



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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|---|---|
| <input checked="" type="checkbox"/> Inclusionary Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 18801

HEARING DATE: FEBRUARY 7, 2013

Date: January 28, 2013
Case No.: **2013.0068X**
Project Address: **100 VAN NESS AVENUE**
Zoning: C-3-G (Downtown, General Commercial) District
200-R2 Height and Bulk District
Van Ness & Market Downtown Residential Special Use District
Block/Lot: 0814/020
Project Sponsor: Marc Babsin of
Emerald Fund, Inc. for
100 Van Ness Associates LLC
532 Folsom Street, Suite 400
San Francisco, CA 94105
Staff Contact: Aaron Hollister – (415) 575-9078
aaron.hollister@sfgov.org

ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A DETERMINATION OF COMPLIANCE AND THE GRANTING OF EXCEPTIONS (FROM THE REQUIREMENTS SET FORTH IN THE PLANNING CODE FOR "LOT COVERAGE IN THE VAN NESS & MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT" AND "LIMITATION ON RESIDENTIAL ACCESSORY PARKING") PURSUANT TO SECTION 309 OF THE PLANNING CODE TO REDUCE THE PERCENTAGE OF ON-SITE AFFORDABLE UNITS FROM 15% TO 12% PURSUANT TO SAN FRANCISCO CHARTER SECTION 16.110 (g)(3)(C) FOR A PROPOSED PROJECT TO CONVERT THE SUBJECT BUILDING FROM OFFICE TO RESIDENTIAL, RENOVATE THE INTERIOR OF THE BUILDING TO CREATE UP TO 400 RESIDENTIAL UNITS AND APPROXIMATELY 6,884 SQUARE FEET OF GROUND-FLOOR RETAIL, AND RE-SKIN THE EXTERIOR OF THE BUILDING. THE BUILDING HEIGHT AND BULK WOULD NOT INCREASE. THE PROPOSED PROJECT RETAINS THE OFF-STREET PARKING GARAGE AND LOADING SPACE AND WOULD MOVE THE PARKING ENTRANCE FROM VAN NESS AVENUE TO HAYES STREET WITHIN THE C-3-G ZONING DISTRICT AND THE 200-R2 HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On January 17, 2013, , Marc Babsin of Emerald Fund, Inc. for 100 Van Ness Associates LLC ("Project Sponsor"), submitted a request (Case No. 2013.0068X) with the City and County of San Francisco Planning Department ("Department") for an amendment to the conditions of approval for a previously approved project to reduce the percentage of on-site affordable units from 15% to 12% pursuant to San Francisco Charter Section 16.110 (g)(3)(C). The project was originally approved by the Planning Commission ("Commission") on August 2, 2012 (Case No. 2012.0032X), and would change the use of the building from office to residential, renovate the interior of the building to create up to 400 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street, located at 100 Van Ness Avenue ("Project Site"), within the C-3-G Zoning District, the Van Ness & Market Downtown Residential Special Use District ("SUD") and the 200-R2 Height and Bulk District (collectively, "Project").

At the hearing on August 2, 2012, the Commission granted exceptions for the Project under Planning Code Section 309, including lot coverage in the Van Ness & Market Downtown Residential Special Use District and limitation on residential accessory parking.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Market and Octavia Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on April 5, 2007, by Motion No. 17406, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA"). The certification of the EIR was upheld on appeal to the Board of Supervisors at a public hearing on June 19, 2007. The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Market and Octavia Area Plan, the Commission adopted CEQA Findings in its Motion No. 17406 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, and (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (CEQA), on July 19, 2012, the Planning Department of the City and County of San Francisco determined that the proposed application was exempt from further environmental review per Section 15183 of the CEQA Guidelines and California Public Resources Code Section 21083.3 (“the Exemption”). The Project is consistent with the adopted zoning controls in the Market and Octavia Area Plan and was encompassed within the analysis contained in the Final EIR. Since the Final EIR was finalized, there have been no substantial changes to the Market and Octavia Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR 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 Final EIR. The file for this project, including the Market and Octavia Area Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California; and

The Project files, including the Exemption dated July 19, 2012, have been made available for review by the Commission and the public, and those files are part of the record before this Commission; and

The Commission has reviewed and considered the information contained in the Exemption and the findings contained in Motion No. 18682 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 Exemption was issued, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Exemption 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 Exemption.

On February 7, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2013.0068X.

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 reduction in the percentage of on-site affordable units from 15% to 12% pursuant to San Francisco Charter Section 16.110 (g)(3)(C) as requested in Application No. 2013.0068X, subject to the conditions of Motion No. 18682 and the conditions contained in “EXHIBIT A” of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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. **Project Description.** The Project would change the use of the subject building from office to residential, renovate the interior of the building to create up to 400 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage with 112 off-street parking spaces, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street. Six new off-street parking spaces for the residential units would be added by the Project within the existing parking area. No physical expansion of the building is proposed or would be required to accommodate the Project. The dwelling units would be offered as rental units and the inclusionary affordable housing would be provided on-site.
3. **Site Description and Present Use.** The project site is located at the northeast intersection of Van Ness Avenue and Fell Street on Assessor's Block 0814, Lot 020. The approximate 15,500 square-foot project site is currently developed with a 29-story, 400-foot tall office building that was constructed in 1973 and occupies the entire site area. Existing uses in the building include approximately 421,005 gross square feet of office use, 5,122 gross square feet of ground-floor retail, 112 off-street parking spaces accessed from Van Ness Avenue and two loading spaces accessed from Fell Street.
4. **Surrounding Properties and Neighborhood.** The project is located in Market & Octavia Plan Area and the Civic Center neighborhood of San Francisco. The Beaux Arts core of the Civic Center, which includes City Hall and the War Memorial building group, is approximately one block north of the project site. The Civic Center area largely serves as a home to a clustering of local, state and federal offices, as well as a regional center for arts, entertainment, cultural and institutional uses such as the San Francisco Symphony, Opera, Ballet, the Asian Art Museum and the Bill Graham Civic Auditorium.

The scale of development varies greatly in the vicinity of the project site, with the current height limits in the area ranging from 50 to 400 feet. Permitted heights and the prevailing scale of development in the immediately surrounding area are diverse. A stronger residential presence is starting to develop in the area with the completion of projects at 77 Van Ness Avenue and One Polk, both of which are less than one block from the project. Several other residential projects are planned or under construction in the general vicinity of the project inclusive of the 250-unit Fox Plaza expansion at 1390 Market Street, the 754-unit 10th/Market Development, the 162-unit 101 Polk Street project and the 180-unit 1540 Market Street project.

5. **Public Comment.** The Department has received a letter of support dated January 25, 2013 from the Mayor's Office of Housing. The Department has not received any other public comment.
6. This Commission adopts the findings of the previous Planning Commission Motion No. 17893, 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, as advised by the Mayor's Office of Housing, finds that the proposed on-site affordable housing reduction request is consistent with and meets the intent of San Francisco Charter Section 16.110(g)(3)(C), and furthermore, finds it is appropriate to amend Conditions 23-26 of Planning Commission Motion No. 18682 to reduce the percentage of on-site affordable units from 15% to 12%.
9. On balance, the Commission hereby finds that approval of the proposed amendment to Conditions of Planning Commission Motion No. 18682 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 Section 309 Determination of Compliance and Request for Exceptions Application No. 2013.0068X** subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 18682, including the Mitigation Monitoring and Reporting Program, as amended by this approval to modify Conditions 23-26 to reduce the percentage of on-site affordable units from 15% to 12%.

The Commission has reviewed and considered the Exemption and the record as a whole, and finds that the Exemption is adequate for the action taken herein and incorporates the CEQA findings contained in Motion No. 18682 by this reference thereto as though set forth in this Motion. The Planning Commission further finds that since the Exemption was issued, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Exemption 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 Exemption.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions 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 adoption of this Motion if not appealed (after the 15-day period has expired) 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, 3rd Floor (Room 304) or call 575-6880.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 7, 2013

Jonas P. Ionin
Acting Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: February 7, 2013

EXHIBIT A

AUTHORIZATION

This authorization is to reduce the on-site affordable requirement percentage from 15% to 12% under Motion No. 18682 for a project located at 100 Van Ness Avenue, Block 0814, Lot 020, within the C-3-G District within the C-3-G (General, Downtown Commercial) District, the Van Ness & Market Residential Special Use District and the 200-R2 Height and Bulk District to create up to 400 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street, and subject to conditions of approval reviewed and approved by the Commission on August 2, 2012, under Motion No. 18682, as amended by the Planning Commission on February 7, 2013, under Motion No. 18801. 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 August 2, 2012 under Motion No. 18682, as amended by the Planning Commission on February 7, 2013 under Motion No. 18801.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18801 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 Section 309 Determination of Compliance and Request for Exceptions 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 Section 309 Determination of Compliance and Request for Exceptions.

Conditions of Approval, Compliance, Monitoring, and Reporting

PROVISIONS

- 1. Affordable Units. Requirement.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 400 units; therefore, 48 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 48 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.
- 2. Unit Mix.** The Project contains 46 studios, 203 one-bedroom, and 151 two-bedroom units; therefore, the required affordable unit mix is six studios, 24 one-bedroom, and 18 two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.
- 3. Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.
- 4. Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.
- 5. First Project Construction Document.** The Project Sponsor shall obtain the first issued project construction document (as defined in Building Code Section 107A.13.1) within one year of the approval of Motion No. 18801.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.