File No. 120834

Committee Item No. _____
Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Joy Lamug Date August 30, 2012
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

[Findings - 601 Dolores Street, Approval with Different and Modified Conditions]

Motion adopting findings supporting the Board of Supervisors decisions to: 1) disapprove the decision of the Planning Commission by its Motion No. 18604, approving Conditional Use Authorization identified as Planning Case No. 2011.0584CV on property located at 601 Dolores Street; and 2) approve conditional use on property located at 601 Dolores Street subject to the conditions set forth in Planning Commission Motion No. 18604, as modified by the Board of Supervisors on July 24, 2012, and subject to additional conditions imposed by the Board on July 24, 2012.

WHEREAS, The appellant, Elisabeth Erhardt, Rutan Attorneys at Law, on behalf of Lisa Nahmanson and Sandra Steele, filed a timely appeal on May 29, 2012, protesting the approval by the Planning Commission of an application for a conditional use authorization (Conditional Use Application No. 2011.0584CV), approved by Planning Commission Motion No. 18604, dated April 26, 2012, pursuant to Planning Code Sections 209.3(g), 303 and 317, to convert a former church that is currently being used as a single-family dwelling into a private elementary school operated by "Children's Day School", within an RH-3 (Residential House, Three-Family) Zoning District, on property located at 601 Dolores Street, Assessor's Block No. 3598, Lot No. 060.

WHEREAS, On July 24, 2012, the Board of Supervisors conducted a duly noticed public hearing on the appeal from the Planning Commission's approval of the conditional use authorization referred to in the first paragraph of this motion. Following the conclusion of the public hearing on July 24, 2012, the appellant and project sponsor represented to the Board of Supervisors that they had reached agreement regarding the project and the appeal and that if

certain conditions of the Conditional Use Authorization were modified, and if a certain additional condition was added, appellants would not challenge the project;

WHEREAS, In light of the representations by the parties, and in reliance thereon, the Board voted to disapprove the decision of the Planning Commission (Planning Commission Motion No. 18604, dated April 26, 2012) and denied the issuance of the requested Conditional Use Application No. 2011.0584CV, by a vote of 10-0. The Board then moved, by a vote of 10-0, to authorize conditional use as set forth in the decision of the Planning Commission by its Motion No. 18604, Planning Case No. 2011.0584CV, except that conditions 8 and 9 in said motion were superseded by the conditions 8 and 9, set forth below, and condition 10 was added, as set forth below:

8. Hours of Operation on Roof Deck.

(a) School Day Hours and Occupancy Limitations:

The deck may be used Monday – Friday, with the following Occupancy Limits

9:00 AM – 11:00 AM: Maximum occupancy of 53;

11:00 AM –1:00 PM (Lunch Only Hours): Maximum occupancy of 91;

1:00 PM – 3:30 PM: Maximum occupancy of 53;

3:30 PM – 5:00 PM; Maximum occupancy of 25

For the 9:00 AM -11:00 and 1:00 PM – 5:00 PM hours, there would be a cap of 20 hours per week

For the 11:00 AM – 1 PM Lunch, it will only be allowed 3 days/week. The other: Two days the deck will be unoccupied during those hours.

These hours of operation for the roof deck are for those weeks of the regular school program schedule as posted in the published annual calendar.

(b) Weekend/Night Usage:

A maximum of 6 weekend or evening events per year (between 6:00 PM – 9:00 PM). A two-week notification must be provided by CDS to the Neighbors via email to Landon Gates jlandongates@gmail.com; Sandra Steele ssteele@permitme.net. Maximum capacity is 91.

(c) Summertime Usage.

9:00 AM – 5:00 PM Deck Usage, with a 25 person maximum occupancy and 20 hour weekly cap. These hours of operation for the roof deck are for those weeks of the summer school program schedule as posted in the published annual calendar.

Summer school program is that formal scholastic program offered by CDS on set weeks between the end of the normal School Year and the beginning of the following School Year. The School Year typically starts the week after Labor Day and typically ends the second week of June.

9. Mechanical Equipment, Rooftop Improvements, and Use of Deck

(a) Mechanical Room will remain in the location shown in latest drawings dated July 2, 2012.

No additional mechanical equipment other than shown in the drawings, dated 7/2/12, is contemplated at this time. Should any new mechanical equipment be required for future code compliance for the school's continued usage and/or as a result of changes in the Building Codes of the City and County of San Francisco then neighbors shall be given 45-days written notice prior to the application of any building permit to construct such new equipment on the roof. Neighbors reserve all rights to oppose placement of new or additional mechanical systems on to rooftop. In the event that different mechanical systems are desired during the design phase which were not contemplated and depicted in the 7/2/12 drawings, then CDS shall provide the neighbors advanced notice of their desire to modify the mechanical systems. Provided the new systems do not generate more noise, emissions, or vibrations than the ones

depicted in the 7/2/12 plans and do not require housing in a larger or taller structure than the one depicted in the 7/2/12 drawings, then the neighbors will not oppose the modification.

The new location of the Mechanical Room as defined herein has not been approved by the Zoning Administrator and may require a variance to comply with the Planning Code. The adoption of these conditions shall not supersede the authority of the Zoning Administrator to approve this relocation.

(b) A roof deck, with an associated new stairwell/elevator penthouse, shall be constructed consistent with the drawings dated July 2.2012; This shows a smaller deck than that shown on the Conditional Use Application Drawings and it is pulled back from both the Eastern and Southern edges of the roof.

(c) The only mechanical equipment will be two high-efficiency boilers and two pumps within an enclosed mechanical room as depicted in the drawings dated July 2, 2012, and also an exhaust fan for building ventilation. Specifications have been provided on these items, as well as a discussion on how they will meet allowable noise standards. One water heater has been moved from the roof into the building.

(d) The elevator is provided for ADA compliance and will not be available for regular use by students and staff. The elevator will be used only for those requiring physical assistance or freight purposes.

(e) The railings surrounding the roof deck will be 60 inches tall, and made of clear safety glass, to be constructed with minimal openings to assist in sound containment from rooftop usage.

(f) Planter boxes and/or benches on the roof deck must be a minimum of 3 feet away from the railings (railings remain where they are). Latest Plans shows benches completely removed.

(g) Plants may not be any taller than 72 inches from the surface of the deck.

(h) No amplified sound allowed from the roof deck at any hour.

(i) No awnings, heating devices, and/or umbrellas will be allowed on deck.

(j) No 3rd party usage of the deck shall be allowed (3rd party shall mean all attendees as well as hosts of events must be associated with the school) No renting, lending or bartering the deck space to CDS community or others for functions unrelated to operation of the school.

(k) No alcohol can be served or consumed on the roof deck. Also no smoking allowed.

(l) Roof deck cannot be used for recess or gym. Only instructional use and lunches will be allowed (lunches subject to three days a week limit).

(m) CDS to provide the neighbors with a 24 hour point of contact for any neighbor concerns.

(n) CDS to hold quarterly meetings with the neighbors to discuss any concerns the neighbors might have regarding school activities and explore methods for resolving those concerns.

(o) No lighting shall be installed on deck. Only the minimum amount of lighting required by egress code.

(p) No children may use the deck without adult supervision on the deck.

10. Additional Permit Approvals and Authorizations, Notice to Appellants.

The Appellants shall not, directly or indirectly, contest the issuance of buildings permits, variances or other governmental approvals that may be required to construct the plans for the Project as contemplated and proposed in the 7/2/12 drawings as further modified by the agreements contained herein. To the extent to which the applications for building permits, variances or other governmental approvals pertain to matters beyond those addressed in the mediation between CDS and the Appellants, the Appellants right to object to that portion of the building permits, variances or other governmental approvals are reserved. CDS shall provide prior notice of any buildings permits, variances or other governmental approvals which

fall outside of the matters negotiated by the parties SF 1360045v3 to attempt to resolve the concerns of Appellants and avoid any formal challenges by the neighbors.

The parties will negotiate any potential conflicts in good faith; and

WHEREAS, The Board of Supervisors, on July 24, 2012, affirmed the determination of the Planning Commission that the project that is the subject of these findings was exempt from environmental review under Categorical Exemption, Class 32 [State CEQA Guidelines Section 15332];

NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and County of San Francisco hereby adopts as its own and incorporates by reference herein, as though fully set forth, the findings made by the Planning Commission in its Motion No. 18604, dated April 26, 2012; and be it

FURTHER MOVED, That the Board of Supervisors finds that there have been no substantial changes in project circumstances and no new information of substantial importance that would change the determination of categorical exemption issued by the Planning Commission and affirmed by the Board of Supervisors.