

APPEAL FORM

DEC - 1 2020

CITY OF SANTA ROSA  
CITY CLERK'S OFFICE

Date Received: \_\_\_\_\_

Fee: \$ 6,160.00

City Clerk's Office/Rec'd by: Stephanie Williams

Name of Appellant: Peter Stanley/Tom Karsten

**TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:**

The above named appellant does hereby appeal to your Honorable Body the following:

The decision of the: (List Board/Commission/Dept.) Cultural Heritage Board & Design Review Board

Decision date: 11/23/20

Decision: (approval, denial, other) Denial for preliminary Design Review and Landmark Alteration Permit

Name of Applicant/Owner/Developer: ArchiLOGIX/ Tom Karsten (MKG)

Type of application: (Rezoning, Tentative Map, etc.) Design Review and Landmark Alteration Permit

Street address of subject property: 528 B St, Santa Rosa, CA 95401

The grounds upon which this appeal is filed are: (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed.)

1. See attached document

2. \_\_\_\_\_

The specific action which the undersigned wants the City Council to take is: (Attach additional sheets if more space is needed.)

Uphold the appeal and approve Preliminary Design Review and the Landmark Alteration Permit  
for the proposed Flats @ 528 B St development.

Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.

 November 30, 2020  
Applicant's Signature Date

Peter Stanley 427 Mendocino Ave. Suite 400 Santa Rosa CA 95401  
Applicant's Name (type or print) Address

707-481-4559 \_\_\_\_\_  
Daytime Phone Number Home Phone Number

**ZONING CODE PROVISIONS RELATING TO APPEALS:**

NOTE: "DRB" refers to the Design Review Board, "CHB" refers to the Cultural Heritage Board, and "Commission" refers to the Planning Commission.

**ARTICLE 20-62 - APPEALS**

**20-62.030 - Filing and Processing of Appeals**

- A. Eligibility.** Any action by the.....DRB, CHB, or the Commission in the administration or enforcement of the provisions of this Zoning Code may be appealed by any aggrieved person in compliance with this Article....
- B. Timing and form of appeal.**
  - 1. General appeals.** Appeals shall be submitted in writing, and filed .....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.

**20-62.030 - Filing and Processing of Appeals**

- 3. Place for filing**
  - c. Appeals from the decisions of the DRB, CHB, or Commission shall be addressed to the Council and filed with the City Clerk.
- 4. Pertinent facts.** The written appeal shall state the pertinent facts of the case and shall specify the following:
  - a. The decision appealed from (e.g., City assigned case number).
  - b. The basis for the appeal.
  - c. The specific action which the appellant wants taken in the appeal.
  - d. Each and every ground upon which the appellant relies in making the appeal.
- 5. Filing fee.** Appeals shall be accompanied by the required filing fee, in compliance with the Council's Fee Schedule.

## APPEAL: Design Review and Landmark Alteration Permit

### PROJECT: The Flats @ 528 B Street, File Number PRJ20-005

### TO: Mayor Schwedhelm, Honorable Members of City Council

1. Appeal of Resolution Number (no number provided) granting Preliminary Design Review Approval.
  - a. The DRB voted 5-0 in favor of the project design.
  - b. The CHB voted 3-1 in favor of the project design.
    - i. The lone dissenting vote approved of the design but objected to the height, and stated they would have voted for design approval if it was a 4-story building.
  - c. The design was approved by a collective 8-1 vote, but denied because of a procedural technicality related to the CHB vote not reaching the minimum requirement of 4 affirmative votes. It should be noted that council has now corrected this technicality and under the new zoning code language a 3-1 CHB vote would be an approval.
2. Appeal of Resolution Number (no number provided) granting a Landmark Alteration Permit.
  - a. CHB voted 2-2 to deny.
  - b. The appellant is required to address conformance with all adopted policy and development standards. As noted below from staff's summary of development standards in the staff report, "**the project as designed meets all adopted policy and development standards for the CD-5 zoning district**", which also includes the development rights to build to 5-stories on this non-contributor parcel.

| Feature           | Requirement                          | Applicable Code Requirements | Comments   |
|-------------------|--------------------------------------|------------------------------|--|
| Lot Size          | Not applicable                       | Zoning Code Table 2-8        | Project complies                                 |
| Allowable Density | No maximum                           | Zoning Code Table 2-8        | Project complies                                 |
| Front Setback     | None allowed                         | Zoning Code Table 2-8        | Supported by Specific Plan; the project complies |
| Side Setback      | Five feet if adjacent to residential | Zoning Code Table 2-8        | Project complies                                 |
| Rear Setback      | None required                        | Zoning Code Table 2-8        | Project complies                                 |
| Lot Coverage      | Up to 100 %                          | Zoning Code Table 2-8        | Project complies                                 |
| Building Height   | Five stories                         | Zoning Code Table 2-19       | Project complies                                 |
| Landscaping       |                                      | Zoning Code Chapter 20-34    | Project complies                                 |
| Parking           |                                      | Zoning Code Chapter 20-36    | 100% Off-site parking; project complies          |

- c. As noted by the Historical Architect in his Architectural Historian report:
- i. *"The new building reflects the basic district context and sufficient character-defining elements to be sensitive to and in keeping with the Secretary of the Interiors Standards. Also the design satisfies current zoning requirements, density needs. **This project is recommended for approval based on our evaluation**".*
- d. The CHB Chair stated prior to his vote of dissent for the project that, ***"I think that it meets the downtown station area specific plan goals and needs, hits the nail right on the head"***.
- e. In relation to the two dissenting votes on CHB regarding height being "incompatible with the district", the staff report states:
- i. *"The massing of the building is broken up with vertical stepping, the addition of balconies, varied window sizes and placement, and a broad range of materials. No two sides of the new building are the same; each elevation is unique; and the building retains architectural continuity appropriate for all elevations"*.
  - ii. In comparison to our building, the three-story elevated apartment building to the south of the project site (first floor is 4 feet above the sidewalk), is approximately 40+ feet high which itself exceeds the 35-foot height limit for



contributor properties. Furthermore, related to building massing, this building is approximately 50 feet wide which exceeds the width of our building of 45 feet.

- iii. **Of particular importance to note:** But for the City development standard requirement to provide a minimum 12-foot ground floor ceiling height, we would have designed a five-story development with a reduced overall building height.
- iv. The city owned parking garage to the east of our project, while far more massive than anything around it, is 48 feet at its highest point, making it only 7 feet lower in height than our building. Therefore, if required to match the parking garage height, thereby reducing the building height by 7 feet, ***we would effectively have to eliminate an entire floor of housing.***
- v. Pursuant to Zoning Code Section 20-12.020(D), in the event of any conflict between the requirements of this Zoning Code and standards adopted as part of a Specific Plan, ***the requirements of the Specific Plan shall control.***
  - Appellant believes that the two dissenting votes did not comply with this policy direction.
- vi. In addition, as stated in the staff report:
  - ***“The design and layout of the proposed development is of superior quality, and is consistent with the General Plan, any applicable specific plan, applicable Zoning Code standards and requirements, the City’s Design Guidelines, architectural criteria for special areas, and other applicable City requirements (e.g., City policy statements and development plans)”.***
- f. The project as designed has an FAR of 3.8. Therefore, the building is **also in compliance** with the newly adopted 2020 Downtown Specific Plan zoning designation of FAR 4.0 for this parcel.
- g. According to land use attorney’s Best, Best and Krieger (BB&K) in their published analysis regarding housing projects within local jurisdiction, the State has given clear direction through SB 330 “The Housing Crisis Act of 2019” whereby:
  - i. ***“Parcels of land where housing is an allowable use may not be downzoned, and general or specific plan land use designations may **not be changed to a less intensive use as compared to what was allowed as of January 1, 2018.**”***

- The requirement to reduce the building height from 5 to 4 stories (in conflict with the current zoning) would effectively **reduce the intensity** of the project and eliminate housing units.
  - City Council reinforced the desire for **more intensive development on this particular site** at their public hearing on November 17, 2020 by changing the zoning from CD5 to FAR 4 with a 5-story cap. (The project as designed has an FAR of 3.8.)
- h. Furthermore as of January 1, 2018 affected cities or counties **are prohibited from imposing or enforcing subjective design standards on housing developments where housing is an allowable use**. Objective standards are limited to design standards that involve **no personal or subjective** judgment by a public official.

#### SUMMARY:

- Throughout this entire three-year design and application process, the appellant was encouraged and supported by staff in their application for a five-story, mixed-use residential development as allowed for on this site. We provided a project in complete compliance with Council's Tier 1 housing goals, with direction from staff, and aligned with General Plan and Specific Plan requirements. We have personally invested over \$150,000 in this process for a potential \$10M+ investment into our community.
- As stated in this appeal submission, the appellant believes that **subjective, not objective**, criteria were used in determining the outcome for the Design Review and Landmark Alteration permit resolutions.
- The appellant, as stated in the staff report, met **all** Council adopted objective policy criteria in their development application.
- The appellant's architectural historian's report clearly states that the project is both **consistent** with the Secretary of Interior's guidelines for historic districts and is **compatible** with the St. Rose Historic District and adjacent structures, and **recommended approval**.
- All board members from both the Cultural Heritage Board and Design Review Board, including all public comments, **commended the design of the building** and felt it was **compatible** with the district.
- In summation, the appellant is asking the Council to uphold the appeal and approve both the Design Review and Landmark Alteration Permit applications for The Flats @ 528 B Street.

Thank you for your consideration.