BOARD of SUPERVISORS

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December 20, 2021

Mr. Joaquin Torres
Assessor-Recorder, City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 190
San Francisco, CA 94102

Re: Board of Supervisors Motion No. M21-172

Dear Assessor-Recorder Torres:

On September 28, 2021, the Board of Supervisors held a remote public hearing of persons interested in or objecting to the certification of a Conditional Use Authorization for a proposed project located at 450-474 O'Farrell Street and 532 Jones Street identified in Planning Case No. 2013.1535CUA-02, issued by the Planning Commission by Motion No. 20935, dated June 24, 2021, and adopted Motion No. M21-138 (Conditionally Disapproving the Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street) and Motion No. M21-139 (Preparation of Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street).

On December 14, 2021, the Board of Supervisors adopted Motion No. M21-172 (Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street).

Pursuant to Administrative Code, Section 34.3, the Clerk of the Board is forwarding the following documents to your attention:

- One copy of Motion No. M21-138 (File No. 210860)
- One copy of Motion No. M21-172 (File No. 211274)

If you have any questions or require additional information, please contact the Office of the Clerk of the Board at (415) 554-5184, or by e-mail: board.of.supervisors@sfgov.org.

Sincerely,

for Alisa Somera

Angela Calvillo
Clerk of the Board

jw:ll:ams

c. Juan Carlos Cancino, Office of the Assessor-Recorder
Kurt Fuchs, Office of the Assessor-Recorder
Holly Lung, Office of the Assessor-Recorder

FILE NO. 210860 MOTION NO. M21-138

[Conditionally Disapproving the Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street]

Motion conditionally disapproving the decision of the Planning Commission by its Motion No. 20935, approving a Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project at 450-474 O'Farrell Street and 532 Jones Street, subject to the adoption of written findings by the Board in support of this determination.

MOVED, That the Planning Commission's approval on June 24, 2021, of a Conditional Use Authorization identified as Planning Case No. 2013.1535CUA-02, by its Motion No. 20935, to amend the Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281, adopted on September 13, 2018, for a revised project scope to include demolition of three buildings, construction of a 13-story mixed-use building with similar massing, ground floor commercial and a new church, and up to 316 group housing rooms instead of 176 residential units located in a RC-4 (Residential-Commercial, High Density) Zoning District, North of Market Residential Special Use District and 80-130-T Height and Bulk District, for a proposed project located at:

450-474 O'Farrell Street and 532 Jones Street, Assessor's Parcel Block No. 0317, Lot Nos. 007, 009, and 011,

is hereby disapproved, subject to the adoption of written findings by the Board in support of this determination.

City and County of San Francisco
Tails
Motion: M21-138

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 210860 **Date Passed:** October 05, 2021

Motion conditionally disapproving the decision of the Planning Commission by its Motion No. 20935, approving a Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project at 450-474 O'Farrell Street and 532 Jones Street, subject to the adoption of written findings by the Board in support of this determination.

September 07, 2021 Board of Supervisors - CONTINUED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

September 28, 2021 Board of Supervisors - CONTINUED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

October 05, 2021 Board of Supervisors - APPROVED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210860

I hereby certify that the foregoing Motion was APPROVED on 10/5/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

FILE NO. 211274 MOTION NO. M21-172

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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City and County of San Francisco
Tails
Motion: M21-172

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 211274 **Date Passed:** December 14, 2021

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

December 14, 2021 Board of Supervisors - APPROVED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 211274

I hereby certify that the foregoing Motion was APPROVED on 12/14/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board