

File No. 211274

Committee Item No. _____

Board Item No. 42

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: December 14, 2021

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

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Prepared by: Lisa Lew

Date: December 10, 2021

Prepared by: _____

Date: _____

1 [Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones
2 Street]

3 **Motion adopting findings in support of the Board of Supervisors' disapproval of the**
4 **decision of the Planning Commission by its Motion No. 20935, approving a Planned**
5 **Unit Development and Conditional Use Authorization, identified as Planning Case No.**
6 **2013.1535CUA-02, for a proposed project located at 450-474 O'Farrell Street and 532**
7 **Jones Street.**

8
9 WHEREAS, The proposed project ("Project") includes demolition of three buildings:
10 450 O'Farrell Street, 474 O'Farrell Street and 532 Jones Street; the merger of Lots 007, 009
11 and 011 in Assessor's Block 0317; and the construction of up to a 13-story mixed use building
12 with ground floor commercial, a new church, and residential open space, up to 316 group
13 housing rooms, and 136 Class 1 and 15 Class 2 bicycle parking spaces; the Project would
14 construct a total of approximately 207,448 square feet (sf) of development, including 172,323
15 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institutional
16 use, and approximately 5,056 sf of residential open space; and

17 WHEREAS, The proposed Project is a Planned Unit Development that requires
18 exceptions to Planning Code requirements, pursuant to Planning Code Section 304; as more
19 fully detailed in Planning Commission Motion No. 20935, the Project sponsor applied for, and
20 the Planning Commission approved, the following exceptions to the Planning Code: a
21 modification of rear yard requirements set forth in Section 134(j), and a modification of off-
22 street loading requirements set forth in Section 152; and

23 WHEREAS, As more fully detailed in Planning Commission Motion No. 20935, the
24 Planning Code requires that the proposed Project obtain a Conditional Use Authorization
25 pursuant to Planning Code, Section 303, and that the Planning Commission make certain

1 additional findings pursuant to Planning Code, Sections 249.5(c)(1), 253(b)(1), 263.7, 271(c)
2 and 317, in order to approve the Project; pursuant to Motion No. 20935, the Planning
3 Commission granted the required Conditional Use Authorization and made these required
4 additional findings; and

5 WHEREAS, On June 24, 2021, the Planning Commission adopted Motion No. 20935,
6 approving Planned Unit Development/Conditional Use Application No. 2013.1535CUA-02 for
7 a revised project scope, subject to the conditions contained in Motion No. 20281, with the
8 exception of Conditions 24, 25, 26 and 32 of Motion No. 20281, and with the following
9 amended conditions: to remove parking and car share requirements; to require 136 Class 1
10 and 15 Class 2 bicycle parking spaces; to require 48 affordable units/rooms, including 43
11 group housing rooms and five replacement units/rooms to replace existing affordable units; to
12 impose additional requirements related to the affordable units; to limit permissible kitchen
13 facilities within group housing rooms; to require the Project sponsor to increase the number of
14 larger units wherever feasible; to require provision of balconies to maximum projection on all
15 sides except O'Farrell Street; to continue working with staff to increase the number of bicycle
16 parking spaces; to convert the proposed ground-floor retail space to group housing units; and
17 to work with staff to determine the feasibility of converting basement space to group housing
18 units; and

19 WHEREAS, On July 21, 2021, Tenderloin Housing Clinic and Pacific Bay Inn, Inc.
20 ("Appellants") filed a timely appeal of the Conditional Use Authorization by the Planning
21 Commission; and

22 WHEREAS, On September 7, 2021, the Board continued its hearing of this appeal due
23 to Rosh Hashanah, with the consent of both the Project sponsor and Appellants; and

24 WHEREAS, On September 28, 2021, the Board of Supervisors held a duly noticed
25 public hearing on the appeal from the approval of the Conditional Use Authorization and

1 received public comment, and at the end of that hearing the President of the Board declared
2 the public hearing closed and filed, and the Board of Supervisors continued until October 5,
3 2021, the proposed motions relating to the Conditional Use Authorization; and

4 WHEREAS, On October 5, 2021, the Board voted by a vote of 11-0 to conditionally
5 disapprove the decision of the Planning Commission and deny issuance of the requested
6 Conditional Use Authorization; and

7 WHEREAS, In deciding the appeal, the Board considered the entire written record
8 before the Board and all the public comments made in support of and in opposition to the
9 appeal; and

10 WHEREAS, The Tenderloin neighborhood has a high concentration of low-income
11 families and insufficient housing to serve those families, and is a food desert; and

12 WHEREAS, The Planning Department's 2017 report titled Housing for Families with
13 Children, on file with the Clerk of the Board of Supervisors in File No. 210858 and
14 incorporated herein by reference, states that unit size and affordability are significant housing
15 stock issues impacting families; that families need more affordable options and larger units to
16 accommodate children and multiple generations of family members, as well as amenities such
17 as open space, storage space, and onsite childcare; and that there is a mismatch between
18 available units and residents who occupy them, and overcrowding in many units in San
19 Francisco, a majority of which overcrowded units are occupied by families; and

20 WHEREAS, Appellant provided testimony that there is significant overcrowding of
21 families in small units in the Tenderloin neighborhood; and

22 WHEREAS, The Project would fail to meet the needs of the neighborhood, including
23 the needs of families, due to the small size and lack of full kitchen facilities in the Project's
24 group housing rooms, given that families require space for children and multigenerational
25

1 family members, and need cooking and food storage facilities to provide healthy and
2 affordable meals for family members; and

3 WHEREAS, The Department of Public Health’s 2018 Assessment of Food Security, on
4 file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by
5 reference, found that a lack of cooking access, including lack of sinks, stoves, refrigerators
6 and food storage, present significant obstacles to healthy eating on a limited income; that
7 residents of District 6, in which the Project would be located, are most at risk for food
8 insecurity and are the most reliant on government aid for food subsidies among San
9 Francisco residents; and that without a complete kitchen, people are more likely to rely on
10 expensive prepared meals and unhealthy snacks; and

11 WHEREAS, The Department of Public Health’s 2013 Assessment of Food Security,
12 incorporated herein by reference, found that almost 6500 housing units (15% of all housing
13 units) in District 6 lack complete kitchens; and

14 WHEREAS, The Project sponsor’s assertion that the microwaves and small
15 refrigerators that would be allowed in the Project’s group housing units would adequately
16 serve families is incorrect, as shown by the above-cited reports; and

17 WHEREAS, Ordinance No. 72-21 was recently approved to prevent the removal of
18 community kitchens in group housing, given the essential nature of kitchen facilities; and

19 WHEREAS, The Zoning Administrator’s Interpretation of the definition of group
20 housing, “Group housing with limited cooking facilities,” issued in October 2005, allowed
21 limited cooking facilities in group housing units based on an understanding that group housing
22 units are not intended to be used as permanent housing; the Interpretation states, “Recent
23 Department practice via Zoning Administrator determination letters has been to allow limited
24 kitchen facilities in hotel rooms or suites in tourist hotels with stays of less than 32 consecutive
25 days; these determinations were based on the proviso that the purpose of including kitchens

1 is not to create dwelling units for permanent residency but to provide hotel guests the option
2 of making their own meals; likewise, the purpose of including limited kitchen facilities in group
3 housing is not to create dwelling units for permanent residency, but to provide group housing
4 residents the option of preparing their own meals.”; and

5 WHEREAS, Given the Project units’ lack of kitchens and food storage areas; area
6 residents’ limited access to groceries in the neighborhood; safety concerns voiced by
7 members of the public at the September 28, 2021 public hearing; and the likely relatively high
8 incomes of tenants who can afford the rents that the Project sponsor testified it expects to
9 charge for units in the Project, residents of the Project would likely rely heavily on food
10 delivery services, creating more congestion from food delivery vehicles (e.g., GrubHub, Door
11 Dash deliveries), leading to more pedestrian/vehicle collisions and increased pollution from
12 such vehicles; the San Francisco County Transportation Authority’s TNC & Congestion
13 report, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated
14 herein by reference, supports this conclusion, demonstrating that the Tenderloin
15 neighborhood already has significant congestion caused by Transportation Network Company
16 (TNC) services; and

17 WHEREAS, The high rents the Project sponsor testified it expects to charge for units in
18 the Project will likely lead to high vacancy rates, and to the units being used as short-term or
19 intermediate-length corporate rentals, which rely on high renter turnover and a transient client
20 base, rather than as permanent housing; and

21 WHEREAS, The findings associated with the City’s short-term rental regulations in
22 Chapter 41A of the Administrative Code address the impacts of short-term rentals; and

23 WHEREAS, Group housing projects tend to have higher turnover of tenants than
24 projects with family-sized units and full kitchens, which contributes to destabilization of the
25 neighborhoods in which they are located; and

1 WHEREAS, The Project’s concentration of small units would lead to a high volume of
2 TNC use by residents, increasing congestion, pollution, and the risk of pedestrian/vehicle
3 collisions; and

4 WHEREAS, The Walk San Francisco Annual Report Card analyzing 2016-2020 data,
5 on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein
6 by reference, shows that the Tenderloin neighborhood has high rates of pedestrian/vehicle
7 collisions in San Francisco; and

8 WHEREAS, The Project would not promote density equity or geographic equity in the
9 distribution of housing typologies; and

10 WHEREAS, The Department of Building Inspection’s Annual Unit Usage Report, on file
11 with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by
12 reference, demonstrates a high vacancy rate in group housing projects; and

13 WHEREAS, Appellants have provided evidence of a glut of similar small units without
14 full kitchens in the Tenderloin/mid-Market area; the Panoramic development at 1321 Mission
15 Street is an example of this glut, the Panoramic, which consists of efficiency units that do not
16 have full kitchens, and that lack stoves, full-size refrigerators and adequate food storage and
17 preparation space, has high vacancy rates and has been unsuccessful, and is being marketed
18 for sale; and

19 WHEREAS, The Tenderloin neighborhood is best served by long-term permanent
20 residents, who are more likely to volunteer for and contribute to the community, advocate for
21 community improvements, and serve as eyes on the street; and

22 WHEREAS, For the reasons stated above, the Project would fail to serve the
23 community, is not necessary and desirable for and is not compatible with the existing
24 neighborhood and community; now, therefore, be it

1 MOVED, That based on the foregoing findings and the entire record in Board File No.
2 210858, the Board of Supervisors disapproved the decision of the Planning Commission by its
3 Motion No. M21-138 and denied issuance of the Conditional Use Authorization.

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: