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Planning Commission Motion No. 19142

HEARING DATE: MAY 8, 2014

Date: May 8, 2014
Case No.: **2014.0204 C**
Project Address: **4150 17th STREET**
Zoning: RH-3 (Residential, House, Three-Family) District
 40-X Height and Bulk District
Block/Lot: 2623/168
Project Sponsor: Suzanne Eisenhut
 4150 17th Street #4
 San Francisco, CA 94114
Staff Contact: Tina Chang – (415) 575-9197
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.7, 303, 304 and 155.2 TO MODIFY THE CONDITIONS OF APPROVAL FILED UNDER MOTION 10755, CASE NO. 1986.153C TO ALLOW A DECREASE IN PARKINGS SPACES WITHIN AN OFF-STREET PARKING GARAGE; AND TO CHANGE THE CLASSIFICATION OF THE SUBJECT SPACES FROM A PRIVATE GARAGE TO A COMMUNITY PARKING GARAGE, ASSOCIATED WITH THE PLANNED UNIT DEVELOPMENT LOCATED AT 4150 17TH STREET WITHIN AN RH-3 (RESIDENTIAL, HOUSE, THREE-FAMILY) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 7, 2014, Suzanne Eisenhut (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 209.7, 303 and 304 to modify the conditions of approval contained in motion 10755, case number 1986.153C to reduce the number of parking spaces within an off-street parking garage from 78 to no less than 66; and for a change of use from a Private Garage to a Community Park Garage for up to 23 parking spaces within the subject garage located at 4150 17th Street, within an RH-3 (Residential, House, Two-Family) District and a 40-X Height and Bulk District. No net increase in parking space and/or square footage will result from the proposed project.

On May 8, 2014 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0204C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA.

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. 2014.0204C, 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 site is a Planned Unit Development located on 17th Street between Douglass and Castro Streets and consists of a thirty-three, two-to-three story dwelling unit condominium community that includes a parking garage providing 87 off-street parking spaces, 66 of which are deeded to the residential units with the remaining spaces allocated for visitor parking. Additionally, there are two motorcycle spaces. The unassigned 21 vehicle and 2 motorcycle spaces are underutilized. As permitted by San Francisco Police Code, Section 1215 (a)(3), ten parking spaces are currently being rented to non-residents in the surrounding neighborhood. The Project Sponsor is interested in renting out up to the remaining 11 vehicle and 2 motorcycle spaces for a total of up to 23 parking spaces. A Police Permit is required to do so, which the Project Sponsor will apply for upon approval of the subject Conditional Use Authorization.
3. **Surrounding Properties and Neighborhood.** The project site is located within an RH-3 (Residential, House, Two-Family) District within the Castro / Upper market Neighborhood, which is characterized by a mixture of dwelling types including one, two and three-family homes. The predominant form is large flats rather than apartments, with lots 25 feet wide, a fine or moderate scale and separate entrances for each unit. Building styles tend to be varied but complementary to one another. Outdoor space is available at ground level, and also on decks and balconies for individual units. Nonresidential uses are more common in these areas than in RH-2 Districts.
4. **Project Description.** The project sponsor proposes to modify conditions of approval contained in motion 10755 and Case Number 1986.153C to reduce the number of parking spaces provided for the Planned Unit Development at 4150 17th Street from 78 to no less than 66 and to change the use

of up to 23 (21 vehicle and 2 motorcycle) spaces from Private Garage to Community Parking Garage. The conditions of approval stipulated in "Exhibit A" of Motion 10755 and Case Number 1986.153C indicates that an off-street parking garage with no less than 78 parking spaces will be provided for use by residents and visitors of the subject Planned Unit Development. The subject garage currently provides 87 parking plus 2 motorcycle spaces for the development. Sixty-six of the spaces are deeded to the residents of the 33 units with the remaining 21 plus 2 motorcycle spaces unassigned or for visitor use. The 23 unassigned spaces are underutilized. Designation of the underutilized parking spaces will permit the associated Home Owners Association to rent out the subject spaces.

San Francisco Police Code Section 1215 (a)(3) permits up to 10 parking spaces within a residential building to be rented out to non-residents; more than 10 requires a Police Permit. The Project Sponsor will attain the requisite police permit upon approval of the subject Conditional Use Authorization.

5. **Public Comment.** The Department has not received any public comment regarding this 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. **Change of Use.** Planning Code Section 209.7 conditionally permits a community parking garage for storage of private passenger automobiles of residents of the immediate vicinity, and meeting the requirements of Article 1.5; Section 151.

The Project is currently a private garage of 87 parking plus 2 motorcycle spaces authorized under the Planned Unit Development permitted by Section 304 and motion 10755, Case Number 1986.153C. Conditions of Approval contained within the subject motion and case number requires at least 78 parking spaces for the Planned Unit Development (PUD). As the project proposes to reduce the number of spaces dedicated to the PUD to no less than 66 spaces, the proposal is for the modification of the conditions of approval, and for the change of use of up to 21 parking plus 2 motorcycle spaces from private to community parking garage, allowing these spaces to be rented to residents in the vicinity, though not necessarily residents of the PUD.

- B. **Parking.** Section 151 of the Planning Code requires 1 off-street parking space for every dwelling unit.

The project contains approximately 2.6 parking spaces per dwelling unit, far exceeding the number of required off-street parking. This project would provide off-street parking to residents in the neighborhood who do not have off-street parking, and would reduce the number of parking spaces per dwelling unit within the subject PUD.

- C. **Bicycle Parking.** Section 155.2(4) of the Planning Code requires bicycle parking when a change of occupancy or increase in intensity of use which would increase the number of total

required bicycle parking spaces (inclusive of Class 1 and 2 spaces in aggregate) by 15 percent; Class 2 spaces shall meet the following design standards:

- a) Bicycle racks shall permit the locking of the bicycle frame and one wheel to the rack with a U-lock without removal of the wheel, and shall support the bicycle in a stable, upright position without damage to wheels, frame or components. Class 2 spaces are encouraged, but not required, to include weather protection, as feasible and appropriate.
- b) The surface of bicycle parking spaces need not be paved but shall be finished to avoid mud and dust.
- c) All bicycle racks shall be securely anchored to the ground or building structure, with tamper-resistant hardware.
- d) Bicycle parking spaces may not interfere with pedestrian circulation.

The proposal will change the occupancy of parking spaces from an accessory to a non-accessory automobile garage, requiring one Class 2 bicycle space for every 20 parking spaces, and in no case less than six Class 2 spaces. Six Class 2 bicycle spaces have been installed since the date of applications. Evidence of the installation has been provided and included in with the case report submitted to the Planning Commission.

- D. **Permitted Conditional Use.** Pursuant to Planning Code Section 178, a permitted conditional use may not be significantly altered, enlarged, or intensified, except upon approval of a new conditional use application.
- E. **Modifying Conditions.** Pursuant to Planning Code Section 303 (e), authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use.

This Conditional Use Authorization is seeking to modify the conditions of approval in Planning Commission Motion 10755, Case No. 1986.153C, specifically item 1.) under "Land use and Density" which states that an off-street parking garage for at least 78 vehicles will be provided with the subject Planned Unit Development.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
 - 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 Sponsor represents a 33-unit residential condominium complex constructed as Planned Unit Development (PUD) located at 4150 17th Street and has been in existence since 1993. The PUD includes a parking garage located below the residences, with 3 parking levels connected by 2 ramps providing 87 vehicle plus 2 motorcycle parking spaces. Each of the 33 units have been deeded two parking spaces; the remaining 21 vehicle plus 2 motorcycle spaces are unassigned. The existing garage

is approximately 31,800 square feet and has one steel roll-up gate for vehicular access. The unassigned 21 vehicle plus 2 motorcycle spaces occupy approximately 3,200 square feet of the main garage space.

Since 2008, the Project Sponsor has rented spaces to residents in the vicinity on a monthly basis and occasionally to occupants on a short-term basis. Pending approval of the conditional use application, the Project sponsor currently rents only 10 spaces to residents in the vicinity and has a waiting list of at least 10 more residents who are interested in renting spaces at the subject garage.

The 23 (21 vehicle, 2 motorcycle) parking spaces would remain underutilized unless authorized to operate as a community parking garage. The project sponsor has a Business License, a Certificate of Authority to Collect Parking Taxes and pays parking taxes on a monthly basis.

The Project Sponsor requests a conditional use authorization to use a portion of an existing private garage as a community parking garage for up to the 23 existing, unassigned parking spaces, which would be rented to residents in the vicinity on a minimum monthly contractual basis.

The proposed use is necessary, desirable and compatible with the neighborhood and community because it will:

- 1. Utilize existing off-street parking to support residents in the vicinity without increasing the total parking spaces in the neighborhood;*
- 2. Free up street parking for other residents and visitors of the neighborhood;*
- 3. Generate parking taxes and various parking garage compliance fees for the City and County of San Francisco;*
- 4. Financially assist the Project Sponsor by providing revenue to offset monthly dues increases.*

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 subject garage and parking spaces already exist. There are no new proposed structures or physical modifications to the existing structure or points of ingress / egress.

- 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;

There will be no change to the existing number of parking spaces and no other development that would impact parking demand or traffic. Since 2008, the Project Sponsor has rented some spaces to residents in the vicinity on a monthly basis. Prior to 2/1/14, the applicant had rented spaces to as many as 15 residents in the vicinity at one time. Since that date, pending approval of the Project Sponsor's conditional use authorization, the Project Sponsor has limited the number

spaces being rented out to 10, as permitted by Police Code Section 1215(a)(3). The approval to change the use of the subject garage to a Community Parking Garage would restore previous conditions of the last 6 years and have no negative effect on the accessibility and traffic patterns for persons and vehicles.

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

As the subject garage and parking spaces already exist, there will be no increase in emissions. In addition, the Project Sponsor's garage is monitored for fire, smoke and fumes and contains an automatic exhaust system.

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

There are no proposed changes to existing landscaping, screening, lighting or signs.

- 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 below.

- 8. **Planned Unit Development.** Conditional Use Authorization Case No. 89.153C was approved to construct a 33-unit Planned Unit Development providing 78 off-street parking spaces including 66 spaces for resident parking and 12 spaces for visitor parking with access from 17th Street pursuant to Planning Code Sections 303 and 304. Planning Code Section 304(d) establishes criteria and limitations for the authorization of PUDs over and above those applicable to Conditional Uses in general and contained in Section 303(c) and elsewhere in the Code. In cases of outstanding overall design, Projects may merit modification of certain Code requirements. PUDs must also:

- a. Provide outstanding design.

There is no proposed change to the building's exterior. The modification of the conditions of approval and the reduction in parking do not affect the exterior of the building.

- b. Affirmatively promote applicable objectives and policies of the General Plan.

This project is consistent with the objectives and policies of the General Plan as outlined in Section 9 below.

- c. Provide off street parking adequate for the occupancy proposed.

The 78 spaces requires as a condition of approval under Planning Commission Motion No. 10755 exceeds the 1 parking space per dwelling unit requirement per Planning Code Section 151, Table

151. Eighty-seven vehicle and two motorcycle spaces were constructed with the Planned Unit Development; about 25% of which remain underutilized. The project would reduce the number of parking spaces assigned to the Planned Unit Development, bringing the property in closer conformance with the current Planning Code requirements while also providing off-street parking opportunities to residents in the neighborhood who do not have access to such an amenity.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan. **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 Sponsor will be renting up to 23 existing parking spaces on a monthly basis to residents in the vicinity who do not have off-street parking. Since these residents will park in an existing garage, the neighborhood-serving retail uses will be preserved and enhanced because more street parking will be available for customers. The policy that "future opportunities for residential employment and ownership in these sectors" is not applicable.

- 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 result in any alteration or expansion and will therefore preserve the existing housing and neighborhood character.

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

No housing will be removed for this Project.

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

The Project will not impede MUNI transit service or overburden City streets or neighborhood parking. The project proposes to make existing parking spaces available to the neighborhood.

- 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 will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

The Project will not increase occupancy, density, layout or otherwise create risk in the event of an earthquake. The structure complies with building codes and will continue to provide safe off-street parking.

- G. That landmarks and historic buildings be preserved.

The project does not affect any landmarks or historic buildings.

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

The Project does not include any changes to the existing building envelope and will have no negative impact on existing parks and open spaces.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0204C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 3, 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. 19142. 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 May 8, 2014.

Jonas Ionin
Commission Secretary

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

NAYES: None

ABSENT: Commissioner Moore

ADOPTED: May 8, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for modification of conditions of approval filed under motion 10755 and Case Number 1986.153C to reduce the number of parking spaces associated with the Planned Unit Development at 4150 17th Street, located within an RH-3 (Residential, House, Three-Family) District and a 40-X Height and Bulk District, and to change the use of up to 21 vehicle and 2 motorcycle spaces from Private Garage to Community Parking Garage Pursuant to Planning Code Sections 209.7, 303, 304 and 155.2, subject to conditions of approval reviewed and approved by the Commission on May 8, 2014 under Motion No. 19142. 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 May 8, 2014 under Motion No. 19142.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19142 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

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

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

DESIGN

3. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code applying to nonconforming uses.

MONITORING

4. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

5. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning

Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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OPERATION

6. **Community Liaison.** Prior to the implementation of 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.

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