

February 15, 2017

Client-Matter: 49316.030

**BY E-MAIL NAGRAJPLANNING@GMAIL.COM; EW.OAKLAND@GMAIL.COM;
TLIMON.OPC@GMAIL.COM; CMANUSOPC@GMAIL.COM;
AMANDAMONCHAMP@GMAIL.COM;
JMYRES.OAKPLANNINGCOMMISSION@GMAIL.COM; PATTILLO@PGADESIGN.COM**

Oakland City Planning Commission
Oakland City Hall
One Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612

Re: February 15, 2017 Planning Commission Meeting Agenda Consent Calendar Item
No. 7: 829 21st Street; Appeal of Conditions of Approval Relating to Administrative
Decision Approving Permits to Legalize Existing Live-Work Units (Case File No.
PLN15-408)

Dear Chair Nagraj and Members of the Planning Commission:

As you know, this office represents the 829 21st Street Homeowners Association, the association of owners of five separate live-work units ("the Homeowners") located at 829 21st Street. We previously appealed the Zoning Manager's August 26, 2016 decision approving setback variances and imposing two project-specific conditions of approval that would have required substantial physical alterations to the Homeowners' existing units and the elimination of one unit in its entirety. As you will recall, following a duly noticed public hearing conducted on November 16, 2016, the commission granted our appeal with a straw vote (6-0) recognizing the hardship posed by the conditions on appeal, and directed staff to return to the Planning Commission with updated findings to support granting the variances without those conditions. The formal approval of our appeal appears as Consent Calendar Item No. 7 on your agenda for tonight's meeting.

In an obvious attempt to further delay a final decision on our application, Nathan L. Scheg of the Ironhorse Law Group submitted a letter to the City yesterday afternoon, dated February 14, 2017, on behalf of Koonal Parmar and Robin Maes, the neighboring property owners, both of whom offered extensive testimony at the public hearing. In part, Mr. Scheg demands that the commission table the motion "until as such sufficient time is given for **all parties** (including the neighbors and the City) to negotiate a compromise that works for all involved." Mr. Scheg ignores the fact that he and his clients have had ample opportunity to engage in the process to reach a compromise position in connection with our application, which we originally filed in August 2016, and have chosen not to do

Oakland City Planning Commission

February 15, 2017

Page 2

so. Mr. Scheg also ignores the fact that but for his clients' repeated and continued actions against our clients, this matter would not be before the Planning Commission.

At the public hearing conducted on November 16, 2016, the commission discussed the possibility of reaching a compromise that would be acceptable to the City, the Homeowners, as well as Mr. Scheg's clients, and after hearing the testimony provided by all parties, concluded that such compromise was unlikely due in part, to the "emotional tenor" of the parties involved. In response to Commissioner Monchamp's inquiry as to whether planning staff believed there was a compromise position to be reached from a planning perspective, planner Peterson Vollmann indicated that he did not believe less impactful conditions of approval that would provide a compromise exist.

Shortly after the hearing on November 16, 2016, our office contacted the City Attorney's office to determine whether a meeting with the Zoning Manager and planner would be appropriate to discuss potentially less impactful project-specific conditions of approval. We were advised by the City Attorney's office that based on the City's understanding that the directive from the Planning Commission was to remove the conditions of approval at issue and approve the rear yard variance request, the primary task remaining was to draft new findings consistent with the comments made by the Planning Commission at the hearing. Our office has never been contacted by Mr. Scheg or his clients for a discussion of a resolution that would be acceptable to his clients and we are unaware of any attempt by him or his clients to request that the City facilitate a compromise position.

In terms of Mr. Scheg's threat of litigation, the City is already party to pending litigation relating to this matter. By way of background, the existing development was completed in 2010 by a predecessor owner in accordance with all plans and approvals reviewed and issued by the City in 2008, and before any of the Homeowners purchased their respective units. Three years after the project was complete, Mr. Scheg's clients, with whom some of the Homeowners were and continue to be embroiled in a property line dispute, alleged that necessary variances were not sought or obtained by the predecessor owner in or around 2007. This triggered a code enforcement proceeding nearly nine years after the alleged violation occurred, and that is already the subject of a pending lawsuit filed by the Homeowners, none of whom had any involvement with the property when any of the alleged wrongdoing occurred. The Homeowners' pending lawsuit against the City is based on the City's failure to discover and verify the alleged raising of the building in connection with the foundation work completed in 2007, until 2015 when the project had been fully developed and sold to innocent purchasers, and the City's unreasonable delay in taking enforcement action to remedy the alleged violation.

The application before you again this evening seeks to comply with the Code Enforcement direction to obtain required permits, without further litigation, and to document the variances that perhaps should have been but were not obtained at some point in time. A continuance of this matter will result in nothing more than further delay, prolonged uncertainty, and further expense as the City

Oakland City Planning Commission
February 15, 2017
Page 3

and Homeowners will be required to request yet another stay of the pending litigation for which the current stay order expires on February 27, 2017.

In accordance with the foregoing, we respectfully request that you formally adopt the motion to approve our appeal as it appears on the consent calendar. We very much appreciate your time and thoughtful consideration.

Sincerely,


Robia S. Crisp

cc: Nathan L. Scheg, Esq. (via email nathan@ironhorselawgroup.com)
Peterson Z. Vollman, Planning Department (via email PVollmann@oaklandnet.com)
Darin Ranelletti, Interim Planning & Building Director (via email dranelletti@oaklandnet.com)
Scott Miller, Zoning Manager (via email SMiller@oaklandnet.com)
Elias Ferran, Office of the City Attorney (via email EFerran@oaklandcityattorney.org)
Selia Warren, Office of the City Attorney (via email swarren@oaklandcityattorney.org)
Barbara Parker, Office of the City Attorney (via email bjparker@oaklandcityattorney.org)
Office of the Mayor (via email officeofthemayor@oaklandnet.com)
Lynette McElhaney (via email lmcelhaney@oaklandnet.com)
Kristina Lawson (via email KLawson@manatt.com)

MANATT, PHELPS & PHILLIPS, LLP
ANDREW A. BASSAK (Bar No. CA 162440)
CHRISTOPHER A. RHEINHEIMER (Bar No. CA 253890)
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Telephone: (415) 291-7400
Facsimile: (415) 291-7474

Attorneys for Petitioners and Plaintiffs
829 21st STREET HOMEOWNERS ASSOCIATION, BRYAN
ALBERSTAT, TRAVIS E. NOVAK, ROBERT C. FRAUSTO, ERIN
A. KELSEY, ERIC S. GORDON, and CATHERINE L. GORDON,

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

829 21st STREET HOMEOWNERS
ASSOCIATION, a community association,
BRYAN ALBERSTAT, TRAVIS E.
NOVAK, ROBERT C. FRAUSTO, ERIN
A. KELSEY, ERIC S. GORDON, and
CATHERINE L. GORDON,

Petitioners and Plaintiffs,

vs.

CITY OF OAKLAND PLANNING AND
BUILDING DEPARTMENT; CITY OF
OAKLAND, a California Municipal
Corporation,

Respondents and
Defendants.

Case No. RG15787487

Assigned to: Hon. Kimberly Colwell
Dept.: 511

**JOINT STIPULATION TO CONTINUE
STAY; [PROPOSED] ORDER**

Action filed: September 28, 2015
Trial date: None set

[317962803.1](#)

Petitioners and Plaintiffs 829 21st Street Homeowners Association, Bryan Alberstat, Travis E. Novak, Robert C. Frausto, Erin A. Kelsey, Eric S. Gordon, and Catherine L. Gordon (collectively, "Petitioners") and Respondents and Defendants City of Oakland Planning and Building Department and City of Oakland (collectively, "Respondents"), by and through their counsel of record, hereby enter into the following stipulation:

WHEREAS, on September 28, 2015, Petitioners filed a Petition for Writ of Administrative Mandate and Complaint for Declaratory and Injunctive Relief (the "Petition");

WHEREAS, Petitioners are applying for a variance that could render the Petition moot;

WHEREAS, the parties previously agreed to ~~five-six~~ 60- to 90-day stays of the litigation to allow the variance application to proceed;

WHEREAS, the variance application has been approved by the Zoning Manager but Petitioner contend that the approval is subject to conditions that render compliance impossible;

WHEREAS, Petitioners appealed the Zoning Manager's decision to the Planning Commission;

WHEREAS, on November 16, 2016, the Planning Commission took a straw vote and directed staff to return with findings for approval of the appeal;

~~WHEREAS, over the written objections of a neighboring property owner, the Planning Commission adopted the motion granting Petitioners' appeal of the Zoning Manger's decision on February 15, 2017;~~

WHEREAS, the parties believe a further 90-day stay of this litigation will provide the time necessary to determine whether the ~~variance application is approved with permissible conditions~~ objecting neighbor will pursue litigation challenging the Planning Commission's decision;

THEREFORE, Petitions and Respondents, by and through their counsel of record, agree and stipulate as follows:

1. The above recitals are true and are incorporated by reference.

2. The litigation should be stayed for an additional 90 days, until ~~February-May 27~~, 2017.
~~317962803.1~~

3. All statutory and procedural deadlines, time limits, responses, and obligations in this litigation, including all deadlines with respect to the preparation of the administrative record, are stayed during the pendency of this stay.

4. This Stipulation may be executed in one or more counterparts, each of which, taken together, shall constitute the original, and may be filed with facsimile signatures.

Dated: ~~November~~FebruaryMarch MANATT, PHELPS & PHILLIPS, LLP
 __, ~~2016~~2017

By: _____
Christopher A. Rheinheimer
Attorneys for Petitioners and Plaintiffs
829 21st STREET HOMEOWNERS
ASSOCIATION, BRYAN ALBERSTAT,
TRAVIS E. NOVAK, ROBERT C. FRAUSTO,
ERIN A. KELSEY, ERIC S. GORDON, AND
CATHERINE L. GORDON

Dated: ~~November~~ February March OFFICE OF THE CITY ATTORNEY
 __, 20167

By: Selia M. Warren
Attorneys for Respondents and Defendants
 CITY OF OAKLAND PLANNING AND
 BUILDING DEPARTMENT AND CITY OF
 OAKLAND

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0.5"

ORDER

Good cause appearing, all proceedings and deadlines in this action shall be stayed until ~~February-May~~ 27~~8~~, 2017. The Case Management Conference currently scheduled for ~~December~~ ~~March 17, 2017~~~~16, 2016~~ is continued to ~~March-June~~ 17, 2017 at 9:00 a.m. in Department 511. At least fifteen (15) days before the continued Case Management Conference, if this matter is still pending, the parties shall file case management conference statements advising the Court of the status of this matter.

IT IS SO ORDERED.

Dated: ~~November~~ ~~February~~ ~~March~~ _____, 201~~6~~7

Judge of the Superior Court

From: [Warren, Selia](#)
To: [Rheinheimer, Christopher](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Monday, December 05, 2016 4:40:26 PM

Chris,

I spoke with my Planner on this issue. I understand that our directive from the Planning Commission was to remove the last two conditions of approval and approve the rear yard variance request. Thus, the primary task remaining is to draft new findings consistent with the comments made by the Planning Commission at the hearing. Were you nevertheless hoping to revise the conditions of approval in different manner than what the Commission requested? Are you looking to resolve the matter in a way that minimizes or reduces the conflict with the neighboring property owner?

Kind regards,
Selia Warren

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Monday, December 05, 2016 12:28 PM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Yes, that would be the purpose of the meeting. And we understand that none of our recommendations would be binding.

Thanks,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Monday, December 05, 2016 12:26 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

I apologize. I have not followed up on this issue. To confirm, you are seeking a meeting to offer your input on what the revised conditions of approval should be, correct? The meeting would likely need to be with the understanding that Planning staff was under no obligation to follow your recommendations. Let me know if I missed anything, and I'll reach out and see what we can set up.

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524

Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Monday, December 05, 2016 12:12 PM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Hi Selia,

Have you heard back from Advisory/Planning regarding a meeting to discuss potential compromise conditions of approval per the commissioners' comments at the Planning Commission hearing? We think that such a meeting will be productive and facilitate resolution in an efficient manner.

Thank you,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Thursday, November 17, 2016 4:23 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Thanks, Christopher. I was not aware of the Planning Commission's ruling. To that end, I cannot stipulate to the recital re that issue ("WHEREAS, the Planning Commission granted Petitioners' appeal and returned the application to staff to develop revised findings upholding approval of the variance without the conditions that rendered compliance impossible"). I don't have independent knowledge that would allow me to stipulate that what is written is true. Do you have a copy of the ruling that I can review? Otherwise I will obtain a copy independently.

I am otherwise fine with the stipulation. I will reach out to my counterpart in Advisory and to our planner to see if a further conference makes sense. Thanks for the heads up.

Kind regards,

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Selia,

As you may know, the Planning Commission granted Petitioners' appeal of the conditions of approval on the variance permit related to the above-captioned case and directed staff to develop revised findings. We believe the matter will come back to the Planning Commission sometime in January. Thus, we are proposing a further extension of the stay to February 27, 2017. This would also take the December 16 CMC off calendar. Please let me know if you have any proposed changes to the attached proposed stip and if not, please sign and return to me at your convenience.

In addition, we would like to set up another meeting with you, Pete Vollmann, and anyone else from City staff who you would like to attend, to discuss potential "compromise" conditions of approval per the commissioners' comments at the Planning Commission hearing. We are generally available the week of December 5. Please let us know what specific day or time works for you and your team.

Thank you,
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Christopher A. Rheinheimer
Associate

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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Wednesday, December 07, 2016 9:29:28 AM

Thank you, Selia. Given that no alternative conditions are being proposed, we do not believe a meeting is necessary at this time.

Regards,
Chris

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From: [Warren, Selia](#)
To: [Rheinheimer, Christopher](#)
Cc: rcrisp@manatt.com
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Tuesday, February 28, 2017 1:33:17 PM

Chris, Robia,

I understand that the Planning Commission voted to approve the appeal as recommended by staff. I expect that you will be dismissing the writ in short order. Please send me a copy of the dismissal once filed.

Kind regards,
Selia Warren

Selia Warren, Deputy City Attorney
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To: [Warren, Selia](#)
Cc: [Crisp, Robia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Wednesday, March 01, 2017 1:11:38 PM
Attachments: [829 -DRAFT Proposed Joint Stipulation to Continue Stay to May 28 - REDLINE.DOCX](#)

Hi Selia,

We would like to stipulate to one more extension of the stay to allow time to determine whether the neighbor plans to file a writ challenging the Planning Commission approval. I am attaching a draft stipulation for that purpose, redlined against the previous stip. Please let me know if this is agreeable and I will circulate a final version for signature.

Thanks,
Chris

From: Warren, Selia [mailto:SWarren@oaklandcityattorney.org]
Sent: Tuesday, February 28, 2017 1:33 PM
To: Rheinheimer, Christopher
Cc: Crisp, Robia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Chris, Robia,

I understand that the Planning Commission voted to approve the appeal as recommended by staff. I expect that you will be dismissing the writ in short order. Please send me a copy of the dismissal once filed.

Kind regards,
Selia Warren

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [mailto:CRheinheimer@manatt.com]
Sent: Wednesday, December 07, 2016 9:29 AM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Thank you, Selia. Given that no alternative conditions are being proposed, we do not believe a meeting is necessary at this time.

Regards,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Monday, December 05, 2016 4:40 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Chris,

I spoke with my Planner on this issue. I understand that our directive from the Planning Commission was to remove the last two conditions of approval and approve the rear yard variance request. Thus, the primary task remaining is to draft new findings consistent with the comments made by the Planning Commission at the hearing. Were you nevertheless hoping to revise the conditions of approval in different manner than what the Commission requested? Are you looking to resolve the matter in a way that minimizes or reduces the conflict with the neighboring property owner?

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From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Monday, December 05, 2016 12:28 PM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Yes, that would be the purpose of the meeting. And we understand that none of our recommendations would be binding.

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Sent: Monday, December 05, 2016 12:26 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

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From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]

Sent: Thursday, November 17, 2016 4:18 PM

To: Warren, Selia

Subject: 829 21st St Homeowners Assoc v. City of Oakland

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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Cc: [Crisp, Robia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Wednesday, March 01, 2017 1:31:28 PM
Attachments: [829 -DRAFT Proposed Joint Stipulation to Continue Stay to May 28 - REDLINE.DOCX](#)

Your presumption is accurate. Your suggested tolling agreement also makes a lot of sense and I think, if the neighbor files an action, that is the way to go. Here is the clean version of the stipulation for signature.

Thanks,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Wednesday, March 01, 2017 1:27 PM
To: Rheinheimer, Christopher
Cc: Crisp, Robia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

I just left you a message. I'd have to look back at your writ, but I am not clear how preserving your writ action is important to any potential writ by the neighbor. The variance was approved, so your writ is moot. I presume you are attempting to anticipate the Court overturning the variance approval due to a writ by the neighbor, which would then require you to pursue your writ again, but 90 days wouldn't be sufficient to make that determination anyway. I will stipulate for this continuance, but if the neighbor files a writ, I'd suggest a voluntary dismissal without prejudice and a tolling agreement tolling the time for your clients to bring the writ, if needed, to 30 days after service of notice from the City that judgment is entered in the neighbor's action.

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Oakland, California 94612
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From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Wednesday, March 01, 2017 1:11 PM
To: Warren, Selia
Cc: Crisp, Robia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Hi Selia,

We would like to stipulate to one more extension of the stay to allow time to determine whether the neighbor plans to file a writ challenging the Planning Commission approval. I am attaching a draft stipulation for that purpose, redlined against the previous stip. Please let me know if this is agreeable and I will circulate a final version for signature.

Thanks,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Tuesday, February 28, 2017 1:33 PM
To: Rheinheimer, Christopher
Cc: Crisp, Robia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

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From: [Warren, Selia](#)
To: [Rheinheimer, Christopher](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Thursday, November 17, 2016 4:23:25 PM

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Sent: Thursday, November 17, 2016 4:18 PM
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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Friday, November 18, 2016 9:19:11 AM

We haven't received a copy of the minutes yet

From: Warren, Selia [mailto:SWarren@oaklandcityattorney.org]
Sent: Thursday, November 17, 2016 4:23 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Monday, December 05, 2016 12:12:34 PM

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From: [Warren, Selia](#)
To: [Rheinheimer, Christopher](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Monday, December 05, 2016 12:26:30 PM

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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland
Date: Monday, December 05, 2016 12:27:56 PM

Yes, that would be the purpose of the meeting. And we understand that none of our recommendations would be binding.

Thanks,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Monday, December 05, 2016 12:26 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

I apologize. I have not followed up on this issue. To confirm, you are seeking a meeting to offer your input on what the revised conditions of approval should be, correct? The meeting would likely need to be with the understanding that Planning staff was under no obligation to follow your recommendations. Let me know if I missed anything, and I'll reach out and see what we can set up.

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Monday, December 05, 2016 12:12 PM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Hi Selia,

Have you heard back from Advisory/Planning regarding a meeting to discuss potential compromise conditions of approval per the commissioners' comments at the Planning Commission hearing? We think that such a meeting will be productive and facilitate resolution in an efficient manner.

Thank you,
Chris

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Thursday, November 17, 2016 4:23 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Thanks, Christopher. I was not aware of the Planning Commission's ruling. To that

end, I cannot stipulate to the recital re that issue (“WHEREAS, the Planning Commission granted Petitioners’ appeal and returned the application to staff to develop revised findings upholding approval of the variance without the conditions that rendered compliance impossible”). I don’t have independent knowledge that would allow me to stipulate that what is written is true. Do you have a copy of the ruling that I can review? Otherwise I will obtain a copy independently.

I am otherwise fine with the stipulation. I will reach out to my counterpart in Advisory and to our planner to see if a further conference makes sense. Thanks for the heads up.

Kind regards,

Selia Warren

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]

Sent: Thursday, November 17, 2016 4:18 PM

To: Warren, Selia

Subject: 829 21st St Homeowners Assoc v. City of Oakland

Selia,

As you may know, the Planning Commission granted Petitioners’ appeal of the conditions of approval on the variance permit related to the above-captioned case and directed staff to develop revised findings. We believe the matter will come back to the Planning Commission sometime in January. Thus, we are proposing a further extension of the stay to February 27, 2017. This would also take the December 16 CMC off calendar. Please let me know if you have any proposed changes to the attached proposed stip and if not, please sign and return to me at your convenience.

In addition, we would like to set up another meeting with you, Pete Vollmann, and anyone else from City staff who you would like to attend, to discuss potential “compromise” conditions of approval per the commissioners’ comments at the Planning Commission hearing. We are generally available the week of December 5. Please let us know what specific day or time works for you and your team.

Thank you,
Chris

Christopher A. Rheinheimer
Associate

Manatt, Phelps & Phillips, LLP
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
D (415) 291-7468 **F** (415) 291-7641
CRheinheimer@manatt.com
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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: Re: 829 21st St Homeowners Assoc v. City of Oakland
Date: Friday, November 18, 2016 12:14:45 PM

Works for me

Sent from my iPhone

On Nov 18, 2016, at 11:46 AM, Warren, Selia
<SWarren@oaklandcityattorney.org<<mailto:SWarren@oaklandcityattorney.org>>> wrote:

Not sure you were able to read my proposed redline. Here is the proposed statement in plain text:

"On November 16, 2016, the Planning Commission took a straw vote and directed staff to return with findings for approval of the appeal"

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

-----Original Message-----

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Friday, November 18, 2016 11:43 AM
To: Warren, Selia
Subject: Re: 829 21st St Homeowners Assoc v. City of Oakland

That's acceptable. Thanks

Sent from my iPhone

On Nov 18, 2016, at 11:42 AM, Warren, Selia
<SWarren@oaklandcityattorney.org<<mailto:SWarren@oaklandcityattorney.org>><<mailto:SWarren@oaklandcityattorney.org>>> wrote:

How about this instead:

"On November 16, 2016, the Planning Commission took a straw vote and directed staff to return with granted Petitioners' appeal and returned the application to staff to develop revised findings for upholding approval of the variance without the conditions that rendered compliance impossibleappeal"

If this change is acceptable I am happy to sign the stip and return to you today.

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker One Frank H. Ogawa Plaza, Sixth Floor Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Friday, November 18, 2016 9:18 AM
To: Warren, Selia
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

We haven't received a copy of the minutes yet

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Thursday, November 17, 2016 4:23 PM
To: Rheinheimer, Christopher
Subject: RE: 829 21st St Homeowners Assoc v. City of Oakland

Thanks, Christopher. I was not aware of the Planning Commission's ruling. To that end, I cannot stipulate to the recital re that issue ("WHEREAS, the Planning Commission granted Petitioners' appeal and returned the application to staff to develop revised findings upholding approval of the variance without the conditions that rendered compliance

impossible"). I don't have independent knowledge that would allow me to stipulate that what is written is true. Do you have a copy of the ruling that I can review? Otherwise I will obtain a copy independently.

I am otherwise fine with the stipulation. I will reach out to my counterpart in Advisory and to our planner to see if a further conference makes sense. Thanks for the heads up.

Kind regards,

Selia Warren

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker One Frank H. Ogawa Plaza, Sixth Floor Oakland, California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

From: Rheinheimer, Christopher [<mailto:CRheinheimer@manatt.com>]
Sent: Thursday, November 17, 2016 4:18 PM
To: Warren, Selia
Subject: 829 21st St Homeowners Assoc v. City of Oakland

Selia,

As you may know, the Planning Commission granted Petitioners' appeal of the conditions of approval on the variance permit related to the above-captioned case and directed staff to develop revised findings. We believe the matter will come back to the Planning Commission sometime in January. Thus, we are proposing a further extension of the stay to February 27, 2017. This would also take the December 16 CMC off calendar. Please let me know if you have any proposed changes to the attached proposed stip and if not, please sign and return to me at your convenience.

In addition, we would like to set up another meeting with you, Pete Vollmann, and anyone else from City staff who you would like to attend, to discuss potential "compromise" conditions of approval per the commissioners' comments at the Planning Commission hearing. We are generally available the week of December 5. Please let us know what specific day or time works for you and your team.

Thank you,
Chris

Christopher A. Rheinheimer
Associate

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From: [Rheinheimer, Christopher](#)
To: [Warren, Selia](#)
Subject: RE: 829 21st Street -Stip to Cont Proceedings to 2/27/2017
Date: Saturday, November 19, 2016 1:17:24 PM

Thank you. We will get this filed on Monday.

-----Original Message-----

From: Warren, Selia [<mailto:SWarren@oaklandcityattorney.org>]
Sent: Friday, November 18, 2016 1:14 PM
To: Rheinheimer, Christopher
Subject: 829 21st Street -Stip to Cont Proceedings to 2/27/2017

Counsel,

Attached is the PDF copy with my signature plus a redline in Word showing the changes. Let me know if you need anything else.

Kind regards,
Selia Warren

Selia Warren, Deputy City Attorney
Office of Oakland City Attorney Barbara J. Parker One Frank H. Ogawa Plaza, Sixth Floor Oakland,
California 94612
Phone: (510) 238-6524
Fax: (510) 238-6500

-----Original Message-----

From: 8thFloorScanner@oaklandcityattorney.org [<mailto:8thFloorScanner@oaklandcityattorney.org>]
Sent: Friday, November 18, 2016 1:11 PM
To: Warren, Selia
Subject: Send data from MFP11208490 11/18/2016 13:10

Scanned from MFP11208490
Date:11/18/2016 13:10
Pages:4
Resolution:300x300 DPI

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