



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

November 6, 2017

Mr. Jeremy Schaub
Schaub Ly Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122

Site Address:	838 Grant Avenue
Assessor's Block/Lot:	0209/005
Zoning District:	CVR (Chinatown— Visitor Retail)
Staff Contact:	Nicholas Foster, (415) 575-6167 or nicholas.foster@sfgov.org
Record No.:	2017-010958ZAD

Dear Mr. Schaub:

This letter is in response to your request for a Letter of Determination regarding the property at 838 Grant Avenue ("Property"). The Property is located in the CVR (Chinatown— Visitor Retail) Zoning District and 50-N Height and Bulk District. Your letter seeks two determinations: 1) the correct use size limit for Restaurants in the CVR Zoning District and 2) whether a proposed ground floor expansion would be allowed under the Planning Code's Floor Area Ratio (FAR) limits for the property.

Your letter outlined a proposal to: 1) change the existing 6,597 square foot (sf) Retail Sales and Service Use located on the basement level to a 7,165 square foot Restaurant Use (an expansion of approximately 568 square feet of the occupied floor area of the basement level); 2) expand the envelope of the existing building at the basement level by approximately 192 square feet; and 3) expand the occupied floor area of Retail Sales and Service Use located on the ground level, removing a stairwell and unoccupied floor area, with no expansion of the building envelope (an expansion of approximately 495 square feet). The letter stated that no work is proposed above the ground floor.

Use Size Limit Determination

Pursuant to Planning Code Section 811.44, a Restaurant Use is allowed with Conditional Use Authorization on the second story and below within the CVR Zoning District. Planning Code Section 121.4 establishes non-residential use size limits and use size maximums in the Chinatown Mixed Use Districts. Planning Code Section 890.130 defines non-residential use size as "the permitted gross floor area allowed for each individual non-residential use." For the CVR Zoning District, the use size limit is 2,500 gross square feet (gsf) and the use size maximum is 5,000 gsf. Uses above the use size limit require Conditional Use Authorization up to the use size maximum and individual commercial uses above the use size maximum are not be permitted. In the CVR Zoning District, Restaurant Uses are not subject to the use size limit; however, they are subject to the use size maximum. As such, the maximum use size for a Restaurant in the CVR Zoning District is 5,000 gsf.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

As indicated in your request, the existing basement level Retail Sales and Service Use is approximately 6,597 sf, as such it currently exceeds the use size maximum for the CVR Zoning District. While a Restaurant Use may be established with Conditional Use Authorization in the space of the existing Retail Sales and Service Use, its use size cannot be expanded further. It should also be noted that for the purpose of this determination, it is assumed that the basement level Retail Sales and Service Use previously functioned as one individual non-residential use and was not comprised of multiple Retail Sales and Service Uses. Further, it is also assumed that the proposed basement level Restaurant Use would operate independent of other Restaurant Uses on the subject property and would not result in an expansion of the existing Restaurant Use.

Your letter also outlines a proposal to expand use size of the ground level Retail Sales and Service Use by removing a stairwell and unoccupied floor area (with no expansion of the building envelope) from 6,028 sf to 6,523 sf. As noted previously, the use size maximum for the CVR Zoning District is 5,000 gsf. As such, the proposed expansion of the Retail Sales and Service Use is not allowed under the Planning Code.

Expansion of Structure Determination

Based upon records from the Office of the Assessor-Recorder, the subject building area is 62,370 sf. Based upon information contained in your letter, the subject building area is 69,098 sf. Assuming a building area of 62,370 sf and lot area of 8,250 sf, the existing Floor Area Ratio (FAR) is 7.56:1. Given that the maximum permitted FAR for the CVR Zoning District is 2:1 (Planning Code Section 811.19), the existing Property exceeds the allowed FAR in the CVR Zoning District and is considered to be a non-complying structure.

As noted in your letter, the Property contains a recessed storefront at the basement level, fronting Walter U. Lum Place. Your letter states that this area is used by a nighttime transient population that poses a public health risk and outlines a proposal to infill the recessed storefront as a means to activate the commercial storefront and mitigate the public health risk attributed to the transient users. Your letter seeks a determination as to whether Planning Code Section 181(b)(2) may be utilized to allow a minor alteration to the building to increase the FAR further beyond the amount allowed in the CVR Zoning District. Please note that noncompliance with the FAR requirement renders the building a noncomplying structure. As such, the applicable provision is Planning Code Section 188 (Noncomplying Structures: Enlargements, Alterations and Reconstruction), not Planning Code Section 181 (Nonconforming Structures: Enlargements, Alterations, and Reconstruction). While Planning Code Section 188 does allow for limited expansion of noncomplying structures, such expansions are limited to non-usable space and only under specific circumstances for historic properties or those within the C-3 Zoning Districts. As such, this provision does not appear to be available for the subject property. You may consider other alternatives, such as gates or increase in floor area that is not subject to FAR or use size maximums.

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.

Mr. Jeremy Schaub
1360 9th Avenue, Suite 210
San Francisco, CA 94122

November 6, 2017
Letter of Determination
838 Grant Avenue

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: Nicholas Foster, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)