



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 18609

HEARING DATE: MAY 3, 2012

*Date:* April 26, 2012  
*Case No.:* **2012.0169 C**  
*Project Address:* **345 6<sup>TH</sup> STREET**  
*Zoning:* MUR (Mixed Use Residential)  
85-X Height and Bulk District  
*Block/Lot:* 3753/081  
*Project Sponsor:* Toby Morris  
69A Water Street  
San Francisco, CA 94133  
*Staff Contact:* Diego R Sánchez – (415) 575-9082  
[diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 134, 145.1, 151.1, 175.6(E)(1), 261.1, 271 AND 303 OF THE PLANNING CODE TO MODIFY PRIOR CONDITIONS OF APPROVAL (MOTION NO. 17855) RELATED TO “MONITORING AND VIOLATION” (ITEM 16) TO EXTEND THE TIME PERIOD TO CONSTRUCT THE PROJECT TO JANUARY 19, 2014.**

### PREAMBLE

On February 23, 2012 Toby Morris (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) under Planning Code Section(s) 134, 145.1, 151.1, 175.6(E)(1), 261.1, 271 and 303 to modify prior conditions of approval related to “Monitoring and Violation” and extend the time to construct the project to January 19, 2014.

On May 3, 2012, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0169C.

### PROJECT BACKGROUND

On September 15, 2005, Kerman Morris Architects (Project Sponsor), filed an application with the Department for Conditional Use Authorization under Planning Code Sections 134, 145.1, 151.1,

175.6(e)(1), 261.1, and 303 of the Planning Code to allow a mixed used development providing 36 dwelling units, 3,000 gross square feet of commercial space in an MUR (Mixed Use Residential) and a 85-X Height and Bulk District.

On October 23, 2008, the Planning Department reviewed, adopted and issued the Final Negative Declaration (FND) for the Project under Case 2005.0876CKV and found that the contents of said report and the procedures through which the FND was prepared, publicized, and reviewed complied with CEQA, the State CEQA Guidelines and Chapter 31.

The Planning Department, Linda Avery, is the custodian of records, and they are located in the File for Case No.2005.0876 at 1650 Mission Street, Fourth Floor, San Francisco, California.

On April 2, 2009, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2005.0876CKV, at which time the Commission reviewed and approved Motion No. 17855 with findings and conditions. Case No. 2005.0876CKV (Motion No. 17855) was approved to construct a 5-story, 54-foot tall mixed use building containing 36 dwelling units, 3,000 gross square feet of ground floor commercial space, 25 off-street parking spaces and six affordable housing units.

On May 3, 2012, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use authorization Application No. 2012.0169C.

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. 2012.0169C, 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 at the southeast corner of 6th and Shipley Streets, Lot 081 on Assessor's Block 3753. At the site there is a vacant one story office building constructed in 1973 with a 16 space surface parking lot. The 9,375 square foot site has 75 feet of frontage on 6th Street and 125 feet of frontage on Shipley Street. The property is located in the Mixed Used Residential District and an 85-X Height and Bulk District.

3. **Surrounding Properties and Neighborhood.** The Project is located in the South of Market Area neighborhood. The surrounding area is a mix of multi-family residential, light production/distribution, automotive gas, automotive service station and automotive wash uses. Multi-family residential uses are found in abundance along Shipley Street. Heights along Shipley Street near the proposed project are in the range of 30 feet. 6th Street displays a much broader mix of uses including multi-family residential and the automotive service uses as well as a much broader range of heights. Buildings range from one story automotive service uses to five story multi-family residential structures. Architectural styles of the residential structures along 6th Street display contemporary influences in façade material, fenestration and massing. Zoning Districts in the vicinity of the Proposed Project include Mixed Use Residential (MUR), Mixed Use General (MUG), Neighborhood Commercial Transit (NCT) and Service/Light Industrial (SLI).
4. **Project Description.** The proposal is an amendment to a previously approved Conditional Use authorization under Motion No. 17855 pursuant to Planning Code Sections 134, 145.1, 151.1, 175.6(E)(1), 261.1, 271 and 303 to modify prior conditions of approval to extend the time period to construct the project to January 19, 2014. The approved project is a 5-story, 54-foot tall mixed use building containing 36 dwelling units, 3,000 gross square feet of ground floor commercial space, 25 off-street parking spaces and six affordable housing units. No other changes to the project are proposed with this request
5. **History and Actions.** On April 2, 2009 the Planning Commission approved Motion 17855, an application with the Planning Department to construct a 5-story, 54-foot tall mixed use building containing 36 dwelling units, 3,000 gross square feet of ground floor commercial space, 25 off-street parking spaces and six affordable housing units. Condition of Approval No .16 deemed the authorization and rights vested under Motion 17855 void and canceled if within 3 years of the date of Motion 17855 a site permit or building permit for the Project had not been secured by Project Sponsor.
6. **Public Comment.** The Department has received no opposition from the public regarding this project.
7. **Planning Code Compliance:** The Commission finds that the Project is generally consistent with provisions of the Planning Code and as applicable for an entitled project under Planning Code Section 175.6.
  - A. **Rear Yard.** Planning Code Section 134(f) allows the rear yard requirement in Eastern Neighborhoods Mixed Use Districts to be modified or waived by the Planning Commission. In the case of the Proposed Project, as an Eastern Neighborhoods Pipeline project, the Planning Commission can modify or waive pursuant to Section 175.6

*The Project sought relief from the Rear Yard requirements through Conditional Use authorization.*

- B. **Street Frontage.** Planning Code Section 145.1(c)(3)(A) requires off-street parking at street grade to be set back at least 25 feet on the ground floor from any façade facing a street at least 30 feet in width. Planning Code Section 145.1(c)(3)(C) requires ground floor non-residential uses in the MUR District to have a minimum floor to floor height of 14 feet, as measured from grade.

*The Proposed Project sets back the off-street parking at street grade by 16 feet along Shipley Street and in excess of 25 feet along 6th Street. It also provides a 14 foot floor to floor ceiling height for the ground floor. Relief from providing the 25 foot setback along Shipley Street is being sought via Conditional Use authorization in response to the direction of the Planning Commission to augment off-street parking and reduce the setback along Shuipley Street.*

- C. **Off-Street Parking.** Planning Code Section 151.1 allows up to one car for each four dwelling units by right and up to 0.75 off-street parking spaces for each dwelling unit subject to the criteria and conditions and procedures of Section 151.1(g).
- i. Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;
  - ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;
  - iii. All above-grade parking is architecturally screened and lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code; and
  - iv. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements

*The Project proposes 25 off-street parking spaces, or 0.69 off street parking spaces for each dwelling unit. Vehicles entrances are located away from 6<sup>th</sup> Street and therefore do not unduly impact transit service, bicycle movement or overall traffic in the area. The overall urban design is not degraded by the added parking, is screened from view, meeting the intent of the parking setback requirement, and does not diminish the quality and viability of planned streetscape improvements.*

- D. **Additional Height Limits for Narrow Streets and Alleys.** Planning Code Section 261.1 requires any subject frontage upon a narrow street less than 40 feet in width to be setback at least 10 feet at the property line above a height equivalent to 1.25 times the width of the abutting narrow street. Section 261.1 also requires the southerly side

of East-West Narrow Streets to have their upper stories set back at the property line such that they avoid penetration of a sun access plane defined by an angle of 45 degrees extending from the most directly opposite northerly property line.

*The Proposed Project sets back the upper stories along Shipley Street, a street of 35 feet in width, by 15 feet where it is required. With respect to the southerly side of Shipley Street, an East-West Narrow Street, the top story intersects the sun access plane by 4 feet. The Project Sponsor is seeking relief from this Eastern Neighborhoods Control through Conditional Use authorization.*

8. **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:

- A. 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 Project is necessary and desirable because it creates 36 new dwelling units and approximately 3,000 gross square feet of commercial space as an infill development within an established urban area. The dwelling unit mix addresses the need for two bedroom units as 14, or 40%, of the total units are two bedroom units. Providing four stories of residential units above the ground floor commercial uses is generally compatible with the surrounding uses and the building's mass and scale are also in general harmony with the residential buildings along 6th Street. The Proposed Project will provide its required affordable housing on-site, will provide commercial/retail opportunities for the immediate neighborhood and will create pedestrian-oriented streetscapes along 6th and Shipley Streets, all amounting to a desirable development for the area.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

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

*The Project's corner location lends to the appropriateness of a 5 story mixed used development. The Project's scale is consistent with buildings to the west of the site along 6th Street and to the north of the site along Folsom Street. The north façade along Shipley Street conforms to the Citywide Action Plan for Housing guidelines for South of Market Area Alleys. Furthermore, the structure is situated on the lot so as to provide the open area facing the existing midblock open space pattern, thereby contributing to access to light, air and views to and from the site.*

- 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 Project will provide 25 off-street parking spaces on the ground floor. This amount is at a ratio of 0.69 off-street parking spaces per dwelling unit, an amount less than the maximum amount of 27 allowed under the Mixed Used Residential Zoning District. The project minimizes the number of curb cuts to one 10 foot curb cut on Shipley Street and eliminates an existing curb cut on 6th Street, thereby addressing concerns of pedestrian/automobile impacts upon both 6th and Shipley Streets.*

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

*The Project includes residential dwelling units and ground floor commercial units, which are not anticipated to generate any noxious or offensive emissions.*

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

*The project provides an adequate mix of private and common usable open spaces and will address lighting and signage issues in an attractive manner. No loading areas are required or provided. A total of 11 street trees will be located along the 6th and Shipley Street frontages, softening the pedestrian experience and adding an integral "green" improvement.*

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

*The Project complies with all relevant requirements and standards of the Planning Code or is seeking Conditional Use authorization and is consistent with objectives and policies of the General Plan. The Project Sponsor is seeking a rear yard modification.*

9. 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.
10. Findings contained within Motion No. 17855 are hereby incorporated into this Motion by reference.
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. 2012.0169C** subject to the following conditions attached hereto as "EXHIBIT A" 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. 18609. 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 May 3, 2012.

Linda D. Avery  
Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: May 3, 2012

## **EXHIBIT A**

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is pursuant to Planning Code Sections 134, 145.1, 157, 175.6(E)(1), 261.1, 271 and 303 to extend the performance period to January 19, 2014. The original proposal, which has not been changed, is to construct a 5-story, 54-foot tall mixed use building containing 36 dwelling units, 3,000 gross square feet of ground floor commercial space, 25 off-street parking spaces and six affordable housing units. All previous Conditions of Approval would remain and are attached as Exhibit C.

### **GENERAL CONDITIONS**

1. Performance. This authorization is valid until January 19, 2014. Any subsequent request to modify the project or performance period beyond January 19, 2014 shall be subject to provisions of the Planning Code in force at the time such application is submitted.
2. Building permits for this Eastern Neighborhoods Pipeline Project must be issued no later than January 19, 2014 in order to maintain its pipeline status.
3. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction