



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 20624

HEARING DATE: JANUARY 23, 2020

*Record No.:* 2019-016849CND  
*Project Address:* 1630 Clay Street  
*Zoning:* RM-3 (Residential-Mixed, Medium Density)  
65-A Height & Bulk District  
*Block/Lot:* 0620/007  
*Project Sponsor:* Rosemarie MacGuinness  
SirkinLaw, APC  
388 Market Street, Suite 1300  
San Francisco, CA 94111  
*Property Owner:* Michael Wong;  
Jeffery James Williams;  
Daniel Gerstein;  
Lana Joy Bowen and Viktor Loptkin;  
Deborah Brewer; and  
Teri X. Peterson  
1630 Clay Street  
San Francisco, CA 94109  
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**ADOPTING FINDINGS RELATING TO A CONDOMINIUM CONVERSION SUBDIVISION OF A FOUR-STORY, SIX-UNIT BUILDING INTO RESIDENTIAL CONDOMINIUMS, PURSUANT TO THE GENERAL PLAN AND SUBDIVISION CODE SECTIONS 1386 AND 1396.4, WITHIN AN RM-3 (RESIDENTIAL – MIXED, MEDIUM DENSITY) ZONING DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 10, 2019, Rosemarie MacGuinness, (hereinafter “Project Sponsor”) filed Application No. 10149 (hereinafter “Project”) with the Department of Public Works, Bureau of Street Use and Mapping for Planning Department (hereinafter “Department”) review to allow the Condominium Conversion Subdivision of a four-story, six-unit building into residential condominiums at 1630 Clay Street (hereinafter “Project Site”), Lot 007 in Assessor’s Block 0620, within an RM-2 (Residential-Mixed, Medium Density) Zoning District and a 65-A Height and Bulk District. The subject building is considered a legal use as the Report of Residential Building Record indicates that the legal authorized occupancy and use is a six-unit dwelling.

The project was determined not to be a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

On January 23, 2020, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2019-016849CND.

The Planning Department Commission Secretary is the Custodian of Records; the File for Case No. 2019-016849CND is located at 1650 Mission Street, Suite 400, San Francisco, California.

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. 2019-016849CND 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. **Project Description.** The Project proposes the conversion of a four-story building with six dwelling units to residential condominiums.
3. **Site Description and Present Use.** The Project Site is located on the north side of Clay Street in the Nob Hill neighborhood between Polk and Larkin Streets. The lot contains a four-story building with six dwelling units. The Project Site is located within an RM-2 (Residential-Mixed, Medium Density) Zoning District and a 65-A Height & Bulk District. A maximum of five dwelling units are permitted at the Project Site with Conditional Use Authorization. As there are six legal dwelling units on the Project Site, one existing dwelling units is considered legal nonconforming as to density.
4. **Surrounding Properties and Neighborhood.** The Project Site is located within an RM-2 Zoning District and the Nob Hill neighborhood. The surrounding properties, and neighborhood as a whole, are zoned for residential mixed use. The neighborhood is characterized by three- to five-story buildings with five to fifteen dwelling units and consistent pattern of rear yard open space, excepting corner lots which tend to be higher density with less open space.
5. **Public Outreach and Comments.** The Department has not received any letters or phone calls in support of, or in opposition to the project.

## 6. Subdivision Code Compliance

- a. 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 six years prior to the annual April 15<sup>th</sup> triggering date for conversions and owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.
    - 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 six years prior to the annual April 15<sup>th</sup> triggering date for conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.

*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 and applicable provisions of the Subdivision Code 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 recorded offer of a lifetime lease for all tenants as a condition of final map approval, and requires that no less than 40 percent of the units as represented through the owning or renting tenant of each unit either have signed Intent to Purchase forms or be in a position of accepting the offer for such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.*

*Section 1386, Article 9 of the Subdivision Code of the City and County of San Francisco requires that the Planning Commission disapprove the Tentative Map if it determines that vacancies in the project have been increased, elderly or permanently disabled tenants have been displaced or discriminated against in leasing units, evictions have occurred for the purpose of preparing the building for conversion, or the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City in the administration of the Subdivision Code).*



*In the evaluation of displacement of elderly tenants, the Commission shall consider any such displacements over the preceding three years and the reasons for the displacement.*

- b. The applicant requests Planning Department review of a Condominium Conversion Subdivision Application to allow for the conversion of the multi-unit building.
  - c. As required by Section 1396.4 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 six years prior to the annual April 15 triggering date for this proposed conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.
  - d. 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.
  - e. 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.
7. **General Plan Compliance.** The Project is, on balance, consistent with the Objectives and Policies of the General Plan:

## **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.*

8. **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,

*The proposal is a change in form of residential tenure, and would not affect the City's supply of affordable housing.*

- 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.*

9. 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.
10. 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, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Condominium Conversion Subdivision Application No. 2019-016849CND.**

**Protest of Fee or Exaction:** You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on January 23, 2020.

  
Jonas P. Jorin  
Commission Secretary

AYES: Fung, Johnson, Koppel, Melgar

NAYS: None

ABSENT: Richards

RECUSED: Diamond, Moore

ADOPTED: January 23, 2020



## EXHIBIT A

### AUTHORIZATION

This authorization is for a condominium conversion of a four-story, six-unit building into residential condominiums located at 1630 Clay Street, Block 0620, and Lot 007 pursuant to Subdivision Code Section(s) **1386 and 1396.4** within the **RM-3** District and a **65-A** Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on **January 23, 2020** under Motion No **20624**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **January 23, 2020** under Motion No **20624**.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **20624** shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.



## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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