

2015-004576 CND



City and County of San Francisco
San Francisco Public Works · Bureau of Street-Use and Mapping
1155 Market Street, 3rd Floor · San Francisco, CA 94103
sfpublicworks.org · tel 415-554-5810 · fax 415-554-6161



TENTATIVE MAP DECISION

NE

Date: March 13, 2015

Department of City Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103

Project ID: 8613			
Project Type: 5 Units Condo Conversion			
Address#	StreetName	Block	Lot
1338 - 1340	UNION ST	0525	010
Tentative Map Referral			

Attention: Mr. Scott F. Sanchez

X The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code. On balance, the Tentative Map is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1 based on the attached findings. The subject referral is exempt from environmental review per Class 1 California Environmental Quality Act Guidelines.

_____ The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code subject to the following conditions (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

_____ The subject Tentative Map has been reviewed by the Planning Department and does not comply with applicable provisions of the Planning Code. Due to the following reasons (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

Enclosures:

- Application
- Print of Tentative Map

Sincerely,

Bruce R. Storrs, P.L.S.
City and County Surveyor

PLANNING DEPARTMENT

Signed _____

Date 7/28/15

Planner's Name NICHOLAS FOSTER

For Scott F. Sanchez, Zoning Administrator

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

RECORDING REQUESTED BY:)
R. Boyd McSparran, Esq.)
And When Recorded Mail To:)
)
Name: Goldstein, Gellman, Melbostad)
Harris & McSparran, LLP)
Address: 1388 Sutter Street)
Ste. #1000)
City: San Francisco)
)
State: California 94109)

CONFORMED COPY of document recorded
07/24/2015, 2015K097401
on _____ with document no _____
This document has not been compared with the original
SAN FRANCISCO ASSESSOR-RECORDER

Space Above this Line For Recorder's Use

I (We): DAVID MARTENS, KATHLEEN H. MARTENS, JEREMY ANGEL EVAN, NICHOLAS WHERRY, DAVID J. GALULLO, PETER J. KING, and RICHARD HESS, the owner(s) of that certain real property situated in the City and County of San Francisco, State of California more particularly described as follows:

(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)
BEING ASSESSOR'S BLOCK: 0525; LOT: 010,
COMMONLY KNOWN AS: 1338-1340 UNION STREET

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (Planning Code).

Said Restrictions consist of conditions attached to the approval of Condominium Conversion Application No. 2015-004576CND by the Planning Department as a referral from the Department of Public Works, Bureau of Street-Use and Mapping, Project ID: 8613.

The tentative map filed with the present application indicates that the subject building at 1338-1340 Union Street is a five-unit building located in a RH-2 (Residential, House, Two-Family) Zoning District. Within the RH-2 Zoning District, a maximum of two dwelling units can be considered legal and conforming to the Planning Code. The remaining three units must be considered legal, nonconforming dwelling units.

The restrictions and conditions of which notice is hereby given are:

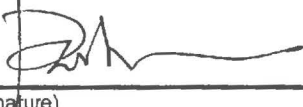
1. That three of the dwelling units shall be designated as nonconforming dwelling units if and when any future expansion occurs. Section 181 of the Planning Code provides that

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

a nonconforming use, and any structure occupied by such a use shall not be enlarged, intensified, extended or moved to another location, unless the result will be the elimination of the non-conforming use with exceptions outlined under Section 181(b) of the Code.

2. That the remaining two dwelling units shall remain legal and conforming, subject to all of the restrictions of the Code, and any other applicable City Codes. In case of conflict, the more restrictive City Code shall apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The property owner(s) shall record a copy of these conditions with the Office of the Recorder of the City and County of San Francisco as part of the property records for the block and lot identified above.

The use of said property contrary to these special restrictions shall constitute a violation of the Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco.


(Signature) _____ David Martens
(Printed Name)
Dated: July 22, 2015 at SAN FRANCISCO, California.

(Signature) _____ Kathleen H. Martens
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) _____ Jeremy Angel Evan
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) _____ Nicholas Wherry
(Printed Name)
Dated: _____, 20____ at _____, California.


NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

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- 2. That the remaining two dwelling units shall remain legal and conforming, subject to all of the restrictions of the Code, and any other applicable City Codes. In case of conflict, the more restrictive City Code shall apply.
- 3. Minor modifications as determined by the Zoning Administrator may be permitted.
- 4. The property owner(s) shall record a copy of these conditions with the Office of the Recorder of the City and County of San Francisco as part of the property records for the block and lot identified above.

The use of said property contrary to these special restrictions shall constitute a violation of the Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco.

(Signature) David Martens
(Printed Name)
Dated: _____, 20____ at _____, California.


(Signature) Kathleen H. Martens
(Printed Name)
Dated: 7/20, 2015 at Tiburon, California.

(Signature) Jeremy Angel Evan
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) Nicholas Wherry
(Printed Name)
Dated: _____, 20____ at _____, California.

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE


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(Signature) David Martens
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) Kathleen H. Martens
(Printed Name)
Dated: _____, 20____ at _____, California.


(Signature) Jeremy Angel Evan
(Printed Name) X see attached
Dated: July 23, 2015 at NIAPA COUNTY, California.

(Signature) Nicholas Wherry
(Printed Name)
Dated: _____, 20____ at _____, California.

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

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(Signature) David Martens
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) Kathleen H. Martens
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) Jeremy Angel Evan
(Printed Name)
Dated: _____, 20____ at _____, California.


(Signature) Nicholas Wherry
(Printed Name)
Dated: July 23, 2015 at San Francisco, California.

NOTICE OF SPECIAL RESTRICTIONS UNDER THE PLANNING CODE

(Signature) David J. Galullo
(Printed Name)
Dated: _____, 20____ at _____, California.

(Signature) Peter J. King
(Printed Name)
Dated: _____, 20____ at _____, California.

Richard Hess
(Signature) Richard Hess
(Printed Name)
Dated: July 20, 2015 at MANATEE County, FLORIDA, ~~California~~.

This signature(s) must be acknowledged by a notary public before recordation; add Notary Public Certification and Official Notarial Seal.

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): Lot 010, Block 0525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Beginning at a point on the Northerly line of Union Street, distant thereon 154 feet 3-3/4 inches Westerly from the Westerly line of Larkin Street; running thence Westerly along said line of Union Street 25 feet; thence at a right angle Northerly 137 feet and 6 inches; thence at a right angle Easterly 47 feet and 6-1/2 inches; thence at a right angle Southerly 40 feet; thence at a right angle Westerly 22 feet and 6-1/2 inches; thence at a right angle Southerly 97 feet and 6 inches to the point of beginning.

BEING part of Western Addition Block No. 25.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)
On July 22, 2015 before me, Cynthia Nora Paulus
Date Here Insert Name and Title of the Officer
personally appeared DAVID Martens
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Cynthia Nora Paulus
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California)
)SS.
COUNTY OF Napa)

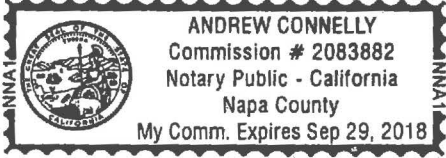
On July 23rd ~~2~~, 2015 before me, Andrew Connelly, Notary Public, personally appeared Jeremy Angel Evan, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Public



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

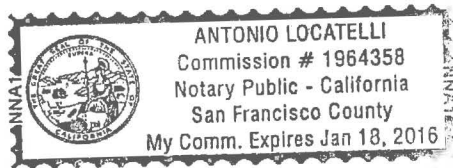
STATE OF CALIFORNIA)
)SS.
COUNTY OF SAN FRANCISCO

On July 23, 2015, before me, ANTONIO LOCATELLI Notary Public, personally appeared NICOLAS WHEERY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Antonio Locatelli
Notary Public



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

California All-Purpose Acknowledgement

State of California }
County of Sonoma } SS.

On July 18th 2015 before me, Michelle Jackson, Notary Public

personally appeared David J. Galullo and Peter J. King
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Michelle Jackson (Seal)



Optional

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of the Attached Document:

Title of Type of Document: Notice of Special Restrictions under the planning Code

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF FLORIDA)
) SS:
COUNTY OF MANATEE)

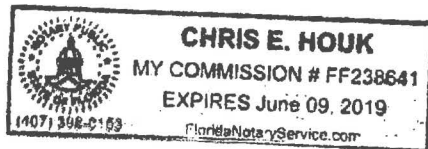
On JULY 20TH, 2015, before me, CHRIS E. HOUK, Notary Public, personally appeared RICHARD A. HESS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Chris E. Houk
Notary Public

- Notarizing For RICHARD HESS only.
7/20/2015





SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19402

HEARING DATE: JULY 2, 2015

Date: June 2, 2015
Case No.: 2015-004576CND
Project Address: 1338-1340 Union Street
Zoning: RH-2 (Residential, House, Two-Family) District
40-X Height and Bulk District
Block/Lot: 0525/010
Project Sponsor: R. Boyd McSparren
c/o Goldstein, Gellman, Melbostad, Harris & McSparren, LLP
1388 Sutter Street, Suite 1000
San Francisco, CA 94109
Staff Contact: Nicholas Foster – (415) 575-9167
nicholas.foster@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATING TO THE REVIEW FOR CONSISTENCY WITH THE GENERAL PLAN TO ALLOW A CONDOMINIUM CONVERSION SUBDIVISION OF A TWO-STORY, THREE-UNIT BUILDING, AND A TWO-STORY, TWO-UNIT BUILDING ON THE SAME LOT INTO RESIDENTIAL CONDOMINIUMS WITHIN A RH-2 (RESIDENTIAL, HOUSE, TWO-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 12, 2015, R. Boyd McSparren (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 two-story, three-unit building, and a two-story, two-unit building located on the same lot—into residential condominiums within a RH-2 (Residential, House, Two-Family) Zoning District and a 40-X Height and Bulk District. The subject buildings are considered legal uses as the Report of Residential Building Record indicates that the legal authorized occupancy is for a three-unit building and two-unit building on the same lot.

On July 2, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2

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.
- B. 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 five years prior to the date of application for conversion.
 - 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 five years prior to the date of application for conversion.

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 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 lifetime lease for all tenants aged 62 years or older and/or are permanently disabled, and requires that no less than 40 percent of the tenants either have signed Intent to Purchase forms or be in a position of accepting such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

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. 2015-004576CND 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. 2015-004576CND.**

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on July 2, 2015.

Jonas Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, Wu

NAYS:

ABSENT:

RECUSED:

ADOPTED: