



SAN FRANCISCO PLANNING DEPARTMENT

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- Downtown Park Fee (Sec. 412)
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Planning Commission Motion No. 18702

HEARING DATE: SEPTEMBER 13, 2012

Date: September 6, 2012
Case No.: **2012.0358VC**
Project Address: **180 JONES STREET/181 TURK STREET**
Zoning: RC-4 (Residential-Commercial, High Density) District
 80-120-T Height and Bulk District
 North of Market Special Use District, Subarea #1
Block/Lot: 0343/014
Project Sponsor: Gabriel Ng
 Gabriel Ng + Architects
 1360 9th Avenue, Suite 120
 San Francisco, CA 94122
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ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 161(h), 253, AND 303 TO EXTEND THE PERFORMANCE PERIOD FOR THREE YEARS FOR A PREVIOUSLY APPROVED PROJECT, TO ALLOW CONSTRUCTION OF AN 8-STORY MIXED-USE BUILDING CONTAINING UP TO 37 DWELLING UNITS, APPROXIMATELY 2,700 SQUARE FEET OF GROUND FLOOR RETAIL SPACE, AND A REDUCTION IN REQUIRED OFF-STREET PARKING FOR A TOTAL OF 8 OFF-STREET PARKING SPACES, WITHIN THE RC-4 ZONING DISTRICT, THE 80-120-T HEIGHT AND BULK DISTRICT, AND THE NORTH OF MARKET SPECIAL USE DISTRICT, SUBAREA #1, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On March 21, 2012, Gabriel Ng, acting on behalf of the property owner ("Project Sponsor"), submitted a request (Case No. 2012.0358CV) 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") and Zoning Administrator on March 5, 2009 (Case No. 2005.0267CV, Motion No. 17838), and would demolish an existing surface parking lot and construct an 8-story, mixed-use development containing up to 37 residential units, approximately 2,700 square feet of ground floor retail space, and a reduction in required off-street parking for a total of 8 off-street parking spaces, located at 180 Jones Street/181 Turk Street ("Project Site"), within the RC-4 Zoning District, the 80-

120-T Height and Bulk District, and the North of Market Special Use District, Subarea #1 (collectively, "Project").

At the hearing on March 5, 2009, the Commission granted Conditional Use Authorization to allow the construction of a building over 40-feet in height within a residential zoning district with reduced parking within the North of Market Special Use District, Subarea #1.

At the same hearing on March, 5, 2009, the Zoning Administrator granted Variances from Planning Code requirements for dwelling unit exposure and a rear yard modification.

On February 11, 2009 the Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration ("PMND") in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

On March 5, 2009, the 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), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

On March 5, 2009, the Commission, by Motion No. 17838, approved the Project and adopted findings (CEQA findings) and Mitigation Measures in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Project files, including the FMND and Motion No. 17838, have been made available for review by the Commission and the public, and those files are part of the record before this Commission.

The Commission has reviewed and considered the information contained in the FMND and the findings contained in Motion No. 17838 and all written and oral information provided by the Planning Department, the public, relevant public agencies, and other experts and the administrative files for the Project.

Since the FMND was issued, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND 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 FMND.

On September 13, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0358VC.

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. 2012.0358VC, subject to the conditions of Motion No. 17838 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 is located on the southeast corner of the intersection of Jones and Turk Streets in Assessor's Block 0343, Lot 014. The property is located within an RC-4 (Residential-Commercial, High Density) District and within an 80-120-T Height and Bulk district. The vacant parcel is currently used as a surface parking lot and is located within the Uptown-Tenderloin National Register Historic District and the North of Market Special Use District, Subarea #1. The subject property is a corner lot, with approximately 57.5 feet of frontage on Turk Street and 82.5 feet of frontage on Jones Street.
3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Jones and Turk Streets. The immediate neighborhood falls within the boundaries of the Uptown-Tenderloin National Register Historic District. The project site is surrounded primarily by mixed-use and residential buildings ranging from 3 to 10 stories in height and of masonry construction. There are 6 other surface parking lots within close proximity. The Project site is well served by transit of all varieties.
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 September 13, 2015). The project was originally approved by the Planning Commission and the Zoning Administrator on March 5, 2009, and would demolish an existing surface parking lot and construct an 8-story, mixed-use development containing up to 37 residential units, approximately 2,700 square feet of ground floor retail space, and a reduction in required off-street parking for a total of 8 off-street parking spaces (Case No. 2005.0267CV, Motion No. 17838). No modifications are proposed to the design or intensity of the project as originally approved.
5. **Public Comment.** To date, staff has received no comments on the requested extension of entitlements.
6. This Commission adopts the findings of the previous Planning Commission Motion No. 17838, 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, and/or purchaser of the property, 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. 3 of Planning Commission Motion No. 17838 to extend the performance period of the Project to September 13, 2015.
9. On balance, the Commission hereby finds that approval of the proposed amendment to condition of approval No. 3 of Planning Commission Motion No. 17838 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 Conditional Use Authorization Application No. 2012.0358VC** subject to the following conditions attached hereto as "EXHIBIT A," and subject to the Conditions of Approval of Planning Commission Motion No. 17838, as amended by this approval to modify Condition 3 to extend the performance period of the project to September 13, 2015.

The Planning Commission further finds that since the Final Negative Declaration ("FMND") was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND 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 FMND.

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. 18702. 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 September 13, 2012.

Linda D. Avery
Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: September 13, 2012

EXHIBIT A

AUTHORIZATION

This authorization is to extend the performance period under Motion No. 17838 until September 13, 2015, for a project located at 180 Jones Street (aka 181 Turk Street), Assessor's Block 0343, Lot 014, within the RC-4 District, the 80-120-T Height and Bulk District, and the North of Market Special Use District, Subarea #1, to demolish an existing surface parking lot and construct an 8-story, mixed-use development containing up to 37 residential units, approximately 2,700 square feet of ground floor retail space, and a reduction in required off-street parking for a total of 8 off-street parking spaces, and subject to conditions of approval reviewed and approved by the Commission on March 5, 2009 under Motion No. 17838, as amended by the Planning Commission on September 13, 2012 under Motion No. 18702. 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 March 5, 2009 under Motion No. 17838, as amended by the Planning Commission on September 13, 2012 under Motion No. 18702.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18702 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 (until September 13, 2015), amending the expiration date of the performance period specified in the approval granted per Motion No. 17838. 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

3. **Mitigation Measures.** Mitigation measures, as referenced in the Final Mitigated Negative Declaration noted in Motion No. 17838, described in the attached Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, 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

EXHIBIT C

Mitigation Measures

The following measures are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor:

Mitigation Measure 1

Archeological Resources (Accidental Discovery)

The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in *CEQA Guidelines* Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.

If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery

program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.

Mitigation Measure 2

Hazards (Testing for and Handling of Contaminated Soil)

Step 1: Soil Testing

The project sponsor shall, prior to approval of a building permit for the project, hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the soil samples for total heavy metals (particularly lead, chromium, zinc, nickel and cadmium), polynuclear aromatic hydrocarbons (PNAs), and petroleum hydrocarbons. The consultant shall analyze the soil borings as discrete, not composite samples. The consultant shall prepare a report on the soil testing that includes the results of the soil testing and a map that shows the locations of stockpiled soils from which the consultant collected the soil samples.

The project sponsor shall submit the report on the soil testing and a fee of \$498 in the form of a check payable to the DPH, to the Hazardous Waste Program, Department of Public Health, 101 Grove Street, Room 214, San Francisco, California 94102. The fee of \$498 shall cover three hours of soil testing report review and administrative handling. If additional review is necessary, DPH shall bill the project sponsor for each additional hour of review over the first three hours, at a rate of \$166 per hour. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the soil testing report to determine to whether soils on the project site are contaminated at or above potentially hazardous levels.

Step 2: Preparation of Site Mitigation Plan

If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.

Step 3: Handling, Hauling, and Disposal of Contaminated Soils

- (a) Specific work practices: If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations) when such soils are encountered on the site. If there were excavated materials containing over one percent friable asbestos, they would be treated as hazardous waste, and would be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site.
- (b) Dust suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.
- (c) Surface water runoff control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.
- (d) Soils replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.
- (e) Hauling and disposal: Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.

Step 4: Preparation of Closure/Certification Report

After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.

Mitigation Measure 3

Hazards (Disposal of Contaminated Soil, Site Health and Safety Plan)

If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, any contaminated soils designated as hazardous waste and required by DPH to be excavated shall be removed by a qualified Removal Contractor and disposed of at a regulated Class I hazardous waste landfill in accordance with U.S. Environmental Protection Agency regulations, as stipulated in the Site Mitigation Plan. The Removal Contractor shall obtain, complete, and sign hazardous waste manifests to accompany the soils to the disposal site. Other excavated soils shall be disposed of in an appropriate landfill, as governed by applicable laws and regulations, or other appropriate actions shall be taken in coordination with the DPH.

If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, a Site Health and Safety (H&S) Plan would be required by the California Division of Occupational Safety and Health (Cal-OSHA) prior to initiating any earth-moving activities at

the site. The Site Health and Safety Plan shall identify protocols for managing soils during construction to minimize worker and public exposure to contaminated soils. The protocols shall include at a minimum:

- Sweeping of adjacent public streets daily (with water sweepers) if any visible soil material is carried onto the streets.
- Characterization of excavated native soils proposed for use on site prior to placement to confirm that the soil meets appropriate standards.
- The dust controls specified in the Construction Dust Control Ordinance (176-08).
- Protocols for managing stockpiled and excavated soils.

The Site Health and Safety Plan shall identify site access controls to be implemented from the time of surface disruption through the completion of earthwork construction. The protocols shall include as a minimum:

- Appropriate site security to prevent unauthorized pedestrian/vehicular entry, such as fencing or other barrier or sufficient height and structural integrity to prevent entry and based upon the degree of control required.
- Posting of “no trespassing” signs.
- Providing on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures.

If groundwater contamination is identified, the Site Health and Safety Plan shall identify protocols for managing groundwater during construction to minimize worker and public exposure to contaminated groundwater. The protocols shall include procedures to prevent unacceptable migration of contamination from defined plumes during dewatering.

The Site Health and Safety Plan shall include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous substances, previously unidentified contamination, or buried hazardous debris. Excavation personnel shall also be required to wash hands and face before eating, smoking, and drinking.

The Site Health and Safety Plan shall include procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures could include, but would not be limited to, investigation and removal of underground storage tanks or other hazards.

Mitigation Measure 4

Hazards (Decontamination of Vehicles)

If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, all trucks and excavation and soil handling equipment shall be decontaminated following use and prior to removal from the site. Gross contamination shall be first removed through brushing, wiping, or dry brooming. The vehicle or equipment shall then be washed clean (including tires). Prior to removal from the work site, all vehicles and equipment shall be inspected to ensure that contamination has been removed.