



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 20428

HEARING DATE: APRIL 18, 2019

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Record No.:* 2019-000475CND  
*Project Address:* 863 Haight Street  
*Zoning:* RH-3 (Residential-House, Three Family) District  
40-X Height and Bulk District  
Lower Haight Public Realm Plan  
*Block/Lot:* 1239/029  
*Project Sponsor:* Rosemarie MacGuinness  
Sirkin Law APC  
388 Market Street, Suite 300  
San Francisco, CA 94111  
*Staff Contact:* Katherine Wilborn – (415) 575-9114  
[Katherine.Wilborn@sfgov.org](mailto:Katherine.Wilborn@sfgov.org)

ADOPTING FINDINGS RELATING TO THE CONDOMINIUM CONVERSION SUBDIVISION OF A THREE-STORY, FIVE-UNIT BUILDING INTO RESIDENTIAL CONDOMINIUMS, PURSUANT TO THE GENERAL PLAN AND SUBDIVISION CODE SECTIONS 1386 AND 1396.4, WITHIN AN RH-3 (RESIDENTIAL-HOUSE, THREE FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

### PREAMBLE

On January 1, 2019, Rosemarie MacGuinness (hereinafter "Project Sponsor") filed an application with the Department of Public Works, Bureau of Street Use and Mapping for Planning Department review to allow the Condominium Conversion Subdivision of a three-story, five-unit building into residential condominiums within a RH-3 (Residential-House, Three Family) Zoning District and a 40-X Height and Bulk District. The subject building is considered a legal use as the Report of Residential Building Record indicates that the legal authorized occupancy and use is a five-unit dwelling.

On April 18, 2019, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2019-000475CND.

Section 1396, Article 9 of the Subdivision Code of the City and County of San Francisco sets forth the following rules and regulations for condominium conversions:

- A. Units may be converted to condominiums so long as they meet the requirements of the Expedited Conversion Program per the Subdivision Code. An exception is provided for two-unit buildings where both units are owner-occupied for one year.

The following categories of buildings may be converted to condominiums:

- i. Buildings consisting of four units or less in which at least one of the units has been occupied continuously by one of the owners of record for six years prior to the annual April 15th triggering date for conversions and owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.
- ii. Buildings consisting of six units or less in which at least three of the units have been occupied continuously by three of the owners of record for six years prior to the annual April 15th triggering date for conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.

The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six units for consistency with the General Plan and applicable provisions of the Subdivision Code where at least one unit is residential. The Code calls for a sales program which promotes affirmative action in housing, a non-transferable tenant right of first-refusal to purchase the unit occupied by the tenant and various relocation requirements, including the right to a \$1,000 relocation payment.

The Subdivision Code further provides for a recorded offer of a lifetime lease for all tenants as a condition of final map approval and requires that no less than 40 percent of the units as represented through the owning or renting tenant of each unit either have signed Intent to Purchase forms or be in a position of accepting the offer for such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.

Section 1386, Article 9 of the Subdivision Code of the City and County of San Francisco requires that the Planning Commission disapprove the Tentative Map if it determines that vacancies in the project have been increased, elderly or permanently disabled tenants have been displaced or discriminated against in leasing units, evictions have occurred for the purpose of preparing the building for conversion, or the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City in the administration of the Subdivision Code). In the evaluation of displacement of elderly tenants, the Commission shall consider any such displacements over the preceding three years and the reasons for the displacement.

The project was determined not to be a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties.

MOVED, that the Commission hereby approves the Condominium Conversion Subdivision requested in Application No. 2019-000475CND based on the following findings:

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. The applicant requests Planning Department review of a Condominium Conversion Subdivision Application to allow for the conversion of the multi-unit building.
3. As required by Section 1396 of the San Francisco Subdivision Code, at least three of the units have been owner occupied continuously by one or more of the owners of record for five years prior to the date of application for conversion.
4. Tenants in the subject building were notified of their right-of-first refusal to purchase the unit they occupy, as required by the Subdivision Code, and of other rights to which they are entitled under provisions of the same Code.
5. A search of the Rent Board database did not show any tenant petitions or eviction notices filed with the Rent Board in the last 5 years.
6. On balance, the Project is consistent with the Objectives and Policies of the General Plan, as follows:

## HOUSING ELEMENT

### Objectives and Policies

#### OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

#### Policy 2.4:

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

*Property owners are required to correct outstanding code violations identified in a Physical Inspection Report issued by the Department of Building Inspection (DBI). All work must be completed and a DBI Certificate of Final Completion must be issued prior to DPW approval.*

#### OBJECTIVE 3:

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

**Policy 3.3:**

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

*Conversions of rental stock to condominiums help achieve affordable homeownership, providing a category of housing stock for moderate income housing needs. Through the Expedited Conversion Program, properties are eligible to convert from rental units to ownership status so long as owner-occupancy requirements are met.*

7. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The proposal would have no adverse effect upon existing neighborhood-serving retail uses as it is a change in form of residential tenure.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The proposal is a change in form of residential tenure and would not alter the existing housing and neighborhood character of the vicinity.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*No housing would be removed for this project.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The proposal is a change in form of residential tenure and would not affect public transit or neighborhood parking.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The proposal is a change in form of residential tenure and would not involve the industrial or service sectors of the City.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The proposal is subject to inspection by the Department of Building Inspection and will be required to make any code required repairs, including those related to life safety issues, prior to the recordation of the final condominium subdivision map.*

- G. That landmarks and historic buildings be preserved.

*The proposal is a change in form of residential tenure and would not affect landmarks or historic buildings.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

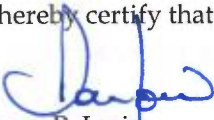
*The proposal is a change in form of residential tenure and would not affect public parks or open space.*

8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
9. The Commission hereby finds that approval of the Condominium Conversion Subdivision would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, Department staff and other interested parties, the oral testimony presented to this Commission at the public hearings and all other written materials submitted by all parties, the Commission hereby **APPROVES Condominium Conversion Subdivision Application No. 2019-000475CND.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 18, 2019.



Jonas P. Ionin  
Commission Secretary

AYES: Melgar, Koppel, Fung, Hillis, Johnson, Moore, and Richards

NAYS: None

ABSENT: None

ADOPTED: April 18, 2019