage on 17th Street. The lot is developed with a three-story two-family dwelling, built in 1953 and vertically expanded in 1960. currently occupies the eastern half of the subject lot and has a depth of 40 feet, 6 inches, providing a rear yard equal to 50% of the lot's depth. The residential entrances to the building is located on 17th street and a curb cut and one-car garage are located on Ord Street. At the ground floor, there is an office/storage area that has no internal connection to either dwelling unit.
- 4. Surrounding Properties and Neighborhood.** The surrounding neighborhoods Corbett and Corona Heights consist of very steep slopes, both of individual lots and laterally along streets. The neighborhood developed over many decades (pre-1900s to 2000s, generally), in a mixture of architectural styles, and many buildings have undergone substantial alterations since their respective construction dates. West and upslope on 17th Street (adjacent to Applicant's backyard), is a three-story, two-unit condominium (4302-4304 17th St.), a five-story, two-unit condominium (4306-4308 17th St.), and a two-building, three-unit dwelling (4310 17th St.), respectively.
- 5. Public Outreach and Comments.** To date, the Department has received 40 comments/emails in support and three letters in opposition to the Project, including one from the Corbet Heights Neighbors. The support for the Project is centered on the addition of housing units and the addition of affordable units. The opposition to the Project is centered on projects non-compliance with the Planning Code and the Corona Heights Large Residence Special Use District. The Sponsor presented the project to the Corbet Heights Neighbors on October 26, 2020. As stated in the Sponsor's brief, the Sponsor has meet individually with adjacent neighbors and members of Corbet Heights Neighbors.
- 6. Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. Use.** Planning Code Section 209.1 permits up to two dwelling units per lot in an RH-2 District.

The project proposes subdivide the existing lot into two lots within an RH-2 District. An existing 2-family

dwelling is proposed to remain on one lot and a new 2-family dwelling proposed to be constructed on the new vacant lot.

The project proposes an accessory dwelling unit on each lot, an ADU that is allowed per Planning Code Section 207(c)(4) would not be included in a lots density calculation.

As proposed, both lots seek to maximize the permitted density within a RH-2 District.

- B. Lot Size.** Planning Code Section 121 requires that the minimum lot area for any lot having its street frontage entirely within 125 feet of an intersection shall be 1,750 square feet.

A Variance is being sought per Planning Code Section 121 to allow a subdivision of the existing lot to create two 1,458 square foot lots.

- C. Rear Yard.** Planning Code Section 134 requires a minimum rear yard depth equal to 45% of the total depth of the lot on which the building is situated, except that rear yard requirements can be reduced to a line on the lot, parallel to the rear lot line, which is the average between the depths of the rear building walls of both adjacent properties in an RH-2 District.

The proposed subdivision will result in two new lots that are developed with full lot coverage. A Variance from the rear yard requirements of Planning Code Section 134 is being sought for each lot.

- D. Usable Open Space.** Planning Code Section 135 requires at least 125 sq. ft. of usable open space per unit if private, or a ratio of 1.33 per unit if common in an RH-2 District.

With the loss of the existing rear yard, the existing structure at 4300 17th Street proposes to add a 500 square foot roof deck to provide common open space to the two units. The upper unit within the proposed new construction includes a 309 square foot deck to provide private open space.

The dwelling unit located on the second floor of the proposed new construction has no access to a rear yard or deck, therefore the unit would require a variance for usable open space.

- E. Bicycle Parking.** Planning Code Section 155.2 requires one Class 1 Bicycle Parking space per dwelling unit, when there is an addition of a dwelling unit.

The Project will provide two Class 1 bicycle parking spaces within the new structure. Each ADU will be required to provide a Class I bicycle parking space and the project is currently designed to provide the required space.

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

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

The use and scale of the Project is not compatible with the immediate neighborhood. Eliminating (by developing upon) the subject property's rear yard would have significant negative impacts to neighboring properties. The project is not necessary, desirable, and compatible with the surrounding neighborhood, and to be detrimental to persons or adjacent properties in the vicinity.

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

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

Development of the Project will eliminate all open space at the site by developing upon the subject property's rear yard with a four-story building, which would have significant negative impacts to neighboring properties and the mid-block open space. Therefore, the proposed project will be detrimental to the health, safety, convenience or general welfare of persons residing in the vicinity of the project site.

- (2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking or loading for residential units. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

The subject property is also in close proximity to several transit lines, located only approximately a 10-minute walk away from the Castro Street MUNI Station, and within a ½ mile of the 24, 33, 35, and 37 MUNI bus lines.

- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project will comply with all applicable regulations relating to construction noise and dust. It will not produce, nor include, any permanent uses that generate substantial levels of noxious or offensive emissions, such as noise, dust, glare, or odor.

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

The proposal does not include loading or services areas, nor will it include atypical lighting or signage. The Project proposes to be developed with no front setback and will fully develop the existing lot's rear yard, which is adjacent to the public sidewalk due to the orientation of the lot. The project will provide additional street trees to contribute to the quality of the sidewalk

area of 17th Street.

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

The Project does not comply with all relevant requirements and standards of the Planning Code and is not consistent with objectives and policies of the General Plan or the Residential Design Guidelines. Eliminating (by developing upon) the subject property's rear yard would have significant negative impacts to neighboring properties and the proposal does not comply with the Residential Design Guidelines.

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

The proposed use of two dwellings per lot is consistent with the stated purpose of the RH-2 District. The existing and new buildings use are compatible expected density in this District.

- 8. **Corona Heights Large Residence Special Use District (Planning Code Section 249.77).** The project is located within the boundaries of the Corona Heights Large Residence Special Use District (SUD). The SUD was adopted to protect and enhance existing neighborhood character, encourage new infill housing at compatible densities and scale, and provide for thorough assessment of proposed large-scale residences that could adversely impact the area and affordable housing opportunities, to meet these goals, the SUD requires Conditional Use Authorization for five (5) types of development. *The proposed Project exceeds two of these development standards; thereby requiring Conditional Use Authorization pursuant to Planning Code Section 249.77(d)(1), for residential development of vacant property that will result in total gross floor area exceeding 3,000 square-feet and pursuant to Planning Code Section 249.77(d)(4) for residential development that results in less than 45% rear yard depth.*

In acting on any application for Conditional Use authorization within the SUD, the Commission shall consider the Conditional Use authorization requirements set forth in subsection 303(c) and, in addition, shall consider whether facts are presented to establish, based on the record before the Commission, one or more of the following:

- A. The proposed project promotes housing affordability by increasing housing supply.

The property is currently developed with a two-family dwelling, and with the proposed subdivision, a two-family dwelling is proposed on the new lot. The project has potential to add an accessory dwelling unit to each lot, resulting in a potential of four net new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate both of the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

- B. The proposed project maintains affordability of any existing housing unit; or

The project proposes no expansion or improvements to the two existing units on site. Due to the age of the building, both units are rent-controlled units.

- C. The proposed project is compatible with existing development.

Development of the Project will eliminate all open space at the site by developing upon the subject property's rear yard with a four-story building, which would have significant negative impacts to neighboring properties and the mid-block open space. Therefore, the intensity of non-compliance the proposal seeks to achieve a higher density at the site is not compatible with the existing development of the District.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighbor-hoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

The property is currently developed with a two-family dwelling on the project site, and with the proposed subdivision, a 2nd two-family dwelling is proposed on the new lot. The project has potential to add and accessory dwelling unit to each lot, resulting in a potential of four net new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate both of the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

OBJECTIVE 11

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

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

The subject property, like many lots within the surrounding neighborhood, is characterized by a steep slope. The proposed building has been designed with regard to site-specific constraints and will create a quality, two-unit structure fronting on 17th Street.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The Project furthers this policy by creating housing in an area well-served by the City's public transit system. The Castro Street MUNI Station is less than a 10-minute walk from the project site, and several MUNI bus lines (24, 33, 35, and 37) all have stops within a quarter-mile of the site.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.15

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The Project will eliminate all open space at the site by developing upon the subject property's rear yard with a four-story building, which would have significant negative impacts to neighboring properties and the mid-block open space. Therefore, the intensity of non-compliance the proposal seeks would be detrimental to the adjacent properties and subject block.

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

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

The project site does not possess any neighborhood-serving retail uses. The Project has potential to provide four new dwelling units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

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

The Project furthers this policy by ensuring that the proposed development is compatible with the surrounding properties and neighborhood. The proposed building designed with regard to site-specific constraints and will create a quality, two-unit structure fronting on 17th Street. However, at the rear and site property lines, the project's height as a four-story structure would result in impacts to the access to light and air currently available to adjacent properties and the greater mid-lot open space.

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

The property is currently developed with a two-family dwelling on the project site, and with the proposed subdivision, a 2nd two-family dwelling is proposed on the new lot. The project has potential to add an accessory dwelling unit to each lot, resulting in four new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate both project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

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

The Project is located in an area well-served by the City's public transit systems. The Castro MUNI Rail Station and several MUNI bus lines are near the subject property; therefore, the Project will not overburden streets or neighborhood parking. MUNI transit service will not be overburdened as no change to the density on site is proposed.

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

The Project does not include commercial office development. The Project does provide new housing, which is a top priority for the City.

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

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

- G. That landmarks and historic buildings be preserved.

Currently, the Project Site does not contain any City Landmarks or historic buildings.

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

Although the Project does cast shadow on the adjacent public park, the adjacent public park (Ord & Corbett Park) is still afforded access to sunlight, which should not dramatically affect the use and enjoyment of this park. Since the Project is not more than 40-ft tall, additional study of the shadow impacts was not required per Planning Code Section 295.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Authorization Application No. 2019-013808CUA**.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this decision on the Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 19, 2020

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 19, 2020

Exhibit C

Excerpt from Planning Commission Hearing November 18, 2021

Source: Planning Commission Archives

[https://sanfrancisco.granicus.com/TranscriptViewer.php?
view_id=20&clip_id=39912](https://sanfrancisco.granicus.com/TranscriptViewer.php?view_id=20&clip_id=39912)

PASSES 5 TO 1 WITH COMMISSIONER DIAMOND VOTING AGAINST THAT WILL PLACE US ON ITEMS 18 A AND

B OR CASE NUMBER 2019-013808

CU ABA ARE FOR AND 17TH STREET. COMMISSIONERS YOU WILL CONSIDER

A CONDITIONAL USE AUTHORIZATION AND THE ADMINISTRATOR WILL

CONSIDER THE REQUEST FOR VARIANCE BUT NOTE IN OUR NOVEMBER 19 2020 AFTER HEARING CLOSING PUBLIC COMMENT THIS MATTER

WAS CONTINUED. AND THEREFORE THERE WILL BE

REDUCED TIME FOR THE PROJECT SPONSOR AND MEMBERS OF THE PUBLIC FOR THEIR COMMENTS. MISTER MOORE ARE YOU PREPARED TO MAKE A PRESENTATION.

I AM COMMISSION SECRETARY.

GOOD EVENING PRESIDENT. MEMBERS OF THE COMMISSION AND ZONING ADMINISTRATOR JEFF WARREN PLANNING STAFF. ADAM BEFORE HE WAS A REQUEST FOR CONDITIONAL USE AUTHORIZATION FOR THE CORONA HEIGHTS SPECIAL LARGE RESIDENCE SPECIAL USED DISTRICT AND THE REQUEST FOR VARIANCES ON THE LOT AND RH TO AND A 40 X DISTRICT. ITEM WAS HEARD BY THE COMMISSION AND ZONING

ADMINISTRATOR NOVEMBER 19, 2020 AND AFTER HEARING PUBLIC COMMENT AND DISCUSSION THE COMMISSION CONTINUE THE ITEM PROVIDED FEEDBACK ON DESIGN OF THE PROPOSAL WITH RECOMMENDATIONS FOR THE PROJECT TO BE MODIFIED TO SCALE AND BUILDING TYPOLOGY THAT

INCREASES THE DENSITY UP ON THE SITE BUT WITHIN A BUILDING THAT

WOULD BE IN GREATER COMPLIANCE AND LESS IMPACTFUL TO THE OPEN SPACE AND MAINTAIN ADJACENT PROPERTIES ACCESS TO THE AIR.

THE ADMINISTRATOR CONTINUED THE

CASE AS WELL AS A REFRESHER THE PROJECT TYPE IS A CORNER LOT LOCATED ON THE NORTHWEST SIDE OF

Exhibit C

THE INTERSECTION OF 17TH AND MOORE STREET.

THE PROJECT IS A 2916 SQUARE

FOOT CORNER LOT WITH 36 FEET OF FRONTAGE ON ORANGE STREET AND 85 FEET ON 17TH STREET. THE TWO-FAMILY DWELLING

OCCUPIES THE HALF OF THE SUBJECT LOT AND HAS A DEPTH OF 40 FEET SIX INCHES PROVIDING A REALLY HARD TO 50 PERCENT OF

THE LOT . AT THE GROUND-FLOOR THERE'S

EXISTING OFFICE AND STORAGE AREA THAT HAS NO INTERNAL CONNECTION OF THE EXISTING DWELLING UNITS

. THE PROJECT BEFORE YOU TODAY PROPOSES TO CONSTRUCT A NEW

3128 GROSS SQUARE FOOT

THREE-STORY TWO-FAMILY DWELLING

ON A NEW 1458 SQUARE FOOT LOT . THIS NEW LOT WOULD BE CREATED

THROUGH A SUBDIVISION OF THE EXISTING LOT AS DESCRIBED. THE BUILDING WOULD CONTAIN A

1139 WHERE FOR TWO BEDROOM UNIT AT THE GROUND-FLOOR AND IN 1000

400 FOOT TWO-BEDROOM UNIT WITHIN THE UPPER TWO FLOORS.

OPEN SPACE WOULD BE PROVIDED A SECOND FLOOR DECK AT THE REAR OF THE BUILDING AND AT THIRD FLOOR ROOF DECK.

AN ACCESSORY DWELLING UNIT IS PROPOSED TO BE ADDED AT THE GROUND-FLOOR OF THE EXISTING TWO-FAMILY DWELLING AT 17TH

STREET AND THE SPONSOR SEEKS TO

VOLUNTARILY DESIGNATE THE PROPOSED EDU AS AN ON-SITE INCLUSIONARY HOUSING UNIT. THE NEW ROOF DECK IS PROPOSED ON THE EXISTING BUILDING TO PROVIDE COMMON USE OF OPEN SPACES.

PROCEDURALLY PROJECT SEEKS CONDITIONAL USE FOR THE CORONA HEIGHTS SPECIAL USED DISTRICT TO CONSTRUCT A NEW BUILDING THAT EXCEEDS 3000 GROSS SQUARE FEET AND CARRIED ON THE PROPOSED LOT THAT BOTH LOCKS SEEK AUTHORIZATION TO PROVIDE

Exhibit C

DEVELOPMENT THAT RESULTS IN A REARGUARD LESS THAN 45 PERCENT OF TOTAL LOT. WITH EACH BUILDING PROPOSED TO REACH A DEPTH EQUAL TO THEIR PROPERTY LINE. ADDITIONALLY EACH OF THE PROPOSED LOT REQUIRE A VARIANCE TO THE MINIMUM LOT SIZE CONTROL IN SECTION 121 TO ALLOW THE PROPOSED DECISION AND BOTH

LOCKS SEEK A VARIANCE TO THE 45 PERCENT OF WHAT YOU

REQUIREMENTS FOR THE DISTRICT.

SINCE LAST YEAR'S CONTINUANCE AND WHILE WORKING WITH DEPARTMENT STAFF ON DESIGN PROPOSALS TO SPONSOR REVISED

THE PROJECT FOR A REDUCED SCOPE ASKING BEFORE YOU TODAY THE FOLLOWING IS A HIGHLIGHT OF

CHANGES MADE FROM THE PROJECT

ORIGINALLY PRESENTED TO THE PLANNING COMMISSION AND ZONING ADMINISTRATOR. THESE INCLUDE A REMOVAL OF THE

FOURTH FLOOR RESULTING IN A

REDUCTION OF THE HEIGHT OF THE BUILDING FROM THREE FEET TO 30 FEET. AT THE PROPOSED LOT REARGUARD LINE THE SECOND AND THIRD FLOOR

WOULD PROVIDE 12 ASPECTS OF THE

PROPOSED LOT WESTERN SIDE PROPERTY LINE THE FIRST FLOOR WOULD PROVIDE A FIVE FOOT SETBACK THE SECOND AND THIRD FLOOR WOULD PROVIDE A THREE FOOT SETBACK. THE TOTAL AREA OF THE BUILDING IS REDUCED FROM 5000 AND 42 SQUARE FEET TO 3128 SQUARE FEET.

THE PROPOSED ONE VEHICLE GARAGE AND UNPROFITABLE ACCESSORY DWELLING UNIT WERE REMOVED FROM

THE SCOPE. AND THE PROJECT WOULD NOW PROVIDE COMPLIANT USABLE OPEN SPACE AND NO LONGER SEEKS A VARIANCE TO THE CONTROL DECEPTION 135. WITH THESE CHANGES MADE TO THE SCALE AND AMASSING OF THE PROPOSED BUILDING IT WOULD NOT CONSIDERATION THE REQUEST

VARIANCE THE DEPARTMENT FINDS

THE REVISED PROJECTS GENERATES

RESPONSE APPROPRIATELY TO THE CONTEXT OF THE ADJACENT

PROPERTIES AND IN A MANNER

Exhibit C

THAT'S OVERALL CONSISTENT WITH

DEVELOPMENT PATTERNS OF MANY RESIDENTIAL CORNER LOTS THROUGHOUT THE CITY. THE REDUCTION IN HEIGHT AND APPROPRIATION OF SETBACKS REDUCE THE INTENSITY OF THE

PROJECT SCALE WITH RESPECT TO MID LOT OPEN SPACE AND ACCESS TO LIGHT AND AIR. PRIOR TO THE PROJECTS FIRST

HEARING THAT HEARING AND PRIOR TO TODAY'S HEARING THE

DEPARTMENT RECEIVED SUBSTANTIAL TOTAL OF PUBLIC TESTIMONY AND COMMENT IN SUPPORT AND IN OPPOSITION TO THE PROJECT. SINCE THE NEIGHBORHOOD NOTIFICATION FOR THE REVISED PROJECT THIS PAST AUGUST THE DEPARTMENT HAS RECEIVED 85 COMMENTS, EMAILS IN OPPOSITION TO THE PROJECT AND 35 LETTERS IN SUPPORT. THE SUPPORT OF THE PROJECT IS CENTERED ON THE ADDITION OF HOUSING UNITS AND ADDITION OF AFFORDABLE UNITS. OPPOSITION IS ENTERED ON THE

PROJECTS NONCOMPLIANCE WITH THE

PLANNING CODE OR CORONA HEIGHTS LARGE UNITS.

OVERALL THE DEPARTMENT FINDS THE PROJECT IS ON BALANCE CONSISTENT WITH THE CORONA

HEIGHTS LARGE RESIDENCE AND POLICIES OF THE GENERAL PLAN AND FURTHER A PRIORITY IS TO MAXIMIZE THE DEVELOPMENT OF HOUSING UNITS THAT CAN BE REASONABLY ACCOMMODATED UNDER THE SITE ZONING WHILE MAINTAINING QUALITY OF LIFE TO APPLICABLE STANDARDS. THE DEPARTMENT FINDS THE DEPARTMENT RESPONSE TO THE

PROPERTY AND IN A MANNER THAT IS OVERALL CONSISTENT WITH DEVELOPMENT PATTERNS OF THROUGHOUT THE CITY.

THE DEPARTMENT FINDS THE

PROJECT IS NECESSARY, DESIRABLE

AND COMPATIBLE WITH SURROUNDING NEIGHBORHOODS AND NOT TO BE DENTAL MENTAL TO PERSONS OR ADJACENT PROPERTIES. THIS CONCLUDES MY PRESENTATION AND I'M AVAILABLE FOR ANY QUESTIONS. **PRESIDENT:** ARE YOU PREPARED TO MAKE YOUR PRESENTATION?

I AM .

YOU HAVE THREE MINUTES.

MEMBERS OF THE COMMISSION,

ZONING ADMINISTRATOR T AND CONGRATULATIONS TO THE FORMER DA

Exhibit C

SANCHEZ.

YOU FOR THE OPPORTUNITY TO PRESENT MY PROJECT TODAY.

LAST NOVEMBER I SHARED AN IDEA THAT I HAD AND THE FIRST OF ITS KIND SMALL-SCALE MIXED AFFORDABLE HOUSING PROJECT THAT

HAS TWO UNITS WITH MARKET RATE HOUSING TWO UNITS OF DEED RESTRICTED BELOW MARKET RATE

AFFORDABLE HOUSING. THANK YOU JEFF.

THE PLANNING DEPARTMENT ADOPTED MY ORIGINAL DESIGN WAS CONSISTENT AND RECOMMENDED AGAINST IT BUT AFTER A LENGTHY

DISCUSSION DECIDED TO CONTINUE RATHER THAN DESIGN THE APPLICATION AND PROVIDED A ROADMAP. THE SIGN YOU SEE HERE SUMMARIZES THE MANY CHANGES

THAT WERE MADE TO SIGNIFICANTLY DOWNSIZED THE DESIGN.

THE ENTIRE PORTFOLIO WAS REMOVED TO THE BACK OF THE

BUILDING TO STIMULATE A 12 EDR MIND ALL OF THESE CHANGES

REDUCED FROM 2900 SQUARE FEET . COMMISSIONERS YOU ASKED ME TO WORK WITH THE DEPARTMENT TO FIND A MIDDLE PATH . AND THEN YOU JUST HEARD SENIOR

PLANNER JEFFREY HORNSBY GIVE US THAT. YET DESPITE THE DRAMATIC REDUCTION IN SCHOOL AND NOW SUPPORT FROM THE PLANNING

DEPARTMENT THERE ARE WHO REMAIN OPPOSED TO BUILDING THIS OR ANY HOUSING . AND THEY'LL TELL YOU THEY'RE NOT JUST OPPOSED TO NEW HOUSING

PROJECTS AND CERTAINLY NOT AFFORDABLE HOUSING OR JUST OPPOSED TO THIS PARTICULAR AFFORDABLE HOUSING PROJECT AND IT HAPPENS TO BE CLOSE TO THEIR HOME. LET ME SHARE WHAT IS HAPPENING

. ALBEIT MODEST IN SIZE IS WORTHY OF APPROVAL. FOR THE LAST 10 YEARS POPULATION OF HOUSEHOLD INCOME

HAS INCREASED DRAMATICALLY AND

THE FUNDING DECREASED OVER THAT SAME TIME.

Exhibit C

IN TERMS OF OVERALL UNITS AND AGREEMENTS. MORE PEOPLE AND MORE MONEY COMBINED WITH THE SHRINKING

HOUSING REQUIREMENTS PREDICTABLY OWN VALUES AND RENTS HAVE EXPLODED.

THIS IS FROM HOMEOWNERS AND LANDLORDS ACTIVELY WORK TO CONSTRAIN SUPPLY HOUSING AND A HANDFUL YOU WILL HEAR FROM TODAY. THIS IS VERY BAD NEWS FOR THOSE

WHO LIVE IN THIS NEIGHBORHOOD

INCLUDING DISPROPORTIONATELY PEOPLE OF COLOR, THOSE OF LIMITED OR FIXED INCOMES AND

THOSE IN WORKING-CLASS PROFESSIONS SUCH AS TEACHERS FIREFIGHTERS AND OTHER STAFF. IT IS OF COURSE WELL WITHIN

YOUR DISCUSSION TO DEAL WITH

THIS AFFORDABLE HOUSING PROJECT ." HEIGHTS HAS CONTINUED TO GENTRIFY AND WILL REMAIN DOWNTOWN. HOWEVER THE GOOD NEWS FOR THOSE AFFORDABLE HOUSING IS THAT THEY WILL ENABLE AN OPTION AND AN

IDEA THAT COMMISSIONER DIAMOND ACTUALLY HAD. MY STRONG PREFERENCE IS OPTION A, REVISED DESIGN BEFORE YOU TODAY. THE ALTERNATIVE OPTION BE IS ATTACHED TO BEDROOM SQUARE FOOT ACCESSORY AND CONSTRUCTED IN

THE REAR CORNER, AND NO AFFORDABLE HOUSING OR OPEN SPACE. IF THE STATE PROVIDES A PATH OF LEAST RESISTANCE, MINISTERIAL

HE . THIS IS AN EMPTY LOT AND IN THE NOT-TOO-DISTANT FUTURE THERE WILL BE A NEW HOME HERE.

THE ONLY QUESTION IS HOW MANY FAMILIES LIVING INSIDE ONE FAMILY WERE THREE FAMILIES INCLUDING FAMILIES SELECTED BY THE OFFICE. THANK YOU VERY MUCH FOR YOUR TIME. COMMISSIONERS MAY HAVE ADDITIONAL

QUESTIONS. ONCE PUBLIC COMMENT IS CONCLUDED, MISTER HOLTZMAN I'M LOOKING FOR YOUR OWN NUMBER. I DO NOT SEE THE ONE YOU PROVIDED.

I TAKE THAT BACK.

WE DO HAVE ORGANIZED OPPOSITION . THERE WILL BE REPORTED THREE MINUTES TOGETHER TO GIVE A BRIEF SPEAKER AS WOULD ANY OTHER

Exhibit C

MEMBER OF THE PUBLIC. THEY ARE SET ON ONE MINUTE INTERVALS FOR THREE SPEAKERS. MISTER HOLTZMAN ARE YOU WITH US ? I AM.

BRING UP THE SLIDES PLEASE.

PRESIDENT: THEY ARE UP .

I DON'T SEE THEM ON MY END. ANYWAY, LET ME JUST GO THROUGH THIS . AS THE FIRST SLIDE INDICATES

YOU ARE THE CORBIN HEIGHTS NEIGHBORS ASSOCIATION.

NEXT SLIDE PLEASE . WE'VE BEEN AROUND FOR A NUMBER OF YEARS AND WE'VE HAD A PARTICULAR FOCUS ON LAND USE AND AS THESE ADDRESSES INDICATE WE HAVE WORKED ON A NUMBER OF SITES AND IT HAS ALWAYS COME TO A COMPROMISE.

IN THIS CASE HOWEVER, THE NO ONE EVER DARED TO TRY TO KNOCK DOWN AN ENTIRE BACKYARD.

SO NEXT SLIDE PLEASE. I BETTER MOVE AHEAD.

I DO WANT TO WARN PEOPLE I

GUESS THOSE SLIDES ARE GOOFED UP ON WHAT I WANT TO WARN

PEOPLE IS THEY SHOULD NOT FALL

FOR THE BAD COP VERSUS GOOD COP. THE FIRST PROPOSAL WAS A BAD PROPOSAL.THEY BYPASSED THE PLANNING DEPARTMENT AND TURNED

DOWN BY MULTIPLE ENTITIES . THE GOOD COP IS AN ATTEMPT TO REVITALIZE THAT BUT WITH MINIMAL CHANGES. IT SETS A DANGEROUS PRECEDENT FOR BACKYARD AND IT IS ZONING AT ITS WORST. IF YOU LOOK AT THE... WE NEED TO HEAR FROM YOUR NEXT SPEAKER NOW.

OKAY . I'M MARY AND JOSEPH AND VICE

PRESIDENT OF CORBETT HEIGHTS NEIGHBORS I'VE LIVED ONE BLOCK FROM THE PROPOSED PROJECT FOR MANY YEARS.

MY IMMEDIATE NEIGHBORS AND THEN

SUPERVISOR WARNER WERE

INSTRUMENTAL IN GETTING CORONA HEIGHTS SPECIAL USE DISTRICT PAST THE LAW IS STILL IN EFFECT AND NO REASON AT ALL WAS GIVEN

Exhibit C

BY THE DEPARTMENT TO IGNORE OR WAIVE THE REQUIREMENTS OF THE SPECIAL USE DISTRICT. MOST IMPORTANTLY THERE ARE ABSOLUTELY NO ASSURANCES THAT THE PROPOSED UNITS WILL GO TO RESIDENTS AND ARE LOWER

MODERATE INCOMES SAN FRANCISCO RESIDENTS RATHER THAN TO AN OUT-OF-TOWN VISITOR.

THE RESPONDENT HAS SHORT-TERM RENTAL IN ONE OF HIS UNITS NOW AS THE PROJECT IS CONTEMPLATED THE SPONSOR AND SUCCESSORS MAY CHARGE MIGRANTS RATE TO ANYONE ON ALL BUT ONE OF THE FIVE

PROPOSED UNITS.

THE DEPARTMENT POINTED OUT AND RECOMMENDED ONE YEAR AGO THERE WAS A METHOD WHICH COMPLIED WITH THE CORONA HEIGHTS SPECIAL USE DISTRICT THROUGH WHICH ADDITIONAL UNITS COULD BE CONSTRUCTED. PATIENT WAS NOT ACCEPTED AND THERE APPEARS TO BE NO GOOD REASON WHY THE DEPARTMENT DOES NOT INSIST ON THAT METHOD BEING

ARE GOING TO HAVE TO GO TO YOUR THIRD SPEAKER. COMMISSIONERS MY NAME IS PAUL ALLEN, SECRETARY CORBETT HEIGHTS NEIGHBORS AND AS MARIANNE HAS INDICATED THERE IS NO LEGALLY ENFORCEABLE OBLIGATION THAT THE TWO UNITS IN THE NEW BUILDING WILL BE AFFORDABLE OR EVEN TO ENSURE THEY

ARE NOT MADE AVAILABLE TO NONRESIDENTS HAS SHORT-TERM RENTALS. IN SHORT THERE IS A MYTH OF AFFORDABILITY WHICH SURROUNDS THIS PROJECT. MORE IMPORTANTLY, THE DEPARTMENT ONE YEAR AGO RECOMMENDED AGAINST APPROVAL FOR THIS PARTICULAR PROJECT. NOW IT EXECUTES A 180 DEGREES

HERE LET RECOMMENDING APPROVAL APPARENTLY BECAUSE THE SECOND FLOOR IS SOMEHOW SET BACK ABOUT 12 FEET BUT THAT DOES NOT JUSTIFY ABANDONING THE 40 PERCENT REQUIREMENT. ALL WE HAVE IS AN EXCAVATED PRONOUNCEMENT OF COMPLIANCE. NO RATIONALE, NO TRANSPARENCY.

IN ADDITION THIS PROJECT WOULD NOT EVEN MEET THE STANDARDS OF

THE FOUR UNIT LEGISLATION ABOUT WHICH YOU HEARD EARLIER TODAY. IN SHORT THE CONCLUSION SHOULD BE THE SAME AS A YEAR AGO.

DENIAL. THAT CONCLUDES ORGANIZED OPPOSITION.

MEMBERS OF THE PUBLIC.

[INAUDIBLE] AND I ON?

Exhibit C

PRESIDENT: YOU ARE ON . I HEARD THREE ANNOUNCEMENTS.

GOOD EVENING COMMISSIONERS.

THIS IS SAN FRANCISCO LAND USE COALITION. WHILE WE COMMEND MISTER POLLUTER BY RESTRICTING THE DEED

TO AFFORDABLE HOUSING, THE SCALE OF THIS PROJECT IS STILL

MENACING TO THE SURROUNDING NEIGHBORS . AND SURELY THERE COULD BE SOME COMPROMISE REACHED WHERE MISTER HUDAK CAN STILL HAVE TO AFFORDABLE UNITS FROM THIS

PROJECT AND HAVE A SCALE THAT

IS NOT GOING TO BE AMENDED TO THE NEIGHBORS. THAT'S WHY WE WOULD LIKE TO

URGE THE COMMISSION TO ASK MISTER PUTIN TO REDESIGN THE PROJECT SO IT WILL NOT BE A MENACE IN TERMS OF ITS SCALE AND WOULD NOT DEPRIVE THE NEIGHBORS FROM LIGHT AND

PRIVACY BUT AGAIN, PROVIDING THE TWO AFFORDABLE UNITS IS COMMENDABLE BUT AT THE SAME TIME WE HAVE TO KEEP IN MIND THERE ARE OTHER PEOPLE THAT

LIVE IN THIS NEIGHBORHOOD SO PLEASE CONSIDER ASKING THE PROJECT SPONSOR TO REDESIGN THE

PROJECT SO IT WOULD BE MORE IN THE SCALE THAT WE HAVE IN THAT NEIGHBORHOOD.

THANK YOU. I'M BRAD WYMAN, I LIVE IN T3 FOR CORBETT AVENUE. LEFT OVER FROM THIS PROPERTY .

I WAS CANNOT COMMENT NOW?

PRESIDENT: YOUR TIME IS

RUNNING. THE UNIT CREATES AN ADDITIONAL UNITS ALTHOUGH IT'S

LIKE PUTTING UP ONE WALL OF

SHEET ROCK IN A GARAGE IS WHAT IS PROPOSED THERE.

IT IS SUBSTANDARD HOUSING SO TO MAKE THAT AFFORDABLE HOUSING IS SORT OF AN INSULT.

Exhibit C

SO THIS NEW BUILDING I WILL CREATE ANY ADDITIONAL RENTAL UNITS . AND THIS ALL PROJECT PUTS THE

TWO RULE, WHEN THE SPONSOR BOUGHT THE PROPERTY THERE WAS TOO RAW LONG-TERM TENANTS THERE AND IT PUTS BOTH OF THEM RISK OR DISPLACEMENT AS ITS DISPLACED ONE OF THEM AND WILL LIKELY DISPLACE THE OTHER ONE. IF THE BOND IS SEPARATED AS PLANNED.

BECAUSE THAT OLD BUILDING WILL

BE SOLD TO SOMEBODY AND IN OUR NEIGHBORHOOD, THE OWNERS WILL MOVE INTO THAT'S UNIT WHICH IS WHERE OUR DUTIES 12 YOUR TENANTS CAN LIVE AND WE WILL HAVE ANOTHER DISPLACED

TENANTS.

SO FOR A WHOLE PROJECT THAT WAS

ALL ABOUT HOUSING... MEMBERS OF THE PUBLIC, LAST CALL

FOR PUBLIC COMMENT.

YOU HAVE ONE MINUTE.

GO AHEAD TALLER. MY NAME IS LAUREN STRUGGLE

AND I LIVE AT 270 STATE STREET . I'M CALLING TO EXPRESS MY OPPOSITION TO THIS PROPOSAL AND

IN 2016 ARE THEN SUPERVISOR SPONSOR THE INTERIM CONTROLS

AND SITES OVERWHELMING SUPPORT FOR HIS CONSTITUENTS AND THIS LEGISLATION WAS RENEWED AND

CODIFIED AT THE GROWING HEIGHTS

LARGE RESIDENCE SPECIALTY USE DISTRICT WHICH YOU ALL KNOW. I JUST WANT TO POINT OUT A COUPLE OF THINGS. FTD PROMOTES HOUSING IN A SENSIBLE AND INCLUSIVE MANNER

AND OUR NEIGHBORHOOD WAS ABLE

TO ADD COMPATIBLE MULTI-USE BUILDINGS RATHER THAN SINGLE-STORY AND ALSO SINCE IT WAS ENACTED IN 2017 IT'S

SLIGHTLY POPULAR AND REFLECTS THE CURRENT UNIT THAT EMBRACES HOUSING .

Exhibit C

SO THERE'S NOTHING OBSOLETE IF YOU'RE ECSTATIC ABOUT THIS , I DON'T BELIEVE THIS PROPOSAL IS FOR SPECIAL USE DISTRICTS AND THANK YOU SO MUCH FOR LISTENING

. ZONING ADMINISTRATOR MY NAME IS DIRK I WINTER, I LIVE ON THE SAME BLOCK AS THE PROJECT. I OPPOSED THE CURRENT DESIGN,

TO ARCHITECTS AND INDEPENDENTLY DETERMINED THE SAME EXACT NUMBER OF HOUSING UNITS COULD

BE BUILT IN A MATTER OF HIS IN CLOSE EVEN WITH OUR SUV AND WOULD BE LESS IMPACTFUL ON THE

NEIGHBORS. THE FRIENDLY AGENT AT THE

PLANNING COUNTER EVEN SKETCHED IT OUT FOR ME IN FIVE MINUTES. IT SHOWS THE SAME NUMBER OF UNITS AS THE CURRENT PROPOSAL, MORE AFFORDABILITY AND IT'S IGNORED.

WHY IS THE NONCOMPLIANCE PROJECT IN FRONT OF YOU ONCE AGAIN WHEN 50 HOUSING OPTIONS EXIST BUT HAVE NOT BEEN CONSIDERED.

UNFORTUNATELY THE DEVELOPERS

SEEK COMMUNICATING WITH ME SO I RELATED INFORMATION TO THE PLANNING DEPARTMENT LAST SEPTEMBER. PLEASE DENY THIS APPLICATION AND DIRECT THEM TO COPE COME BACK WITH AN COMPLIANCE PROJECT THAT WE CAN SUPPORT.

THANK YOU.

CALLER: MY NAME IS ERIC

MURPHY, OWNER OF 17TH STREET DIRECTLY ADJACENT TO THE 4300 19TH STREET PROPERTY. I'M CALLING TO EXPRESS MY OPPOSITION TO THIS PROPOSAL. THE 20/20 HERE IN THE ZONING

ADMINISTRATOR EXPLAINED THAT VARIANCES ARE INTENDED FOR

EXTRAORDINARY CIRCUMSTANCES. THAT WILL ARISE FROM A SUBJECT PROPERTY IN ITSELF AND THEY DETERMINED THIS SITE IS A

STANDARD PROPERTY THAT PRESENTS COMPLIANCE WAYS OF HOUSING. FURTHER VARIANCE CANNOT BE GRANTED IF IT RECLASSIFIES THE ZONING OF THE PROPERTY.

LASTLY THE PROPOSED SUBDIVISION WOULD CREATE TWO SUBSTANDARD

Exhibit C

LOTS WITH NO REAR YARDS ALL. ALL THESE ISSUES WERE HIGHLIGHTED AT THE LAST HEARING

AND NONE HAVE BEEN ADEQUATELY ADDRESSED IN THE PROPOSAL.

IT'S NONE OF THIS HAS CHANGED MEANINGFULLY VARIANCES ARE STILL NOT JUSTIFIED AND SHOULD BE DENIED. PROJECT SPONSOR SHOULD BE DIRECTED TO WORK ON A COMPLIANCE PROJECT.

THANK YOU.

CALLER: MY NAME IS ROZ AND I LIVE AT 90 ORANGE STREET WITH MY HUSBAND AND YOUNG SON AND WE LIVED NEXT DOOR TO THIS PROPERTY .

THE HEARING CONSIDERED DIAMOND STATED I THINK IT MAKES A GREAT DEAL OF SENSE TO HAVE AFFORDABILITY TIME TOGETHER ON

A CORNER LOT AT A POLICY LEVEL IST SO WE CAN IMPLEMENT IT WITH CONSISTENCY AND PREDICTABILITY . COMMISSIONERS, WE AGREE.

WE PURCHASED OUR HOME LESS THAN

A YEAR AGO AND ALL WE KNEW THE 17TH STREET WAS IN THE WORKS OUR EXPECTATION WAS IT WOULD ONLY MOVE FORWARD AS A CODE

COMPLIANT PROJECT.EVEN VISOR MANDELMAN'S PROPOSAL THIS DEVELOPMENT DOES NOT NEED THE

STEPS SETBACK STIPULATIONS

THERE.[INAUDIBLE]

PRESIDENT: I'M SORRY BUT YOU'VE

BROKEN UP ON US THERE.

CALLER: MY NAME IS SONIA,

AND I'M CALLING TO EXPRESS MY OPPOSITION TO THIS PROPOSAL. AT THE LAST HEARING YOU HAD

DIRECTORS RESPOND TO SPECIFIC SETUP ISSUES AND UNFORTUNATELY THE SAME EXACT CONCERNS STILL APPLY TODAY.

LESS HOUSING, NO REAR YARD OPEN SPACE.

NO AFFORDABILITY, NO HARDSHIP.

Exhibit C

ZONING RECLASSIFICATION AND ON TOP OF THIS WE HAVE LEARNED THE SAME EXACT NUMBER OF HOUSING UNITS CAN BE CREATED IN A CODE

COMPLIANT AND SENSIBLE MANNER BUT THE DEVELOPER IS UNWILLING TO DO SO. OVER 200 REAL NEIGHBORS OF BOTH THE CURRENT DESIGN IF THEY WANT TO SEE A MORE REASONABLE HOUSING PROJECT.

PLEASE DENY THE CU AND VARIANCE APPLICATIONS AND DIRECT THE DEVELOPER TO COME BACK WITH A CODE COMPLIANT PROJECT THAT CAN SUPPORT.

HELLO COMMISSIONERS , MY NAME IS TIM WU AND I'M A NEIGHBOR IN THE AREA.

I HAVE DOUBTS ABOUT THE MIXED AFFORDABLE HOUSING TREND.

AND FOR THAT REASON I OPPOSE

IT. 15 CRISIS ADS SHOW 4000 A MONTH FOR TWO-BEDROOM SLACKS AND EXISTING BUILDINGS OUR NEIGHBORHOOD. THOSE SPONSORS DAILY.

THE INJURY RATE IS IN THAT RANGE. SINCE NEW CONSTRUCTION EXPECTS TO BE CLOSER TO 5000, THIS PROJECT IS PROBABLY WORTH 7

MILLION FOR SQUARE FOOTAGE PRICE. HOW WOULD THIS WORK IS THIS AFFORDABLE. TIME AND AGAIN WE SEE THE HOMES AS SENIOR CITIZENS, NEIGHBORS

AND STUDENTS STAFFED BY SPECULATORS TO TURN ITS MODEST HOMES TO LIKE THIS ONE.

DO NOT ASSESS THE BLAME ON THE PEOPLE WHO LIVE HERE AND HELP US SHAPE BETTER AND MORE

INCLUSIVE PROJECT THAT BENEFITS EVERYONE SO WE CAN EXTEND THESE

BENEFITS TO WORK. I'M THE NEXT DOOR NEIGHBOR TO THE PROPOSED DEVELOPMENT AND I'M CAUTIOUS ABOUT NEW DEVELOPMENT AND INCREASED DENSITY BECAUSE I DON'T THINK IT WILL HELP LOWER AND MIDDLE INCOME RESIDENTS WITHOUT RESIDENCY REQUIREMENTS.

IN THIS SITUATION ALL PREVIOUS DISCUSSIONS ABOUT AFFORDABILITY TEAM TO BE OUT THE WINDOW. WHERE DOES THIS THREE BELOW-MARKET RENTAL UNITS GO? HOW DOES THE PROJECT CONSIDER MIXED AFFORDABLE WITH ONE REAL AFFORDABLE UNIT. A TINY CONVERTED GARAGE. WHAT HAPPENED TO THE RACIAL EQUITY ISSUE THE DEVELOPER PUSHED LAST COMMISSION MEETING . HOW DO WE KNOW FOR SURE THE

Exhibit C

MARKET RATE UNITS WILL BE RENTED AS REAL HOUSING NOT SHORT-TERM RENTALS AS ONE OF

HIS EXISTING UNITS IS IN THE EXISTING BUILDING IS NOW THE

BOTTOM LINE IS THAT THIS ABSURD

PROPOSAL DOES NOT CONFRONT THE CURRENT ZONING AND FUTURE PROPOSED ZONING WITH REGARDS TO SETBACKS. THERE ARE BETTER ALTERNATIVES FOR THE NEIGHBORS AND NEIGHBORHOOD AND 200 OF MY

FELLOW NEIGHBORS AGREE.

CALLER: MY NAME IS GREG RANDO AND I LIVED NEXT DOOR TO THE PROPOSED UNITS AT THE TWO 86 . I DO SUPPORT HOUSING BUT THE

CURRENT PROPOSAL ADVERSELY IMPACTS ARE LIKE AIR AND PRIVACY. THE ZONING LAWS WERE DESIGNED TO PREVENT THIS TYPE OF DEVELOPMENT. THE VARIANCES ARE GRANTED, WHAT'S THE POINT OF HAVING ZONING LAWS? WE COULD HAVE WORKED OUT A REASONABLE COMPROMISE IN THE EXISTING YOUR YARD BUT IT

CAUSED THE DEVELOPERS TO SEE CEASE COMMUNICATING WITH US AND

WE HAD NO OPPORTUNITY TO PRIDE INPUT TO THE PLAN AT THE DEVELOPER IS PROVIDING ONLY ONE ADU TO JUSTIFY THE MARKET RATE AND AS A RESULT WE HAVE NO OTHER CHOICE THAN TO ASK THE

VARIANCES BE REQUESTED BE DENIED.

THE DEVELOPER SHOULD FILE A NEW APPLICATION FOR A CODE COMPLIANT PROJECT AND MAKE A GENUINE EFFORT TO WORK WITH THE

NEIGHBORHOOD.

CALLER: GOOD EVENING COMMISSIONERS. MY NAME IS MARIAH HUTCHINS AND I LIVE AT 47 LIVE ON STREET IN CORONA HEIGHTS. I OPPOSE THIS PROPOSAL. OUR FUD REINFORCES REAR YARD REQUIREMENTS THAT ARE CODIFIED IN ADDITION THE LAST PARAGRAPH

PREVENTS THE PREDATORY SUBDIVISION FRONTAGES.

THIS DEMONSTRATES THAT PROTECTIONS ALSO APPLY OUTSIDE THE MID-BLOCK.

IRONICALLY THE SPONSORS AIRBNB QUOTES A HUGE BACKYARD AS A

Exhibit C

DESIRABLE FEATURE AND HIGHLIGHTS PICTURES OF BIRDS AND TREES. IT SERVES HIM WELL AT IN TERMS OF LIVABILITY AND AS A AIRBNB. I ASKED YOU DENIED THIS APPLICATION AND ASKED THE DEVELOPER TO COME BACK WITH A

CODE COMPLIANT PROJECT . I SUPPORT HOUSING AND ESPECIALLY AFFORDABLE HOUSING.THANK YOU FOR YOUR TIME, I KNOW IT'S BEEN A LONG EVENING.

CALLER: MY NAME IS SUSIE DROUGHT AND I LIVE AT 260 STATE STREET IN OUR SPECIAL USE DISTRICT. I'M CALLING TO EXPRESS MY OPPOSITION TO THIS PROPOSAL. WE'VE HAD ALL THE SUPPORT EMAILS THAT THE PLANNING

DEPARTMENT RECEIVED OUT OF 79 STATEMENTS ONLY 15 PROVIDED A

ZIP CODE IN THE SPECIAL USE DISTRICT. OUR RESIDENTS FROM THE SOUTH THEY EAST COAST RELEVANT TO THE SAN FRANCISCO PLANNING

COMMISSION. I CONTRAST THE OPPOSITION CONSISTS OF MORE THAN 200 SAN FRANCISCANS OF WHICH OVER 170 ARE REAL DISTRICT CONSTITUENTS WHO LIVE IN OUR SPECIAL USE

DISTRICT . THE PROJECT ONLY DESERVES A CONDITIONAL USE AUTHORIZATION IF IT'S NECESSARY OR DESIRABLE FOR THE NEIGHBORHOOD OR COMMUNITY. WE ARE THE NEIGHBORHOOD AND

COMMUNITY AND THE 200+ PROPONENTS HAVE A VESTED INTEREST IN THIS PROJECT. PLEASE TAKE THEM INTO ACCOUNT AS YOU HEAR THIS TESTIMONY.

YOU FOR YOUR TIME.

CALLER: MY NAME IS LESLIE AND I LIVE ON CORBETT AVENUE.

I OPPOSE THIS PROPOSAL . AT THE 2020 HEARING YOU DIDN'T DIRECTED THE DEVELOPER ON

DENSITY, AFFORDABILITY AND EQUITY IN A CODE COMPLIANT MANNER. HOW HAS HE RESPONDED? DENSITY WAS REDUCED FROM 6 TO 5 UNITS. THE NUMBER OF ADU'S WERE CUT IN HALF AND IT REPRESENTS 20 PERCENT OF CORE AREA AND MEANWHILE THE MARKET RATE UNITS HAS INCREASED.

THE CURRENT PROPOSAL HAS REAR YARD OPEN SPACE. . [PLEASE STAND BY] WOUND ALLOW FOR BOTH TO BE SIMULTANEOUSLY PURSUED. COMMISSIONER.

I'M ALSO NOT SUPPORTING THIS PROJECT WHILE THE VERSION WE'VE SEEN TODAY IS CERTAINLY AN IMPROVEMENT OVER WHAT WE SAW LAST TIME, IT

Exhibit C

DOESN'T COME CLOSE TO BEING A CODE COMPLIANT PROJECT AS IT COMPLETELY FILLS

THE BACKYARD OF THE LOT BEING CREATED. WHILE I DO SUPPORT AN INCREASE

IN DENSITY ON THE CORNER LOTS, I

DON'T THINK WE SHOULD GET THERE ON A PROPERTY BY PROPERTY BASIS USING VARIANCES TO TRY TO GET AROUND THE PLANNING CODE.

I BELIEVE AS I SAID LAST TIME,

THIS KIND OF POLICY CHANGE

REQUIRES LEGISLATION THAT THEN PROVIDES PREDICTABILITY AND CONSISTENCY.

I WAS CURIOUS TO SEE IF THE LEGISLATION CURRENTLY UNDER CONSIDERATION WOULD ALLOW FOR

THIS PROJECT AND AS WE HEARD EARLIER TODAY IT DOESN'T.

NOT CURRENTLY CODE COMPLIANT AND THE LEGISLATION AS CURRENTLY DRAFTED DOESN'T SUPPORT IT AND I

DON'T SEE HOW I CAN APPROVE A

PROJECT THAT'S NOT CODE

COMPLIANT AND USE THE VARIANCE PROJECT SO I WILL NOT BE

SUPPORTING THE PROJECT. COMMISSIONER MOORE. COMMISSIONER DIAMOND, YOU

COULDN'T HAVE SAID IT BETTER.

THANK YOU AND I SUPPORT AND ECHO

EVERY COMMENT YOU MADE.

I DO THINK UNFORTUNATELY RUNNING COUNTER TO

COUNTER TO -- COUNTER WOULD LOOK

AT THE CORNER LOSS UNDER THE

CURRENT LEGISLATION WE WOULD NOT

HAVE SOMETHING WHICH LOOKS LIKE

SUB STANDARD LOTS AND 100% LOT

COVERAGE FOR THE SECOND LOT JUST

DOESN'T WORK FOR ME AND I WOULD

NOT SUPPORT THIS PROJECT.

COMMISSIONER IMPERIAL.

I TOO WILL NOT SUPPORT THIS PROJECT FOR THE REASONS COMMISSIONER DIAMOND AND MOORE

HAVE STATED ALREADY.

AND I DO FIND THE A.D.U. AS

VOLUNTARILY TO BE AN

INCLUSIONARY PART AND THERE'S NO WAY FOR THE PLANNING DEPARTMENT FOR THE A.D.U. TO BE AFFORDABLE OR PUT INCLUSIONARY.

IN THAT MATTER, I DO NOT SUPPORT

THIS PROJECT AND I'M SURE YOU HEARD COMMISSIONER MOORE'S

DELIBERATION AND WOULD LIKE TO

Exhibit C

MAKE A MOTION TO DISAPPROVE THE PROJECT.
SECOND.

I WILL TAKE YOUR ADVICE ON WHETHER OR NOT WE'VE HEARD SUFFICIENT FINDINGS FROM MEMBERS OF THE COMMISSION IN ORDER TO CREATOR DRAFT A DISAPPROVAL MOTION. THE ONLY MOTION TODAY IS AN APPROVAL MOTION, HOWEVER, WE HAVE HEARD THIS SEVERAL TIMES. I THINK COMMISSIONERS HAVE ARTICULATED THE REASON FOR FINDINGS FOR WHICH THEY ADISAPPROVING THIS PROJECT BUT WILL DEFER TO YOUR ADVICE WHETHER THE COMMISSION MAKE A MOTION TO DISAPPROVE AND ALLOW STAFF TO CONFER WITH YOU. HAVING SAID THAT, OBVIOUSLY, IT WILL HAVE TO COME BACK AS ANOTHER HEARING. THANK YOU, SECRETARY. I DO THINK IT WOULD BE CLEANER TO MAKE A MOTION OF INTENT TO DISAPPROVE. I THINK I JUST SAW THE ADMINISTRATOR'S FLASH SO WE MAY HAVE SOMETHING TO ADD ON THE VARIANCE PIECE OF THIS. IT IS POSSIBLE CERTAIN, IF OTHER COMMISSIONERS WANTED TO WEIGH IN AND IF IT WAS UNANIMOUS WHAT THE GROUNDS WERE THAT THE DISAPPROVAL COULD HAPPEN TONIGHT BUT I THINK PROBABLY THE CLEANER AND MORE CAUTIOUS APPROACH WOULD BE A MOTION AND DISAPPROVE TO HAVE STAFF DRAFT SOMETHING UP. IF YOU WANT TO ADD ANYTHING -- THANK YOU, COMMISSIONERS, CORY TEAGUE'S ZONING ADMINISTRATOR. I WON'T BELABOUR THE POINT BUT TO COMMISSIONER DIAMOND'S STATEMENTS EARLIER, MY POSITION ON THE PROJECT HASN'T REALLY CHANGED SINCE THE ORIGINAL HEARING AS I MENTIONED IN THE PLANNING CODE PROHIBITS VARIANCES TO BE AFFECTED IF THEY WILL RECLASSIFY THE PLYMOUTH AND IN THIS CASE IT'S ESSENTIALLY A REQUEST TO UPZONE THE PROPERTY TO AN RH4 TYPE OF ZONING. ADDITIONALLY, THE CHALLENGE TOO IS THERE'S NO REAL SPECIFIC EXCEPTION OR EXTRAORDINARY CIRCUMSTANCE OTHER THAN THE FACT IT'S A CORNER LOT WITH REAR YARD SPACE THAT'S BEEN DEVELOPED. FOR THOSE REASONS I'M STILL NOT SUPPORTIVE OF THE VARIANCE. COMMISSIONERS, I HAVE JUST BEEN ADVISED BY STAFF IN FACT YOU HAVE HAD A DISAPPROVAL MOTION IN

Exhibit C

FRONT YOU HAVE AT THE VERY FIRST HEARING. THERE IS THE POTENTIAL OF ADOPTING THOSE FINDINGS TO DISAPPROVE AS THERE IS A MOTION THAT HAS BEEN SECONDED TODAY FOR THIS PROPOSAL. COMMISSIONER MOORE.

I WOULD LIKE TO REDIRECT MY QUESTION TO CITY ATTORNEY AND THE PROFESSIONAL LANGUAGE AND WHERE ADMINISTRATOR TEAGUE VERBALIZED HIS CONCERNS AND PROFESSIONAL OPPOSITION TO THE VARIANCES HAS BEEN EXPRESSED IN LAYMAN LANGUAGE BY THE MAJORITY OF COMMISSIONERS' THINKING AND THE CODE COMPLIANCE ALSO DEALS WITH LOT SIZE AND SUBDIVISION OF A CORNER LOT ON ITS EN OWN COULD BE BUILT TO A MORE SUPPORTABLE DENSITY BUT THE SUBDIVIDING TO SUBSTANDARDS LOTS GOES BEYOND OUR OWN CAPABILITY OF UNDERSTANDING THE NON-COMPLIANCE EXCEPT IT IS A NON-COMPLIANCE.

I'D LIKE TO ASK BASED ON THE PROFESSIONAL ADVICE FROM OUR ZONING ADMINISTRATOR WE HAVE SUFFICIENT EVIDENCE TO BASICALLY DENY THE PROJECT TONIGHT.

YOU HAVE A MOTION IN FRONT OF YOU AND THEY COULD LET US KNOW IF THAT'S CORRECT.

CLARIFICATION THE COMMISSION HAS SEEN A DISAPPROVAL MOTION BEFORE.

THAT WAS WHAT STAFF PREPARED AND MOTION STAFF PREPARED FOR THE PROJECT'S FIRST HEARING BACK IN NOVEMBER OF 2020.

IT'S TECHNICALLY NOT WITHIN THE CASE REPORT BEFORE THE COMMISSION THAT PROVIDES THE COMMISSION TODAY.

THEY HAVE BEEN PROVIDED AND DENIAL MOTION HAS BEEN PREVIOUSLY DRAFTED FOR THIS PROJECT.

I'M SORRY TO INTERRUPT YOU, I GUESS MY QUESTION WAS WAS THE BASIS STATED IN THAT MOTION THE LACK OF CODE COMPLIANCE AS COMMISSIONER MOORE JUST COMMENTED A MOMENT AGO?

IT WAS A COMPONENT OF AN UNPERMITABLE A.D.U. BUT YES, A MAJOR PORTION OF THE MOTION AND FINDINGS FOR DISAPPROVAL WERE

BASED ON THE NON-COMPLIANCE OF PLANNING CODE AND WITH RESIDENTIAL DESIGN GUIDELINES.

IF THE COUNCIL SO CHOSE THEY COULD ADOPT THAT MOTION WITH THE MOTION THEY FINALIZE THOSE FINDINGS

Exhibit C

S STATEMENTS MADE TODAY AND -- THAT'S WHAT I WAS GOING TO SUGGEST. I WOULD ADD THOSE FINDINGS. COMMISSIONER MOORE, ANYTHING ELSE?

IF THERE'S NOTHING FURTHER, COMMISSIONERS.

I WAS GOING TO ADD TO THE COMMENT ABOUT RESIDENTIAL GUIDELINES, THE SEVERITY OF THE PROJECT TODAY AND FOCUSSED MORE ON THE NON-CODE COMPLIANCE. I LEFT THE QUESTION APPROACHING OF THE FULLY INTERPRETED DESIGN GUIDELINES AND I COULD EASILY ADD THAT.

TO COMMISSIONER MOORE TO CLARIFY, THOSE COMMENTS IN REGARDS TO NON-COMPLIANCE OR NON CONFORMANCE WITH THE RESIDENTIAL DESIGN GUIDELINES WERE HEIGHT AND THERE WAS A DIFFERENT CONTEMPT FOR OUR FINDINGS FOR THAT PROJECT THAT MAY NOT BE APPLICABLE TO THE CURRENT PROJECT FOR YOU. AND I THINK BECAUSE WE ALREADY HAVE A VERY HEAVY LOAD HERE WE DON'T HAVE -- COMMISSIONERS, IF I UNDERSTAND CORRECTLY THERE'S A MOTION THAT'S BEEN SECONDED TO DISAPPROVE THE PROJECT ADOPTING THE ORIGINAL MOTION THAT WAS BEFORE YOU ONE YEAR AGO NOVEMBER 19, 2020 AND DIRECTION WITH TWO STAFF TO WORK WITH THE CITY ATTORNEY'S OFFICE TO CLEAN UP THE FINDINGS TO REFLECT THE COMMENTS TODAY. ON THAT MOTION -- I'M SORRY, IF I MAY MAKE ONE OFFER WE'LL HAVE TO REVISE THE PROJECT DESCRIPTION SO IT REFLECTS WHAT WAS BEFORE THE COMMISSION TONIGHT. ON THAT MOTION, COMMISSIONER TANNER. AYE. COMMISSIONER CHAN. AYE. COMMISSIONER DIAMOND. AYE. COMMISSIONER IMPERIAL. AYE. COMMISSIONER MOORE. AYE. AND COMMISSION PRESIDENT KOPPEL. NO.

CLERK: THE MOTION PASSES 4-2 WITH COMMISSIONERS TAN AND KOPPEL VOTING AGAINST -- THAT PLACES ON -- I WILL CLOSE THE PUBLIC HEARING FOR THE VARIANCE AND INTEND TO DENY. THANK YOU.

Exhibit D



From: [Dirk Aguilar](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Corbett Neighbors](#); [Bill Holtzman](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109 for 1/12/2022 hearing)
Date: Wednesday, January 5, 2022 4:45:14 PM

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

Dear Members of the Board of Appeals,

Please uphold the Zoning Administrator's Variance decision and reject Appeal No. 21-109.

The Variance applications do not meet the "hardship requirement", they would result in de-facto rezoning and they would create two substandard lots. The Zoning Administrator, Planning Commission, Planning Counter Staff and two architects have independently demonstrated that a code-compliant project with the same number of units would be possible. As such Variances have no merit.

Please note that the Planning Commission also denied the corresponding Conditional Use Application and that 200+ neighbors oppose this project. Thank you for your attention to this matter.

Best regards,

Dirk Aguilar
30 Ord Street

From: [A.T. Miller](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: info@corbettneighbors.com; [Bill Holtzman](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109)
Date: Wednesday, January 5, 2022 5:25:35 PM

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

Dear Members of the Board of Appeals,

As a resident of Ord Street, I am writing to request Appeal No. 21-109 to be rejected.

After almost three years of meetings with Planning Department staff and two Planning Commission hearings, Appellant has failed to propose a code compliant project. The project failed to address the necessary modifications requested therefore failing to alter the Department's conclusion that the project is "not necessary, desirable, [nor] compatible with the surrounding neighborhood, and [is] detrimental to persons or adjacent properties in the vicinity".

Appellant's project does not conform with zoning code and does not meet the standard for the grant of the two zoning variances requested. Omitted from Appellant's brief is that the project also requires two conditional use authorizations ("CUAs") pursuant to the Corona Heights SUD, one for gross floor area and the other for the same 45% rear yard/set back standard at issue in this appeal. At its November 18, 2021 hearing the Planning Commission denied the CUAs, with Commissioners criticizing proposed "full lot coverage" and Appellant's apparent attempt to use variances "to get around the Planning Code."

Appellant has extolled his project as one of "below market rate," "affordable," and/or "mixed-affordable" housing. The Zoning Administrator's Variance Decision noted that the project "...will have no effect on the City's supply of affordable housing."

The proposed project disregards Code, neighbors and neighborhood. This was confirmed during the November 18, 2021 Planning Commission hearing where the only proponent was the sponsor; yet there were more than 20 speakers in opposition and more than 200 letters filed in opposition, all by neighbors living in close proximity to the proposed project.

Please uphold the Zoning Administrator's Variance decision and reject Appeal No. 21-109.

Thank you for your consideration,
Ava Miller

From: [Joe Accordino](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Corbett Neighbors](#); [Bill Holtzman](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109 for 1/12/2022 hearing)
Date: Wednesday, January 5, 2022 9:39:32 PM

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

Dear Members of the Board of Appeals,

Please uphold the Zoning Administrator's Variance decision and reject Appeal No. 21-109.

My family and I are next door to the proposed project and have had a front-row seat to all of its issues. The project has seemingly universal neighborhood opposition.

We are not opposed to housing but would expect that any project adheres to code and zoning ordinances. The ZA has been unequivocal in his rejection of this proposal each time it was brought before the Planning Commission.

We request that you reject this appeal.

Thank you very much for your consideration.

From: [Roz Amirfazi](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Corbett Neighbors](#); [Bill Holtzman](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109 for 1/12/2022 hearing)
Date: Wednesday, January 5, 2022 9:42:47 PM

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

Dear Members of the Board of Appeals,

Please uphold the Zoning Administrator's Variance decision and reject Appeal No. 21-109.

This proposed project would not only required dozens of variances to the zoning laws in place but has already been rejected twice. We do believe there can be a code compliant project in place but as the proposal stands today, it is not there. I, along with 200+ of my neighbors who have signed the petition against this development, oppose this project as it stands.

Please note that the Planning Commission also denied the corresponding Conditional Use Application. Thank you for your attention to this matter.

Best regards,

Roz Accordino
90 Ord Street

From: [Bill Holtzman](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Appeal No. 21-109, Pluta v. ZA
Date: Thursday, January 6, 2022 9:43:02 AM

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William Holtzman

60 Lower Terrace

San Francisco, CA 94114

Email: Wm@Holtzman.com

415-626-2133

January 6, 2022

Re: Appeal No. 21-109, Pluta v. ZA;

(Denial of a Variance Hearing Date January 12, 2022; Case No.2019-013808VAR)

Dear Members of Board of Appeals:

I would like to join my neighbors and Corbett Heights Neighbors (CHN) in opposing this disingenuous appeal.

Clearly, the appeal casts aside the 45% rear yard set backs and lot size. These are significant violations of San Francisco code. The development also ignores the Corona Heights special use district legislation.

I also want to call out the long list of requests and denials which have followed:

- In April, 2020, the developer's proposal was rejected by the Planning Department citing a long list of issues.
- In late November, 2020, the developer halted negotiations with the Planning Department and submitted a proposal to the Planning Commission and Zoning Administrator.
- After extensive discussion, both the Planning Commission and the Zoning Administrator opposed the request.

- Almost exactly one year later, a modified (but lacking) version of the proposal was re-submitted and, once again, it was turned down by the Planning Commission and the Zoning Administrator.

Two full hearings were held and **both times the developer arguments failed.**

Conclusion: The developer has enjoyed due process and more due process. It is time to put aside this project and conclude a three-year process that continues to demand significant resources from the city and the community.

Sincerely,

William Holtzman

VIA ELECTRONIC MAIL (boardofappeals@sfgov.org)

January 6, 2022

City and County of San Francisco Board of Appeals

Darryl Honda, President

Rick Swig: Vice President

Ann Lazarus: Commissioner

Tina Chang: Commissioner

Jose Lopez: Commissioner

Re: Appeal No. 21-109, Pluta v. ZA, Denial of Variance,
Hearing Date January 12, 2022, Case No. 2019-013808VAR

Dear President Honda, Vice President Swig and Commissioners Lazarus, Chang and Lopez:

Hogwash!¹

What Scott Pluta, the appellant/developer (“developer”), is stating in his appeal is utter hogwash. After nearly three years of dealing with the various permutations of this project, we can definitively state that overturning the Variance Decision will **not** result in any new affordable housing or housing that is deed-restricted for inclusionary and/or below-market rate. This appeal is nothing more than a last ditch effort by an affluent, overly-determined, real estate speculator to end run the City of San Francisco Planning Department, Commission and Zoning Administrator to construct two market rate condominiums. Further, the developer’s weak arguments for overturning the decision of the Zoning Administrator do not rise to the level that the Board of Appeals (“BOA”) requires to act. The developer’s appeal has no merit and should be summarily denied.

Introduction

We are Casey and Greg Rando, the next door neighbors to 4300 17th Street, and would be significantly impacted by the developer’s proposed project. We have been adamantly opposed to the numerous CUAs and zoning variances that the developer has requested over the past couple of years. We have lived at 4302 17th Street for nearly eighteen years and have been full-time residents of the City of San Francisco for that entire time. Below we will state our case for denying this appeal.

Board of Appeals Standard of Review

Why is the BOA considering this appeal? With all due respect, this appeal does not come close to meeting the BOA Standard of Review.

Mind-bogglingly enough, the developer has completely neglected to state how he has met the Standard of Review for the BOA. Certainly, he states that the Zoning Administrator did not consider precedent, etc., but he did not state how his case shows “that *extraordinary circumstances* exist and a rehearing is needed to prevent *manifest injustice*, or new or different facts or circumstances have arisen that if known at the time of the original hearing could have affected the outcome.”² (emphasis added) Certainly, the developer believes that denial of his “right” to build his condominiums is manifestly

¹ Noun/ meaningless or insincere talk, writing, etc.; nonsense; bunk.

² <https://sfgov.org/bdappeal/appeal-process>

unjust, but he hasn't provided an argument to support that belief. Also, he really hasn't provided any argument that the 'housing crisis' that has been occurring in California for the past twenty years is an extraordinary circumstance that warrants granting the rehearing. None of the facts or circumstances have changed recently, except that the developer has taken up residence again at 4300 17th after renting his place out on AirBNB for most of 2021.

So, what are the extraordinary circumstances or manifest injustices here? There are none!

The developer has not provided a rational basis for meeting the Standard of Review or the BOA, and therefore the BOA must simply deny this appeal.

Zoning Administrator Decision

The developer has done a tremendous "deep dive" into the variance data of the Zoning Administrator with impressive numbers, numbers and more numbers! The numbers could lead one to believe that variances are quite subjective, and that they are doled out like approvals for window replacements. What seems to be missing from the developer's analysis is the explanation as to why these variances were granted in the first place. From the Zoning Administrator's website, variances are granted for certain reasons:

A variance is a request for an exception from a Planning Code standard which would cause practical difficulty or unnecessary hardship if applied as written. Most quantitative development standards are eligible for a variance request, but common requests include a variance from rear yard, open space, dwelling unit exposure, or parking requirements. Certain provisions of the Planning Code, such as height, sign and use requirements, are not variable.

The Zoning Administrator hears and makes determinations on variance applications. In order to grant a variance, the following findings must be met:

- 1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;*
- 2. That owing to such exceptional or extraordinary circumstances, the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;*
- 3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;*
- 4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and*
- 5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.³*

³ <https://sfplanning.org/zoning-administrator>

The developer provides a lot of text and data regarding precedent, but doesn't state how his project qualifies for any of these requirements for a variance! He also doesn't explain in his brief that the 111 projects that did receive variances must have met one of the requirements listed above. Again, each one of those projects must have somehow qualified for a variance by meeting one of the requirements. Despite the in-depth analysis and precedent, the developer's project does not meet the requirements, and therefore simply does not qualify for a variance. We simply do not understand his argument.

The Zoning Administrator, Corey Teague, agreed. He was not swayed by the anemic, data-laden arguments offered by the developer. In his December 3, 2021 Variance Decision, Mr. Teague unequivocally stated that the developer had not met any of the requirements listed above, and that the requests for the variances were denied. Four Planning Commissioners agreed with his decision. The Commissioners who voted against the project indicated that despite their previous instruction, the developer had not presented a zoning code-compliant project, so they could and would not approve the project.

The developer states in his brief that the Planning Department staff recommended approval of the project, but we understood the purview of the Planning staff to pertain to the CUAs and not the variances. Regardless, staff recommendations are advisory, and not a fiat. Obviously, the Zoning Administrator interpreted the Zoning Code independent of this decision and made his own conclusion, which is his duty under the City charter.

The only argument that the developer has provided to the BOA in opposition to the Mr. Teague's decision was that 'precedent existed' for issuing variances and that California is in the midst of a housing crisis, which he thinks will be solved by his two market rate condominiums.

Again, there are no extraordinary circumstances here or something manifestly unjust. The Zoning Administrator acted appropriately and interpreted the Zoning Code accurately. The developer has failed to provide a persuasive, convincing argument for his appeal. The appeal must be denied.

Appeal Provides No Affordable Housing – PERIOD.

The developer would have the BOA believe his appeal warrants some sort of special consideration due to the moral and social gravity of the affordable housing component that he is proposing. Many people have rallied around him, lauding him for his commitment to building affordable housing. The SF Chronicle even reported on it. Again, more hogwash! There is nothing in the developer's application materials that commits him to keep any rental units that he develops as "affordable" or below market in perpetuity. Also, there is also nothing on the website for the Mayor's Office of Housing and Community Development for Below Market Rate Housing that indicates participation in this program provides a free pass from the Planning and Zoning Codes. As of the last Commission hearing, it did not appear the developer had even engaged the Mayor's office about the program. To us, this is nothing more than another marketing ploy.

Contrary to what the developer states in his brief, there will be NO affordable, below-market or inclusionary housing built as a result of this appeal. What the developer would have you believe is that the approval of the two variances would result in the development of new, affordable housing, but break down the most recent project description, and one finds that the developer is proposing the following:

- Construction of two market rate condominium apartments on the new lot (backyard);
- Conversion of the developer's existing personal residence to a market rate apartment;
- Conversion of a garage to an Accessory Dwelling Unit that *might* be below market rate.

All-in-all, this years' long marketing scheme is going to result in the construction of **zero** affordable housing units!

It *might* result in the conversion of an existing garage into a miniscule micro-studio that could qualify as a below market rate rental unit. This unit would be a fraction of the overall square footage of the other units. The developer could have completed the conversion of this garage three years ago when he purchased the property. It has nothing to do with the variances. He is hanging the entire affordability schtick on this studio conversion. It's just a bunch of hogwash!

What *would* result are three market rate condominium apartments for the developer as income. THIS is the primary goal of the developer. There will be nothing affordable about the two market rate condominium apartments or the existing apartment, as the developer has not committed these units to the Mayor's Office of Housing and Community Development for Below Market Rate Housing.

The developer does not deserve kudos or any kind of special consideration for magnanimously developing affordable housing because there is no real evidence that he will do it, and a miniscule garage conversion to an ADU does not equate to the 'development of affordable housing.' The real story here is that the developer is using buzzwords word to curry favor and gain support, so he can construct two market rate condos. In other words, this is all just hogwash.

Personal Impacts of Proposed Project

Unfortunately, we have been impacted significantly by the developer's irresponsible tactics to try to market and to get support for his project. We will refrain from on elaborating on the illegal use of drones and some other tactics, but what has been the most impactful is that the developer has characterized his neighbors and his neighborhood, in various forms of online media and in testimony, as being racist, classist, elitist, NIMBYist and toxic, among other things. He has also characterized us as being opposed to any form of inclusionary housing. Again, there was a lot of data! All of this because we didn't like his project. Perhaps if he and his cadre of lobbyists, media consultants and sycophants slung enough mud at the wall, they figured something would stick and would help his cause. What is sad is that the developer has spent the better part of three years criticizing his neighbors, his neighborhood and San Francisco, rather than getting to know them better.

We believe that if the BOA grants the appeal, the developer will simply refile the same plans that he presented to the Planning Commission in a year's time – or something more impactful to us and other neighbors. If the project were to be constructed, we would lose a significant amount of light and air on the eastern side of the house. We would also lose a very large amount of natural light in the backyard. We are not alone. Our neighbors who live downstairs would also lose out and would live in even greater shadows. The owners of 90 Ord Street would also lose light to their entire backyard and much of the back of their house.

It still appears, the developer has TEN light well windows currently planned on our property line. So, when we or our neighbors downstairs look out our kitchen windows, we will be looking directly into the developer's home or into his tenants' homes. The loss of privacy would be staggering.

The developer is proposing construction up to the lot line, so we would lose all the green space and defensible fire space between the two properties.

The developer has elected to cut off all communication with all of his neighbors regarding this project. He is not interested in any input from his neighbors or the neighborhood, and for most of 2021, he hasn't even lived here.

Conclusion

The developer has not met the basic level of Standard of Review for the BOA. He has also not provided any adequate reason why the Zoning Administrator's Variance Decision should be overturned. The developer's project does not qualify for any of the five categories for zoning variances, so the Variance Decision should be upheld. The impacts to the adjacent neighbors would be significant, so this project should, once and for all, be put to rest.

We respectfully request the BOA President, Vice President and Commissioners summarily deny the appeal. Thank you.

Sincerely,

Casey & Greg Rando
4302 17th Street
San Francisco, CA 94114

From: [Susan Detwiler](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Corbett Neighbors](#); wm@holtzman.com
Subject: I'm opposed to variance for 4300 17th St
Date: Thursday, January 6, 2022 11:58:53 AM

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Dear Members of the Board of Appeals,

Please uphold the Zoning Administrator's Variance decision by rejecting Appeal No. 21-109.

We have zoning rules for a reason- to guide development in a way that makes sense for the city, and the neighborhood. The proposed variances would result in substandard lots.

This project has already been found unacceptable by the Planning Commission and Planning Counter Staff. Why would we allow a change in zoning without acceptable plans for the lots?

Thank you,

Susan Detwiler
68 Douglass St

MARYANN DRESNER

ATTORNEY AT LAW

1390 Market Street, Suite 200
San Francisco, California 94102
415 - 864-7636
FACSIMILE (415) 863-8596

January 6, 2022

Re: Appeal No. 21-109, Pluta v. ZA;

(Denial of a Variance Hearing Date January 12, 2022; Case No.2019-013808VAR)

Dear Members of Board of Appeals:

Although my professional office is located in the Civic Center area, I reside just one block away from the site at 4300-17th Street, which is the subject of the appeal noted above.

I join my neighbors and our neighborhood association, Corbett Heights Neighbors (CHN) in opposing this appeal. PLEASE UPHOLD THE ZONING ADMINISTRATOR'S DECISION IN THIS MATTER.

The records of the Planning Commission and Planning Department show that over 200 other neighbors of 4300-17th Street opposed the project proposed. Additionally, the variance applications do not show any hardship and any granting of a variance would result in two very small lots and more importantly rezoning of the neighborhood.

Most importantly, both the Planning Department staff and independent architects have stated that the sponsor could be the owner of the same number of units with a differently planned project which could be compliant with present code.

The "affordable housing" claims made by the sponsor are without merit. The two units in the new building proposed are "market rate, and there is absolutely no guarantee that those two units won't be made available as short term rentals. (Please understand that I have been informed that short term renters either did occupy or now occupy the original building subject of this project)

Please deny the appeal requested

Maryann Dresner

From: [Eric Murphy](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Teague, Corey \(CPC\)](#); [Tam, Tina \(CPC\)](#); [Horn, Jeffrey \(CPC\)](#); [MandelmanStaff, \[BOS\]](#); [Corbett Neighbors; wm@holtzman.com](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109)
Date: Thursday, January 6, 2022 3:54:43 PM
Attachments: [SF Appeals Board Statement January 2022.pdf](#)

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

Dear Board Members,

I am the owner of 4304 17th Street, adjacent to the backyard of 4300 17th Street. And I am writing to urge you to deny this appeal.

This project does not meet the conditions for two requested zoning variances requested, and requested CUAs have already been denied by the Planning Commission. The SF Planning Executive Summary stated that the project is “not compatible with the immediate neighborhood, and would have significant negative impacts to neighboring properties,” mostly due to its proposed **full lot coverage and essential backyard elimination pertaining to two new lots to be created from the original lot**. Several Commissioners criticized the proposed “full lot coverage” and an apparent attempt to use variances “to get around the Planning Code.”

Additionally, over 200 neighbors, the vast majority of whom live in close proximity to the project, are on record as opposed to this project.

It seems that the appellant’s primary justification for this project is that it will allow for creation of “mixed-affordable” housing. **While I fully support the pursuit of affordable housing in San Francisco, I do not understand why it needs to be created to the detriment of open space and access to light and air in our neighborhoods.**

The revised plans presented at the second Planning Commission hearing actually propose a **reduction in square footage for affordable housing**. It seems that the appellant didn’t have a problem sacrificing affordable square footage in an attempt to push his project through.

It is likely the appellant will generate a lot of support in the upcoming hearing on the basis of affordable housing. **The appellant “stacked the deck” during the first Planning Commission hearing, but it seems that virtually none of those who made comment actually live in the neighborhood**, and many don’t even live in San Francisco. I urge you to keep this in consideration as you hear public comments.

Again, I urge the board to reject this appeal.

Thank you for your consideration.

Eric Murphy
Property Owner, 4304 17th Street

PDF COPY ATTACHED BELOW.

January 6, 2022

San Francisco Board of Appeals

Re: Appeal No. 21-109, Pluta v. ZA;

Denial of a Variance Hearing Date January 12, 2022; Case No.2019-013808VAR

Dear Board Members,

I am the owner of 4304 17th Street, adjacent to the backyard of 4300 17th Street. And I am writing to urge you to deny this appeal.

This project does not meet the conditions for two requested zoning variances requested, and requested CUAs have already been denied by the Planning Commission. The SF Planning Executive Summary stated that the project is “not compatible with the immediate neighborhood, and would have significant negative impacts to neighboring properties,” mostly due to its proposed **full lot coverage and essential backyard elimination pertaining to two new lots to be created from the original lot**. Several Commissioners criticized the proposed “full lot coverage” and an apparent attempt to use variances “to get around the Planning Code.”

Additionally, over 200 neighbors, the vast majority of whom live in close proximity to the project, are on record as opposed to this project.

It seems that the appellant’s primary justification for this project is that it will allow for creation of “mixed-affordable” housing. **While I fully support the pursuit of affordable housing in San Francisco, I do not understand why it needs to be created to the detriment of open space and access to light and air in our neighborhoods.**

The revised plans presented at the second Planning Commission hearing actually propose a **reduction in square footage for affordable housing**. It seems that the appellant didn’t have a problem sacrificing affordable square footage in an attempt to push his project through.

It is likely the appellant will generate a lot of support in the upcoming hearing on the basis of affordable housing. **The appellant “stacked the deck” during the first Planning Commission hearing, but it seems that virtually none of those who made comment actually live in the neighborhood**, and many don’t even live in San Francisco. I urge you to keep this in consideration as you hear public comments.

Again, I urge the board to reject this appeal.

Thank you for your consideration.

Eric Murphy

Property Owner, 4304 17th Street

From: [Maria Chambers Hutchins](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: In opposition to 4300 17th Street (Appeal No. 21-109)
Date: Thursday, January 6, 2022 3:57:56 PM

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Dear Members of the Board of Appeals,

I am writing to ask that you please UPHOLD the Zoning Administrator's variance decision and REJECT Appeal No. 21-109.

This project has been through several iterations over nearly three years now and yet has consistently failed to meet the zoning requirements put forth by members of the Planning Commission. As a neighbor, I met one-on-one with the project sponsor in early 2020 to better understand his objectives and I have been closely following the process every step of the way. I cannot state it more clearly than the commissioners themselves did in the most recent Nov 18th Planning Commission Hearing: the project "doesn't come close to being a code-compliant project" and we should not be adding housing density "on a property by property basis using variances to try to get around the Planning Code."

The project sponsor has taken many hours of time and attention not only from City staff but from the community of neighbors who have soundly rejected the plan as conceived.

Thank you for YOUR time and attention to this matter.

Maria Hutchins
47 Levant Street

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"We must be the change we wish to see in the world."

- Mahatma Gandhi

From: [Brad Lyman](#)
To: [BoardofAppeals \(PAB\)](#); [Dirk Aguilar](#)
Cc: [Corbett Neighbors](#); [Bill Holtzman](#)
Subject: Opposition: 4300 17th Street (Appeal No. 21-109 for 1/12/2022 hearing)
Date: Thursday, January 6, 2022 4:21:26 PM

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

Dear Members of the Board of Appeals,

Please uphold the Zoning Administrator's Variance decision and reject Appeal No. 21-109.

The Variance applications do not meet the "hardship requirement", they would result in de-facto rezoning and they would create two substandard lots. The Zoning Administrator, Planning Commission, Planning Counter Staff and two architects have independently demonstrated that a code-compliant project with the same number of units would be possible. As such Variances have no merit.

Specifically, the project sponsor has claimed that this project will help California's housing crisis. But in reality it has worsened it. Both tenants have been fearful for their housing since the project was first introduced in 2019. One tenant gave up and moved out. If the lot is split, most likely, the other tenant will be displaced. Splitting the lot will leave 2 lots with 2 to 3 housing units. Both buildings typically will be purchased to be the home of the new owners in the main unit. In our neighborhood, often the 2nd and/or 3rd units are kept vacant. This project will create much hardship for the neighbors and produce no additional rental units. If a satisfactory plan could be agreed upon for a new second building, it's in the best interest of renters and the City to allow them on the same lot AND to not split the lot. The property would most likely be purchased by an entity that wants to provide rental units.

Please note that the Planning Commission also denied the corresponding Conditional Use Application and that 200+ neighbors oppose this project. Thank you for your attention to this matter.

Best regards,

Brad Lyman
234 Corbett Ave
415.252.8651

From: [Timothy Wu](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Opposition to 4300 17th Street (Appeal No. 21-109)
Date: Monday, January 10, 2022 5:36:50 PM

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

To the Members of the Board of Appeals,

I am a concerned neighbor in the area of 4300 17th Street, and I am writing today to express my sincerest hope that you will reject approval of this proposed project.

As you are well aware, requested CUAs have already been denied by the Planning Commission. The SF Planning Executive Summary stated that the project is "not compatible with the immediate neighborhood, and would have significant negative impacts to neighboring properties," mostly due to its proposed **full lot coverage and essential backyard elimination pertaining to two new lots to be created from the original lot**. Several Commissioners criticized the proposed "full lot coverage" and an apparent attempt to use variances "to get around the Planning Code."

Additionally, more than 200 concerned neighbors like me are on record as opposed to this project.

It seems that the appellant's primary justification for this project is that it will allow for creation of "mixed-affordable" housing. I find the appellant's arguments in this area to be self-serving and disingenuous. When the appellant first met with neighbors and community members to discuss his project, this topic did not even come up. It was only AFTER he realized the extent of the opposition to his proposed project that the "primary" justification for this building and its required variances suddenly became "mixed affordable housing." I am completely in favor of creating more affordable housing in San Francisco. We all know that this is a great need. However, a call for such housing CANNOT be an after-the-fact excuse to justify variances that have already been rejected as being in violation of the very reasons they were established in the planning code in the first place.

The revised plans presented at the second Planning Commission hearing actually propose a **reduction in square footage for affordable housing**. It seems that the appellant doesn't have a problem sacrificing affordable housing square footage in an attempt to push his project through.

It is likely the appellant will generate a lot of support in the upcoming hearing on the basis of affordable housing. **The appellant "stacked the deck" with comments during the first Planning Commission hearing, but it seems that virtually none of those who made comment in favor of the project actually live in the neighborhood**, and many don't even live in San Francisco. The public comments against the project, on the other hand, came from a broad and diverse representation of community members and neighbors who have chosen to live, work, and raise their families in this area.

Thank you for your consideration, and I urge the board to reject this appeal.

Timothy Wu
Neighborhood resident
EVP, San Francisco Zoological Society

From: mrmpr@earthlink.net
To: [BoardofAppeals \(PAB\)](#)
Subject: Appeal 21-109 scheduled for January 12, 2022 : Deny Appeal
Date: Wednesday, January 5, 2022 10:27:55 AM

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Dear President Honda, Commissioners Rick Swig, Ann Lazarus, Tina Chang and Jose Lopez and ED Julie Rosenberg:

I write to urge upholding of the Zoning Administrator's decision in this case. Because I have followed and studied this project for something approaching two years, I know that decision to be soundly based and fairly administered.

Prior to this Appeal, during the Planning Department and Commission's deliberation of the proposed project, I expressed my opposition to the excessive violations of existing planning guidelines and zoning laws which this project never ceased to propose be waived.

I do not oppose the creation of additional housing nor the thoughtful increased densification of residential neighborhoods in San Francisco if the projects are guided by the rules and regulations which have been developed for this purpose by the Planning Commission and its staff.

This project, as proposed, has refused to be constrained by zoning rules which are intended to govern projects throughout the city, except in cases where a reasonable basis for exception(s) has been established.

At the same time, the project presented no reasonable case to justify overturning those rules and to be granted the special treatment it sought. Instead, it invoked a casual rhetorical chimera about affordable housing, an assertion for which there is no factual substance.

The established neighborhood organization, as well as many unaffiliated

individuals, devoted substantial effort in 2020 and in 2021 to highlight the substantial abrogation of existing planning and zoning rules that would be necessary to approve the project. At the same time, they remained ready to work with the project sponsor and Department staff to achieve the sponsor's stated objectives which were achievable within existing law. Unfortunately, the project sponsor has declined to engage in such a dialogue.

I call your attention, as no doubt have others, to the excellent summary of points, relevant to the Appeal of the ZA ruling, prepared by the Corbett Heights Neighbors organization, submitted separately.

Mark Ryser
415 553-8033