



RE: **3400 Laguna Street Project (Heritage on the Marina)**
File No. 250558: **Appeal of Conditional Use Authorization**
Hearing Date: **June 17, 2025**
Time: **3:00p.m.**

June 12, 2025

APPELLANTS' REBUTTAL TO PLANNING DEPT RESPONSE

Dear President Mandelman and Members of the Board:

Appellants have asserted for the past two years that Heritage is in violation of its existing Conditional Use Authorization because it obtained ten (10) nearby "naturally affordable" rent controlled units and converted those unit from "residential" use to "institutional" use and subsumed them into its facility. These units are now offered to clients under the exact same terms as the other units in the historic building (that is what the website guarantees to its clients).

Adding these units to Heritage is clearly and objectively a significant **Enlargement, Alteration, and Intensification** of the Conditional Use. Such actions are forbidden under **Planning Code Section 178(c)**. That section holds that adding an expansion of 500 square feet or 25% (whichever is less) constitutes a "significant" enlargement, alteration or intensification.

The Planning Dept filed a Response on June 9, 2025, which addresses the issue as follows:

"RESPONSE 4: No violations with the project's Conditional Use Authorization exist.

The Project is consistent with the existing Planned Unit Development (case records CU62.014 and 1986.309C). The project is also consistent with the purpose of the RM-1 Zoning District, which is characterized by a mixture of the dwelling types and uses found in Residential Districts. Properties owned by the Project Sponsor in the vicinity of the project site are zoned RH-3 and are permitted as residential uses. All units within these buildings remain as residential uses and physically meet all requirements for a permitted dwelling unit." (Planning Dept Response, page 4)

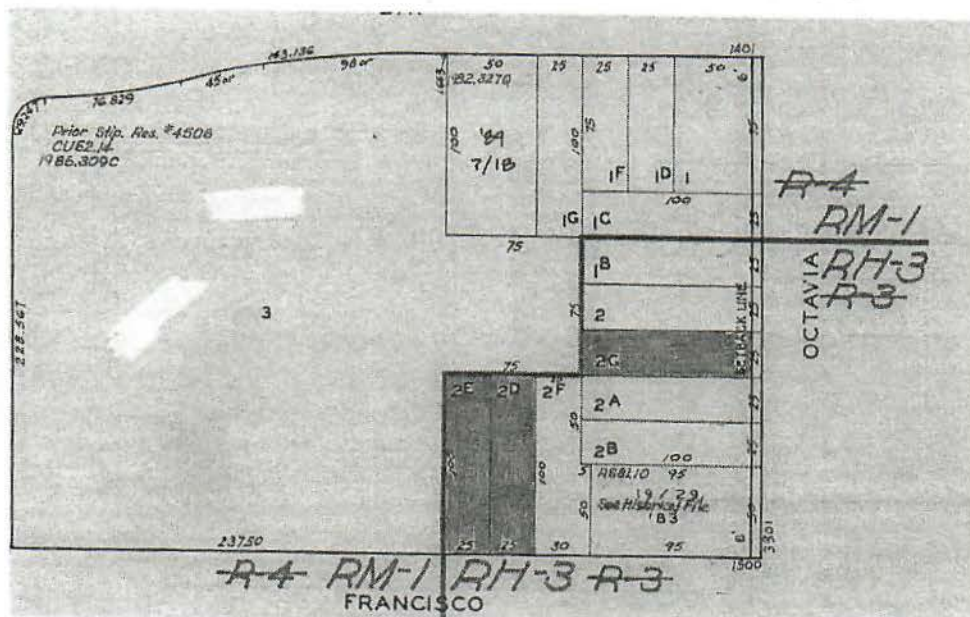
This statement is a general statement that is not completely true and which ignores the issue. The converted buildings may still be "residential uses" because people under contract with Heritage are living in them. However, the units are no longer "residential" under the Planning Code and have been converted to "institutional" use by Heritage and are NOT still part of the City's residential housing stock.

It is no different than if a hotel had converted the buildings to hotel rooms or a school had converted them to housing for employees. Heritage converted these ten (10) residential units into institutional use, and then merged the units into its facility without permits, applications, changes to its conditional use status or complying with any portion of Section 317 for "Residential Conversion" and/or "Merger" of residential units or complying with Section 178 to expand its CU. With these new units, Heritage added over 11,600 square feet of new operational facility.

The Heritage website specially states that these converted and merged residential unit are a fully integrated part of the institution, no different than it other units. As stated on the website, the merged residential units, *“offer the same great full-service amenities, 1- or 2-bedroom apartments, with full kitchens, washers and dryers, flexible security and 30 meals a month.”* As shown in the Block Map below, the three buildings (ten housing units) merged and converted by Heritage and folded into its facility, although adjacent to Heritage, are zoned differently and comprise more than 11,000 square feet.

The housing units unlawfully converted and merged by Heritage and subsumed into its facility are as follows:

1536-1538 Francisco Street (Block/Lot: 0471/002E)	(4 Units)--- <u>3,690 square feet</u>
1530 Francisco Street (Block/Lot: 0471/002D)	(3 Units)--- <u>4,134 square feet</u>
3325-3327 Octavia Street (Block/Lot: 0471/002G)	(3 Units)--- <u>3,868 square feet</u>



Any Analysis Shows that Heritage Has Violated Planning Code Section 178 (c)(1) by Adding in Excess of 11,000 New Square Footage to Its Facility Without Notice or Hearing

San Francisco Planning Code Section 178 states that a conditional use (CU) cannot be intensified or expanded without another CU authorization. Any “significant” change to an existing CU triggers the need for a new CU.

“Planning Code Section 178

(c) Enlargement, Alteration, or Intensification.

(1) A permitted conditional use may not be significantly altered, enlarged, or intensified, except upon approval of a new conditional use application pursuant to the provisions of Article 3 of this Code."

Section 178 (c) (1) addresses the enlargement, alteration, or intensification of permitted conditional uses.

- A permitted conditional use cannot be significantly altered, enlarged, or intensified without obtaining a new conditional use authorization.
- This new authorization must be approved through the conditional use application process outlined in Article 3 of the Planning Code.
- This means that if you have a property with a conditional use and you intend to make significant changes to its use, you must go through the formal process of applying for a new conditional use permit.

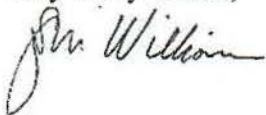
The Planning Code itself does not explicitly define "significantly". However, the Zoning Administrator is responsible for interpreting this term and prior cases have made clear what may be permitted. Examples of significant enlargements that would likely require a new conditional use authorization:

- Expansion of an existing business into an adjacent storefront that previously housed a nonconforming use in a different category.
- Expansion exceeding 25% of the floor area or 500 square feet, whichever is less.

In essence, Section 178(c)(1) ensures that any substantial changes to a conditional use undergo proper review and approval by the Planning Commission, ensuring compatibility with the surrounding neighborhood and compliance with the Planning Code. Prior cases that found a significant increase include a bank adding an ATM and a parking garage adding 25% more spaces.

Although Planning references the existing CU at the site (*case records CU62.014 and 1986.309C*), it does not provide those records or explain the existing conditions placed on the site. Attached as Exhibit 1 is the CU from July 10, 1986, (1986.309C) which *disapproved* the request to expand the facility with a one-story building. Exhibit 2 is the CU hearing from April 5, 1962 (CU62.014) which I approved expansion by construction of the new infirmary of one-story in height along Francisco Street. Neither contemplate further expansion with nearby buildings.

Thank you for your consideration and attention to this matter.
Very Truly Yours,



STEPHEN M. WILLIAMS

EXHIBIT 1

File No. 86.309C
3400 Laguna Street

SAN FRANCISCO
CITY PLANNING COMMISSION
MOTION NO. 10738

ADOPTING FINDINGS RELATED TO THE AUTHORIZATION OF A CONDITIONAL USE PURSUANT TO APPLICATION NO. 86.309C BY THE CITY PLANNING COMMISSION FOR A PLANNED UNIT DEVELOPMENT TO EXPAND A RESIDENTIAL CARE FACILITY (THE HERITAGE) IN AN RM-1 DISTRICT.

Preamble

On July 10, 1986, the City Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing on conditional use application No. 86.309C at which time the Commission reviewed and discussed the findings prepared for its review by the staff of the Department of City Planning (hereinafter "Department").

The proposed conditional use was determined by the Department to be categorically exempt from the environmental review process pursuant to the Title 14 California Administrative Code Sections 15301(a). The Commission has reviewed and concurs with said determination.

This Commission has reviewed and considered reports, studies, plans and other documents pertaining to this proposed project.

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

MOVED, That the Commission hereby disapproves the conditional use requested in Application No. 86.309C based on the following findings:

Findings

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

1. Section 209.3(c) of the City Planning Code (hereinafter "Code") permits a residential care facility providing lodging, board and care for a period of 24 hours or more to seven or more persons in need of specialized aid by personnel licensed by the State of California as a conditional use in all residential districts.
2. Under Code Section 304, on sites of half an acre or larger, the Commission may authorize, as a conditional use, a planned unit development consisting of an integrated unit of development and designed to produce an environment of stable and desirable character which will benefit the occupants, the neighborhood and the city as a whole. In cases of outstanding over-all design, complementary to the design and values of the surrounding area, such a project may merit a well-reasoned modification of certain of the provisions

contained elsewhere in the Code.

3. Code Section 134 establishes a rear yard requirement of 25% of the lot depth for the subject property.

4. On May 29, 1986, Edward J. Benedict, Administrator of The Heritage, authorized agent of San Francisco Ladies' Protection and Relief Society, owner, (hereinafter "Applicant"), made application to the Department for conditional use authorization for a planned unit development for alterations to a residential care facility (The Heritage) in an RM-1 (Mixed Residential, Low Density) district (hereinafter "Project"), on the property known as 3400 Laguna Street, east side between Francisco and Bay Streets, Lot 3 in Assessor's Block 471 (hereinafter "Subject Property").

4. The Project, more specifically, would be a one-story addition to the existing 32-bed Health Center component of The Heritage. The addition would consist of a multi-purpose room built within a central courtyard which would not be visible from the street. A portion of this addition would be within the required rear yard area of the subject property. Accordingly, the applicant has filed for a planned unit development to obviate the need to seek and justify a variance of the otherwise-applicable rear yard requirements of the Code. The proposed new structure would have a pitched slate roof and would be designed to blend with the existing buildings on the site. The project would not add to the number of residents in the existing facility.

5. Under the provisions of Code Section 303, the Commission may authorize a conditional use only after holding a duly noticed public hearing and making findings that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use 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 and that such use will comply with the applicable provisions of the Code, and will not adversely affect the Master Plan.

7. The proposed Project complies with the criteria of Section 303 of the Code in that:

A. The Project would be in keeping with the character and scale of the surrounding neighborhood in that the proposed addition would not be visible from the any of the abutting streets. There would be no increase in occupant load on the Subject Property. The Subject Property at, approximately 63,000 square feet in area, is unusually large thereby making a strict application of the rear yard requirements of the Code (usually intended for lots of approximately 2,500 square feet) illogical in this case. Therefore, the Project would be compatible with and desirable for the neighborhood and the community.

B. The Project would be exclusively for the use of the residents of the existing residential care facility on the Subject Property and its presence would in no way affect the residents of the surrounding area. Therefore the proposed use would not be detrimental to the health, safety, convenience and general welfare of the persons residing or working in the vicinity.

C. The Project complies with all the standards established in the Code.

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D. The proposed Project would be in conformity with the policies of the City's master plan which in its Residence Element seeks to provide maximum housing choice, to promote the availability of housing units suitable for groups with special housing needs including the elderly and to ensure the distribution of quality board and care facilities.

The Commission, after carefully balancing the competing public and private interests, hereby finds that disapproval of the requested conditional use promotes the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the applicant, the Staff of the Department of City Planning and other interested parties, the oral testimony presented to this Commission at the public hearing, and all other written materials submitted by all parties, the City Planning Commission hereby AUTHORIZES conditional use application No. 86.309C subject to the following conditions attached hereto as Exhibit A which is incorporated herein by reference thereto as though fully set forth.

I hereby certify that the foregoing motion was ADOPTED by the City Planning Commission at its regular meeting of July 10, 1986.

Lori Yamauchi
Secretary

AYES: Commissioners Allen, Bierman, Hemphill, Nakashima, Rosenblatt, Wortman and Wright

NOES: None

ABSENT: None

ADOPTED: July 10, 1986

0293M

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EXHIBIT A
CONDITIONS OF APPROVAL

1. The authorization contained herein is for a the construction of an addition to an existing residential care facility (The Heritage) as outlined in plans labeled Exhibit B on file with the application. Final plans in general conformity with Exhibit B shall be reviewed and approved by the staff of the Department prior to the issuance of a building permit.
2. The Project authorized herein shall be commenced and thenceforth pursued diligently to completion within three years of the date of this Motion or said authorization shall become null and void.

EXHIBIT 2

CITY PLANNING COMMISSION

RESOLUTION NO. 5512

WHEREAS, The City Planning Commission on April 5, 1962 heard Application No. CU62.14 for a Conditional Use, under Section 304 of the City Planning Code for ENLARGEMENT OF EXISTING SENIOR GUEST HOME in an R-4 district on the property described as follows:

Commencing at a point on the N/E corner of Laguna and Francisco Streets, thence easterly on the N/L of Francisco Street 237½ ft., thence at a right angle northerly 100 ft., thence at a right angle easterly 75 ft., thence at a right angle northerly 75 ft., thence at a right angle westerly 75 ft., thence at a right angle northerly 100 ft. to the S/L of Bay St., thence westerly on the S/L of Bay St. to the E/L of Laguna St., thence southerly on the E/L of Laguna St. to the N/L of Francisco St. and the point of commencement, it being all of Lot 3, Assessor's Block 471.

WHEREAS, The Planning Commission approved Proposal No. 256.5 in 1956 changing the zoning classification of said property from Second Residential to Commercial so as to authorize a previous enlargement of the present use, which acquired the status of an authorized conditional use with the reclassification of said property from Commercial to R-4 on May 2, 1960;

WHEREAS, The Development Plan of 1957 for this vicinity contemplated that said property would continue to be used for institutional purposes, and this type of development is compatible with the designation of High Density Residential which the City-Wide Land Use Plan assigns to the subject property and with the existing pattern of land use in the vicinity;

WHEREAS, The proposed construction would result in a lot coverage of approximately 39% as compared to the approximately 75% which would be permitted in conformity with the R-4 classification;

THEREFORE BE IT RESOLVED, That the City Planning Commission finds that the conditions set forth in Section 304(c) of the City Planning Code are met and said Conditional Use is hereby AUTHORIZED in accordance with standards specified in the City Planning Code and subject to further conditions as follows:

1. The proposed facilities shall be constructed and installed in substantial conformity to the preliminary plans labeled "Proposed Infirmary Addition - The Heritage San Francisco Ladies' Protection and Relief Society 3400 Laguna Street, San Francisco, Cal." filed with said application, providing for a one-story building only.

2. Signs, if any, on the new infirmary shall be limited to one (1) flush identifying sign, non-illuminated, the perimeter of which shall encompass a total area no greater than twelve (12) square feet.
3. The proposed parking lot, exclusive of driveways, shall be landscaped and screened along its street frontage by an appropriate combination of solid or open fence, wall, compact evergreen hedge, or trees, shrubs, and ground cover.

Wheel stops or the equivalent shall be installed around the periphery of the lot, exclusive of driveways, not less than three feet from any landscaping features.

Signs, if any, on the parking lot shall be limited to directional signs.

Any artificial lighting on the parking lot shall be deflected downward and into said area.

Said parking lot shall be graded and paved so as to provide adequate drainage.

4. Final plans, including the plan for parking and for any signs, shall be subject to review by the City Planning Commission.

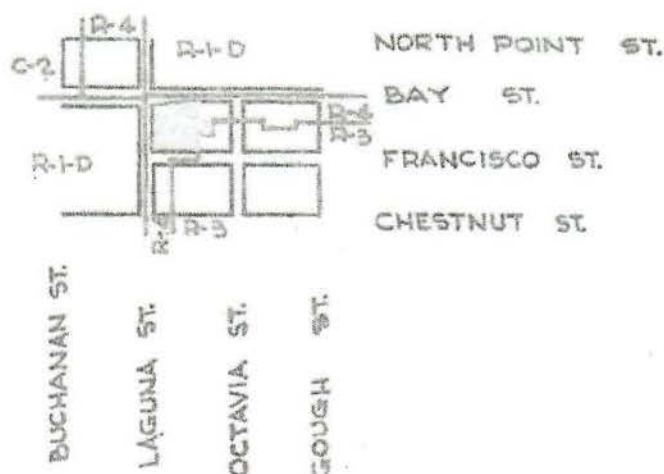
I hereby certify that the foregoing Resolution was adopted by the City Planning Commission at its regular meeting on April 5, 1962.

Thomas G. Miller
Secretary

LOCATION: LAGUNA STREET BETWEEN FRANCISCO AND BAY STREETS

PROPOSAL: APPLICATION OF SAN FRANCISCO LADIES PROTECTIVE AND RELIEF SOCIETY FOR
CONDITIONAL USE TO ENLARGE SENIOR GUEST HOME IN AN R-4 DISTRICT

VICINITY MAP: (Area under consideration shown in GREEN)



Background:

The subject parcel (Lot 3, Assessor's Block 471) is located on the East Side of Laguna Street between Francisco and Bay Streets, with frontages of 237.5 feet on these latter two streets. The parcel is in an R-4 zoning district and comprises about 1½ acres. It is improved with a 100-bed home for the aged consisting of a 2½ story structure facing Laguna Street and connected to a four-story structure at the rear of the property by a two-story wing.

The applicant proposes to erect a one-story, 32-bed infirmary facing Francisco Street on an existing parking area and garden and to provide a new, 18-car parking lot, with access from Bay Street, north of the existing two-story wing. Because this new infirmary will replace a smaller, 19-bed infirmary, this expansion will increase the number of beds by 13, an increase for which no increase in parking is required. In 1956, a reclassification from Second Residential to Commercial was granted to permit the expansion of the original 2½ story unit and at that time ten off-street parking spaces were stipulated.

The existing buildings cover about 29% of the site and the proposed addition will raise this coverage to 39%.

Fort Mason is located directly north across Bay Street, Funston Play Field lies west across Laguna Street, and at the northwest corner between these streets is a gasoline service station and a P C & E gas holder. The remainder of Block 471 is improved with multiple residential uses ranging from two to 12 families. The properties south across Francisco Street reflect similar residential uses.

The City Planning Code authorizes the Planning Commission to grant conditional use applications for rest homes or homes for the aged for more than six beds in an R-2 district and thus in an R-4 district.

CITY AND COUNTY OF SAN FRANCISCO
CITY PLANNING DEPARTMENT
100 Larkin Street
HE 1-2121, Ext.377

CU

62.14
March 9, 1962
(Date)

APPLICATION FOR CONDITIONAL USE
(OR TO WAIVE OR MODIFY CONDITIONS
OR PRIOR STIPULATIONS)

Applicant's Phone JO 7-6900

TO THE HONORABLE PLANNING COMMISSION:

I. The applicant, BARRETT G. HINDES
(Type or Print Name)
being the owner(s) _____ or his authorized agent Presi- (Owner's name SAN FRANCISCO
LADIES' PROTECTION AND gent
RELIEF SOCIETY, Owner's address 3400 Laguna St., S.F.) of property
located at 3400 Laguna Street (Address), which is located on the
N S (E) W side of Laguna Street between feet N-S-E-W of
(circle) (circle)
Francisco and Bay Street and is identified as Assessor's Block No. 471
Lot No. 3 and is in an R4 district
under the Zoning Ordinance, requests that the following described use be permitted
as a "Conditional Use" on the property described above.

STATE EXACTLY WHAT IS INTENDED TO BE DONE ON, OR WITH, THE PROPERTY:

TO ADD AN INFIRMARY WING TO THE EXISTING SENIOR GUEST HOME FOR THE
EXCLUSIVE USE OF THE RESIDENTS.

II. Explain fully the manner in which your application will satisfy each of the
following conditions, which the Planning Commission must find satisfies in
order to approve this application.

1. The proposed use at the particular location is necessary or desirable to
provide a service or facility which will contribute to the general well-
being of the neighborhood or the community.

TO PROVIDE MORE EFFICIENT NURSING CARE FOR THE RESIDENTS.

2. The proposed use will not, under the circumstances of the particular case,
be detrimental to the health, safety or general welfare of persons residing
or working in the vicinity, or injurious to property or improvements in the
vicinity.

THE BUILDING WILL BE SET BACK FROM SIDEWALK BEHIND EXISTING FENCE.
IT WILL BE TREATED SIMPLY AND INCONSPICUOUSLY. TREES WILL BE
PLANTED ALONG PROPERTY LINE IMPROVING GENERAL APPEARANCE.

3. The proposed use will comply with the regulations and conditions specified
in this ordinance for such use.

NO CHANGE OF USE FROM THAT PREVIOUSLY GRANTED IN RESOLUTION #4506
IS PLANNED.

III. If the application is for a Planned Unit Development, submit also a supplemental statement on the conformity of the proposed use with each requirement of Section 304(e) of the Zoning Ordinance.

N/A

IV. What application(s) for a Building Permit or Business License has been filed in connection with the proposed use.

NONE

Identify by Number

V. Type or print exact legal description of the subject property.

BEGINNING at the point of intersection of the easterly line of Laguna Street and the northerly line of Francisco Street; running thence easterly along said line of Francisco Street 237 feet and 6 inches; thence at a right angle northerly 100 feet; thence at a right angle easterly 75 feet; thence at a right angle northerly 75 feet; thence at a right angle westerly 75 feet; thence at a right angle northerly 100 feet to the southerly line of Bay Street; thence westerly along the present southerly line of Bay Street the following courses and distances: "Westerly on the arc of a curve to the left tangent to said line of Bay Street, radius of 700 feet, central angle $11^{\circ} 42' 57''$, 143.136 feet; thence continuing westerly on the arc of a curve to the right tangent to the preceding curve, radius 800 feet, central angle $5^{\circ} 30' 09''$, 76.829 feet; thence southwesterly on the arc of a curve to the left tangent to the preceding curve, radius 20 feet, central angle $83^{\circ} 47' 12''$, 29.247 feet to the easterly line of Laguna Street"; thence southerly along said line of Laguna Street 228.567 feet to the point of beginning.
Being part of WESTERN ADDITION BLOCK NO. 184.

BEFORE COMPLETING THIS APPLICATION AND EXECUTING THE FOLLOWING AFFIDAVIT, IT WOULD BE ADVISABLE TO REVIEW YOUR ENTRIES FOR COMPLETENESS AND ACCURACY, WITH THE ZONING DIVISION OF THE DEPARTMENT OF CITY PLANNING.

APPLICANT'S AFFIDAVIT

VI. STATE OF CALIFORNIA)
CITY AND COUNTY OF SAN FRANCISCO) SS

I (We) BARRETT G. HINDES

Print Name in Full

being duly sworn, depose and say that I am ~~(we are)~~ ~~the owner~~ (authorized agent of the owner) of the property involved in this application and that the foregoing statements and answers herein contained and the information on the attached floor plan, plans, and other exhibits thoroughly to the best of my ~~(our)~~ ability present the argument in behalf of the application herewith requested and that the statements and information above referred to are in all respects true and correct to the best of my ~~(our)~~ knowledge and belief.

Signed

Barrett G. Hindes

3400 Laguna Street

Postal

San Francisco

Zone 23

Mailing Address of Applicant

Subscribed and sworn to before me this 8th day of March, 19 62

Maria Comba

Notary Public My Commission Expires May 11, 1965

CU 62.14.

State below the name, address, and phone number of person to be contacted for details, if other than above signatory.

Name ALEC YUILL THORNTON

Receipt No. 69681

Address 442 Post St., San Francisco

By [Signature]
For the Zoning Administrator

Phone No. YU 6-0485

Exhibits Submitted:

Plot Plan X

300 Ft. Radius Map X

Other Plans X

Property Owner Lists X

Other Photos

CU62.14 Laguna Street, between Francisco and Bay Streets
To enlarge Senior Guest Home in an R-4 District

Commissioner Porter stated she had a conflict of interest, being a member of the Board of Managers of the San Francisco Ladies Protective and Relief Society, and requested she be excused from voting on this matter. There being no objection, President Mein so ordered. The Director reviewed the conditional use application to add a one-story 32-bed infirmary to the existing senior guest home.

Tom Jenkins, attorney for the applicant, said the 32-bed addition would actually add only 13 beds, since 19 existing beds would be replaced, and would accomplish a badly needed modernization of the facilities. He pointed out that there would be a new parking area providing 18 off-street parking spaces. Gardner Dailey, architect for the applicant, displayed the plans for the extension, and explained them in detail. Commissioner Rockrise asked if the one-story extension would be designed to take a second story at some future time. Mr. Dailey replied this had been suggested but he did not know at this time if it would be done.

Dr. Mustak, 3422 Laguna Street, asked that the application be denied, or that it be stipulated that the new extension would not be higher than one floor.

Minutes of 4/5/62

4/5/62

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Evelyn Kenny spoke in opposition stating that the first addition to the old building was supposed to be three floors and turned out to be four floors and there seemed to be no assurance the proposed extension would not also be higher than was stated. Mrs. Gilbert Cleasby spoke in opposition stating the area was now occupied with a beautiful garden and trees and she hated to see the property become more institutional and less desirable for this neighborhood. Miss O'Connell also spoke in opposition.

The Director said there would be less open space if the conditional use were approved, but that under the present zoning the property could have a residential use with a much higher coverage. He said the building coverage with the new addition would be 39 percent of the property, and R-4 zoning allows 75 percent coverage. He recommended approval subject to four Conditions, which he submitted, and read. The Director also recommended that a fifth Condition be added limiting the height of the new addition to a one-story building. After discussion, it was moved by Mr. Duckel, seconded by Mr. Rockrise, and carried that the application be approved, subject to the five Conditions as amended on this date, and that Resolution No. 5512 be adopted. Commissioners Duckel, Kearney, Mein and Rockrise voted aye; Commissioner Porter did not vote.

