



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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Planning Commission Motion No. 18460

HEARING DATE: OCTOBER 6, 2011

Date: September 22, 2011
Case No.: **2011.0567VX**
Project Address: **300 GRANT AVENUE (aka 272 AND 290 SUTTER STREET)**
Zoning: C-3-R (Downtown Retail) District
 80-130-F Height and Bulk District
Block/Lot: 0287/013 and 014
Project Sponsor: Steve Atkinson, Attorney for 290 Sutter, LP
 Luce, Forward, Hamilton and Scripps, LLP
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ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A DETERMINATION OF COMPLIANCE UNDER PLANNING CODE SECTION 309 TO EXTEND THE PERFORMANCE PERIOD FOR THREE YEARS FOR A PREVIOUSLY APPROVED PROJECT, TO ALLOW CONSTRUCTION OF A 10-STORY BUILDING CONTAINING APPROXIMATELY 45 DWELLING UNITS, 16,000 SQUARE FEET OF GROUND- AND SECOND-FLOOR RETAIL SPACE, AND UP TO 40 OFF-STREET PARKING SPACES AT 300 GRANT AVENUE, LOTS 013 AND 014 IN ASSESSOR'S BLOCK 0287, WITHIN THE C-3-R ZONING DISTRICT, THE 80-130-F HEIGHT AND BULK DISTRICT, THE KEARNY-MARKET-MASON-SUTTER CONSERVATION DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 1, 2011, Steve Atkinson, acting on behalf of 290 Sutter LP ("Project Sponsor"), submitted a request (Case No. 2011.0567XV) with the City and County of San Francisco Planning Department ("Department") for an amendment to the conditions of approval for a previously approved project in order to extend the performance period for three years. The project was originally approved by the Planning Commission ("Commission") on June 12, 2008 (Case No. 2004.1245!EKVX, Motion No. 17615), and would construct a 10-story building containing approximately 45 dwelling units, 16,000 square feet of ground- and second-floor retail space, and up to 40 off-street parking spaces, located at 300 Grant Avenue (aka 272 and 290 Sutter Street) ("Project Site"), within the C-3-R Zoning District, the 80-130-F

Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District (collectively, "Project").

At the hearing on June 12, 2008, the Commission granted exceptions for the Project under Planning Code Section 309, including rear yard, off-street parking, building height, and building bulk.

At the same hearing on June 12, 2008, the Zoning Administrator granted Variances from Planning Code requirements for dwelling unit exposure and projections over streets and alleys.

On January 27, 2007 a Preliminary Mitigated Negative Declaration ("PMND") for the Project was prepared and published for public review. Two appeals of the MND were filed with the Department. On July 12, 2007, the Commission held a duly noticed public hearing at a regularly scheduled meeting on Determination of Compliance Application No. [Case No. 2004.1245X] and the Appeal of the Preliminary Mitigated Negative Declaration, Case No. 2004.1245E. At this hearing, the Commission declined to uphold the PMND pending changes to the document, and potentially, to the project. The Applicant made modifications to the Project including architectural design changes, and an Amended Mitigated Negative Declaration ("AMND") was published to address the Project revisions as well as the Commission's comments.

On June 12, 2008, the Commission upheld the AMND, as amended, and approved the issuance of the Final Mitigated Negative Declaration ("FMND") as prepared by the Planning Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31. The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2004.1245E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action. Since the FMND, as amended, was published, there have been no substantial project changes and no substantial changes in project circumstances that would change the conclusions set forth in the FMND.

An appeal of the FMND was filed with the Board of Supervisors on July 2, 2008. At a duly noticed public hearing on August 12, 2008, the Board of Supervisors upheld the FMND in Motion No. M08-135.

On October 6, 2011, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2011.0567VX.

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 three-year extension of the performance period requested in Application No. 2011.0567VX, subject to the conditions of Motion No. 17615 and 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.
2. **Site Description and Present Use.** The project site is located on the northeast corner of Grant Avenue and Sutter Street in Assessor's Block 0287, Lots 013 and 014. The site is also accessible from Harlan Place, an alley that connects to Grant Avenue and Bush Street between Grant and Kearny. The property is located within the C-3-R (Downtown Retail) Zoning District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter ("KMMS") Conservation District. The project site contains two existing buildings; a one-story, 3,600-square-foot building at 272 Sutter Street, and a four-story, 32,000-square-foot building at 290 Sutter. The existing buildings on the project site are unrated in the KMMS Conservation District. The existing buildings are occupied by retail and office uses.
3. **Surrounding Properties and Neighborhood.** The Project site is located in the Downtown San Francisco area approximately two blocks east of Union Square. To the west across Grant Avenue are a shoe store, a hair salon, an antique business, a hotel with ground-floor restaurant, and a landmark building that houses residential condominiums and ground-floor retail. To the north across Harlan Place is a wine bar and card shop with a hotel on the upper floors. BART and MUNI stations are located nearby to the south. The Project site is well served by transit of all varieties.

The Project site is located in the Downtown Area Plan of the General Plan, which contains objectives concerning provision of adequate space for commerce, retail, and offices. The land uses in the surrounding area include mainly retail stores, restaurants, and bars on the ground floor, with offices, residences, and hotels on the upper floors. The Project is consistent with the surrounding uses in the area and is compatible with the architectural character and height of surrounding buildings within the Kearny-Market-Mason-Sutter Conservation District as set forth in Article 11 of the Code.

4. **Project Description.** The project sponsor requests an amendment to the conditions of approval for a previously approved project in order to extend the performance period for three years (to October 6, 2014). The project was originally approved by the Planning Commission and the Zoning Administrator on June 12, 2008, and would construct a new 10-story building containing approximately 45 dwelling units, 16,000 square feet of ground- and second-floor retail space, and up to 40 off-street parking spaces (Case No. 2004.1245!EKVX, Motion No. 17615). No modifications are proposed to the design or intensity of the project as originally approved.
5. **Public Comment.** Staff has received one letter from the Union Square Business Improvement District in support of the requested extension of entitlements.

6. This Commission adopts the findings of the previous Planning Commission Motion No. 17615, as though fully set forth herein.
7. 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.
8. The Commission finds that, given the continuing weakness in the real estate market and the associated difficulties in securing financing, which is beyond the control of the Project Sponsor, and given the merits of the proposed Project, it is appropriate to amend condition of approval No. 2(F)(1) of Planning Commission Motion No. 17615 to extend the performance period of the Project to October 6, 2014.
9. On balance, the Commission hereby finds that approval of the proposed amendment to condition of approval No. 2(F)(1) of Planning Commission Motion No. 17615 in this case 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 Determination of Compliance Application No. 2011.0567VX** subject to the following conditions attached hereto as "EXHIBIT A," and subject to the Conditions of Approval of Planning Commission Motion No. 17615, as amended by this approval to modify Condition 2(F)(1) to extend the performance period of the project to October 6, 2014.

The Planning Commission further finds that since the Mitigated Negative Declaration ("MND") was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 6, 2011.

Linda D. Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel, Moore, Olague, and Sugaya

NAYS: None

ABSENT: None

ADOPTED: October 6, 2011

EXHIBIT A

AUTHORIZATION

This authorization is to extend the performance period under Motion No. 17615 until October 6, 2014, for a project located at 300 Grant Avenue (aka 272 and 290 Sutter Street), Assessor's Block 0287, Lots 013 and 014, within the C-3-R District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District, to construct a 10-story building containing approximately 45 dwelling units, 16,000 square feet of ground- and second-floor retail uses, and up to 40 off-street parking spaces, and subject to conditions of approval reviewed and approved by the Commission on June 12, 2008 under Motion No. 17615, as amended by the Planning Commission on October 6, 2011 under Motion No. 18460. 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 June 12, 2008 under Motion No. 17615, as amended by the Planning Commission on October 6, 2011 under Motion No. 18460.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18460 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 Determination of Compliance 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 Determination of Compliance authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion, amending the expiration date of the performance specified the approval granted per Motion No. 17615 (until October 6, 2014). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Determination of Compliance is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

MONITORING

2. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.