



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

February 21, 2017

Robert Noelke
Prague Property Management, Inc.
1019 Howard Street
San Francisco, CA 94103

Site Address:	2814 Jennings Street
Assessor's Block/Lot:	4912/001
Zoning District:	PDR-2 (Core Production, Distribution and Repair)
Staff Contact:	Seema Adina, (415) 575-8722 or seema.adina@sfgov.org
Record Number:	2016-005210ZAD

Dear Mr. Noelke:

This letter is in response to your request for a Letter of Determination for the property at 2814 Jennings Street. The subject property is located within the PDR-2 (Core Production, Distribution and Repair) Zoning District and 40-X Height and Bulk District. The request seeks a determination relating to the legal status of the mixed-use building in relation to a previous Conditional Use Authorization (Case No. 2005.0480C).

Case No. 2005.0480C sought to add two dwelling units on the second floor (where one dwelling unit already existed) pursuant to Planning Code Section 215(a). Although the property is now zoned PDR-2, it was located within the M-1 Zoning District at the time the Conditional Use Authorization was approved by the Planning Commission (February 9, 2006, Motion No. 17186).

Based on the information provided in your request as well as review of the permit history for the property, it appears that the subject property is in compliance with Condition of Approval No. 7 of Motion No. 17186, which required a building permit to be issued within three years of the decision. The issuance of Building Permit Application (BPA) No. 2007.07.02.5785 on July 3, 2007 satisfied the requirements of Condition of Approval No. 7.

Based upon these facts, and unless demonstrated to the contrary, the subject property at 2814 Jennings Street contains three (3) dwelling units on the second floor and commercial use on the ground floor, as authorized by Case No. 2005.0480C. Since BPA No. 2007.07.02.5785 expired prior to the Building Department completing a Final inspection/Certificate of Final Completion, a new Building Permit Application must be submitted to document completion of the work and ensure that the legal use of the property is accurately reflected in the City's records.

1650 Mission St.
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San Francisco,
CA 94103-2479

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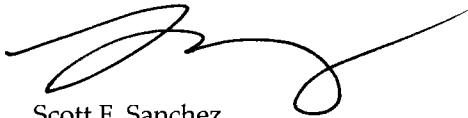
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2814 Jennings Street

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination 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.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Seema Adina, Planner
Property Owner
Neighborhood Groups

PRAGUE PROPERTY MANAGEMENT, INC.

1019 Howard Street – San Francisco, CA 94103

Phone & fax: 415-826-2981

Robert Noelke PH: 415-314-1329 Email: robertnoelke@aol.com

R# 2016-005210ZAD
CK# 3482 \$ 645 -
R. SUCRE (SE)

February 3, 2016

Scott Sanchez
Zoning Administrator
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 2814 Jennings
Block 4912 Lot 001

Dear Mr. Sanchez:

The referenced property was re-zoned PDR-2 from M-1.

Currently there are three (3) dwelling units at the subject address; one legal, two illegal on the second story.

Variance 2005.480V (enclosed) of August 21, 2006, permitted the legalization of these two units on the second story of the referenced building. Permit Application (PA) 200701111550 was issued to legalize the 2 units. This permit was cancelled February 15, 2012 because plans were revised and resubmitted under PA 200707025785. approved and issued July 3, 2007. A Notice of Special Restriction (NSR) was recorded September 20, 2006, stating that the two (2) units are legalized, for a total of 3 dwelling units at the subject address.

PA 201503039817 was filed to complete work in the kitchens and baths per NOV 201488824 in the subject units. The work was completed April 8, 2015. This PA indicated 5 units at the subject property.

PDR-2 Zoning does not permit residential uses in this district. However, there is a long history of 3 residential units at the subject property on the second floor. Several "spaces" on the ground floor had been residential use and are currently commercial uses.

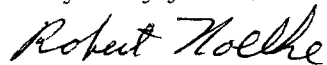
PAs 200701111550, 20077025785 and 201503039817 all indicate residential use (3 apartments) on the second floor of the subject building.

It should be noted that the current use of the second story as residential use is in character with the neighborhood; which has many mixed use buildings. It also provides much needed housing in a neighborhood where housing is needed for employers of the area businesses and is in conformity with the City Master Plan.

Therefore, a request that the second floor of 2814 Jennings be permitted as residential use and that the legalization of the two (2) subject units proceed as permitted under Variance Case No. 2005.480V.

Thank you for your cooperation.

Very truly yours,



Robert Noelke
Prague Property Management, Inc.

RN:et
Encls

Jennings



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

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August 21, 2006

VARIANCE DECISION

UNDER THE PLANNING CODE
CASE NO. 2005.480V

APPLICANT: **Sandra Jimenez**
 71 Haight Street
 San Francisco, CA 94102

CASE PLANNER: **Jon Purvis (415) 558-6354**

PROPERTY IDENTIFICATION – 2814-2824 JENNINGS STREET:

west side at Egbert Avenue; Lot 001 in Assessor's Block 4912; in an M-1 (Light Industrial) Land Use District and a 40-X Height and Bulk District.

DESCRIPTION OF VARIANCE - REAR YARD, OPEN SPACE & OFF-STREET PARKING VARIANCES SOUGHT:

The applicant seeks to legalize two upper level dwelling units and to convert three ground floor commercial spaces to dwelling units, for a total of five new units. There is one legally existing upper level dwelling unit and one existing ground level restaurant that would be unaffected. The three upper level units are all two-bedroom units and the three newly created ground level units would be studio units.

Section 134 of the Planning Code requires a rear yard in the M-1 District equal to 25 percent of the total depth at the lowest story containing dwelling unit, or 23 feet for the subject lot. The lot does not currently comply with this rear yard requirement, as there is only a 252 square foot open area on the lot provided only at the second story. As proposed, the property would be made less complying for rear yard since this open area would not extend to the ground level.

Section 135 of the Planning Code requires 36 square feet of private usable open space for each dwelling unit, or 48 square feet per unit for common usable open space, or 240 square feet of common open space for the proposed five units. No useable open space is provided on the lot and none would be provided.

Section 151 of the Planning Code requires one off-street parking space for each dwelling unit, or five parking spaces be provided for the five proposed units. There is no off-street parking at the site and none would be provided.

PROCEDURAL BACKGROUND

1. Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act, the Planning Department determined that the proposed project was categorically exempt from the environmental review process under Class 1(a) of the State CEQA Guidelines, Section 15332, pursuant to Title 14 of the California Administrative Code.
2. On February 9, 2006, the Planning Commission conducted a duly noticed public hearing on the Project, the subject of Conditional Use Application No. 2005.0480C, at which time the Commission approved, with conditions, a revised project, which is represented in plans submitted to the Planning Department on May 8, 2006, and labeled Exhibit B.
3. Immediately following the Commission hearing on the Conditional Use application, the Zoning Administrator held a public hearing on Variance Application No. 2005.0480V.

DECISION:

GRANTED WITH REVISIONS, to only legalize two upper level dwelling units with no rear yard, no usable open space, and no off-street parking provided, with the ground floor remaining under non-residential use, and in general conformity with plans on file with this application, shown as **Exhibit B** and dated **May 8, 2006**, subject to the following conditions:

1. This variance is to allow the legalization of two dwelling units on the second story, for a total of three dwelling units on the subject site, with no usable open space or off-street parking. Therefore, any physical expansion, even within the buildable area of the subject site, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale, and that there is no significant impact upon the light or air or an extraordinary impact upon the privacy of adjacent properties. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
3. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

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 property or uses in the same class of district.

REQUIREMENT MET.

- A. The subject property has had three two-bedroom dwelling units on the second story for at least thirty years without apparent problems, and the subject variance, as revised, would simply allow the legalization of these tenant-occupied family-sized units.
- B. The subject property has full lot coverage and no off-street parking. The variance, as granted, would only allow the existing dwellings to remain.

FINDING 2.

That owing to such exceptional and 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.

REQUIREMENT MET.

- A. Enforcing the Planning Code requirements in this case, for the top floor units, would create hardship for the owners, the tenants and the neighborhood by eliminating two tenant-occupied, family-sized units that have been in existence for more than thirty years without apparent problems.
- B. Although the project requires a variance from numerical standards of the Planning Code, the actual amount of open space and parking at the site would not change from the existing conditions.
- C. However, no hardship would be involved in prohibiting the conversion of the ground floor commercial space to additional dwelling units, as adding these studio apartments without parking or open space, and located at street level with minimal privacy, could not be justified as necessary or desirable under the Conditional Use process.

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 MET.

- A. The granting of this variance, as revised to only legalize the dwelling units on the upper level, 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 can enjoy. As stated above, these units are family-sized units that have existed in the neighborhood for more than thirty years without evidence of problems or complaints from neighbors.

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 MET.

- A. The granting of this variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity because it merely permits the legalization of two dwellings that have been in existence for more than thirty years.
- B. The subject property has existed for many years with tenant-occupied units on the upper level with no parking or open space, with no apparent adverse effect on the surrounding properties.
- C. No one has expressed opposition to the variance.

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 MET.

Planning Code Section 101.1 establishes eight priority planning policies and requires review of variance applications for consistency with said policies. The project meets with all policies, including conserving neighborhood character.

1. The authorization of this variance would have no effect on existing neighborhood-serving retail uses;
2. The Project would conserve existing neighborhood character because it only allows the legalization of two family-sized units, with no physical changes to the property;
3. This Project would legalize two relatively affordable family-sized units;
4. The Project would not affect commuter traffic;
5. The Project would have no impact on industrial or service sectors;

6. The Project does not involve physical changes and would have no impact on seismic safety;
7. The Project would have no effect on any landmark or historically significant building(s); and
8. The Project would not decrease City park space or open space.

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 Permit Appeals.

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

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

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 Permit Appeals in person at 1660 Mission Street, Room 3036, or call 415-575-6880.

Very truly yours,

Lawrence B. Badiner
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.