



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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|---|---|
| <input checked="" type="checkbox"/> Affordable 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 19097

HEARING DATE: FEBRUARY 27, 2014

Date: February 20, 2014
Case No.: **2007.0392C**
Project Address: **832 SUTTER STREET**
Zoning: RC-4 (Residential-Commercial Combined, High Density) District
80-A Height and Bulk District
Block/Lot: 0281/003
Project Sponsor: John Kevlin
Reuben, Junius, and Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94124
Staff Contact: Kevin Guy – (415) 558-6163
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION TO ALLOW DEVELOPMENT EXCEEDING 50 FEET IN HEIGHT WITHIN AN RC DISTRICT, PURSUANT TO SECTIONS 253 AND 303 OF THE PLANNING CODE, FOR A PROJECT TO DEMOLISH AN EXISTING SURFACE PARKING LOT AND CONSTRUCT A NEW SIX-STORY BUILDING CONTAINING APPROXIMATELY 20 DWELLING UNITS, 400 SQUARE FEET OF GROUND-FLOOR COMMERCIAL USES, AND NO OFF-STREET PARKING SPACES, ON A PROPERTY LOCATED AT 832 SUTTER STREET, LOT 003 IN ASSESSOR'S BLOCK 0281, WITHIN THE RC-4 DISTRICT AND THE 80-A HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On January 7, 2013, John Kevlin, acting on behalf of Ed and Margaret Duffy ("Project Sponsor"), filed an application with the Planning Department ("Department") for Conditional Use Authorization to allow development exceeding 50 feet in height under Planning Code Sections ("Sections") 253 and 303 to allow a project that would demolish an existing surface parking lot and construct a new six-story mixed-use building containing approximately 20 dwelling units, 400 square feet of ground-floor commercial uses, and no off-street parking spaces, located at 832 Sutter Street ("Project Site"), Lot 003 in Assessor's Block 0281, within the RC-4 (Residential-Commercial Combined, High Density) District and the 80-A Height And Bulk District (collectively, "Project", Case No. 2007.0392C).

On April 30, 2013, the Project Sponsor submitted a request for a modification of the parking requirements of Section 151, to provide no parking spaces where five are required for the Project, pursuant to the process identified in Section 161(j) and 307(i).

On February 20, 2014 the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 32 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project.

On February 27, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0392C.

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. 2007.0392C, 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 north side of Sutter Street, west of Jones Street, Block 2083, Lot 001. The property is located within the RC-4 (Residential-Commercial Combined, High Density) District and the 80-A Height and Bulk District. The property measures approximately 4,660 sq. ft. and is currently used as a surface parking lot.
3. **Surrounding Properties and Neighborhood.** The area surrounding the Project Site is mixed-use in character. The site is located within the Lower Nob Hill neighborhood, an area characterized by high-density residential development, including numerous residential hotels. Retail uses are often found on the ground floors of residential buildings, although retail frontage is not continuous on all streets. Processions of storefronts are interrupted by ground-floor dwelling units, residential lobbies and elevated entries, and utilitarian building service spaces. The project site is also located within the Lower Nob Hill Apartment Hotel District.

The scale of development varies in the vicinity of the project site. Older buildings in the immediate area are generally four to eight stories in height. Some taller residential towers of more recent construction are interspersed among the older mid-rise structures. Tall hotel structures, such as the Hotel Nikko and the Hilton can be found in the blocks near Union Square to the southeast.

The Polk Street Neighborhood Commercial District (NCD) is located to the west, located in the gulch between Nob Hill, Russian Hill, and Pacific Heights. The Polk Street NCD provides convenience goods and services to the residents of the Polk Gulch neighborhood and the west slopes of Nob and Russian Hill. The district has a very active and continuous commercial frontage along Polk Street, while the side streets have a greater proportion of residences. The Union Square retail area is located to the east, characterized by an intense mixture of retail, restaurant, and hotel uses that is a regional draw and one of the primary attractions for visitors to San Francisco.

4. **Project Description.** The Project proposes to demolish an existing surface parking lot and construct a new six-story mixed-use building containing approximately 20 dwelling units, 400 square feet of ground-floor commercial uses, and no off-street parking spaces.
5. **Public Comment.** When the Notice of Preparation for the project was issued in 2008, staff received correspondence in opposition to the project from several residents and business owners in the vicinity. These communications expressed concern over the loss of parking spaces in the existing surface parking lot, the lack of off-street parking in the proposed project, and damage to foundations and retaining walls on adjacent properties. It should be noted that, since these comments were received in 2008, the project has been reduced in height from 80 feet to 60 feet, and from 27 dwelling units to 20 dwelling units. Staff has not received any further correspondence in opposition since the project was revised, and has received one communication in support of the project.
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. **Use and Density.** Section 209.1 allows dwelling units within the RC-4 District at a density of one dwelling unit for each 200 square feet of lot area. Section 209.8 allows ground-floor commercial uses within the RC-4 District as a principally- or conditionally-permitted use if such a commercial use is principally- or conditionally-permitted within the NC-3 District.

The Project proposes a total of 20 dwelling units. Based on the allowable density specified by Planning Code Section 209.1, up to 23 dwelling units would be allowed on the Project Site. Therefore, the residential portion of the Project conforms to the use and density allowed by the Planning Code. The Project also proposes a separate ground-floor commercial space measuring approximately 400 square feet. No specific use or tenant is proposed for the space at this time. Uses that may be proposed for this space in the future would either be principally permitted, conditionally permitted, or not permitted, depending on the controls of the NC-3 District for the particular use being proposed.

- B. **Height and Bulk.** The subject property is located within the 80-A Height and Bulk District. Within this District, roof heights of buildings are limited to 80 feet. Maximum bulk dimensions apply to portions of the building above 40 feet in height. Above this height, the building may not exceed a length of 110', or a diagonal dimension of 125'.

The finished roof of the proposed Project would reach a maximum height of approximately 64 feet. In addition, the elevator penthouse would reach a height of approximately 10 feet above the finished roof, for a maximum structure height of approximately 74 feet. The finished roof and the elevator penthouse comply with the applicable regulations of the Code, therefore the Project complies with the maximum allowable height within the 80-A Height and Bulk District. Proposed development that exceeds 50 feet in height within the RC-4 District is subject to additional criteria, as discussed under item #7 below.

Upper portions of the fourth floor exceed 40 feet in height, therefore the fourth through sixth floors are subject to the bulk limitations of the 65-A Height and Bulk District. This District allows a maximum building length of 110 feet, and a maximum diagonal dimension of 125 feet. The fourth through sixth floors of the building have a length of approximately 103 feet. The fourth through sixth floors have a diagonal dimension of approximately 109 feet. Therefore, these floors comply with the maximum permitted length and horizontal dimensions.

- C. **Basic Floor Area Ratio.** In the RC-4 District, Section 124 allows a Floor Area Ratio (FAR) of up to 4.8 to 1. The Project Site has an area of 4,660 square feet, therefore the allowable FAR would permit a building of up to 22,368 square feet of Gross Floor Area as defined in Code Section 102.9.

The Project proposes approximately 20,500 square feet of Gross Floor Area, and therefore complies with the maximum allowable FAR.

- D. **Rear Yard.** Section 134(a) (1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at the first residential level, and at every succeeding story. The Project Site has a lot depth of 137.5 feet, therefore a rear yard measuring 34 feet, 4.5 inches in depth is required.

The Project proposes a rear yard measuring 34 feet, 4.5 inches in depth, and therefore complies with the rear yard requirements of the Planning Code.

- E. **Usable Open Space.** Section 135 requires that a minimum amount of usable open space be provided for dwelling units within the Polk Street NCD. This Section specifies that an outdoor area must meet minimum requirements for area, horizontal dimensions, and exposure to light and air to be considered usable open space.

The Code requires that 47.9 square feet of common usable open space be provided for each dwelling unit within the RC-4 District. The Project therefore must provide a minimum of 958 square feet of common open space. The Project proposes a rear yard that measures approximately 1,166 square feet, and therefore complies with the open space requirements of the Planning Code.

Section 135 requires that, to qualify as usable open space, the area must either face a street, face or be within a rear yard, or face or be within other space within the property that meets certain criteria for dimensions and exposure to light and air. The common open space in the Project complies with these criteria.

- F. **Street Trees.** Section 138 requires the planting of a minimum of one tree of 24-inch box size for each 20 feet of street frontage of the property, with any remaining fraction of 10 feet or more of frontage requiring an additional tree.

The Project Site has approximately 34 feet of frontage on Sutter Street, therefore, two street trees are required. Conditions of approval have been added requiring the planting of trees in accordance with these requirements, and that the location of the trees be identified as part of the building permit review process.

- G. **Dwelling Unit Exposure.** Section 140 requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

All of the dwelling units face either onto Sutter Street or the rear yard. Therefore, the Project complies with the Planning Code requirements for dwelling unit exposure.

- H. **Off-Street Parking.** Section 151 establishes off-street parking requirements for all uses in all districts. Pursuant to this Section, within the RC-4 District, one independently accessible space is required for each four dwelling units, as well as additional parking for commercial uses that exceed 5,000 square feet of occupied floor area. 150% of the required parking is permitted as accessory parking. The project proposes 20 dwelling units, and approximately 400 square feet of retail space (less than 5,000 square feet). The Project therefore requires five independently accessible parking spaces

The Project proposes no off-street parking spaces. The sponsor has requested a Parking Reduction to waive the required parking spaces, in accordance with Sections 161(j) and 307(i). This request will be considered administratively by the Zoning Administrator. However, the Project appears to meet the specified criteria of Section 307(i), as follows:

- a. The reduction in the parking requirement is justified by the reasonably anticipated automobile usage by residents of and visitors to the project.
- b. The reduction in the parking requirement will not be detrimental to the health, safety, convenience, or general welfare of persons residing in or working in the vicinity.
- c. The minimization of conflict of vehicular and pedestrian movements.
- d. The availability of transportation modes other than the automobile.
- e. The pattern of land use and character of development in the vicinity.

The Project is not expected to result in a substantial net increase in vehicular traffic, and would not negatively affect transit services or have significant adverse impacts on pedestrians or bicyclists. The Project Site is located within a vibrant district where many convenience goods and services are available within walking distance. The Project Site is within walking distance of the Financial District, and nine Muni lines are available within three blocks. Therefore, residents of the Project will be able to commute via means other than private automobile use. The area is characterized by dense residential uses situated over

ground-floor commercial spaces. Providing parking for the Project would likely require the removal of the retail space, resulting in a less active and pedestrian-oriented streetscape.

- I. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market.

Pursuant to Section 152, residential uses with less than 100,000 square feet of gross floor area and retail uses with less than 10,000 square feet of gross floor area require no off-street freight loading spaces. The project proposes approximately 20,100 square feet of residential uses and approximately 400 square feet of retail uses. Therefore, no off-street freight loading spaces are required or provided.

- J. **Shadows on Parks.** Pursuant to Section 295, no building permit authorizing the construction of any structure exceeding 40 feet in height that will cast any shade or shadow upon any property under the jurisdiction of the Recreation and Park Commission during the times of one hour after sunrise and one hour before sunset, all year round, may be issued except on prior action of the Commission pursuant to the provisions of this Section. The Commission must conduct a hearing and must disapprove the issuance of any building permit governed by the provisions of this Section if it finds that the proposed project will have any adverse impact on the use of the property under the jurisdiction of the Recreation and Park Commission because of the shading or shadowing that it will cause, unless it is determined that the impact would be insignificant.

To determine whether this proposed project would conform to Section 295, a preliminary shadow fan was prepared by Department staff. The shadow fan indicated no potential shadow cast by the Project on properties under the Recreation and Park Commission. The Project therefore complies with Section 295.

- H. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 15% of the proposed dwelling units as affordable. Pursuant to San Francisco Charter Section 16.110 (g), adopted by the voters in November, 2012, beginning on January 1, 2013, the City shall reduce by 20% the on-site inclusionary housing obligation for all on-site projects subject to the Inclusionary Affordable Housing, but in no case below 12%. Thus, under Charter Section 16.110 (g) all the on-site requirements here is reduced by 3% (20% of 15%) to 12%.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department

stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project. The Project Sponsor submitted such Affidavit on January 30, 2014. The EE application was submitted on April 19, 2007. Pursuant San Francisco Charter Section 16.110 (g) the 15% on-site requirement stipulated in Planning Code Section 415.6, is reduced by 3% (20% of 15%) to 12%. Two one-bedroom units of the 20 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

7. **Planning Code Section 253** specifies that, because the Project exceeds 50 feet in height within an RC District, the Commission shall consider the expressed purposes of the Code, of the RC Districts, and of the height and bulk districts.

- a. **RC-4 (Residential-Commercial, High Density) District.** Section 206.3 describes that the RC-4 District contains, "...a mixture of high-density dwellings similar to those in RM-4 Districts with supporting commercial uses."

The Project would add 20 dwelling units and ground-floor retail space in a manner that is appropriate for the context of the Project Site. The retail uses would provide goods and services to residents and visitors in the area, and would activate the adjacent public rights-of-way. The Project is compatible with the dense mixed-use character of the surrounding area.

- b. **80-A Height and Bulk District.** Section 251 establishes that the general purposes of the height and bulk district are to relate the scale of new development to be harmonious with existing development patterns and the overall form of the City, respect and protect public open spaces and neighborhood resources, and to synchronize levels of development intensity with an appropriate land use and transportation pattern.

The existing development in the area surrounding the Project site is varied in scale and intensity. On the subject block, the majority of buildings are five to six stories in height. At a height of six stories, the Project represents an appropriately scaled infill that respects the prevailing character of the block and of the neighborhood beyond. The Project also includes a code-complying rear yard, which will contribute to the pattern of mid-block open space which occurs within the subject block. The Project has been designed to sensitively related to the surrounding context of the Lower Nob Hill Apartment Hotel District.

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 will add housing opportunities at a density that is suitable for an intensely-developed urban context served by ample public transit and retail services. By targeting infill residential development at such locations, residents of the Project will be able to walk, bicycle, or take transit to commute, shop, and meet other needs without reliance on private automobile use. The proposed ground floor retail will link the procession of commercial uses between the Polk Street corridor and the shopping district around Union Square, activating the streetscape and creating visual interest for pedestrians.

The existing development in the area surrounding the Project site is varied in scale and intensity. Older buildings in the immediate area are generally four to eight stories in height. Some taller residential towers of more recent construction are interspersed among the older mid-rise structures. On the subject block, the majority of buildings are five to six stories in height. At a height of six stories, the Project represents an appropriately scaled infill that respects the prevailing character of the block and of the neighborhood beyond.

- 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 site is a regularly-shaped lot that is adequately sized to accommodate the development. Existing development in the vicinity varies in scale, but is generally represented by an intense, urban development pattern. The Project is generally compatible with the eclectic, but intense character of the area. The at-grade rear yard strengthens a pattern of mid-block open space that exists on the subject block. The shape and size of development on the subject property will not detrimental to persons or adjacent properties in the vicinity.

- 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 is not expected to result in a substantial net increase in vehicular traffic, and would not negatively affect transit services or have significant adverse impacts on pedestrians or bicyclists. The Project Site is located within a vibrant district where many convenience goods and services are available within walking distance. In addition, the area is served by ample public transit, allowing residents to commute without reliance on private automobile use. No off-street parking is provided for the Project, and abundant transportation options are available in the area.

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

The Project includes residential and retail uses that are typical of the surrounding context, and will not introduce operational noises or odors that are detrimental, excessive, or atypical for the area. While some temporary increase in noise can be expected during construction, this noise is limited in duration and will be regulated by the San Francisco Noise Ordinance which prohibits excessive noise levels from construction activity and limits the permitted hours of work. The building will not exhibit an excessive amount of glazing or other reflective materials, therefore, the Project is not expected to cause offensive amounts of glare.

- 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 the required amount of open space within a rear yard area. The conceptual plans show landscaping within the rear yard, and street trees would be planted along the Sutter Street frontage. No off-street parking or loading is provided for the Project. Conditions of approval require that, as the Project proceeds through the review of building permits, the Project Sponsor will continue to work the Planning staff to refine details of lighting, signage, materials, and other aspects of the design.

- 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 and is consistent with objectives and policies of the General Plan as detailed in item #9 below.

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

**HOUSING ELEMENT:
Objectives and Policies**

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

The existing site is relatively underutilized, hosting a surface parking lot. The Project will not displace or demolish any existing housing, and will introduce new residential units and retail space that will strengthen the intense, mixed-use nature of the District. The area has abundant transit, commercial services, and other amenities that will accommodate increased residential densities without negatively impacting the surrounding neighborhood.

**TRANSPORTATION ELEMENT:
Objectives and Policies**

OBJECTIVE 2

**USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT
AND IMPROVING THE ENVIRONMENT.**

Policy 2.1:

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

Policy 2.2:

Reduce pollution, noise and energy consumption.

Due to the abundant transit and commercial services in the area, residents of the Project can minimize use of the private automobile to commute and meet basic needs. The Project site is suitable for accommodating dense residential development that will discourage sprawling regional development patterns that are strongly auto-oriented and contribute to greenhouse gas emissions.

**URBAN DESIGN ELEMENT:
Objectives and Policies**

OBJECTIVE 12

**IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL
SAFETY, COMFORT, PRIDE AND OPPORTUNITY**

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The ground floor of the Project includes a retail space that helps to define an attractive and vibrant pedestrian realm on Sutter Street while broadening the availability of good and services. Residents of the

Project will activate the sidewalks and open spaces in the area, and will help to support retail and service establishments in the neighborhood.

10. **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 Project will include a new commercial space that will provide local business ownership and employment opportunities. In addition, the new residents of the Project will patronize area businesses, bolstering the viability of surrounding commercial districts.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The project will not diminish the existing housing stock, and will add dwelling units in a manner that enhances the vitality of the surrounding commercial corridors.

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

The Project would add not demolish any dwelling units, and will comply with the City's Inclusionary Affordable Housing Program by providing on-site affordable units.

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

A wide variety of goods and services are available within walking distance of the Project Site. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. The Project provides no off-street parking, and will encourage transit usage and deemphasize reliance on the private automobile.

- 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 Project does not propose any commercial office development. The new development will include retail space that will provide employment and/or business ownership opportunities for area residents.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

The Project has been designed in a manner that sensitively relates to the surrounding Lower Nob Hill Apartment Hotel District.

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

The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.

11. 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.
12. 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. 2007.0392C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 27, 2014, 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. 19097. 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on February 27, 2014.

Jonas P. Ionin
Acting Commission Secretary

AYES: Antonini, Fong, Hillis, Moore, Sugaya

NAYS:

ABSENT: Wu, Borden

ADOPTED: February 27, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use to allow a building exceeding 50 feet in an RC District, for a project that would demolish an existing surface parking lot and construct a new six-story mixed-use building containing approximately 20 dwelling units, 400 square feet of ground-floor commercial uses, and no off-street parking spaces, located at 832 Sutter Street, Lot 003 of Assessor's Block 0281, pursuant to Planning Code Section(s) 253 and 303 within the RC-4 District and the 80-A Height and Bulk District; in general conformance with plans, dated February 27, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2007.0392C and subject to conditions of approval reviewed and approved by the Commission on February 27, 2014 under Motion No 19097. 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 27, 2014 under Motion No 19097.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19097 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

Validity. The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

Expiration and Renewal. Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

Diligent pursuit. 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

Extension. All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

Conformity with Current Law. No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

Additional Project Authorization. The Project Sponsor must obtain a Parking Reduction authorization under Sections 161(j) and 307(i) to provide no off-street parking spaces where five are required and satisfy all the conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the

Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

DESIGN – COMPLIANCE AT PLAN STAGE

Final Materials. The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

Garbage, composting and recycling storage. Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

Rooftop Mechanical Equipment. Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

Transformer Vault. The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

Overhead Wiring. The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

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.

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

PARKING AND TRAFFIC

Bicycle Parking Pursuant to Planning Code Sections 155.1, 155.2, and 155.3, the Project shall provide no fewer than 23 bicycle parking spaces (20 Class 1 spaces for the residential portion and three Class 2 spaces).

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

Managing Traffic During Construction. The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

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

PROVISIONS

First Source Hiring. The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to

Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

Affordable Units

1. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 15% of the proposed dwelling units as affordable to qualifying households. Pursuant San Francisco Charter Section 16.110 (g) the 15% on-site requirement stipulated in Planning Code Section 415.6, is reduced by 3% (20% of 15%) to 12%. The Project contains 20 units; therefore, 2 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 2 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 415-558-6378, 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 18 one-bedroom and 2 two-bedroom units; therefore, the required affordable unit mix is 2 one-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 415-558-6378, 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 415-558-6378, 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 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated

herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these

- conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
 - g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
 - h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

MONITORING - AFTER ENTITLEMENT

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

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

OPERATION

Garbage, Recycling, and Composting Receptacles. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

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>

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

Lighting. All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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