



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
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- Other: Transit Impact Development Fee

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Planning Commission Motion No. 19547 HEARING DATE: JANUARY 7, 2016

Date: January 7, 2016
Case No.: 2012.0506 CEKV
Project Address: 950 Gough Street
Zoning: RM-4 (Residential, Mixed, High Density)
80-B Height and Bulk Districts
Block/Lots: 0744/010, 010A, 011
Project Sponsor: Brad Dickason
Maracor Development, Inc.
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.2, 253 AND 303 OF THE PLANNING CODE TO MERGE THREE VACANT LOTS CONTAINING APPROXIMATELY 19,000 SQUARE FEET, AND CONSTRUCT AN 8-STORY, 80-FOOT TALL, APPROXIMATELY 124,000 SQUARE-FOOT MIXED-USE BUILDING OVER ONE SUBTERRANEAN PARKING LEVEL. THE BUILDING WOULD INCLUDE 95 DWELLING UNITS, INCLUDING 11 ON-SITE AFFORDABLE UNITS, AN APPROXIMATELY 10,000 SQUARE-FOOT CHURCH/SANCTUARY FOR ST. PAULUS LUTHERAN CHURCH ON THE GROUND FLOOR, 61 OFF-STREET PARKING SPACES, 109 BICYCLE PARKING SPACES, AND FOUR MOTORCYCLE PARKING SPACES, WITHIN AN RM-4 (RESIDENTIAL, MIXED, HIGH DENSITY) DISTRICT AND AN 80-B HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On November 26, 2013, Maracor Development, Inc. (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 209.2, 253 and 303 to merge three vacant lots, containing approximately 19,000 square feet, and construct an eight-story, 80-foot tall, approximately 124,000 square-foot mixed-use building over one subterranean parking level. The building would include 95 dwelling units, including eleven (11) on-site affordable housing/below-market rate (BMR) units, an approximately 10,000 square-

foot church/sanctuary for the St. Paulus Lutheran Church, 61 off-street parking spaces, 109 bicycle parking spaces, and four motorcycle parking spaces. The Project is also seeking Variances to the rear yard and off-street parking requirements pursuant to Planning Code Sections 134 and 151 (hereinafter "Project"), within an RM-4 (Residential, Mixed, High Density) District and an 80-B Height and Bulk District.

On May 11, 2015, the Project Sponsor filed a Variance Application with the Zoning Administrator to allow development within the required rear yard, pursuant to Planning Code Section 134, and to provide less than the required off-street parking for the residential component, pursuant to Planning Code Section 151.

On May 20, 2015, the Draft Mitigated Negative Declaration (MND) for the Project was prepared and published for public review; and

The Draft MND was available for public comment until June 9, 2015; and

On May 20, 2015, the Finalized Mitigated Negative Declaration for the Project was published and was amended on June 15, 2015.

On January 7, 2016, the Planning Department/Planning Commission reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

The Planning Department/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning and the Planning Commission, [and that the summary of comments and responses contained no significant revisions to the Draft MND,] and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2012.0506E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP), contained in "EXHIBIT C," which material was made available to the public and this Commission for this Commission's review, consideration and action.

On January 7, 2016, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0506CEKV.

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.

As determined by the Planning Department, nothing about the proposed Project as revised or its surrounding circumstances have changed in a way to require additional environmental review.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2012.0506C, subject to the conditions contained in "EXHIBIT A" of this motion, 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.
1. **Site Description and Present Use.** The Project is located on three vacant lots at 950 Gough Street, southeast corner at Eddy Street. The development site contains approximately 137 feet of frontage along Gough Street and 137 feet of frontage along Eddy Street in Assessor's Block 0744, Lots 010, 010A and 011 within an RM-4 (Residential, Mixed, High Density) District and an 80-B Height and Bulk District. The Gough Street frontage slopes laterally downward to the south, toward Turk Street with a grade change of approximately 21 feet between the front and rear lot lines. The Eddy Street frontage has a slight downward slope (of approximately 6 feet) to the east, toward Franklin Street.

The Project site is approximately 19,000 square feet in total area. All three lots are currently vacant. The site was previously occupied by the St. Paulus Lutheran Church, built between 1892 and 1899. However, after a fire had damaged the building, it was demolished in 1999.

2. **Surrounding Properties and Neighborhood.** The Project site is located at the western edge of the Downtown/Civic Center neighborhood. The neighborhood is comprised primarily of governmental offices, civic institutions, commercial uses, financial institutions, and high density apartment buildings. City Hall is four blocks southeast of the Project site. The Hayes Valley shopping district is six blocks southwest of the site. Jefferson Square Park is immediately west of the site on Gough Street. Four to eight-story tall governmental and residential apartment buildings are south of the site on Turk Street. A Shell gasoline station is located at the northwest corner of Turk and Franklin Streets. Many buildings on the subject and adjacent blocks have no front yard setbacks thereby creating a continuous street wall. Transit lines are nearby and are within walking distance of the site.
3. **Project Description.** The Project proposes to merge three vacant lots and construct an eight-story, 80-foot tall mixed-use building, containing approximately 124,000 square feet. The building would include 95 dwelling units, including 11 on-site affordable housing units reflecting the unit mix of studios, one- and two-bedroom units. A two-level church/sanctuary for the St. Paulus Lutheran Church would be rebuilt on the Gough Street frontage, containing approximately 10,000 square feet. Two levels of parking would be provided (one on the ground level and one below grade), containing up to 61 stacked parking spaces, 100 Class One secured bicycle parking spaces,

as well as four secured motorcycle parking spaces (not required by code). The Project will provide nine Class Two bicycle parking spaces. The main church/sanctuary entrance is located at the western edge of the Eddy Street frontage, while the garage entry is located at the eastern edge on Eddy Street. The main residential entry and lobby is located near the center on Eddy Street, along with dedicated car share and bicycle access. Open space is provided through a mix of common usable open spaces at terraces, roof decks and a court yard. The Project will also provide two green/living roofs.

The Project is also seeking Variances to the rear yard and off-street parking requirements pursuant to Planning Code Sections 134 and 151. The Zoning Administrator will consider the Variance requests following the Commission's consideration of the Conditional Use request.

4. **Public Comment.** The Department has received six letters in support of the Project. The Department has not received any correspondence in opposition to the Project; however, a letter was received from a property owner expressing concerns about traffic, circulation, and the potential effect of the Project on adjacent historic buildings.
5. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Institutional Use.** Planning Code Section 209.2 requires a Conditional Use authorization for religious institutions in the RM Districts.

The Project proposes to incorporate into the Project's ground floor the St. Paulus Lutheran Church that was demolished in 1999 after a fire had damaged the circa 1892 building.

- B. **Height.** Planning Code Section 253 requires a Conditional Use authorization for review of any new building or structure exceeding 40 feet in height in a RM District with more than 50 feet street frontage, and any building or structure exceeding 50 feet in height in the RM Districts, and Section 252 of the Planning Code limits the height of development at the site to 80 feet.

The proposed 80-foot tall building is situated on a corner with both street frontages (Gough and Eddy Streets) at 137 feet wide, thereby requiring a Conditional Use authorization pursuant to Planning Code Section 253. The building has been sculpted and provides setbacks at upper levels so as to be compatible with the scale and massing of the surrounding neighborhood.

- C. **Bulk.** Planning Code Section 270 states that the "B" Bulk District shall have a maximum length of 110 feet and a maximum diagonal dimension of 125 feet, above 50 feet in height.

The Project complies with the bulk limits by providing a maximum length of approximately 100 feet and a maximum diagonal dimension of approximately 124 feet for the portion of the building exceeding 50 feet in height.

- D. **Basic Floor Area Ratio (FAR).** Planning Code Section 124 limits the building square footage to 4.8 square feet of building area for every 1 square foot of lot area, or approximately 90,749 square feet of building area for the subject Site. However, in RM Districts, the FAR limits do not apply to dwellings or to other residential uses per Section 124(b).

The Project would total approximately 34,000 square feet, equivalent to a 1.8:1 FAR for non-residential uses.

- E. **Rear Yard.** Planning Code Section 134 requires that in RM-4 Districts a 25 percent rear yard be provided. An approximately 34-foot deep rear yard from the rear lot line would need to be provided for the Project. However, the Project is seeking a Variance from the rear yard requirement pursuant to Planning Code Section 134.

The Project does not meet the rear yard depth per Planning Code Section 134; however, the Project is seeking a Variance to the rear yard requirement as part of the related Case No. 2012.0506V. The Project is required to provide a rear yard of approximately 4,700 square feet. The Project proposes to provide an open, interior court yard on the second level totaling approximately 2,000 square feet (35 feet wide by 59 feet deep).

- F. **Open Space.** Planning Code Section 135 requires 48 square feet of common usable open space or 36 square feet of private usable open space per dwelling unit.

The Project meets the common usable open space requirement of 4,560 square feet by providing a combination of terraces, a roof deck, and a court yard, totaling approximately 6,100 square feet. The Project exceeds the amount of open space area required by Code and meets the minimum dimensions and areas prescribed by Code.

- G. **Street Trees.** Planning Code Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties.

The site contains 137 feet of street frontage along both Gough and Eddy Streets and would require seven street trees along each frontage. The Project will provide 14 new street trees where none currently exists.

- H. **Standards for Bird-Safe Buildings.** Planning Code Section 139 establishes the Bird-Safe Standards for new building construction to reduce bird mortality from circumstances that are known to pose a high risk to birds and are considered to be "bird hazards." The two circumstances regulated by this Section are (1) location-related hazards, where the siting of a structure creates increased risk to birds, and (2) feature-related hazards, which may create

increased risk to birds regardless of where the structure is located. Location-related hazards are created by structures that are located inside of, or within a clear flight path of less than 300 feet from an Urban Bird Refuge. The subject property is within 300 feet of the Jefferson Square Park. The buildings must be treated according to the standards established in the code provisions and the Department's adopted Standards for Bird-Safe Buildings. Bird-Safe Glazing Treatment is required such that the Bird Collision Zone – meaning the portion of building façade beginning at grade and extending upwards for 60 feet or glass facades directly adjacent to landscaped roofs two acres or larger and extending upwards 60 feet from the level of the subject roof – facing the Urban Bird Refuge consists of no more than 10% untreated glazing.

The Project meets the standards for bird-safe buildings.

- I. **Dwelling Unit Exposure.** Planning Code Section 140 requires that all dwelling-unit face a public street or side yard at least 25 feet in width, a required rear yard, or an open area of 25 feet in width.

All of the units in the Project meet this requirement.

- J. **Street Frontages in RM Districts.** Planning Code Section 144 requires that entrances to off-street parking on any lot shall be wider than 20 feet, and that in the case of every dwelling in such districts, no less than one-third of the width of the ground story along the front lot line, along a street side lot line, and along a building wall that is set back from any such lot line, shall be devoted to windows, entrances for dwelling units, landscaping, and other architectural features that provide visual relief and interest for the street frontage.

The Project proposes a 12-foot wide garage entrance on Eddy Street and more than one-third of the ground story is devoted to windows, an entrance for dwelling units, and landscaping.

- K. **Off-Street Parking, Institutional.** Planning Code Section 151 requires one automobile parking space for every 20 seats by which the number of seats in the main auditorium exceeds 200.

The Project proposes 200 seats in the church; therefore, it is not required to provide any parking spaces for the church use. However, three spaces will be provided at the site.

- L. **Off-Street Parking, Residential.** Planning Code Section 151 requires one automobile parking space per dwelling unit. The Project is seeking a Variance to the parking requirement for the residential component.

The Project is required to provide 95 parking spaces for the residential use and 58 are proposed. The Project is seeking a Variance to the off-street parking requirement as part of the related Case No. 2012.0506V.

- M. **Off-Street Freight Loading.** Planning Code Section 152 requires one freight loading space if the gross floor area is greater than 100,000 square feet.

The Project proposes approximately 111,000 gross square feet, and one off-street loading space is provided on the ground level. One on-street loading space is also proposed and would be subject to MTA approval.

- N. **Bicycle Parking.** Planning Code Section 155.2 requires one Class 1 bicycle parking space per unit up to 100 units. In addition, one Class 2 bicycle parking space is required per 20 units. With 95 dwelling units, five Class 2 bicycle parking spaces are required to serve the residential units. The church use is required to provide five Class 1 spaces for less than 500 guests, and one Class 2 space for every 50 seats.

The Project meets the bicycle parking requirements for both Class 1 and Class 2 bicycle parking spaces. Additionally, the Project is providing four secured motorcycle parking spaces (not required by Code). As the Project proposes 95 dwelling-units, 95 Class 1 bicycle parking spaces are required and provided. With 95 dwelling units, five Class 2 bicycle parking spaces are required to serve the residential units. For the 10,000 square feet of church use containing 200 seats, five Class 1 and four Class 2 bicycle parking spaces are required.

- O. **Car Share Parking.** Planning Code Section 166 requires no fewer than one car share parking space for every 50-200 residential units.

The Project proposes one car share space located at the ground level on Eddy Street. The car share space shall be designed to comply with the Zoning Administrator Bulletin for Car Share spaces.

- P. **Baby Diaper-Changing Accommodations.** Planning Code Section 168 requires that "public-serving establishments", such as a religious institution, over 5,000 square feet provide on-site diaper-changing stations.

The Project meets the requirements related to diaper-changing accommodations.

- Q. **Dwelling Unit Density.** Planning Code Section 209.2 states that the permitted ratio of dwelling units in the RM-4 district is one dwelling unit per 200 square feet of lot area.

Based on a lot area of approximately 18,906 square feet, 95 dwelling units are permitted. The Project is proposing the maximum density allowed by Code.

- R. **Shadows on Parks.** Planning Code Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project will result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department.

The Department conducted a shadow fan analysis, under Case No. 2012.0506K, and determined that the Project has the potential to cast new shadow on the Jefferson Square Park and the Margaret S.

Hayward Playground, located across from the project site, on the west side of Gough Street. Subsequently, shadow studies were prepared by the Project Sponsor's shadow consultant, PreVision Design. The shadow cast on Jefferson Square Park by 950 Gough was discussed by the Recreation and Park Commission in its public hearing meeting held on August 20, 2015. At the meeting, the Recreation and Park Commission made a recommendation to the Planning Commission that there would not be any adverse shadow impacts on Jefferson Square Park. Since that time, the Project was revised in its design. The new design has a slightly smaller shadow in a similar, yet slightly modified area of the Park. The Recreation and Park Department staff's recommendation to its Commission was that the revised Project and shadow analysis are not substantively different from the Project reviewed in August 2015 (see attached staff report from the Recreation and Park Department).

- S. **Transit Impact Development Fee.** Sections 411 through 411.9 authorize the imposition of certain development impact fees on new non-residential development projects to offset impacts on the transit system. Land use categories for all impact fees are defined in Section 401.

The Project Sponsor will comply with the requirements of this section prior to the issuance of a Site Permit.

- T. **Affordable Housing.** Planning Code Section 415 states that all projects that include ten or more units must participate in the Inclusionary Affordable Housing Program. Of the total number of proposed dwelling units, the project shall provide 12 percent on-site affordable units.

The Project proposes 11 on-site affordable housing/BMR units, which equals 12 percent of the 95 dwelling units proposed at the site (see Inclusionary Affordable Housing Program Findings below).

- U. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

6. **Inclusionary Affordable Housing Program Findings.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 15% of the proposed dwelling units as affordable. Pursuant to San Francisco Charter Section 16.110 (g), adopted by the voters in November, 2012, beginning on January 1, 2013, the City shall reduce by 20% the on-site inclusionary housing obligation for all on-site projects subject to the Inclusionary Affordable Housing, but in no case below 12%. Thus, under Charter Section 16.110 (g) all the on-site requirements here are reduced by 3% (20% of 15%) to 12%.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the