



LETTER OF DETERMINATION

July 2, 2021

Danny Saenz
Mark Hogan
OpenScope Studio
San Francisco, CA 94107

Record No.: **2021-003644ZAD**
Site Address: **1001-1023 Stanyan Street / 203 Carl Street**
Assessor's Block/Lot: 1274/001
Zoning District: RH-3 (Residential-House, Three Family)
Staff Contact: Moses Corrette – (628) 652-7356 or moses.corrette@sfgov.org

Dear Messrs. Saenz and Hogan:

This letter is in response to your request for a Letter of Determination regarding the property at 1001-1023 Stanyan Street / 203 Carl Street. The subject property is located in the RH-3 (Residential-House, Three Family) Zoning District and 40-X Height and Bulk District. The request seeks confirmation of the following: 1) whether it would be possible to renovate a storage building on the lot, formerly a garage, with its own street-facing retail storefront; 2) clarification of the process for the addition of a storefront entry in place of the existing garage doors and whether it could be done with a tenant improvement permit or if it would be considered a change-of-use; and 3) as an alternative, whether the storage building could continue to be associated with the adjacent retail space to the south (1013-1023 Stanyan Street) with changes to the façade to provide glazed openings and connect the two spaces on the interior.

Background

The site in question is a property that contains three buildings: two mixed-use buildings and a storage building. 1001 Stanyan Street / 203 Carl Street is the mixed-use building at the corner of Stanyan and Carl Street on the north side of the lot with one ground floor commercial storefront (1001 Stanyan Street). 1013-1023 Stanyan Street is the mixed-use building on the south side of the lot with two ground floor commercial storefronts (1013 and 1023 Stanyan Street). The subject storage building is located in between the two buildings and immediately adjacent to 1013-1023 Stanyan Street. All of the commercial storefronts on the lot were previously occupied by one business (The Real Food Co.) until about February of 2018¹. Since that time the buildings have been under structural renovations.

¹ <https://hoodline.com/2018/01/2-natural-foods-markets-in-cole-valley-outer-richmond-closing/>

The subject storage building was initially built as a two-car garage sometime between 1920 and 1938, based on Sanborn Maps and aerial photography. As the zoning is for residential use only, the commercial spaces are considered Nonconforming Uses. In 1960, the Planning Department first created an inventory of Nonconforming Uses (NCU) and Limited Commercial Uses (LCU). This location has two such inventory cards. One inventory card² covers both 1001 Stanyan Street as well as the storage / former garage building while the other card³ covers 1013-1023 Stanyan Street. A note from 1964 on the card for 1001 Stanyan Street mentions an inquiry for the subject storage building: "Inquiry from owner of market to convert garage from storage to carry-out store – told him no" on 9/15/64. In 1980, property owners received a Conditional Use Authorization from the Planning Commission to remove a termination date for the store. In 1993, a Variance was granted by the Zoning Administrator to officially recognize the loss of residential parking, which had effectively been removed by 1964 where this Department had noted it was used for accessory commercial storage. One condition of approval for the loss of residential parking was to remove the curb cut, which has been done. It is therefore established that the subject storage building has been a compliant non-conforming accessory storage building to the existing NCU/LCU at 1001 Stanyan Street since at least 1993.

Determination

In response to the first question to renovate the subject storage building for its own independent retail occupant, Planning Code Sections 180-186.1 govern Nonconforming and Limited Commercial Uses. Specifically, Section 181 discusses (a) Increases in Nonconformity and (b) Permitted Alterations. Where the Code is vague or silent on a specific issue, the Zoning Administrator may issue clarifying Interpretations. In this case, there are two relevant Interpretations⁴:

Subject: LCU, addition of another shop Effective Date: 3/94:

This Section prohibits the enlargement or intensification of a nonconforming use. In the case where a limited commercial use (See Section 186) contained another room that was surplus to the needs of the current commercial use but was apparently always commercial floor area, the surplus space could be used for a separate retail use without being considered an enlargement or intensification of a nonconforming use.

Subject: Intensification of an NCU Effective Date: 3/89

Adding electricity and gas for heat to an NCU warehouse in an RH-2 District would not be considered an intensification.

Together with the Code itself, the interpretations will permit the addition of separate retail storefront in the subject storage building, an existing non-conforming accessory use for 1001 Stanyan Street, as well as to permit the addition of mechanical systems.

In response to your second procedural question, the changing of the street-façade on a building more than 45 years of age will require conformity with the California Environmental Quality Act (CEQA) before a building permit can be approved by the Planning Department. It is recommended to apply for a Historic Resource Assessment (HRA⁵) to determine the historic status of the storage building *before* applying for the permit to change. Should it be found non-historic, a storefront in general alignment with the design of adjacent storefronts where no expansion of use is proposed can be approved administratively by Planning staff. Any proposed use in the newly

² <http://sfplanninggis.org/docs/NCULCU/1274001-3.pdf> accessed 6/29/21.

³ <http://sfplanninggis.org/docs/NCULCU/1274001-1.pdf> accessed 6/29/21

⁴ https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_planning/0-0-0-31235

⁵ <https://sfplanning.org/resource/hra-application>

created storefront would need to comply with the requirements of Planning Code Section 186 for Limited Commercial Uses.

The final question, an alternative plan to join the subject storage building with the existing immediately adjacent storefront at 1013-1023 Stanyan Street. Any proposed façade alterations would be subject to the review process as outlined for previous procedural question. Any interior connection between the subject storage building and storefront at 1013-1023 Stanyan Street would generally be permitted because the subject storage building has also historically been associated with the ground floor commercial use in the adjacent building (as previously noted, all of the commercial storefronts on the lot were previously occupied by one business).

In conclusion, both options proposed for the subject storage building may be pursued. Please be aware that NCU/LCU uses which are vacant for more than 3-years may be considered abandoned.

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: An appeal may be filed with the Board of Appeals within 15 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Scott F. Sanchez
Acting Zoning Administrator

cc: Property Owner
Neighborhood Groups
Moses Corrette, Planner