



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Motion No. 17718 HEARING DATE: OCTOBER 16, 2008

Date: October 16, 2008
Case No.: 2007.1397C
Project Address: 1266 9th Avenue
Zoning: Inner Sunset Neighborhood Commercial District
 40-X Height and Bulk District
Block/Lot: 1742/043
Project Sponsor: 1266 Ninth LLC
 150 Post Street, Suite 320
 San Francisco, CA 94108
Staff Contact: Jonas P. Ionin – (415) 558-6309
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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 730.11 AND 730.21 OF THE PLANNING CODE TO ALLOW THE DEVELOPMENT OF A NEW MIXED USE BUILDING (15 RESIDENTIAL UNITS OVER GROUND-FLOOR COMMERCIAL) ON A LOT OVER 4,999 SQUARE FEET AND NON-RESIDENTIAL USE SIZE(S) OVER 2,499 GROSS SQUARE FEET WITHIN THE INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 26, 2008 Prado Group for 1266 Ninth LLC (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 730.11 and 730.21 of the Planning Code to allow the demolition of a vacant funeral home (formerly occupied by Sullivan Funeral Home) and removal of a surface parking lot; and the development of a four-story mixed use building (15 residential units over ground-floor commercial) with a 16-space subterranean garage, within the Inner Sunset Neighborhood Commercial District and a 40-X Height and Bulk District.

On October 16, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1397C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review, pursuant to Case No. 2007.1397E determination issued on June 6, 2008. The Commission has reviewed and concurs with said determination.

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 authorizes the Conditional Use requested in Application No. 2007.1397C, subject to the conditions contained in "EXHIBIT A" of this motion, 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. **Site Description and Present Use.** The vacant funeral home (formerly occupied by Sullivan Funeral Home) and surface parking lot is located on the east side of 9th Avenue, between Lincoln Way and Irving Street, Block 1742, Lot 043. The funeral home has not been in operation since 1997.
3. **Surrounding Properties and Neighborhood.** The Inner Sunset NCD provides convenience goods and services to the local Inner Sunset residents as well as comparison shopping goods and services to a larger market area. The district is frequented by users of Golden Gate Park (approximately one block from the subject site) and others for its eating, drinking and entertainment places. Numerous housing units establish the district's mixed residential-commercial character. Commercial buildings without housing are typically one- and two-stories while mixed use and/or wholly residential buildings are typically three- to four-stories tall, within the Inner Sunset NCD and its adjacent districts. The adjacent parcel to the north is developed with a three-story residential building, while the adjacent parcel to the south is developed with a single-story commercial building. The surrounding zoning is primarily Inner Sunset NCD and RH-2.
4. **Project Description.** The proposal is to demolish the vacant funeral home (formerly occupied by Sullivan Funeral Home) and surface parking lot; and to develop a four-story mixed-use building (15 residential units over ground-floor commercial) with a 16-space subterranean garage (including one car share space). The lot area is approximately 12,000 square feet and the total commercial area will be approximately 5,650, with no one tenant exceeding 4,999 square feet of occupied floor area. No commercial parking is required and none will be provided.
5. **Public Comment.** The Department has received one letter in support of the proposal and no comments in opposition.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Lot Size.** Planning Code Section 730.11 requires conditional use authorization for development of large lots over 4,999 square feet in the Inner Sunset NCD, pursuant to Section 121.1. In addition to the criteria of Section 303(c), the Planning Commission must consider the following criteria:

1. The mass and façade of the proposed structure are compatible with the existing scale of the district.

The existing scale and character of the Inner Sunset District is varied. The subject block face and opposing block face on 9th Avenue include one- to three-story structures on lots that range from 25 feet to 50 feet to 100 feet wide. The mass and façade of the proposed new development are consistent with the existing scale of the district in that appropriate articulation has been incorporated to mitigate the mass by dividing the 100 foot wide facade into three vertical elements that are more consistent with surrounding pattern of development. The residential floors (at the third and fourth stories) have been set back from the front retail facade approximately ten to fourteen feet and the ground floor commercial area has been divided into three separate storefronts that may used as two or three spaces.

2. The façade of the proposed structure is compatible with the design features of adjacent façades that contribute to the positive visual qualities of the district.

The façades of the adjacent structures are as varied as the district. The building north of the subject property is wholly residential three-story stucco building with minimal articulation and the adjacent structure to the south is a wholly commercial single-story building with an awning. The façade of the proposed structure is compatible with the design features of adjacent facades in that the residential façade incorporates a similar scale of the adjacent residential building in each of the three vertical elements, while the ground floor commercial façade will incorporate an awning similar to the adjacent commercial building.

B. **Non-Residential Use Size.** Planning Code Section 730.21 requires conditional use authorization for uses over 2,499 gross square feet, as defined by Planning Code Section 790.130.

The Project Sponsor intends to lease the ground floor commercial spaces to three separate tenants, each occupying 2,499 gross square feet or less. However, the Sponsor would like to retain some flexibility and have the option to lease to tenants that may require gross floor areas up to 4,999 square feet.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed new uses and building will provide infill housing and ground floor retail on a parcel that has been a surface parking lot with vacant buildings since 1997. The ground floor commercial has been divided into three separate spaces with total floor areas of approximately 1,485 square feet, 1,960 square feet and 2,210. As part of this authorization the Project Sponsor retains the flexibility of leasing to two tenants with floor areas greater than 2,499 square feet, but no more than 4,999 square feet. The housing includes units appropriate for families, provides parking and the inclusionary housing requirement will be satisfied with on-site units.

- i. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-servicing uses in the area; and

The future tenants of the commercial spaces are unknown, however, the predominant commercial uses in the District are food related services. New full-service and small-service restaurants require conditional use authorization from the Planning Commission, and large fast food restaurants are prohibited.

- ii. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function; and

The future tenants of the commercial spaces are unknown.

- iii. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district; and

The ground floor commercial will incorporate a discrete contemporary design that respects the scale of development in the district.

- B. That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

- i. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The nature of the site and proposed massing relates well to the surrounding neighborhood. It provides the required 30 foot rear yard. Therefore, the proposal would not be detrimental or injurious to neighboring properties, improvements or development potential.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The proposed residential units will include the required one to one ratio of parking and an additional parking space for a car share vehicle. As proposed, commercial parking is not required.

The subject location is well served by public transit. MUNI lines within a one block radius include: the N Judah, 6, 16, 43, 44, 66 and 71; within a five block radius they also include: the 36.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The future uses must comply with any Building and Health Codes to mitigate noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.

The proposed expansion shall be reviewed by the Department for all lighting and signs proposed for the new business in accordance with Condition No. 5 of Exhibit A.

- C. That the use or feature as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use or feature as proposed would provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purposes of Inner Sunset NCD in that the intended use is located at the ground floor and will provide a compatible convenience service for the immediately surrounding neighborhoods.

- 8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The expanded scope of the existing business will not result in undesirable consequences. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will attract new commercial activity and will enhance the diverse economic base of the Inner Sunset and the City.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Providing 15 new residences (with two below market rate units on-site) over two to three new commercial spaces will encourage the retention of neighborhood-serving uses.

RESIDENCE ELEMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 4:

Locate infill housing on appropriate sites.

OBJECTIVE 2:

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 2:

Encourage higher residential density in areas adjacent to downtown and in neighborhood commercial districts where higher density will not have harmful effects.

OBJECTIVE 12:

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1:

Assure housing is provided with adequate public improvements, services and amenities.

Policy 4:

Promote construction of well-designed housing that conserves existing neighborhood character.

Policy 6:

Relate land use controls to the appropriate scale for new and existing residential areas.

The project creates additional dwelling units within an existing development pattern of mixed uses. The proposal would result in the construction 15 new residential units (four one-bedroom, nine two-bedroom and two three bedroom units), with a majority suitable for family housing.

The previous use, a funeral home, ceased operating in 1997. Since, then it has been vacant and used as a surface parking lot.

The proposal includes adequate open space. The design of the project maintains the integrity of the existing neighborhood context. The character of the block is mixed; however, the in-fill is an appropriately-designed mixed-use structure and is consistent with the neighborhood character.

9. **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.

Providing two to three new commercial spaces will enhance future opportunities for resident employment and ownership of businesses in the Inner Sunset NCD.

- 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 maintains provides 15 new housing units over ground floor commercial, consistent with the neighborhood character. By providing below market rate housing on-site, it will enhance the economic diversity of the Inner Sunset NCD.

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

The proposal includes two below market rate housing units on-site.

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

The site is on 9th Avenue between Lincoln Way and Irving Street, and is well served by transit. It is likely that employees would commute by foot or transit, thereby mitigating possible impacts on street parking. MUNI lines within a one block radius include: the N Judah, 6, 16, 43, 44, 66 and 71; within a five block radius they also include: the 36.

- 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 does not displace any active commercial tenants and actually provides up to three new commercial spaces enhancing future opportunities for resident employment and ownership.

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

The Project will be reviewed and constructed to conform to the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project will have no negative impact on existing parks and open spaces.

10. 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.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department 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 Conditional Use Application No. 2007.1397C subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17718. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 16, 2008.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Miguel, Moore, Olague and Sugaya

NAYS: None

ABSENT: Commissioner W. Lee

ADOPTED: October 16, 2008

Exhibit A

Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 730.11 and 730.21 of the Planning Code to allow the demolition of a vacant funeral home (formerly occupied by Sullivan Funeral Home) and surface parking lot; and to develop a four-story mixed-use building (15 residential units over ground-floor commercial) with a 16-space subterranean garage. The lot area is approximately 12,000 square feet and the total commercial area will be approximately 5,650 square feet, with no one tenant exceeding 4,999 square feet of occupied floor area within the Inner Sunset Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on June 26, 2008 and stamped "EXHIBIT B" included in the docket for Case No. 2007.1397C, reviewed and approved by the Commission on October 16, 2008.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's Block 1742, Lot 043), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion.
3. Security gates/bars shall be restricted from the exterior of the building, but permitted on the interior side of the windows.
4. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
5. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
6. The Project Sponsor shall maintain an attractive storefront providing visibility of the interior through the storefront windows.
7. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 of the Planning Code and the terms of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"), incorporated herein by reference, as published and adopted by Resolution No. 13405 on June 28, 2007 by the Planning Commission, and as required by Planning Code Sections 315 ("Inclusionary Requirement"). The Project Sponsor has elected to

8. The BMR units shall be designated on the building plans prior to approval of any building permit. The BMR units shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, and ready for occupancy no later than the market rate units, and (3) shall be of comparable overall quality, construction, location, and exterior appearance as the market rate units in the principal Project.
9. If the units in the building are offered for sale, the BMR units shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) of the San Francisco Area Median Income (SFAMI).
10. The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for the life of the project.
11. The Applicant shall administer the marketing and reporting procedures, according to the procedures established in the Procedures Manual or as otherwise provided by law.
12. The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
13. Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit.
14. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
15. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
16. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.
17. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).

18. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.

JPI: C:Documents/CU's/Motions/1266 9th Av.mot