



SAN FRANCISCO PLANNING DEPARTMENT

Revised Letter of Determination

February 22, 2017

Janine Shiue
135 Vineyard Court
Los Gatos, CA 95032
Janine.shiue@gmail.com

Record Number: 2017-000013ZAD
Site Address: 2226 Green Street
Assessor's Block/Lot: 0539-039
Zoning District: RH-3 (Residential-House, Three Family)
Staff Contact: Sylvia Jimenez, (415) 575 – 9187 or Sylvia.Jimenez@sfgov.org

Dear Ms. Shiue:

This letter is in response to your request for a Letter of Determination regarding the property at 2226 Green Street. This parcel is located in the RH-3 (Residential-House, Three Family) Zoning District and 40-X Height and Bulk District. The request is to determine 1) the height of the existing residential building on the lot, 2) whether or not the project currently being reviewed by the Planning Department requires additional neighbor notification to reflect the existing noncomplying building height, 3) how Planning Code Section 188 applies to the proposed project at 2226 Green Street, specifically as it relates to a roof deck on a noncomplying building.

As noted in my email to you (dated December 29, 2016), the purpose of a Letter of Determination is to answer general questions regarding the provisions of the Planning Code. It is not intended to substitute for the Planning Department's review of a specific project for compliance with the provisions of the Planning Code. The Planning Department is currently reviewing Building Permit Application No. 201512084465 for the subject property with a scope of work that includes, among other items, a roof deck. Multiple neighbors (including yourself) have filed Discretionary Review (DR) requests for this permit (Case No. 2015-018164DRP) and this item will be heard by the Planning Commission on March 2, 2017. All determinations about compliance of this permit with the requirements of the Planning Code are made as part of the Planning Department's review of the permit. As such, this response will not include responses to specific requests about the subject permit.

In general, the following Planning Code provisions should be noted as they are applicable to the Planning Department's review of the subject permit.

Height is calculated under the requirements of Article 2.5 (Height and Bulk Districts) of the Planning Code. Per Planning Code Section 260, height is measured from curb level at the centerline of the building

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to the finished roof of the building for properties that slope down from the front property line (such as the subject property).

Planning Code Section 311 requires the Planning Department to mail a 30-day notice to neighbors (occupants and owners of properties within 150 feet of the project site – as detailed in Section 311) for certain building permit applications within in Residential House (RH) and Residential Mixed (RM) Zoning Districts. The Section 311 notice is mailed after the Department has determined that the application complies with minimum development standards of the Planning Code and is consistent with the Residential Design Guidelines.

Planning Code Section 188 allows a non-complying structure to be enlarged, altered or relocated, provided that with respect to such structure there is no increase in any discrepancy, between existing conditions on the lot and the required standards for new constructions set forth in the Planning Code. An existing building that is non-complying with the height limit may propose minor modifications to the roof to accommodate re-roofing, maintenance and repair. Such modifications would be reviewed on a case-by-case basis for compliance with the Planning Code. Further, a deck is permitted on the roof surface of a noncomplying structure provided its open railing is no higher and no more enclosed than required by the Building Code (Interpretation of Planning Code Section 188, 3/2001). A deck may be added even if there is no existing access to the roof area. Any required access must meet the requirements of the Planning Code. The addition of a deck on any non-complying portion of the roof of a structure requires a 10-day letter be sent to owners/occupants of all properties which border the subject property, to allow them an opportunity to voice any concerns.

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: Property Owner
Neighborhood Groups
BBN Holder

December 02, 2016

R # 2017-000013 ZAD

CK # 234 \$ 664. -

VIA CERTIFIED MAIL AND EMAIL: scott.sanchez@sfgov.org

S. JIMENEZ

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

RECEIVED

Re: Letter of Determination - 2226 Green St (0123/029)

DEC 7 2016

Dear Mr. Sanchez:

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
ZA OFFICE

This letter replaces the one dated November 07.2016. I am attaching a check for \$664.00, payable to the San Francisco Planning Department, as payment to request a letter of dertermination.

I am hereby requesting a Letter of Determination regarding the lot at 2226 Green Street, a condominium located in the RH-3 (Residential House, Three-Family) Zoning District and 40-X Height and Bulk District as to (1) the true and correct height of the existing building, and (2) the need for a truthful notification to neighbors (such as myself) and interested neighborhood associations per Planning Code Section 311 reflecting that the existing structure is not compliant with Height and Bulk restrictions. (3) a determination whether Section 188 (a) prohibits any increase to the height of the roof, including the 4-6" increase in framing that the project sponsors have already built ahead of the permit (see Notice of Violation number 201636183 dated 29-SEP-16) and (b) prohibits the construction of a deck on the roof surface of a noncomplying structure when such surface does not have any pre existing access.

I am the owner of 2243 Green Street; in late June I was sent a notification issued per Planning Code Section 311 (Building Permit Application No. 2015.12.08.4465) stating that the existing building has a height of 39' 8", and is therefore compliant with 40-X Height. The reduced-size drawings attached to the notice showed height measurements that were confusing and labeled as being obtained with a different method than what required by Planning Code Section 260(a).

Upon returning from foreign travel I contacted the planner and made my concerns known as to the accuracy of the measurements in the notice and

asked her to ascertain the true and correct height of the building. Notwithstanding the planner's repeated reticence to do so, by information and belief the existing building was surveyed and has been found to exceed the 40-X limit by several feet. Although I was the person who initially raised this issue, Planning has not shared this new information with me nor has it been shared with most of the neighbors who received the notice bearing the incorrect height.

Section 311 states that a notification must include existing building height, and that its purpose is to allow "property owners and residents on the site and neighboring the site of the proposed project and [...] interested neighborhood organization" to review building permit applications "so that concerns about a project may be identified and resolved during the review of the permit". Neighbors such as myself consider projects that involve additions to buildings that exceed the "sacrosanct" 40 ft height limit in a completely different light than projects involving height-compliant buildings. In this particular case the misrepresentation of height in the notice is not a mere academic issue, but an impactful one: by not being truthfully notified that the neighbors have been deprived of the ability to review the proposed project under an accurate light. Had I had certainty, instead of only suspicion, that the existing building exceeded 40-X, I would have had different and more pressing concerns; other interested parties probably would have had as well, and would have acted accordingly.

Given the existing building exceeds 40-X, per Section 188, **(a) it prohibits any increase to the height of the building.** When I talked to the project architect back in August, he said the existing building had an attic for drainage purpose and that was why the north side of the roof is higher than the south side of the roof. Rather than working on drainage within existing building height, which was already several feet over 40-X, project sponsors has demolished the existing attic, converted that to more inside ceiling height and increased the total building height further claiming the increase is needed for drainage, **ahead of the permit (see Notice of Violation number 201636183 dated 29-SEP-16)** **(b) it prohibits the construction of a deck on the roof surface of a noncomplying structure when such surface does not have any pre existing access.** If there is an existing access to the roof area, a deck can be permitted on the roof surface of a noncomplying structure provided its open railing is no higher and no more enclosed than required by the Building Code. A solid fire or other wall, even if required by the Building or other Code, is not permitted as part of a deck on a noncomplying structure and would be considered an expansion contrary to the Planning Code. However, this project **does NOT have existing access to the**

roof area, it needs to build an "new" exterior stairs to create "new" access, therefore the construction of a deck on the roof surface should be prohibited. Project sponsors has demolished and adjusted wall at top level for "new" stairs to future proposed deck at roof , **ahead of the permit (see Notice of Violation number 201636001 dated 21-SEP-16).**

I urge you to determine that neighbors (like myself) and interested neighborhood organizations have a right to an accurate notification as to the existing building's compliance to the 40 ft height limit, so that they can appropriately form and voice their concerns. As such, I request that you determine that this project needs to be re-noticed with truthful measurements reflecting the noncompliance of the existing building.

I also demand a determination as to the substantiated true and correct height of the property as measured per Planning Code requirements. and a determination whether Section 188 (a) prohibits any increase to the height of the roof, including the 4-6" increase in framing that the project sponsors have already built ahead of the permit (see Notice of Violation number 201636183 dated 29-SEP-16) and (b) prohibits the construction of a deck on the roof surface of a noncomplying structure when such surface does not have any pre existing access.

Furthermore, I request that you determine whether the material plans attached with such Section 311 notice should represent the complete picture of the changes to the building, in this specific case those changes approved four months prior on February 19, 2016 (building permit number 201602179752) which were omitted by the project sponsor in the plans distributed to me and my neighbors. When 311 notice is resent, please help take into account the fact that "with Christmas falling on a Sunday this year, many neighbors (like myself) are away for two weeks during the upcoming holiday season."

Please email your letter of determination to janine.shiue@gmail.com and the hard copy to the following address:

135 Vineyard Ct. Los Gatos, CA 95032

Respectfully,



Janine Shiue

Owner of 2243 Green St