



PLANNING COMMISSION RESOLUTION NO. 20841

HEARING DATE: JANUARY 28, 2021

Record No.: 2016-013312DVA
Project Address: 542-550 Howard Street (Transbay Parcel F)
Zoning: C-3-O(SD) Downtown-Office (Special Development) Zoning District
750-S-2 and 450-S Height and Bulk District
Transit Center C-3-O(SD) Commercial and
Transbay C-3 Special Use Districts
Downtown and Transit Center District Plan Areas
Block/Lots: 3721/016, 135, 136, 138
Project Sponsor: Parcel F Owner, LLC
101 California Street, Suite 1000
San Francisco, CA 94111
Property Owner: Parcel F Owner, LLC
101 California Street, Suite 1000
San Francisco, CA 94111
Staff Contact: Nicholas Foster, AICP, LEED GA – (628) 652-7330
nicholas.foster@sfgov.org

RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND PARCEL F OWNER, LLC, FOR CERTAIN REAL PROPERTY LOCATED AT 542-550 HOWARD STREET (ALSO KNOWN AS TRANSBAY PARCEL F), CONSISTING OF FOUR PARCELS TOTALING APPROXIMATELY 0.74 ACRES, LOCATED ON THE NORTH SIDE OF HOWARD STREET, BETWEEN 1ST AND 2ND STREETS, COMPRISED OF ASSESSOR'S BLOCK NO. 3721, LOT NOS. 016, 135, 136, AND 138, AND ADOPTING VARIOUS FINDINGS, INCLUDING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, California Government Code Section 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within the jurisdiction of the city, county, or city and county.

WHEREAS, Chapter 56 of the San Francisco Administrative Code sets forth the procedure by which a request for a development agreement will be processed and approved in the City and County of San Francisco.

WHEREAS, Parcel F Owner, LLC (“Project Sponsor”) submitted applications with the Planning Department (“Department”) including Environmental Review, General Plan Amendment, Planning Code Text and Map Amendments, Development Agreement, Shadow Findings, Downtown Project Authorization, Office Development Allocation, and Conditional Use Authorization associated with the proposed mixed-use project (“Project”) located at 542-550 Howard Street (Transbay Parcel F), Lots 016, 135, 136, and 137 within Assessor’s Block 3721 (the “Project Site” or “Site”).

WHEREAS, in furtherance of the Project and the City’s role in subsequent approval actions relating to the Project, the City and the Project Sponsor negotiated a development agreement for development of the Project, a copy of which is attached as Exhibit A (“Development Agreement”).

WHEREAS, the Development Agreement would enable the Project. The Project includes the construction of a new 61-story mixed-use building reaching a height of 749’-10” tall (799’-9” inclusive of rooftop screening/mechanical equipment). The Project would include 165 dwelling units, 189 hotel rooms, 275,674 square feet of office use floor area, approximately 9,000 square feet of retail space, approximately 20,000 square feet of open space, 178 Class 1 and 34 Class 2 bicycle parking spaces, and four below-grade levels that would accommodate up to 183 vehicle parking spaces provided for the residential, hotel, and office uses. The Project also would construct a pedestrian bridge providing public access to Salesforce Park located on the roof of the Transbay Transit Center.

WHEREAS, On January 9, 2020, the Planning Commission (“Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting and took the following actions (collectively, “Approvals”) on related applications: through Resolution No. 20613 approved a General Plan Amendment; through Resolution No. 20614 approved Planning Code Text and Map Amendments; through Motion No. 20615 adopted Shadow Findings; through Motion No. 20616 approved Downtown Project Authorization; through Motion No. 20617 approved an Office Development Allocation; and through Motion No. 20618 approved Conditional Use Authorization.

WHEREAS, The environmental effects of the original Project were determined by the Department to have been fully reviewed under the Transit Center District Plan Environmental Impact Report (hereinafter “EIR”). The EIR was prepared, circulated for public review and comment, and, at a public hearing on May 24, 2012, by Motion No. 18628, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (“CEQA”). The Commission has reviewed the Final EIR, which has been available for this Commission’s review as well as public review.

WHEREAS, The Transit Center District Plan EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Transit Center District Plan, the Commission adopted CEQA Findings in its Motion No. 18629 and hereby incorporates such Findings by reference.

WHEREAS, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

WHEREAS, On August 27, 2019, the Planning Department issued a Community Plan Exemption Determination (“CPE”) determining that the environmental effects of the Project, including the actions contemplated herein, were adequately analyzed in the FEIR and that no further environmental review is required in accordance with CEQA and Administrative Code Chapter 31. The Project is consistent with the adopted zoning controls in the Transit Center District Plan and was encompassed within the analysis contained in the Transit Center District Plan FEIR. Since the Transit Center District Plan FEIR was finalized, there have been no substantial changes to the Transit Center District Plan and no substantial changes in circumstances that would require major revisions to the FEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR. The file for this Project, including the Transit Center District Plan FEIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, California, 94103

WHEREAS, On December 17, 2020, the Project Sponsor filed a request with the Office of Community Investment and Infrastructure (“OCII”) for a Plan Variation pursuant to Section 3.5.5 of the Transbay Project Area Redevelopment Plan (the “Plan”) for a variation from the on-site affordable housing requirements of Section 4.9.3 of the Plan (the “Plan’s Inclusionary Housing Obligation”) as well as a request to the City’s Planning Department for a waiver of Sections 249.28(b)(6)(B), 249.28(b)(6)(C), 402, 409, and 415 et seq. of the Planning Code, through a Planning Code Text and Map Amendment (Record No. 2016-013312PCA/MAP-02), (collectively, the “Requested Variations from On-Site Affordable Housing”).

WHEREAS, The Project Sponsor has submitted these companion requests for variation (“Variation Request”) from the on-site affordable housing requirements of the Plan in exchange for a payment to OCII to be used to fund development of affordable housing within the Project Area, as proposed in the Development Agreement.

WHEREAS, The Variation Request concludes that the application of the on-site affordable housing requirement to the Project would create practical difficulties for maintaining the affordability of the units because homeowners association (“HOA”) fees, which are already high in such developments, will likely increase over time such that the original residents would not be able to afford the payments. Non-payment of HOA fees by affordable residents would lead to legal actions by the HOA to recover unpaid amounts, including action to place liens on the units themselves, and ultimately to the loss of the units by the residents. Thus, undue hardship would be created for both the Project Sponsor and the owners of the inclusionary housing units and undermine the intent of the Plan to provide affordable units to low- and moderate-income households.

WHEREAS, On December 28, 2020, the Project Sponsor filed a series of companion applications to amend conditions of approval of the previously approved Downtown Project Authorization (Motion No. 20616), Office Allocation (Motion No. 20617), and Conditional Use Authorization (Motion No. 20618), as well as applications for Planning Code Text and Map Amendments and a Development Agreement, to enable delivery of the Project as amended through the Variation Request.

WHEREAS, Because the City is entering into a Development Agreement with the Project Sponsor addressing, among other issues, the amount of the Project Sponsor's affordable housing contribution, the Project is consistent with Charter Section 16.110(h)(1)(B)(i) (adopted as part of the Housing Trust Fund, Proposition C, November 6, 2012).

WHEREAS, If the Development Agreement is approved by the Board of Supervisors, the Project Sponsor would contribute an in-lieu affordable housing fee at an amount equal to 150% of the inclusionary housing fee required in Section 415.5 of the Planning Code would otherwise require. Therefore, the effective inclusionary rate for the Project is 49.5%. For reference, the base inclusionary housing fee that would otherwise have applied to the Project if payment of the standard, in-lieu affordable housing fee were otherwise available would be 33%, or approximately \$30 million. Instead, the Development Agreement dictates that the Project Sponsor pay an affordable housing fee at a rate of 150% of the base inclusionary housing fee, estimated at \$45-47 million (an increase of approximately \$15 million over the base fee). This affordable housing fee is intended to assist OCII in meeting its Transbay Affordable Housing Obligation, which, may include the use of the funds for the development of affordable housing units at Transbay Block 4, located on Howard Street between Beale and Main Streets, approximately three blocks east of the Site (and within one (1) mile radius of the principal project).

WHEREAS, The City has determined that as a result of the development of the Project Site in accordance with the Development Agreement, clear benefits to the public will accrue that could not be obtained through application of existing City ordinances, regulations, and policies, as more particularly described in the Development Agreement. Specifically, the Development Agreement will provide a housing contribution that will significantly exceed the amount required for similar projects in the City, and that will provide OCII with the ability to subsidize permanently affordable housing units within the Transbay Redevelopment Project Area.

WHEREAS, If the Development Agreement is approved by the Board of Supervisors, upon receipt of the payment of City's costs billed to the Project Sponsor, the Director of Planning is authorized to execute and deliver the Development Agreement, and the Director of Planning and other applicable City officials are authorized to take all actions reasonably necessary or prudent to perform the City's obligations under the Development Agreement in accordance with the terms of the Development Agreement and Chapter 56, as applicable. The Director of Planning, at the Director's discretion and in consultation with the City Attorney, is authorized to enter into any additions, amendments, or other modifications to the Development Agreement that the Director of Planning determines are in the best interests of the City and that do not materially increase the obligations or liabilities of the City or materially decrease the benefits to the City under the Development Agreement, subject to the approval of any affected City agency as more particularly described in the Development Agreement.

WHEREAS, the Board of Supervisors will be taking a number of actions in furtherance of the Project, including approval of the Planning Code Text and Map Amendments (Board File No. 201385), thereby waiving certain provisions of the Planning Code to allow the project to satisfy its affordable housing requirement through payment of an in-lieu affordable housing fee to the Office of Community Investment and Infrastructure for use within the Transbay Redevelopment Project Area, to modify timing for payment of fees, and to permit the footprint of the portion of the project site dedicated to dwellings to exceed 15,000 square feet; rezoning and reclassifying a portion of the Project Site from the split P (Public) District/C-3-O (SD) to the C-3-O (SD) Downtown Office Special Development District; and reclassifying the height and bulk district designations for a portion of the Project Site.

WHEREAS, The Director of Planning scheduled, and the Commission held a public hearing on January 28, 2021 as required by Administrative Code Section 56.4(c). The Planning Department gave notice as required by Planning Code Section 306.3 and mailed such as required by Administrative Code Section 56.8(b).

WHEREAS, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Development Agreement to exempt the Project from the on-site affordable housing requirements of Section 249.28, and to enable the payment of a fee toward the creation of other affordable housing opportunities elsewhere in the Transbay Redevelopment Project Area, for the reasons set forth in Motion No. 20616 (Record No. 2016-013312DNX, Downtown Project Authorization), and as amended by Motion No. 20843 (Record No. 2016-013312DNX-02, amended Downtown Project Authorization), the Development Agreement and related approval actions.

The actions contemplated in this Resolution do not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines (California Code of Regulations Title 14) Sections 15378 (b)(4) and 15378(b)(5) because it merely creates a government funding mechanism that does not involve any commitment to a specific project and is an administrative activity of the government with no physical impact.

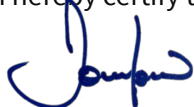
AND BE IT FURTHER RESOLVED that the Planning Commission recommends the Board of Supervisors approve the proposed Development Agreement, in substantially the form, subject to any additions and modifications that may be made by the Board of Supervisors.

AND BE IT FURTHER RESOLVED that the Commission finds that the application, public notice, Planning Commission hearing, and Planning Director reporting requirements regarding the Development Agreement negotiations contained in Administrative Code Chapter 56 have been substantially satisfied in light of the public hearings by the Planning Department staff at the Planning Commission, the provision of required public notices, and the information contained in the Director's Report.

AND BE IT FURTHER RESOLVED, that Commission hereby finds, for the reasons set forth in Motion No. 20616 (Record No. 2016-013312DNX, Downtown Project Authorization), and as amended by Motion No. 20843 (Record No. 2016-013312DNX-02, amended Downtown Project Authorization), that the Development Agreement and related approval actions are, on balance, consistent with the General Plan including any area plans, and are consistent with the Planning Code Priority Policies of Planning Code Section 101.1(b).

AND BE IT FURTHER RESOLVED, that the Commission authorizes the Planning Director to take such actions and make such changes as deemed necessary and appropriate to implement this Commission's recommendation of approval and to incorporate recommendations or changes from other City agencies and/or the Board of Supervisors, provided that such changes do not materially increase any obligations of the City or materially decrease any benefits to the City contained in the Development Agreement.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on January 28, 2021.



Jonas P. Ionin
Commission Secretary

AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

NAYS: None

ABSENT: None

ADOPTED: January 28, 2021