



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

September 19, 2016

Mark Topetcher
Topetcher Architecture, Inc.
828 Divisadero Street
San Francisco, CA 94117

Site Address:	616 Divisadero Street & 1282 Hayes Street
Assessor's Block/Lot:	1202/002J
Zoning District:	Divisadero Street Neighborhood Commercial Transit (NCT) District
Staff Contact:	Chris May, (415) 575-9087 or christopher.may@sfgov.org
Record No.:	2016-010550ZAD

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Dear Mr. Topetcher:

This letter is in response to your request for a Letter of Determination regarding the property at 616 Divisadero Street and 1282 Hayes Street. This parcel is located in the Divisadero Street Neighborhood Commercial Transit (NCT) Zoning District and 65-A Height and Bulk District. The request is whether the variances granted under Case No. 2005.0911V, in association with the approved Conditional Use Authorization request (Case No. 2005.0911C), would still apply if the existing lot were subdivided into two separate parcels.

Variance Decision No. 2005.0911V, dated December 11, 2015, granted a rear yard modification to facilitate the construction of a new 5-story residential building on the vacant portion of the lot fronting Hayes Street. Planning Code Section 134 requires a rear yard setback at the second story and above and at all residential levels. As the L-shaped lot has its frontage along Divisadero Street, the rear lot line separates the proposed residential building from the adjacent elderly care facility at 1250 Hayes Street. The depth of the vacant portion of the subject property in this location is 45 feet, and therefore the minimum required rear yard setback would be 15 feet, leaving only 30 feet of developable area. The unique dimensions of the vacant portion of the lot fronting Hayes Street create a situation where it could not be reasonably developed for residential use in the absence of a modification to the rear yard requirements of the Planning Code.

In that same decision, the location of the two proposed off-street parking spaces on the ground floor of the residential building were also granted a variance, pursuant to Sections 145.1 and 746.13 of the Planning Code, as they are located within 25 feet of the main front wall.

Variance Decision No. 2005.0911V also granted a variance from the requirements of Planning Code Sections 152 and 746.23 to permit on-street loading for the proposed bar and amusement game arcade use

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in coordination with the adjacent Independent music hall rather than the required off-street loading space.

Subdividing the lot into two lots, as shown on the attached tentative map, would not affect the variance granted for off-street loading for the bar and amusement game arcade use at 616 Divisadero or the variance granted for parking within the first 25 feet for the residential building at 1282 Hayes Street. While the proposed lot line would result in a more Code-complying rear yard for the proposed residential building, it would reduce the rear yard for the former Harding Theater building and would therefore require a new variance. In addition, Planning Code Section 121(c) states that:

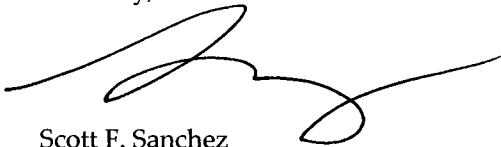
Measurement. The lot width shall be measured as a horizontal distance between the side lot lines. The lot area shall be measured as a horizontal plane enclosed by the lot lines. *Where a lot is not in the form of an ordinary rectangle, the specified minimum lot width shall be maintained for a sufficient depth on the lot to enable the minimum lot area requirement to be satisfied within the portion of the lot having such minimum lot width.*

In order for the proposed lot containing the residential building to meet the minimum lot area of 2,500 square feet, the proposed lot width of 45 feet would have to be maintained for a depth of approximately 55.5 feet. Because the existing theater building is set back approximately 45 feet from the lot line abutting Hayes Street, the maximum potential lot depth for the residential building would be approximately 45 feet. As such, the proposed irregular lot line, as shown on the attached tentative map, does not meet the requirements of Planning Code Section 121(c).

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: Christopher May, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)

R #2016-010550 ZAD
CK #2596 § 645 -
D. LINDSAY (NW)



Mr. Scott Sanchez
Zoning Administrator
Planning Department
1650 Mission St. Ste. 400
San Francisco, CA. 94103

August 8, 2016

Re: 1282 Hayes St. & 616 Divisadero St. (1202/002J)

Dear Mr. Sanchez,

We are requesting a Letter of Determination regarding a possible lot split for the approved project at 1282 Hayes St., P.A. # 2004 0507 3324, variance Application # 2005.0911V to construct a new seven unit residential structure adjacent to and on the same lot as the former Harding Theater at 616 Divisadero St. The Harding is being restored and repurposed as the "Emporium SF" bar and arcade under separate permit. The owners are contemplating subdividing the existing lot into two separate parcels that would allow the new residential structure to have its own lot. This is due to the complex financing requirements for the entire project when both the new residential construction and the proposed Emporium SF project at the former theater exist on the same lot.

Please confirm that the variances granted under #2005.0911V as part of the Conditional Use approval #2005.0911C would also apply to subdividing the property into two parcels as shown on the attached proposed tentative map, and that we would not need to obtain any additional variances.

Respectfully submitted,

Mark J. Topetcher,
Architect for Divisadero Hayes LLC.

c.c. M. Klestoff, P. Stack

