

SAN FRANCISCO
PLANNING COMMISSION
MOTION NO. 16996

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4/28/2005

ADOPTING FINDINGS RELATING TO THE AUTHORIZATION OF A CONDITIONAL USE PURSUANT TO APPLICATION NO. 2005.0096C FOR ASSIGNMENT OF ADDITIONAL SQUARE FOOTAGE OF FLOOR AREA ABOVE THE APPLICABLE BASE FLOOR AREA RATIO OF 6.0 TO 1 (PLANNING CODE SECTION 124(f)) EQUAL TO THAT OF THE UP TO 30 AFFORDABLE DWELLING UNITS REQUIRED AS PART OF AN APPROVED NEW MIXED-USE BUILDING CONTAINING UP TO 246 DWELLING UNITS, SHORT-TERM PARKING AND GROUND-FLOOR RETAIL USE (hereinafter "Project") IN A C-3-G (DOWNTOWN GENERAL COMMERCIAL) DISTRICT AND 150-S AND 240-S HEIGHT AND BULK DISTRICTS.

Preamble

On April 28, 2005, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing on Conditional Use Application No. 2005.0096C at which time the Commission reviewed and discussed the findings prepared for its review by the staff of the Planning Department of the City and County of San Francisco (hereinafter "Department").

It was determined by the Department, in accordance with the provisions of the California Environmental Quality Act (hereinafter "CEQA"), the State Guidelines for the Implementation of CEQA and Chapter 31 of the San Francisco Administrative Code, that the proposed construction of **An up to 246-unit residential building and an associated parking garage** could have no significant impact on the environment and that an environmental impact report would be not required. A Final Mitigated Negative Declaration (hereinafter "FMND") of Environmental Impact (Case No. 2002.0628CEK~~VX~~!) was adopted and issued for the project on September 22, 2003. This Commission has reviewed and considered the information contained in this FMND of Environmental Impact and concurs with the findings made therein. Such concurrence is reflected in the adoption by the Commission, on December 4, 2003, of CEQA findings as described in the FMND as Motion No. 16691.

The subject Project (Case No. 2005.0096C) represents no physical change to the original project that was the subject of said FMND and no change to the findings or conclusion contained in the FMND. The determinations made in this Motion No. 16996 do not significantly change said original project or the information contained in the FMND. The Project as approved is consistent with the project as described in the FMND and would not result in any significant impacts not identified in the FMND nor cause significant effects identified in the FMND to be substantially more severe.

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

The 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 the applicant, the Department Staff and other interested parties.

MOVED, That the Commission hereby authorizes the Conditional Use requested in Application No. 2005.0096C subject to the conditions contained in Exhibit A, attached hereto and incorporated herein by reference thereto, 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. The statements in the preamble are accurate and also constitute findings of this Commission.
2. On, March 5, 2003, Alexis Wong, President, AGI , LLC, owner, (hereinafter "Applicant") filed Application No. 2005.0096C (hereinafter "Application") requesting authorization of a Conditional Use, pursuant to Planning Code (hereinafter "Code") **Section 124(f)**, to assign additional building square footage, exceeding the applicable Floor Area Ratio (hereinafter "FAR") of 6.0 to 1, equal to that of the up to 30 required affordable dwelling units in an approved up to 246-unit residential building, thereby reducing the amount of building floor area that the developer would be required to purchase in the form of Transferable Development Rights (hereinafter "TDR") (hereinafter "Project"), at 1160 Mission Street, with additional frontage on Stevenson Street, northwest side between Seventh and Eighth Streets, Lots 37, 38 and 56 in Assessor's Block 3702 (hereinafter "Subject Property"), in a C-3-G (Downtown General Commercial) District, and in 150-S and 240-S Height and Bulk Districts.
3. The Project site is in the Mid-Market area southeasterly of the Civic Center. Adjacent to the northeast is the site of the new GSA Building being built by the Federal government. It will be a "slab" building approximately 280 feet in height and fronted by a large public plaza at the corner of Seventh and Mission Streets. Immediately to the southwest is the site (approximately three acres, a through property from Market to Mission Streets) of the Trinity Properties' proposed 1,410- to 2,200-unit residential redevelopment project (with approximately 1,350 proposed off-street parking spaces) which is proposed for phased construction over the next ten years. At present, this site houses the Trinity Plaza Apartments, 377 residential rental units with approximately 450 off-street parking spaces. Also to the north, across Stevenson Street, is the site of a proposed new hotel of approximately ten stories and 100 guest rooms. The area also has a number of mixed-use buildings, hotels and theatres. The Civic Center BART station is one half block to the north. The project site is well served by transit of all varieties.
4. The Project site is within the proposed Mid-Market Redevelopment Plan area of the San Francisco Redevelopment Agency (hereinafter "SFRA"). This area was recently initiated by the Commission as a Special Use District (hereinafter "SUD") in which building square footage devoted to affordable housing would be exempt from FAR calculations, as of right,

rather than requiring Conditional Use authorization under the present Code. A Mid-Market Redevelopment Plan has been prepared and an Environmental Impact Report ("EIR") has been completed for this project. The subject proposal is generally consistent with this Plan and EIR as well as with the provisions said SUD, and has the endorsement of the Mid-Market PAC.

5. The Subject Property is a nearly-rectangular site with 124 feet of frontage on Mission Street, 125.114 feet of frontage along Stevenson Street and a depth of 350.135 feet. It contains 43,640 square feet. This property includes a vacated portion of the former Jessie Street right-of-way. It is currently used as a surface parking lot catering to long-term (all-day) parkers.
6. The Commission, on December 4, 2003, The Commission adopted Motion No. 16692 approving with conditions Application No. 2002.0628CEKVX! for the aforementioned up to 246-unit residential and parking building (Code **Section 309**) and Application No. 2002.0628CEKVX! for a requested Conditional Use authorization for a public parking garage and the provision of residential-serving off-street parking in excess of accessory amounts. The Zoning Administrator granted the Variance requested in Application No. 2002.0628CEKVX! of the Code **Section 140** dwelling-unit-exposure standards associated with that project. Pursuant to the conditions appended to said Motion No. 16692, the Applicant has elected to include up to 30 inclusionary affordable dwelling units within the proposed new up to 246-unit residential building. The floor area associated with these up to 30 affordable dwelling units (approximately 29,159 square feet) is the subject of the Conditional Use Application No. 2005.0096C.
7. Building Permit Application No. 2002-12-20-3957-S / R-1 for the construction of the proposed new building is on hold at the Planning Department awaiting the outcome of the Planning Commission's action on the current case (Application No. 2005.0096C).
8. **Section 124(f)** of the Code permits additional square footage by Conditional Use authorization, above the base FAR limits in C-3-G and C-3-S districts, for construction of dwellings on the site of the building affordable for 20 years to households whose incomes are within 150% of the city's median income. Code **Section 315** requires that a certain percentage of all units constructed on a project site be affordable for fifty years to qualifying households earning 100% of the city's median income for ownership projects, and 60% of the city's median income for rental projects. In C-3-G and C-3-S districts, units required under **Section 315** technically qualify for the floor area exemption provided under **Section 124(f)**, because they meet the minimum affordability requirement of 150% of the city's median income. Thus, floor space devoted to Code **Section 315**-required inclusionary affordable housing qualifies as the space to which Code **Section 124(f)** refers when it gives the Commission the option to assign additional FAR to C-3-G and C-3-S District projects in exchange for residential "affordability" as defined therein.
9. Pursuant to **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 General Plan.

The proposed Project complies with the criteria of Section 303(c) of the Code in that:

A. That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The Project would represent an assignment of an additional FAR of approximately 0.69 to 1 over the Code-specified 6.0 to 1 for the subject site. The total proposed development represents an FAR of approximately 7.60 to 1. The development of affordable housing is a goal of the Mid-Market Plan that the San Francisco Redevelopment Agency is preparing for the area including the Subject Property. Pursuant to that Plan, the area within the proposed Mid-Market SUD (which area includes the Subject Property) would exempt building square-footage devoted to affordable housing from FAR calculations therein. Such an assignment of additional floor area above that provided for in the applicable base FAR would encourage housing production and would permit, in this case, more residential space to be built than would be provided for otherwise. In addition, the recently-initiated Mid-Market Special Use District ["SUD"] (which includes the subject property) seeks to encourage the production of housing, and especially affordable housing in this part of the City. This SUD would provide for space devoted to affordable housing being exempt from FAR calculations. Approval of the subject Conditional Use application would have the effect both of encouraging the production of affordable housing and of exempting such floor area from FAR calculations as sought by the recently-initiated SUD.

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 developments in the vicinity, with respect to aspects including but not limited to the following:

- (1) The nature of the proposed site, including its size and shape, and the proposed size shape and arrangement of structures;
The Project would not exceed the dwelling-unit density permitted in the subject C-3 District which district permits a density of up to one dwelling unit for each 125 square feet of lot area (or 349 dwelling units on the 43,600-square-foot Subject Property). The Project Sponsor proposes to develop up to 246 dwelling units. With the exception of six studios, all of these units are one- to three-bedroom units, many large enough to house families. Its form blends well with the emerging character of development in the nearby area. The Project would have no effect on this form in that the changes proposed are limited to the assignment of certain floor area to an FAR bonus with no change requested to the previously-approved structure.
- (2) 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 Subject Property is well served by public transit of all varieties. No changes to the structure or potential traffic or parking patterns would accrue as a result of the Project. For this reason, the Project would have no effect on this criterion.

- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project does not propose any uses that to generate offensive emissions, such as noise, glare, dust, or odor. It would have no effect on the physical nature of the already-approved structure on the Subject Property.

- (4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service area, lighting and signs;

The Project would be appropriately landscaped and open space (especially, a large outdoor podium area (with a swimming pool) would be provided for the use of the residents of the proposed dwelling units. Appropriate off-street loading and parking would be provided. These factors would not be affected by the Project in that it is merely a re-assignment of a small portion of the approved floor area as described herein. Therefore, the Project would have no effect on this criterion.

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

The **Residence Element** contains the following relevant objectives and policies:

OBJECTIVE 1: TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 4: Locate infill housing on appropriate sites in established neighborhoods.

- *The Project site is within an emerging residential intensification area as dictated by the SFRA's Mid-Market Plan. This area is ripe for and appropriate as a location for new housing. The Project would include up to 30 on-site affordable dwelling units pursuant to the inclusionary housing provisions of Code Section 315, et seq.*

OBJECTIVE 2: TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVER CROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 2: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are permanently affordable to lower income households.

- *The surface parking lots which constitute the current use of the Subject Property represent an underutilization of this C-3 site. The proposed building would place needed housing, both "affordable" and "market-rate", near the central business district. The Project would make it more feasible to provide the large number of dwelling units proposed in this emerging residential area.*

OBJECTIVE 7: TO INCREASE LAND AND IMPROVE BUILDING RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING.

Policy 2: Include affordable units in larger housing projects.

- *The proposed Project would help to implement the proposed FAR exemption for building square-footage devoted to affordable housing as set forth in the recent legislation initiating the Mid-Market SUD. Such a provision encourages the production of permanently-affordable housing and, ultimately, a potential for more total housing overall. It would place needed housing near the central business district some of which would be affordable pursuant to the provisions of Code Section 315, et seq.*

OBJECTIVE 12: TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1: Assure housing is provided with adequate public improvements, services and amenities.

Policy 2: Allow appropriate neighborhood-serving commercial activities in residential areas.

Policy 4: Promote construction of well-designed housing that conserves existing neighborhood character.

- *The Project is well designed and would be an attractive addition to the emerging Mid-Market neighborhood. It would include a small amount of retail space as well as a reservoir of short-term parking to serve nearby uses thereby enhancing the nearby nighttime entertainment district. Public services, improvements and amenities (including all varieties of public transit) abound in the vicinity.*

OBJECTIVE 13: TO PROVIDE MAXIMUM HOUSING CHOICE.

Policy 1: Prevent housing discrimination based on age, race, religion, sex, sexual preference, marital status, ancestry, national origin, color, disability, health (AIDS/ARC), source or amount of income, citizenship or employment status as a family day care provider.

Policy 2: Promote adaptability and maximum accessibility of residential dwellings for disabled occupants.

- *The Project would be handicapped accessible per the City's new-construction building standards. The Project would comply with all applicable City laws in regard to its employment and marketing practices.*

Section 101.1(b)(1-8) establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies. They are included in the preamble to the Master Plan and are the basis upon which inconsistencies in the General Plan are resolved:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed project would not remove or otherwise negatively impact any existing neighborhood-serving retail uses. The project would enhance neighborhood-serving retail uses because it would provide approximately 6,000 square feet of ground-floor retail use fronting on Mission Street; 100 percent more retail space than currently exists at the site. The short-term parking proposed as part of the project would enhance other retail and neighborhood-serving commercial and entertainment uses in the vicinity. These uses would create employment opportunities. The project would add new residents, visitors and employees to the neighborhood, which may strengthen nearby neighborhood retail uses by broadening the consumer base and the demand for such retail services.

- (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed project design is articulated in such a way as to fit in well with the evolving neighborhood character of large slab buildings set in large open areas. The Project would add economic diversity by providing some retail space.

- (3) That the City's supply of affordable housing be preserved and enhanced;

The project would enhance the City's supply of housing by adding up to 246 new dwelling units in an emerging mixed-use area, with either 12 percent of them (up to 30 units) affordable per provisions of Code Section 315, et seq.

- (4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

Traffic generated by the project would not impede MUNI transit service or local streets or neighborhood parking. The Project site is well served by transit.

- (5) 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 project would not remove any industrial or service uses, as no such uses are currently operating on the site. The project would generate employment opportunities available to a diverse socio-economic range of city residents in its construction phase and, later, in its retail and parking components.

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The project will be constructed according to current local building codes to insure a high level of seismic safety.

- (7) That landmarks and historic buildings be preserved; and,

The subject site is a parking lot containing no structures. No landmarks or historic buildings would be affected by the project.

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

The project would have no impact on public parks, open space, or vistas. It was analyzed for its potential for shadow impacts on the City Hall Plaza and was found not to create any.

In summary, the proposed 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 provide needed market rate and affordable housing and it would contribute to the character and stability of the neighborhood.

9. The Commission, after carefully balancing the competing public and private interests, hereby finds that authorization of the requested Conditional Uses 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 hearing, and all other written materials submitted by all parties, the Commission hereby APPROVES Conditional Use Application No. 2005.0096C 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. 16693. 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 94012.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on April 28, 2005.

Linda Avery
Commission Secretary

AYES: Commissioners Alexander, Antonini, Hughes, S. Lee, W. Lee, and Olague

NAYES: None

ABSENT: Commissioner Bradford Bell

ADOPTED: April 28, 2005

EXHIBIT A

CONDITIONS OF APPROVAL

General

- (1) The authorization herein is of a Conditional Use, pursuant to Planning Code **Section 124(f)**, for assignment of additional square footage of floor area above the applicable floor area ratio (FAR) of 6.0 to 1 equal to that of the up to 30 affordable dwelling units required as part of the approved new up to 246-unit residential building (Case No. 2002.0628CEKVX!) generally as described in Application No. 2005.0096C and in the text of Planning Commission Motion No. 16996. Said additional floor area is approximately 29,159 square feet and equal to the floor area devoted to the up to 30 affordable dwelling units included as part of the above-mentioned approved residential project. Said floor area represents an FAR of approximately 0.69 to 1. Final plans shall be reviewed and approved by the Staff of the Department prior to the issuance of the building permit.
- (2) All Conditions of Approval required by the previous approval (Case No. 2002.0628EKVX!) given by the Planning Commission in Motion No. 16693 shall still apply to this project approval.
- (3) A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization shall become null and void.

Environmental

- (4) The mitigation measures identified in the Final Mitigated Negative Declaration (Case No. 2002.0628CEKVX!) adopted and issued (as amended) for the Project shall be required of the Project.

Recordation

- (5) The Applicant shall cause this "Exhibit A" to be recorded against the title of the Subject Property as a Notice of Special Restrictions under the City Planning Code.

Performance

- (6) The Applicant shall appoint a person or persons to act as a neighborhood liaison. The function of said liaison shall be to consult with residents of the Project and neighbors in the surrounding neighborhood to resolve problems or complaints arising from operation of the Project. The Applicant shall report the name and telephone number of said community liaison to the Zoning Administrator for reference.