



SAN FRANCISCO PLANNING DEPARTMENT

APPEAL # 14-158

Discretionary Review

Abbreviated Analysis

HEARING DATE: APRIL 24, 2014

BOARD OF APPEALS

SEP 17 2014

APPEAL # 14-158

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: April 17, 2014
Case No.: 2013.1765D
Project Address: 1264 6th AVENUE
Permit Application: 2013.06.26.0594
Zoning: RH-1 (Residential House, One-Family)
 40-X Height and Bulk District
Block/Lot: 1754/019
Project Sponsor: David Silverman
 Reuben, Junius & Rose, LLP
 1 Bush Street, Suite 600
 San Francisco, CA 94104
Staff Contact: Christine Lamorena – (415) 575-9085
 christine.lamorena@sfgov.org
Recommendation: Do not take DR and approve as proposed

PROJECT DESCRIPTION

The proposal is to construct a two-to-three-story horizontal addition with a roof deck above the second story portion of the addition (approximately 4 feet deep by 16 feet wide) at the rear of the existing two-story-over-garage, single-family dwelling. The 3rd story will be set back approximately 9 feet from the northern property line. The project includes interior alterations and front landscaping.

SITE DESCRIPTION AND PRESENT USE

The project site contains a two-story-over-garage, single-family dwelling constructed circa 1900 on a 25-foot wide by 95-foot deep lot with a lot area of approximately 2,375 square feet. The subject lot is located on the east side of 6th Avenue between Hugo and Irving Streets in the Inner Sunset Neighborhood.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

On the subject block-face and opposite block-face, the majority of the buildings are three to four-story, single-family and multi-unit buildings. The subject block-face is zoned RH-1 while the opposite block-face is zoned RH-2 (Residential, House, Two-Family). The corner lots at Irving Street are within the Inner Sunset Neighborhood Commercial Zoning District.

BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	October 21, 2013 - November 20, 2013	November 20, 2013	April 24, 2014	155 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	April 14, 2014	April 14, 2014	10 days
Mailed Notice	10 days	April 14, 2014	April 14, 2014	10 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)		2 (DR Requestors, 1260 6 th Ave. and 1268 6 th Ave.)	
Other neighbors on the block or directly across the street		4 (Property Owners, 425 Hugo St., 1256 6 th Ave., 1258 6 th Ave., and 1272 6 th Ave.)	
Neighborhood groups			

The Department received an additional 11 letters in opposition to the project.

DR REQUESTORS

Ken Miller and Julie McKenzie, owners at 1260 6th Avenue, a two-story-over-garage, single-family dwelling immediately north of the subject property. Cynthia Smith, owner at 1268 6th Avenue, a two-story-over-garage, single-family dwelling immediately south of the subject property, is also party to the Miller/McKenzie DR request.

DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

See attached *Discretionary Review Application*, dated November 20, 2013 and *Discretionary Review Applicants Supplemental Brief*, dated April 16, 2014.

PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached *Response to Discretionary Review*, dated March 31, 2014.

ENVIRONMENTAL REVIEW

The Department has determined that the proposed project is exempt/excluded from environmental review, pursuant to CEQA Guideline Section 15301 (Class One - Minor Alteration of Existing Facility, (e) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet).

RESIDENTIAL DESIGN TEAM REVIEW

The Residential Design Team (RDT) found that the proposed project meets the standards of the Residential Design Guidelines (RDGs) and that the project does not present any exceptional or extraordinary circumstances for the following reasons:

- The amount of loss of light and additional shadowing is within reasonable expectations of development impacts in an urban setting (RDG pg. 16).
- The proposed depth is modest with minimal effect on the mid-block open space (RDG pgs. 25-27).

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

RECOMMENDATION: Do not take DR and approve project as proposed

Attachments:

Parcel Map

Sanborn Map

Zoning Map

Aerial Photographs

Section 311 Notice

DR Application, dated November 20, 2013

Response to DR Application Packet

Response to DR Application, dated March 31, 2014

Reduced Plans

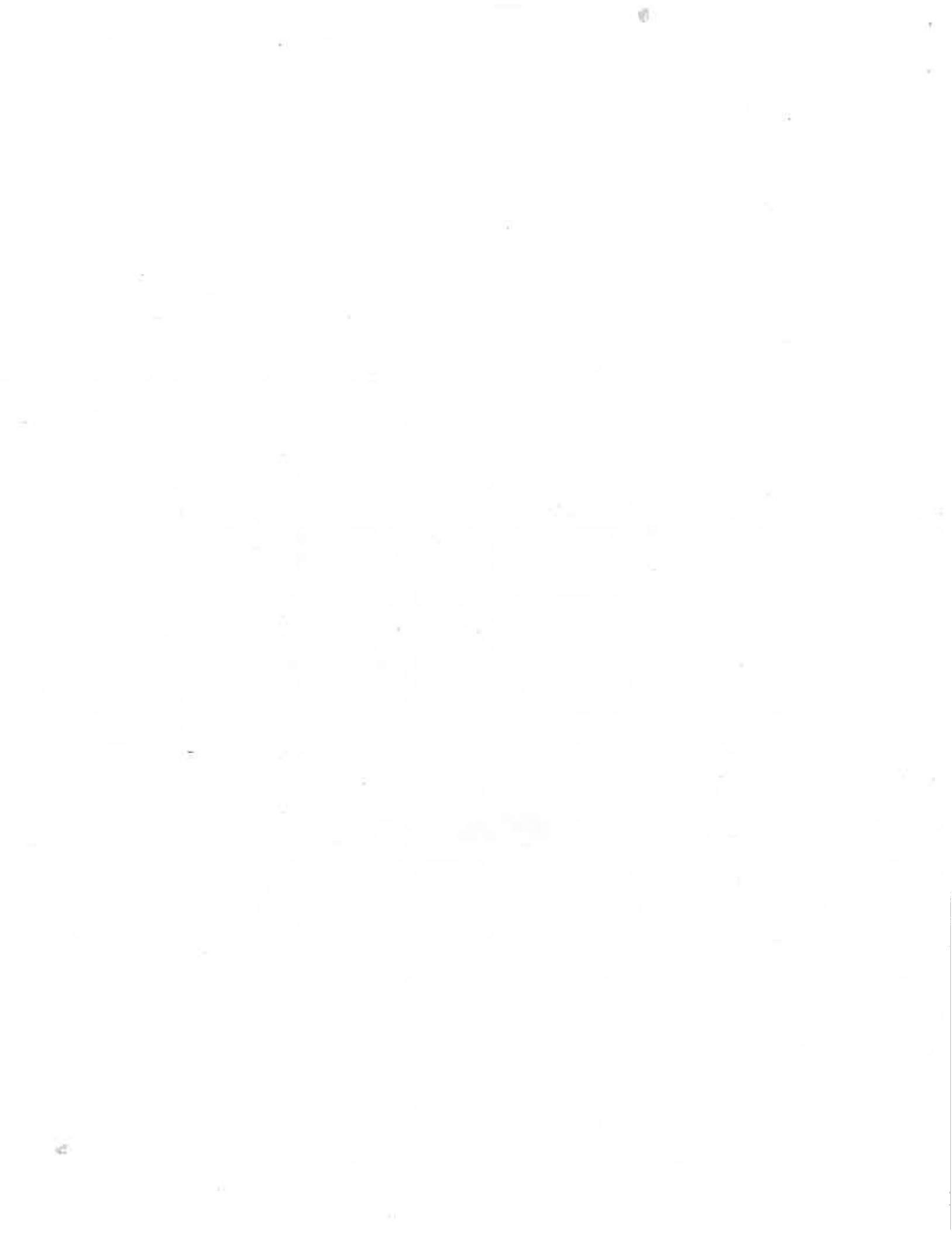
Site Photographs

DR Requestor Rebuttal Packet

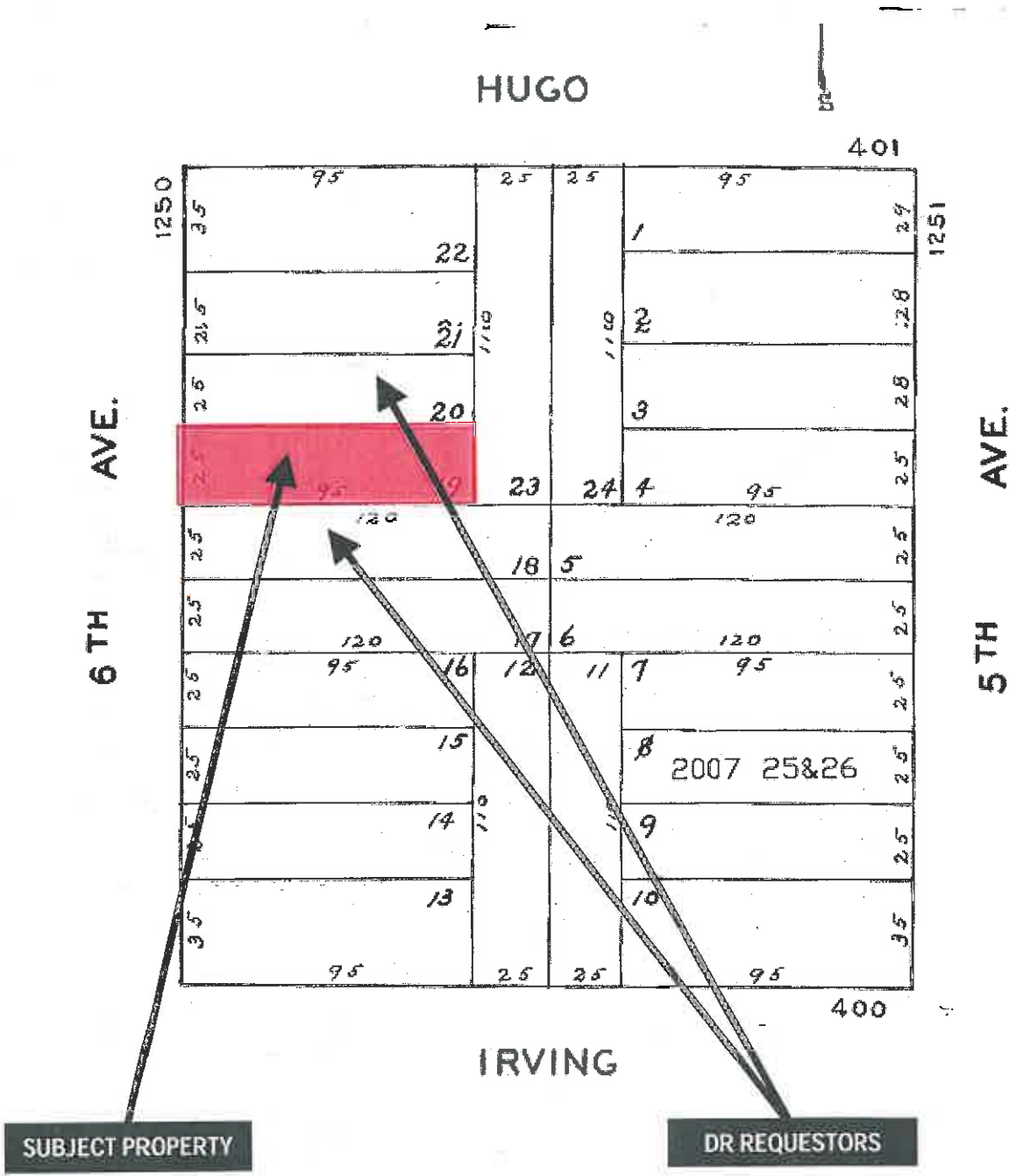
Discretionary Review Applicants Supplemental Brief, dated April 16, 2014

Letters of Opposition (15)

CL: G:\DOCUMENTS\2013\DRs\2013.1765D\1264 6th Ave - DR - Abbreviated Analysis.doc

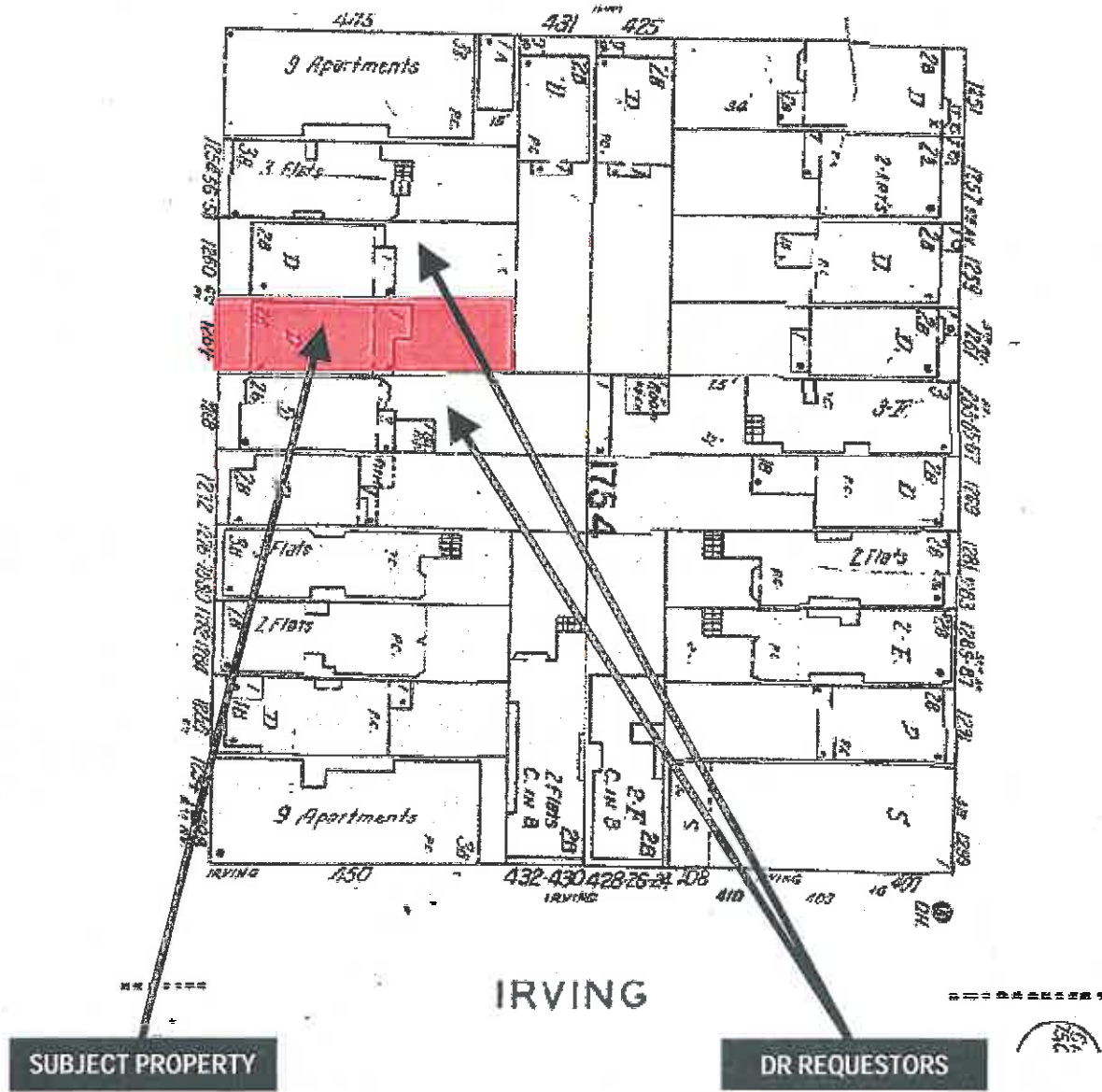


Parcel Map



Discretionary Review Hearing
 Case Number 2013.1765D
 1264 6th Avenue
 Block 1754 / Lot 019

Sanborn Map*

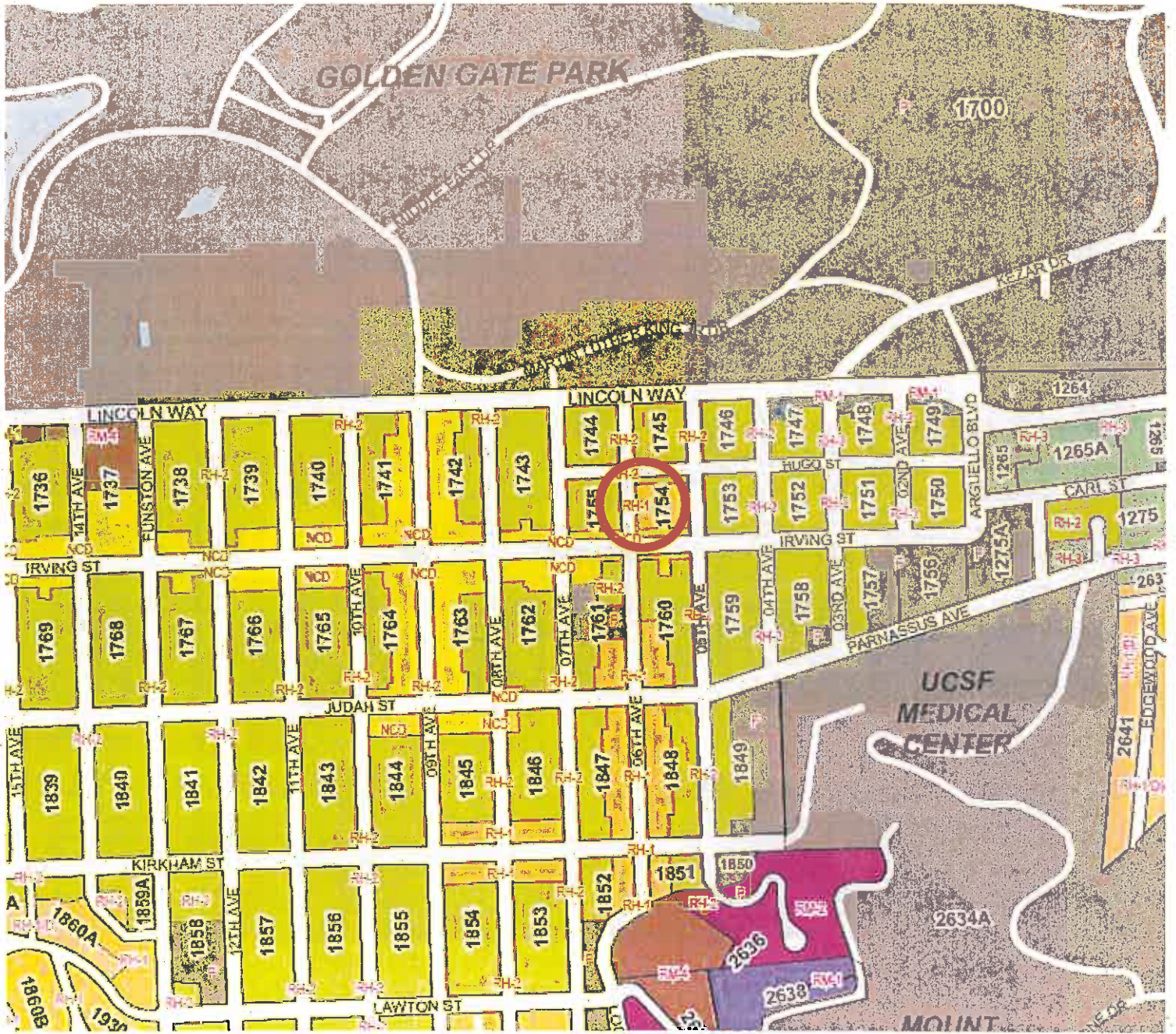


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

Discretionary Review Hearing
 Case Number 2013.1765D
 1264 6th Avenue
 Block 1754 / Lot 019



Zoning Map



Discretionary Review Hearing
Case Number 2013.1765D
1264 6th Avenue
Block 1754 / Lot 019

Aerial Photo (looking east)

DR REQUESTORS



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2013.1765D
1264 6th Avenue
Block 1754 / Lot 019

Aerial Photo (looking west)

DR REQUESTORS



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2013.1765D
1264 6th Avenue
Block 1754 / Lot 019



APPEAL # 14-158

SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Action DRA-0361

HEARING DATE: APRIL 24, 2014

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

Date: May 19, 2014
Case No.: 2013.1765D
Project Address: 1264 6th AVENUE
Permit Application: 2013.06.26.0594
Zoning: RH-1 (Residential House, One-Family)
 40-X Height and Bulk District
Block/Lot: 1754/019
Project Sponsor: David Silverman
 Reuben, Junius & Rose, LLP
 1 Bush Street, Suite 600
 San Francisco, CA 94104
Staff Contact: Christine Lamorena – (415) 575-9085
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BOARD OF APPEALS

SEP 17 2014

APPEAL # 14-158

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ADOPTING FINDINGS RELATED TO NOT TAKING DISCRETIONARY REVIEW OF CASE NO. 2013.1765D AND THE APPROVAL OF BUILDING PERMIT 2013.06.26.0594 PROPOSING CONSTRUCTION OF A TWO-TO-THREE-STORY HORIZONTAL ADDITION WITH A ROOF DECK ABOVE THE SECOND STORY PORTION OF THE ADDITION (APPROXIMATELY 4 FEET DEEP BY 16 FEET WIDE) AT THE REAR OF THE EXISTING TWO-STORY-OVER-GARAGE, SINGLE-FAMILY DWELLING WITHIN THE RH-1 (RESIDENTIAL, HOUSE, ONE-FAMILY) ZONING DISTRICT AND 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 6, 2013, Leslie Arnold filed for Building Permit Application No. 2013.06.26.0594 proposing construction of a two-to-three-story horizontal addition with a roof deck above the second story portion of the addition (approximately 4 feet deep by 16 feet wide) at the rear of the existing two-story-over-garage, single-family dwelling within the RH-1 (Residential, House, One-Family) Zoning District and 40-X Height and Bulk District.

On November 20, 2013, Julie McKenzie, Ken Miller, and Cynthia Smith (hereinafter "Discretionary Review (DR) Requestor") filed an application with the Planning Department (hereinafter "Department") for Discretionary Review (2013.1765D) of Building Permit Application No. 2013.06.26.0594.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

On April 24, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2013.1765D.

Memo

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.

ACTION

The Commission hereby does not take Discretionary Review requested in Application No. 2013.1765D and approves the Building Permit Application 2013.06.26.0594.

BASIS FOR RECOMMENDATION

The reasons that the Commission took the action described above include:

1. There are no extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code, the General Plan, and conforms to the Residential Design Guidelines.
2. The Commission determined that no modifications to the project were necessary and they instructed staff to approve the project per plans marked Exhibit A on file with the Planning Department.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is issued. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street # 304, San Francisco, CA, 94103-2481.

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 did not take Discretionary Review and approved the building permit as reference in this action memo on April 24, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Moore, and Wu

NAYS: None

ABSENT: Borden, Hillis, and Sugaya

ADOPTED: April 24, 2014

HD 11/19/14

FILE

Mejia, Xiomara (PAB)

From: Craig Marshall <craigmarshall@comcast.net>
Sent: Monday, September 22, 2014 9:21 PM
To: Board of Appeals (PAB)
Subject: Miller vs. Leighton case 1260/1264 6th Avenue

BOARD OF APPEALS
SEP 23 2014
APPEAL # 14-162

Dear S. F. Board of Appeals,

I live at 425 Hugo Street in San Francisco. My backyard is part of a park-like, somewhat sunny, green area that is made up of all of the backyards that belong to the structures that encircle the block bordered by Irving Street, 5th Avenue, Hugo Street and 6th Avenue.

We have neighbors, Andrea and Clay Leighton, that live at 1264 6th Avenue, who want to remodel the backside of their home. Although it will beautify the rear of their home, the proposed remodel will aggressively push into the green space that all of the neighbors enjoy. This rear extension will also greatly reduce the presently diminished sunlight of which the Leighton's adjacent neighbors take pleasure in. It appears that the Leightons want nothing to do with finding a way to compromise on what they want with what the neighbors would like to see, namely the light from the sun.

What's really upsetting is the slow and steady encroachment of property structures threatening the tranquil, open green space that makes up the center of many Inner Sunset District blocks.

My wife and I remodeled the back of our home in 2000 and we found a way to compromise with what some concerned neighbors were afraid of: the blocking of viewable open space from their apartments or homes. When our neighbors, the Millers, remodeled their home, they also took great care in not disturbing the amount of sunlight of both adjacent neighbors, of which the Leightons are one. The Leighton's have taken what appears to be a passive aggressive stance on their position regarding this matter. They show no interest or concern for the community spirit of which our block boasts.

Please review the Leightons proposal, but do the right thing by requiring their architect to come up with at least two different compromises so their neighbors are not being ignored.

Sincerely,

Craig Marshall, 425 Hugo Street

H D W/19/14

FILE

November 12, 2014

Nathan Ladyzhensky
1366 4th Avenue
San Francisco, CA 94122

BOARD OF APPEALS

NOV 13 2014

APPEAL # 10-162

City and County of San Francisco
Board of Appeals

To Whom It May Concern:

I have known Kenneth Miller and Julie McKenzie for over 30 years, and have lived within a couple of blocks from them for the last 20 years. Both are people of high integrity, dedicated to the good of the neighborhood. Mr. Miller is a native San Franciscan, deeply caring about the City.

I have a beautiful tree growing in front of my house because Mr. Miller organized and facilitated the Friends of the Urban Forest planting in the neighborhood. Both Mr. Miller and Ms. McKenzie were involved in every campaign to make the area safer and more livable, spending countless hours canvassing the area and collecting petitions. I also know how much time, money and energy they spent on making their house better, improving the immediate area in the process.

For the last 2 years I have been watching with growing concern and amazement the deceptive tactics, the lies, and the double-talk from their next-door neighbors at 1264 6th Ave, who are trying to build a completely out-of place monstrosity without regard for anyone else. I know firsthand that Kenneth and Julie have unsuccessfully attempted numerous compromises that would be satisfactory to the property owners on both sides.

If this project is allowed to proceed in its current form, it will affect the quality of life and the property values of several neighbors. The property owners of 1264 6th Avenue must not be allowed to get away with deceit and half-truths.

Lastly, we live in a very dense area, with most houses having adjoining walls and fences. It is simply unconscionable that these people are willing to sacrifice all the good will, all the neighborly connections for the sake of a few unnecessary extra feet of their property.

Thank you for your attention.



AD 11/11/14

CAROLYN MILLER
72 CRAGS COURT
SAN FRANCISCO, CA 94131

FILE

BOARD OF APPEALS

NOV 13 2014

APPEAL # 14-162

Office of the Board of Appeals,
1650 Mission St., 3rd Floor, Suite 304
San Francisco, CA 94103

RE: APPEAL NO.: 14-162

APPEAL TITLE: MILLER & MCKENZIE vs DBI, PDD

11 November 2014

I am writing this letter, on behalf of Ken Miller and Julie McKenzie to help support their effort to maintain the character and ambiance of their 1911 Edwardian home located at 1260 Sixth Avenue SF 94122. The proposed build out by their neighbors, the Leightons, at 1264 Sixth Avenue, will definitely have a severe negative impact on the direct sunlight and light to their home at 1260 Sixth Avenue

I also understand that Ken and Julie's neighbors, have blocked every good faith effort towards a reasonable and fair compromise and/or mediation. Up until this time, they have refused to participate or consider either of these of these options. Are there no guidelines as to what SF residents are allowed to do to their property with total disregard for their neighbors? It's obvious from the proposed build-out plans, of this addition, would be ridiculously out of proportion to the entire block as well as the neighborhood. It appears that allowing this monstrous build-out shows little regard for retaining the character of the neighborhood. Those of us, who are native San Franciscans, place a high value in retaining the unique character of San Francisco's varied neighborhoods. This proposed expansion would be, yet, another glaring example of the kind of insensitive and garish development that has ruined so many of our neighborhoods. Is there no way that the rights of honest homeowners can be protected from self-serving neighbors and the development/permit process in this City?

San Francisco's unique houses and neighborhoods are one of the most valuable assets of San Francisco. Builders and developers can easily, and negatively, impact these wonderful characteristics by being insensitive to the style and personality of a neighborhood. It would be significantly detrimental to our City if our residents could 'add on' as they please, with no consideration for their neighbors or neighborhood, which seems to be the case here. I would certainly hope, *and* expect, that people involved in the permit process would consider the far-reaching ramifications of gross over-development and disregard for our City. Vancouver BC is a prime example of the loss of character, history and charm because over-development was allowed at the expense of the integrity of the city's historic buildings and architecture.

I truly hope that the permit for this renovation will be permanently suspended until the Leightons consider a reasonable and fair adjustment to their plans so that their expansion will have less impact on their neighbors and their neighborhood. Thank you for your consideration.

Regards,

Carolyn Miller

FD 11/19/14

FILE

Larry & Meg Rosenfeld
1236 Sixth Ave. #3
San Francisco, CA 94122

BOARD OF APPEALS

NOV 13 2014

APPEAL # 14-158/14-162

Board of Appeals
City & County of San Francisco
1650 Mission St. Suite 304
San Francisco, CA 94103

November 10, 2014

Re: Appeal No. 14-158 and 14-162

Dear Appeals Board,

As neighbors on an adjoining block to the subject property, we would like offer our thoughts on the current situation with this appeal.

We've been property owners in this neighborhood for almost 20 years, and have seen a few projects turn into disputes between neighbors. We know that the Planning Staff is very, very busy, but the best outcomes often occur when the Planner, understanding that the project is causing a dispute, makes a real effort to bring the parties to a compromise. Often, this does not happen until the last moments of a hearing before the Planning Commission, where the Planner volunteers to "referee" a discussion between the parties with the goal of reaching a compromise.

In the situation of this project, as I understand it, the Commission hearing was so rushed and curtailed that there was no opportunity for the Commission to even hear all that the neighbors had to present – the omitted portion of the presentation would have included modifications which, if adopted, could conceivably have curtailed all animosity and allowed the modified project to move forward.

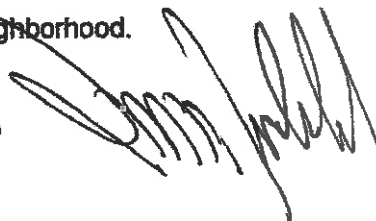
Unfortunately, owing to this hiccup in the process, the dispute has escalated. No matter what the legal or code-related rights of the project homeowners, if this project is simply allowed to move forward, hurt and anger will pervade that block.

It is essential that the Appeals Board do everything in their power to walk the process back to the last moments of the Commission Hearing, listen intently to the entirety of what the neighbors of the proposed project wish to present, and then direct Planning and the opposing parties to sit down together and try to hammer out a compromise.

Please strive for peace in our neighborhood.

Sincerely,

Meg Rosenfeld



Larry & Meg Rosenfeld
1236 6th Ave. #3
San Francisco, CA 94122-2544

AD 11/19/14

FILE

BOARD OF APPEALS

NOV 13 2014

APPEAL # 14-162

Peter and Ruth C. Veres
1249 4th Avenue
San Francisco, CA 94122

TO: SAN FRANCISCO BOARD OF APPEALS
RE: 1264 6th Avenue Project
DATE: November 12, 2014

We have spoken with and read the notes of our neighbors and long-time friends Ken Miller and Julie McKenzie about their concerns with the Leightons' extension plan for 1264 6th Avenue. Their plan would significantly diminish the open interior space of the block both by the reduction of the open-space footprint and by the obstruction of light and view.

We have also looked at many of the pages of the San Francisco Planning Code as it applies to such open spaces, and while there are many details which may be argued on either side, the Planning Code's main thrust, as we understand it, is to retain as much open space within residential blocks as possible.

Allowing the full expansion proposed by the Leightons for 1264 6th Avenue would certainly curtail the light and view of the Miller-McKenzie building, but more troubling to us is the precedent that this proposal, if approved, would set for the future of the interior space of this block and of other blocks in our area. What would prevent other owners of other buildings on this block (and on near-by blocks) from expanding their structures into the interior open spaces? If even half the buildings were expanded to a similar depth and height as the proposal for 1264 6th Avenue, the open spaces would shrink to a point that all residents, even those not affected by this particular proposal, would deplore.

We hope that the San Francisco Board of Appeals will consider the letter, the spirit and the intent of the San Francisco Planning Code as well as the legitimate concerns of the neighbors.

Peter Veres
Ruth C. Veres

HD 11/19/14

FILE

BOARD OF APPEALS

NOV 13 2014 *CS*

APPEAL # 14-162

November 10th 2014
San Francisco Board of Appeals
Letter in support of Ken Miller Julie McKenzie.

Appeal# 14-162, permit #201306260594, 1264 6th Ave
San Francisco, CA

The proposed construction to the existing structure of 1264 6th Ave will have a dramatic financial and physical impact on the neighbors surrounding the property. The proposed bump back to the rear of the house into the backyard of 1264 will not only prevent natural light from entering the property of 1260 6th Ave, but will decrease the value of the of the property by doing so.

The Miller-McKenzie's have paid for shadow plans to be drawn which show the severe impact this new addition will have to their property. The open space feeling of the backyards of this inner sunset block will also be lost by closing in the sight lines for 1260 and 1266.

This new construction will set a dangerous precedent for other owners to continue this backyard build up, decreasing the San Francisco historic plan of shared open yards in the rear of homes. The Richmond district, the Sunset, Noe Valley, the Mission district all share this common backyard construct. The history of these neighborhoods is being lost due to construction of this nature.

I am supporting the owners of 1260 and 1266 6th Ave to have this proposed construction reduced to a size that works for all neighbors as well as the owner of 1264 6th Ave.

Thank you,
Marilyn Coyne
139 Hugo St.
San Francisco, California