



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** January 21, 2013  
**TO:** Jonathan Pearlman, Elevation Architects  
**FROM:** Chris Kern, Planning Department  
**RE:** PPA Case No. 2013.1754U for 3945 Judah Street

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Please find the attached Preliminary Project Assessment (PPA) for the address listed above. You may contact the staff contact, Elizabeth Purl, at (415) 575-9028 or [elizabeth.purl@sfgov.org](mailto:elizabeth.purl@sfgov.org), to answer any questions you may have, or to schedule a follow-up meeting.

A handwritten signature in black ink that reads "Chris Kern".

Digitally signed by Chris Kern  
DN: dc=org, dc=sfgov,  
dc=cityplanning, ou=CityPlanning,  
ou=Environmental Planning,  
cn=Chris Kern,  
email=chris.kern@sfgov.org  
Date: 2014.01.16 10:34:16 -08'00'

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Chris Kern, Senior Planner



# SAN FRANCISCO PLANNING DEPARTMENT

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## Preliminary Project Assessment

*Date:* January 21, 2014  
*Case No.:* **2013.1754U**  
*Project Address:* 3945 Judah Street  
*Block/Lot:* 1809/028  
*Zoning:* NC-1, Neighborhood Commercial Cluster District  
40-X Height and Bulk District  
*Project Sponsor:* Jonathan Pearlman  
415-537-1125 x.15  
*Staff Contact:* Elizabeth Purl, 415-575-9028  
[elizabeth.purl@sfgov.org](mailto:elizabeth.purl@sfgov.org)

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### DISCLAIMERS:

Please be advised that this determination does not constitute an application for development with the Planning Department. It also does not represent a complete review of the proposed project, a project approval of any kind, or in any way supersede any required Planning Department approvals listed below. The Planning Department may provide additional comments regarding the proposed project once the required applications listed below are submitted. While some approvals are granted by the Planning Department, some are at the discretion of other bodies, such as the Planning Commission or Historic Preservation Commission. Additionally, it is likely that the project will require approvals from other City agencies such as the Department of Building Inspection, Department of Public Works, Department of Public Health, and others. The information included herein is based on plans and information provided for this assessment and the Planning Code, General Plan, Planning Department policies, and local/state/federal regulations as of the date of this document, all of which are subject to change.

### PROJECT DESCRIPTION:

The project site consists of one lot at the southeast corner of Judah Street and 45th Avenue, within the block bounded by Judah Street to the north, 45th Avenue to the west, Kirkham Street to the south, and 44th Avenue to the east. The existing lot contains a 15-foot-tall, 1,200-square-foot vacant former auto repair facility with associated parking. The existing building was built in 1950. The proposed project involves the demolition of the existing building and construction of a new 45-foot-tall, 14,200-square-foot building consisting of six dwelling units, 2,800 square feet of ground-floor retail space, seven off-street underground parking spaces, and six Class 1 bike parking spaces. The parking garage would be accessed from a curb cut along 45th Avenue.

### ENVIRONMENTAL REVIEW:

The project initially requires environmental review, which must be completed before any project approval may be granted. In order to facilitate environmental review and comply with the California Environmental Quality Act (CEQA), the applicant should submit an **Environmental Evaluation**

**Application** (EEA).<sup>1</sup> The Planning Department will investigate the following issues as part of the environmental review process.

- 1. Historic Architectural Resources.** The building on the project site was constructed in 1950. The proposed project thus includes demolition of a potential historic resource (a building constructed 50 or more years ago); therefore, the project is subject to the Department's Historic Preservation review, which would include preparation of a Historic Resource Evaluation (HRE) by a qualified professional who meets the Secretary of the Interior's Professional Qualification Standards. The department will provide the project sponsor with a list of three consultants from the Historic Resource Consultant Pool, which shall be known as the potential consultant list or PCL. Once the Environmental Evaluation Application is submitted, please contact Tina Tam, Senior Preservation Planner, via email (tina.tam@sfgov.org) for the list of three consultants. Upon selection of the historic resource consultant, the scope of the Historic Resource Evaluation shall be prepared in consultation with Department Preservation staff.<sup>2</sup>
- 2. Archeological Resources.** The application submitted for the Preliminary Project Assessment (PPA) does not indicate the depth of below-ground surface excavation. However, project implementation would entail soil-disturbing activities associated with building construction, including excavation for a basement level, that could reach a depth of up to 10 feet below grade. As part of the EEA, please indicate this information so Planning Department staff can evaluate the level of archeological review required. The project site is located within an area where no previous archeological survey has been prepared. It would require a Preliminary Archeological Review, which would be conducted in-house by Planning Department Staff. This review requires documentation of potential project soils disturbance and the range of appropriate foundation types for the proposed structure. Such information is typically contained in a geotechnical study prepared for the proposed project. The Preliminary Archeological Review will determine whether or not additional archeological studies will be required as part of the environmental evaluation.
- 3. Transportation.** Based on the PPA submittal, a transportation study is not expected to be required. However, an official determination will be made subsequent to submittal of the environmental evaluation application. Plans submitted with the EEA should show any improvements required by the Better Streets Plan.
- 4. Air Quality.** The proposed project's number of dwelling units (six) is below the Bay Area Air Quality Management District's (BAAQMD) construction and operation screening levels for criteria air pollutants.<sup>3</sup> Therefore, an analysis of the project's criteria air pollutant emissions is not likely to be required. However, detailed information related to construction equipment, phasing and duration of each phase, and cubic yards of excavation shall be provided as part of the EEA.

Project-related demolition, excavation, grading and other construction activities may cause wind-blown dust that could contribute particulate matter into the local atmosphere. To reduce construction

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<sup>1</sup> Refer to <http://www.sf-planning.org/index.aspx?page=1886> for latest "Environmental Evaluation Application."

<sup>2</sup> Refer to <http://www.sf-planning.org/index.aspx?page=1886> for "Administration of Historic Resources Consultant Pool."

<sup>3</sup> BAAQMD, *CEQA Air Quality Guidelines*, May 2011, Chapter 3.

dust impacts, the San Francisco Board of Supervisors approved the Construction Dust Control Ordinance (Ordinance 176-08, effective July 30, 2008) with the intent of reducing the quantity of dust generated during site preparation, demolition, and construction work in order to protect the health of the general public and of onsite workers, minimize public nuisance complaints, and to avoid orders to stop work by the Department of Building Inspection (DBI). Pursuant to the Construction Dust Ordinance, the proposed project would be required to comply with applicable dust control requirements outlined in the ordinance.

In addition, San Francisco has partnered with the BAAQMD to inventory and assess air pollution and exposures from mobile, stationary, and area sources within San Francisco. Areas with poor air quality, termed "Air Pollutant Exposure Zones," were identified. Land use projects within these Air Pollutant Exposure Zones require special consideration to determine whether the project's activities would expose sensitive receptors to substantial air pollutant concentrations. Although the proposed project is not within an Air Pollutant Exposure Zone, improvement measures may be recommended for consideration by City decision makers such as exhaust measures during construction and enhanced ventilation measures as part of building design. Enhanced ventilation measures will be the same as those required for projects, such as this project, subject to Article 38 of the Health Code.

If the project would generate new sources of toxic air contaminants including, but not limited to: diesel generators or boilers, or any other stationary sources, the project would result in toxic air contaminants that may affect both on-site and off-site sensitive receptors. Detailed information related to any proposed stationary sources shall be provided with the EEA.

5. **Greenhouse Gas Emissions.** *The City and County of San Francisco's Strategies to Address Greenhouse Gas Emissions* presents a comprehensive assessment of policies, programs, and ordinances that represents San Francisco's Qualified Greenhouse Gas (GHG) Reduction Strategy. Projects that are consistent with San Francisco's Qualified GHG Reduction Strategy would result in less-than-significant impacts from GHG emissions. In order to facilitate a determination of compliance with San Francisco's Qualified GHG Reduction Strategy, the Planning Department has prepared a Greenhouse Gas Analysis Compliance Checklist.<sup>4</sup> If the Planning Department determines it necessary, the assigned environmental coordinator or CEQA consultant will prepare this checklist in coordination with the project sponsor.
6. **Shadow.** The proposed project would include a new building extending to 45 feet in height. Planning Code Section 295 requires that a shadow analysis must be performed to determine whether a new structure greater than 40 feet in height has the potential to cast shadow on properties under the jurisdiction of the San Francisco Recreation and Park Commission. Department staff has determined that the proposed project does not have the potential to cast new shadow on any properties under the jurisdiction of the Parks and Recreation Department, nor would it cast shadows on any other parks or open spaces.
7. **Geology, Soils, and Seismicity.** The project involves excavation below grade. A geotechnical study prepared by a qualified consultant should be submitted with the EEA. The study should address

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<sup>4</sup> Refer to <http://www.sf-planning.org/index.aspx?page=1886> for latest "Greenhouse Gas Compliance Checklist for Private Development Projects."

whether the site is subject to liquefaction or landslides, and should provide recommendations for addressing any geotechnical concerns identified in the study.

8. **Hazards and Hazardous Materials.** The proposed project could disturb more than 50 cubic yards of soil and is located in an area where there is a potential for soil or groundwater contamination due to nearby leaking underground storage tank sites. The project site and nearby sites appear in database lists and maps of sites that may be affected by soil or groundwater contamination, including those maintained pursuant to Article 22A of the Health Code, also known as the Maher Ordinance. Therefore, the project may be subject to the Maher Ordinance, which is administered and overseen by DPH. DPH requires that projects subject to the Maher Ordinance complete a Maher Application, available at: <http://www.sfdph.org/dph/EH/HazWaste/hazWasteSiteMitigation.asp>. Fees for DPH review and oversight of projects subject to the ordinance would apply. Please refer to DPH's fee schedule, available at: <http://www.sfdph.org/dph/EH/Fees.asp#haz>.

The Maher Ordinance also requires the project sponsor to retain the services of a qualified professional to prepare a Phase I Environmental Site Assessment (ESA) that meets the requirements of Health Code Section 22.A.6. A Phase I ESA was prepared for the proposed project site in July 2013, and this requirement has therefore been met. The Phase I ESA report and a case closure letter also provided by the project sponsor indicate that two underground storage tanks associated with past use as a gas station were closed in place and an additional tank was removed in 1986. The Department of Public Health (DPH) issued a case closure letter on June 22, 2012 indicating that no additional investigation or remediation was required at that time. In addition, the Phase I ESA states that equipment related to the former gas station was removed and soil and groundwater samples were analyzed in May 2013. Based on the results of analysis, DPH issued a "No Further Action" letter for the site on July 2, 2013. Based on this information, no additional soil or groundwater sampling or analysis is currently required. Compliance with the requirements of DPH and the Maher Ordinance would address the potential hazardous materials impacts of the project.

Please provide a complete electronic or printed copy of the Phase I ESA with the EEA.<sup>5</sup>

9. **Stormwater and Flooding.** If the project results in a ground surface disturbance of 5,000 square feet or greater, it is subject to San Francisco's stormwater management requirements as outlined in the Stormwater Management Ordinance and the corresponding SFPUC Stormwater Design Guidelines (Guidelines). The proposed project site, at 4,750 square feet, is close to this threshold size, and any project-related work necessary in the surrounding right of way may cause the area of disturbance to exceed it. Projects that trigger the stormwater management requirements must prepare a Stormwater Control Plan demonstrating project adherence to the performance measures outlined in the Guidelines including: (a) reduction in total volume and peak flow rate of stormwater for areas in combined sewer systems OR (b) stormwater treatment for areas in separate sewer systems. Responsibility for review and approval of the Stormwater Control Plan is with the SFPUC, Wastewater Enterprise, Urban Watershed Management Program. Without SFPUC approval of a Stormwater Control Plan, no site or building permits can be issued. The Guidelines also require a signed maintenance agreement to ensure proper care of the necessary stormwater controls. The

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<sup>5</sup> Refer to <http://www.sfdph.org/dph/EH/HazWaste/hazWasteSiteMitigation.asp> for fees and more information about DPH's review of hazardous waste.

project's environmental evaluation should generally assess how and where the implementation of necessary stormwater controls would reduce the potential negative impacts of stormwater runoff. To view the Stormwater Management Ordinance, the Stormwater Design Guidelines, or download instructions for the Stormwater Control Plan, go to <http://sfwater.org/sdg>.

**10. Notification of a Project Receiving Environmental Review.** Notice is required to be sent to occupants of the project site and properties adjacent to the project site, as well as to owners and to the extent feasible occupants of properties within 300 feet of the project site at the initiation of the environmental review. Please be prepared to provide mailing labels upon request during the environmental review process.

If the additional analysis outlined above indicates that the project would not have a significant effect on the environment, the project may qualify for a Class 32 Categorical Exemption, in which case the Planning Department would issue a Certificate of Determination of Exemption from Environmental Review. If the Department's review indicates that there is a potential for the project to have significant environmental impacts, an initial study must be prepared for CEQA review. The initial study may be prepared either by an environmental consultant from the Planning Department's environmental consultant pool or by Department staff.

If the initial study determines that the project would not have a significant effect on the environment, the Department would issue a preliminary negative declaration (PND). If the initial study finds that the project would have significant impacts that could be reduced to a less-than-significant level by mitigation measures agreed to by the project sponsor, then the Department would issue a preliminary mitigated negative declaration (PMND). The PND or PMND would be circulated for public review for a period of 20 calendar days, during which time concerned parties may appeal the determination. If an appeal is filed, the Planning Commission would hold a hearing to decide the appeal. If no appeal is filed, the Planning Department would issue a final negative declaration (FND) or final mitigated negative declaration (FMND), and CEQA review is complete.

If the initial study indicates that the project would result in a significant impact that cannot be mitigated to below a significant level, an EIR must be prepared by an environmental consultant from the Planning Department's environmental consultant pool. The Planning Department would provide more detail to the project sponsor regarding the EIR process should this level of environmental review be required.

To determine fees for environmental review, please refer to page 2 of the current fee schedule, "Environmental Applications – Studies for Projects outside of Adopted Plan Area."<sup>6</sup>

#### **PLANNING DEPARTMENT APPROVALS:**

The project requires the following Planning Department approvals. These approvals may be reviewed in conjunction with the required environmental review, but may not be granted until after the required environmental review is completed.

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<sup>6</sup> <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=513>.

1. **Environmental Evaluation Application.** An Environmental Evaluation Application must be filed so that the CEQA-related issues of the project can be evaluated and assessed. For more information on what is required in this application, please refer to the Environmental Review section above.
2. **Variance.** As discussed under 'Preliminary Project Comments' below, the proposed project requires the approval of a Variance from Planning Code Section 134 (Rear Yard).
3. A **Demolition Permit Application** is required for the demolition of the existing building on the subject property.
4. A **Building Permit Application** is required for the proposed new construction on the subject property.

Variance applications are available in the Planning Department lobby at 1650 Mission Street Suite 400, at the Planning Information Center at 1660 Mission Street, and online at [www.sfplanning.org](http://www.sfplanning.org). Demolition and Building Permit applications are available at the Department of Building Inspections at 1660 Mission Street.

#### NEIGHBORHOOD NOTIFICATIONS AND PUBLIC OUTREACH:

Project sponsors are encouraged to conduct public outreach with the surrounding community and neighborhood groups early in the development process. Additionally, many approvals require a public hearing with an associated neighborhood notification. Differing levels of neighborhood notification are mandatory for some or all of the reviews and approvals listed above.

1. **Pre-Application.** The proposed project requires a Pre-Application Meeting in accordance with the minimum standards of the Pre-Application Process as the project proposes new construction. The Pre-application packet, which includes instructions and template forms, is available at [www.sfplanning.org](http://www.sfplanning.org) under the "Permits & Zoning" tab. All registered neighborhood group mailing lists are available online at [www.sfplanning.org](http://www.sfplanning.org) under the "Resource Center" tab and then "Map Library".
2. **Neighborhood Notification.** The proposed project includes new construction; therefore, owners and occupants within 150 feet of the project site must also be notified, in accordance with Planning Code Section 312. Other notices may be required depending on the level of environmental review necessary.

#### PRELIMINARY PROJECT COMMENTS:

The following comments address specific Planning Code and other general issues that may significantly affect the proposed project.

1. **Priority-Planning Policies.** Section 101.1 establishes eight priority-planning policies and requires review of conditional use, variance, and change of use applications for consistency with said policies. Please include your statement of how the proposed project is consistent with these policies with your building permit application.

2. **Tree Planting and Protection Checklist.** A Tree Planting and Protection Checklist must be filled out and submitted with the Building Permit Application.
3. **Rear Yard.** Planning Code Section 134 requires that a rear yard equal to 25% of the depth of the lot to be provided at grade level and at each succeeding level or story of the building. In Neighborhood Commercial Districts, a modification of the rear yard requirements of this Section may be allowed, upon approval by the Zoning Administrator at a duly noticed public hearing and in accordance with the provisions of Section 134(e), provided that all the following criteria are met:
  - Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and,
  - The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties; and,
  - The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

Development of the proposed project would require a rear yard exception in accordance with the provisions of Section 134(e).

4. **Permitted Obstructions.** Bay windows that extend beyond property boundaries and are permitted under Planning Code Section 136(c)(2) must meet minimum or maximum headroom, dimensional, length, and glazing requirements (see 136(c)(2)(A) through (G)). The proposed bay windows along Judah Street and 45<sup>th</sup> Avenue do not currently meet these requirements.
5. **Street Trees.** Planning Code Section 138.1(c)(1) requires street trees at a ratio of one tree per every 20 feet of street frontage along both Judah Street and 45<sup>th</sup> Avenue. This project would be required to plant five street trees along Judah Street and three street trees along 45<sup>th</sup> Avenue. Please demonstrate Code compliance to this requirement.
6. **Street Frontages in Commercial Districts.** Pursuant to Planning Code Section 145.1(c), space for active uses as defined in Subsection (b)(2) and permitted by the specific district in which it is located shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street, with the exception of space allowed for parking and loading access, building egress, and access to mechanical systems. Building systems including mechanical, electrical, and plumbing features may be exempted from this requirement by the Zoning Administrator only in instances where those features are provided in such a fashion as to not negatively impact the quality of the ground floor space. Please demonstrate Code compliance to this requirement.
7. **Height Limit.** In the measurement of building height, Planning Code Section 260(a)(3) establishes a maximum width for the portion of the building that may be measured from a single point at curb or ground level if a street from which height measurements are made slopes laterally along the lot, or the ground slopes laterally on a lot that also slopes upward from the street. Please demonstrate Code compliance to this requirement.

8. **Shadow.** Planning Code Section 295 limits the construction of any structure that would cast any new shade or shadow upon any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission. The project does not appear to have the potential to cast new shadow on property under the jurisdiction of the Recreation and Park Commission.
9. **Formula Retail.** Planning Code Section 303(i) requires Conditional Use Authorization for Formula Retail uses defined as a type of retail sales activity or retail sales establishment, which has eleven or more other retail sales establishments located in the United States. In addition to the eleven establishments, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, or a trademark or servicemark. Conditional Use authorization would be required for any future tenant of the proposed retail spaces meeting the definition of formula retail.
10. **Additional Height for Active Ground Floor Uses.** Pursuant to PC Section 263.20(c), one additional foot of height, up to a total of five feet, shall be permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade. Please demonstrate Code compliance to this requirement.
11. **Transit Impact Development Fee.** Planning Code Section 411 requires the payment of a Transit Impact Development Fee for new development in San Francisco. The fee is not required for residential uses, but a fee of \$13.30/square foot is required for the proposed ground-floor retail uses.

#### PRELIMINARY DESIGN COMMENTS:

The following comments address preliminary design issues that may significantly affect the proposed project:

1. **Site Design, Open Space, and Massing.** In general, the massing, site orientation, and open space are appropriate. However, the Planning Department questions 1) the overall height within a 40-foot height limit and 2) whether the corner could accommodate the upper story massed to the property line rather than being set back.
2. **Vehicle Circulation, Access and Parking.** The single 10-foot-wide garage opening for parking ingress and egress should be sufficient for the limited number of parking spaces. Bike parking is located directly adjacent to the lobby at the ground floor which minimizes the travel distance and maximizes convenience.
3. **Street Frontage.** The Planning Department appreciates the high ground floor and predominance of active uses at the ground level. The Department also appreciates the attention to the design of the residential entrance and suggests more could be done with a few architectural and spatial refinements. The Department lauds the rhythm of structural bays and reticulated storefront at the frontage that provides a human-scaled, active relationship with the streets.
4. **Architecture.** Although preliminary, the design intent appears to consist of appropriately scaled elements that modulate the façade in a manner consistent with the context.

At this point, the architecture is assumed to be preliminary and the Planning Department would provide further detailed design review on the subsequent submission of materials and details to insure that a high quality of design is achieved.

It is expected that the architecture and quality of execution will be superior. High-quality materials combined with exceptional articulation and detailing on all visible facades will be essential to the success of approval of this project.

**PRELIMINARY PROJECT ASSESSMENT EXPIRATION:**

This Preliminary Project Assessment is valid for a period of **18 months**. An EEA or Building Permit Application, as listed above, must be submitted no later than **June 22, 2015**. Otherwise, this determination is considered expired and a new Preliminary Project Assessment is required. Such applications and plans must be generally consistent with those found in this Preliminary Project Assessment.