

1 [Adopting findings related to the conditional use appeal on property located at 1101 O'Farrell
2 Street.]

3 **Motion adopting findings related to the appeal of the Planning Commission's approval**
4 **of Conditional Use Application No. 2000.961C (which authorized the demolition of an**
5 **existing three-story building and the construction of a new twenty-three story, 240 foot**
6 **tall, approximately 308,395 square-foot, 240 unit Senior Housing Facility, and the**
7 **conversion of the second floor at 1001 Franklin Street from residential space to social**
8 **services/support office spaces per Sections 303 and 304 of the Planning Code) in an**
9 **RM-4 (Residential, Mixed, High Density) Zoning District and 240-G Height and Bulk**
10 **District on property located at 1101 O'Farrell, southwest corner of O'Farrell (a.k.a. Starr**
11 **King Way) and Franklin Streets, in an area know as St. Mark's Square (Lot 33 in**
12 **Assessor's Block 713, and Lots 35 and 36 in Assessor's Block 720).**

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14 Six members of the Board of Supervisors, as provided for in Section 308.1 (b) of the
15 San Francisco Planning Code, filed a timely appeal on October 15, 2001, protesting the
16 approval by the Planning Commission (Motion No. 16234 adopted September 13, 2001) of a
17 conditional use authorization (No. 2000.961C) through a Planned Unit Development allowing
18 for the demolition of an existing three-story building and the construction of a new twenty
19 three-story, 240 foot tall, approximately 308,395 square foot, 240 unit Senior Housing Facility,
20 and the conversion of the second floor at 1001 Franklin Street from residential space to social
21 services/support office spaces per Sections 303 and 304 of the Planning Code for the
22 property on Assessor's Block 713, Lot 33, and Assessor's Block 720, Lots 35 and 36 in an
23 RM-4 (Residential, Mixed, High Density) Zoning District within a 240-G Height and Bulk
24 District at 1101 O'Farrell Street, southwest corner of O'Farrell (a.k.a. Starr King Way) and
25 Franklin Streets, in an area know as St. Mark's Square.

1 The public hearing before the Board of Supervisors on said appeal was scheduled for
2 November 5, 2001. On November 5 the Board conducted a duly noticed hearing on the
3 appeal from the Planning Commission's approval referred to in the first paragraph of this
4 motion. On November 5 the Board heard public comment regarding the appeal and decided
5 to continue the public hearing to the meeting of December 3, 2001, in order to allow for
6 additional public comment before the Board rendered its decision on the appeal. On
7 December 5, 2001, the Board considered the appeal again, and following the conclusion of
8 the public hearing, the Board disapproved the decision of the Planning Commission (Planning
9 Commission Motion No. 16234), and approved the issuance of requested Conditional Use
10 Application No. 2000.961C subject to conditions imposed by the Planning Commission,
11 except as modified by the Board, and subject to additional conditions imposed by the Board of
12 Supervisors, those conditions being different from those imposed by the Planning
13 Commission in several respects.

14 In reviewing the appeal of the approval of the requested conditional use authorization,
15 this Board reviewed and considered the written record before the Board and all of the public
16 comments made in support of and opposed to the appeal.

17 NOW, THEREFORE, BE IT MOVED, That the Board of Supervisors of the City and
18 County of San Francisco hereby adopts as its own and incorporates by reference herein, as
19 though fully set forth, the findings made by the Planning Commission in its Motion No. 16234,
20 dated September 13, 2001, except as indicated below.

21 FURTHER MOVED, That the Board of Supervisors took notice that a Preliminary
22 Negative Declaration for the Project was published on May 26, 2001. The Environmental
23 Review Officer found that the Project could not have a significant effect on the environment,
24 with the mitigation measures included as part of the Project. Two appeals were filed in
25 connection with the Negative Declaration, which were considered by the Planning

1 Commission at its public hearing on September 13, 2001, prior to consideration of the Project
2 itself by the Commission. The Commission upheld the Negative Declaration finding of the
3 Department and the Negative Declaration became final on September 13, 2001. On
4 December 3, 2001, the Environmental Review Officer issued an Addendum to Negative
5 Declaration which recited proposed revisions to the Project that were considered subsequent
6 to the issuance of the Final Negative Declaration. The Addendum concluded: that the
7 conclusions reached in the Final Negative Declaration remained valid and that no
8 supplemental environmental review was required; that the proposed revisions to the Project
9 would not cause new significant impacts not identified in the Final Negative Declaration; that
10 no new mitigation measures would be necessary to reduce significant impacts; that no
11 changes have occurred with respect to circumstances surrounding the proposed Project that
12 would cause significant environmental impacts to which the Project would contribute
13 considerably; that no new information had become available that showed that the Project
14 would cause significant environmental impacts; and, therefore, no supplemental
15 environmental review was required beyond the Addendum. The Board finds that there have
16 been no substantial Project changes, no substantial changes in Project circumstances, and no
17 new information of substantial importance that would change the conclusions set forth in the
18 Final Negative Declaration, as amended by the Addendum.

19 FURTHER MOVED, That the conditional use authorization conditions approved by the
20 Board of Supervisors on December 3 included:

21 1. The Board of Supervisors imposed the conditions imposed by the Planning
22 Commission in its Motion No. 16234, except as noted in Condition 2 below.

23 2. Approval was not granted for the conversion of the second floor at 1001 Franklin
24 Street (also know as Martin Luther Tower) from residential space to social services/support
25 office spaces, thereby preserving the 10 existing units in that space.

1 3. The Project shall include approximately 1,800 square feet of social services/support
2 office spaces within the envelope of the proposed Senior Housing Facility, fronting on Franklin
3 Street, at the corner of Starr King Way.

4 4. The Project Sponsor will provide access to the multi-purpose space in the Senior
5 Housing Facility on a scheduled basis for programs and community services offered by St.
6 Mark's Church and the Urban Life Center.

7 5. The Project Sponsor shall establish a program, effective prior to the final occupancy
8 of the new building, to enable senior residents of Martin Luther Tower to obtain a hot meal
9 seven days a week. The Project Sponsor will provide the meal at cost. Martin Luther Tower
10 personnel will pick-up the meals and serve them to residents at Martin Luther Tower.

11 6. Transportation services will be provided by the Project Sponsor, effective prior to
12 the final occupancy of the new building, and will be offered to seniors residing at Martin Luther
13 Tower on a space available basis for a nominal fee.

14 7. The Project Sponsor will work with Martin Luther Tower to offer activities (including
15 exercise programs, seminars and social activities) which will be made available to seniors
16 residing at Martin Luther Tower.

17 8. The Project Sponsor will also work with St. Marks Church and Martin Luther Tower
18 to develop a program of activities which can be offered at Martin Luther Tower, the Church or
19 at other locations in the neighborhood to both the residents of Martin Luther Tower and other
20 neighborhood seniors. Such activities could include wellness and fitness presentations,
21 seminars, and cultural and educational events.

22 9. The Project Sponsor will commit to funding a direct donation of \$5,000 annually to
23 local senior-serving charities.

24 10. The Project Sponsor will work with a designer and lighting consultant to explore
25 methods of augmenting the natural daylight through the rose window on the south side of the

1 Unitarian sanctuary during the times when this window is in the shadow of the new senior
2 tower.

3 11. The Project Sponsor will pay up to \$5,000 per year to cover the documented
4 increase in utility costs incurred by the Unitarian Church as a direct result of the new shadow
5 from the new senior housing tower.

6 12. If the fee owner of the Ellis Street Parking Lot (Martin Luther Tower, Inc. or its
7 successors in interest) decides to offer the Ellis Street Parking Lot for sale or ground lease,
8 then the owner shall grant to the City and County of San Francisco, or the San Francisco
9 Redevelopment Agency, acting through the Mayor's Office of Housing ("City") a right of first
10 offer to purchase or enter into a ground lease for the Ellis Street Parking Lot for an affordable
11 housing development. The terms of such grant shall be included in a Right of First Offer
12 Agreement which shall be entered into between the City and Martin Luther Tower, Inc. or its
13 successors in interest. Under this Agreement, Martin Luther Tower, Inc., or its successors in
14 interest, would be required to give the City at least 120 days' notice of its intent to offer the
15 property for sale or ground lease, including the price and other proposed terms of sale or
16 ground lease, and during such 120 day period, the City would have the first right to enter into
17 a binding agreement (the "City Acquisition Agreement") to acquire or to ground lease the
18 property on such terms. If the City does not enter into a City Acquisition Agreement within
19 such 120 day period, then Martin Luther Tower, Inc. shall have the right to sell or ground
20 lease the Ellis Street Parking Lot to a party (a "Third Party Acquirer") other than the City on
21 the terms offered to the City or on terms which are substantially equivalent to those offered to
22 the City, which the parties agree shall mean that the essential economic terms of the
23 transaction shall not change in favor of the purchaser or lessee by more than five percent
24 (5%). If such an agreement is reached with such a Third Party Acquirer, the City's right of first
25 offer hereunder shall terminate. If the terms of a proposed sale or ground lease with a Third

1 Party Acquirer are not the same or substantially equivalent to those offered to the City, then
2 such terms shall be reoffered to the City and the City shall have thirty (30) days to accept the
3 terms as so modified and to enter into a City Acquisition Agreement or Martin Luther Tower,
4 Inc. shall have the right to enter into an agreement with a Third Party Acquirer on such
5 modified terms or terms substantially equivalent thereto. Martin Luther Tower, Inc. reserves
6 the right to require than any development include approximately 10,000 square feet of space
7 for office and programmatic use by the Church.

8 13. The approval of this Conditional Use Application shall become effective only upon
9 the completion, within 90 days, of a signed Agreement between Martin Luther Tower, Inc, and
10 the Project Sponsor embodying conditions 2 through 8, herein, and certification by the
11 Mayor's Office of Housing that such Agreement has been received by the City and conforms
12 to conditions 2 through 8.

13 FURTHER MOVED, The Board finds that the Project should be altered to provide
14 maximum housing opportunities for seniors and supportive community services in the Senior
15 housing Facility in light of the recognized need for additional housing for seniors. The Board
16 adds this finding to the Planning Commission's findings 5, 6 and 8(c).

17 FURTHER MOVED, That the Board of Supervisors finds that the Project will, at certain
18 times, cast a shadow over the rose window on the south side of the Unitarian sanctuary, and
19 that the Project Sponsor has agreed to work with a designer and lighting consultant to explore
20 methods of augmenting the natural daylight through the rose window in mitigation of the
21 impact of shadows on the rose window.

22 FURTHER MOVED, That the Board finds that the revised Project, as approved by the
23 Board, will meet the requirements of Planning Code Section 303. The revised Project will
24 provide a development that is necessary or desirable for, and compatible with, the
25 neighborhood or the community, and that such use will not be detrimental to the health,

1 safety, convenience or general welfare of persons residing or working in the vicinity, or
2 injurious to property, improvements or potential development in the vicinity, and that such use
3 will not adversely affect the General Plan. The Project as approved by the Planning
4 Commission, contrary to its findings, would not have met the requirements of Planning Code
5 Section 303, due to its lower number of housing units, inadequate provision of supportive
6 community and senior services, and the adverse impacts caused by the Project shadowing
7 the rose window of the south side of the Unitarian sanctuary at certain times. The Findings of
8 the Planning Commission referred to above are hereby amended, and adopted by the Board
9 as amended, to reflect that the revised Project, as approved by the Board, will increase the
10 availability of senior housing and supportive community and senior services, and will provide
11 mitigation for the affects caused by the shadowing of the rose window on the south side of the
12 Unitarian sanctuary. The revised Project will be compatible with recent development in the
13 community.

14 FURTHER MOVED, That on balance, the Project, as revised by the Board of
15 Supervisors, is consistent with the Objectives and Policies of the General Plan, and is
16 consistent with the Priority Policies of Planning Code Section 101.1.

17 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the
18 competing public and private interests, disapproved the decision of the Planning Commission
19 by its Motion 16234, dated September 13, 2001, and approved the issuance of the
20 Conditional Use Application, subject to the conditions imposed by the Board on December 3,
21 2001 and referred to earlier in this motion.

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