



SAN FRANCISCO PLANNING DEPARTMENT

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| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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Planning Commission Motion No. 18551

HEARING DATE: FEBRUARY 23, 2012

Date: February 16, 2012
Case No.: **2011.0929C**
Project Address: **1401 HOWARD STREET**
Zoning: SLR (Service/Light Industrial/Residential) Zoning District
Western SOMA Special Use District
50-X Height and Bulk District
Block/Lot: 3517/035
Project Sponsor: Chris Foley
1401 Development Partners LP
P.O. Box 77081
San Francisco, CA 94107
Staff Contact: Richard Sucre – (415) 575-9108
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 316, 803.9(a), AND 816.48 OF THE PLANNING CODE TO CONVERT A CHURCH TO OFFICE, RETAIL AND ASSEMBLY USE WITHIN THE SLR (SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL) DISTRICT, WESTERN SOMA SPECIAL USE DISTRICT, AND A 50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On August 25, 2011, Chris Foley of 1401 Development Partners LP (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303, 316, 803.9(a), and 816.48 of the Planning Code to convert a church into office, retail and assembly space within the SLR (Service/Light Industrial/Residential) Zoning District, Western SOMA Special Use District and a 50-X Height and Bulk District.

On February 2, 2012, the San Francisco Historic Preservation Commission conducted a duly notice public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0929C, in order to provide a recommendation to the San Francisco Planning Commission on the project’s feasibility to preserve the subject building.

On February 23, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0929C.

The project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption. The Commission has reviewed and concurs with said determination. The categorical exemption and all pertinent documents may be found in the files of the Planning Department (hereinafter "Department"), as the custodian of records, at 1650 Mission Street, San Francisco.

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 authorizes the Conditional Use requested in Application No. 2011.0929C, 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.
2. **Site Description and Present Use.** The project is located on the southwest corner of 10th and Howard Streets, Block 3517, Lot 035. The subject property is located within the SLR (Service/Light Industrial/Residential) Zoning District, Western SOMA Special Use District, and a 50-X Height and Bulk District. The subject property is developed with a three-story church that has been largely vacant since the early 1990s. The subject property is Landmark No. 120, which is listed in Article 10 of the San Francisco Planning Code.
3. **Surrounding Properties and Neighborhood.** The area surrounding the project site is mixed-use in character. A variety of residential uses, commercial establishments, and light industrial properties are located within the surrounding area, including several apartment buildings, an appliance store, a storage facility, a residential enclave (off of nearby Kissling Street), a paper store, and several automotive repair facilities, . Also located within the immediate vicinity are a church, preschool, and an elementary school, which directly abut the subject property. Along Howard Street, buildings in the immediate vicinity typically range from two to four stories in height, and contain residential, commercial or light industrial uses, including automotive repair, storage and retail. Along 10th Street, buildings in the immediate vicinity are predominantly two-

stories tall, and largely light industrial in character. All of the parcels surrounding the subject property are also located within the SLR Zoning District.

4. **Project Description.** The project proposes to convert an existing church into office, retail, and assembly space, along with interior and exterior alterations. The proposed project would result in 18,260 square feet (sf) of office space; 1,300 sf of retail space; and 2,500 sf of assembly space. Key components of the proposed project include: repair and rehabilitation of the exterior, a seismic strengthen of the existing church and construction of an interior free-standing mezzanine. The project would utilize the California Historic Building Code (CHBC), and would also pursue Federal Rehabilitation Tax Incentives and New Markets Tax Credits.
5. **Public Comment.** The Department received numerous phone inquiries and one letter of support regarding the proposal. The inquiries primarily focused upon requests for additional information and clarification of the assembly use. The Department has conveyed that the assembly use is not authorization for nighttime entertainment activities.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Commercial Uses in Mixed Use Districts.** Planning Code Section 803.9(a) states that any use which is permitted as a principal or conditional use within the SSO (Service/Secondary Office) Zoning District, excluding nighttime entertainment, may be permitted as a conditional use in "landmark building outside a designated historic district." For all such buildings the following conditions shall apply:
 - (1) the provisions of Sections 316 through 318 of this Code must be met;
 - (2) in addition to the conditional use criteria set out in Sections 303(c)(6) and 316 through 316.8, it must be determined that allowing the use will enhance the feasibility of preserving the landmark, significant or contributory building; and
 - (3) the landmark, significant or contributory building will be made to conform with the San Francisco Building Code standards for seismic loads and forces which are in effect at the time of the application for conversion of use.

The subject building at 1401 Howard Street is Landmark No. 120 and is listed in Article 10 of the San Francisco Planning Code. It is located within the SLR Zoning District, which is outside of the SSO (Service/Secondary Office) Zoning District.

Further, the proposal was reviewed by the Historic Preservation Commission on February 1, 2012, and was determined to enhance the feasibility of preserving the subject building, as documented in HPC Resolution No. 0671.

The proposed project includes a seismic strengthening of the existing church, which will add new shotcrete shear walls to the interior and corner towers.

- B. **Open Space.** Planning Code Section 135.3 states that 1 sq. ft. per 90 sq. ft. of occupied floor area of new, converted or added square footage will be required for office uses, as defined in Planning Code Section 890.70, in South of Market Mixed Use Districts.

Per this planning code requirement, the project must provide approximately 202 sq. ft. of open space. The proposed project meets this requirement and provides open space along the west facade.

- C. **Parking.** Planning Code Section 151 states that one off-street parking space is required for each 500 sq. ft. of occupied floor area where the occupied floor area exceeds 5,000 sq. ft for business office use.

As a landmark listed in Article 10 of the San Francisco Planning Code, there is no minimum off-street parking requirement for the subject building, per Planning Code Section 161(k).

- D. **Street Trees.** Planning Code Section 138.1 states that one street tree for each 20 ft of frontage of the property along each street is required for projects involving the addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building.

The proposed project will construct an interior mezzanine level, which will add gross floor area in excess of 20 percent of the existing gross floor area. Therefore, the project is required to provide seven street trees along Howard Street and eight street trees along 10th Street. Currently, the proposed project meets this requirement.

- E. **Bicycle Parking.** Planning Code Section 155.4(d) states that six bicycle parking spaces are required for commercial buildings involving major renovations where the gross square footage of the floor area exceeds 20,000 sq ft but is no greater than 50,000 sq ft.

The project will result in a total of 22,060 gsf of office, retail and assembly space, and is required to provide six bicycle parking spaces (either Class 1 or Class 2). Currently, the proposed project meets this requirement.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- (1) The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed project will convert a church into office, retail and assembly space. Currently, the church is already classified as an assembly use, and the proposed project will reduce the amount of assembly use within the existing building. The size and intensity of the new office and retail uses are necessary and desirable for this neighborhood and the surrounding community because they will allow for the rehabilitation of a historic landmark and add new site amenities that will contribute to the character of the surrounding neighborhood. The immediate area is extremely varied in character and features a variety of uses, including light industrial, commercial, and residential. The subject building is an icon within the surrounding neighborhood due to its historic character, height, and location. The new office and retail uses will complement the mix of goods and services currently available in the surrounding district and will contribute to the economic vitality of the neighborhood by preserving, rehabilitating and restoring a historic landmark, which is a positive contribution to the neighborhood.

- (2) That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The height and bulk of the existing church will remain the same. The proposed project will preserve and rehabilitate the exterior and interior of the subject building, including the exterior façade and landscape elements, and will add new floor area within the interior. Overall, this work will be beneficial to the surrounding neighborhood and the historic landmark.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking for the proposed project because the subject property is a historic landmark. The proposed project would not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project will comply with the City's requirements to minimize noise, glare, odors, or other harmful emissions. Conditions of approval are included to address potential issues.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The proposed project will add new historically-appropriate lighting on the exterior and will also rehabilitate the existing landscaping and perimeter by repairing the existing fences and adding new street trees. This work will be beneficial to the surrounding neighborhood because it will provide new street improvements, lighting, and vegetation. As determined by the Historic Preservation Commission, the landscape and site treatment is historically appropriately, as documented in Certificate of Appropriateness Motion No. 0148. The proposal will not include loading or service areas, unusual lighting or signage.

- (3) That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The proposed project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- (4) That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is not located within a Neighborhood Commercial District.

- 8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY

Objectives and Policies

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGE.

Policy 3.4:

Assist newly emerging economic activities.

The Project will introduce a new office use within the neighborhood and will enhance the diverse economic base of the City. Further, this new office use will be targeted towards "incubator" office tenants and the high tech industry.

URBAN DESIGN

Objectives and Policies

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWING.

Policy 2.4:

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5:

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

The Project will preserve and reuse San Francisco City Landmark No. 120.

SOMA AREA PLAN

AREA LIVABILITY

Objectives and Policies

OBJECTIVE 7:

PRESERVE EXISTING AMENITIES WHICH MAKE THE SOUTH OF MARKET A PLEASANT PLACE TO LIVE, WORK AND VISIT.

Policy 7.4:

Preserve individual architecturally and/or historically significant buildings which contribute to the area's identity, give visual orientation, and which impart a sense of continuity with San Francisco's past.

Policy 7.5:

Provide incentives for preservation of landmark quality buildings and contributory buildings in historic districts.

Generally, the SOMA Area Plan encourages the preservation and reuse of historic building and encourages the adaptive reuse of these buildings for office use. The proposed project is consistent with the policies and objectives of the SOMA Area Plan. The proposed project will contribute to the economic diversity and mixed-use character of the neighborhood and will reuse and restore a City Landmark.

9. **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 will not significantly affect any neighborhood serving retail uses, as numerous retail uses will still be present in the area. The proposal will introduce a new retail use to the area, which will likely be a café or coffee shop. Currently, the immediate area does not possess many of these types of businesses.

- 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 will not impact the existing housing or neighborhood character, which already includes residential, commercial, and light industrial uses.

- C. That the City's supply of affordable housing be preserved and enhanced,

The proposal will not impact any of the existing housing.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposal will not alter the existing commuter traffic patterns. The existing building is within walking distance to public transportation options. The location of the site will enable employees and visitors to the building to walk, bike, or use public transit. Parking is not required per Planning Code Section 161(k).

- 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 proposed project will assist in maintaining a diverse economic base by introducing a new commercial use. No industrial or service sector jobs will be impacted by the proposed project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed project will conform to the structural and seismic safety requirements of the City Building Code. The proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The subject property is Landmark No. 120. As recognized by the Historic Preservation Commission in Certificate of Appropriateness Motion No. 0148 and Resolution No. 0671, the proposed project will enhance the feasibility to preserve the existing building by converting the building into office, retail and assembly use.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The proposed project will have no negative impact on existing parks and open spaces. The proposal has no impact on open spaces.

10. 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.
11. The Commission hereby finds that approval of the Conditional Use Authorization 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 Conditional Use Application No. 2011.0929C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plan on file, dated January 23, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18551. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 23, 2012.

Linda D. Avery
Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: February 23, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to convert a church to office, retail, and assembly uses located at 1401 Howard Street, Block 3517 and Lot 035 pursuant to Planning Code Section 803.9(a) within the SLR Zoning District, Western SOMA Special Use District, and a 50-X Height and Bulk District; in general conformance with information stamped "EXHIBIT B" included in the docket for Case No. 2011.0929C and subject to conditions of approval reviewed and approved by the Commission on February 23, 2012 under Motion No. 18551. 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 February 23, 2012 under Motion No. 18551.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18551 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization 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.

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

DESIGN – COMPLIANCE AT PLAN STAGE

3. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary. The Zoning Administrator may also allow the installation of planter boxes or

tubs or similar landscaping in place of trees when it is determined to be more desirable in order to make the landscaping more compatible with the character of the surrounding area.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

4. **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

5. **Revocation Due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

PARKING AND TRAFFIC

6. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than six bicycle parking spaces (either Class 1 or 2 spaces).

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

OPERATION

7. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>

8. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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