



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JULY 14, 2011

Date: July 7, 2011
Case No.: **2011.0296C**
Project Address: **2196 3RD STREET (AKA 638 19TH STREET)**
Zoning: UMU (Urban Mixed Use) District
Life Science and Medical Special Use District
68-X Height and Bulk District
Block/Lot: 4044/031-051
Project Sponsor: Tuija Catalano
Reuben & Junius LLP
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Corey Teague – (415) 575-9081
corey.teague@sfgov.org
Recommendation: **Approval with Conditions**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

On May 2, 2002, the Planning Commission approved a mixed use project, per Motion No. 16400, that meets the following description. The Project consists of a new building that contains 18 dwelling-units, three ground-floor commercial units, and 23 parking spaces. The building fronts on both 3rd and 19th Streets. This project recently finished construction and received its Certificate of Occupancy on June 24, 2010.

The project proposes to modify Condition Nos. 6, 9, and 10 of Motion No. 16400 to allow the two existing on-site affordable dwelling units to convert from rental to ownership units.

SITE DESCRIPTION AND PRESENT USE

The project site is approximately 14,000 square feet and is located at the northwest corner of 3rd Street and 19th Street. The site is occupied by a five-story mixed use building containing ground floor retail space, 18 dwelling units, and 23 parking spaces. The two on-site affordable units proposed to be converted from rental to ownership units are currently unoccupied.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located in the Central Waterfront area and the surrounding context has a wide mix of commercial, industrial, maritime, residential and live/work uses within a large area of mostly UMU zoning. The site is located on 3rd Street, which is a major north-south thoroughfare on the City's east side, and the MUNI T line has stops nearby at Mariposa and 20th Streets. Buildings in the immediate

vicinity range in height from 15-feet to 50-feet. Immediately to the north are two two-story flat-over-commercial structures.

ENVIRONMENTAL REVIEW

The Planning Commission adopted the Final Negative Declaration (FND) for the original project on February 2, 2000. Since the FND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FND.

HEARING NOTIFICATION*

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	May 20, 2011	May 16, 2011	24 days
Posted Notice	20 days	May 20, 2011	May 20, 2011	20 days
Mailed Notice	20 days	May 20, 2011	May 18, 2011	22 days

*This project was continued from the June 9th calendar.

PUBLIC COMMENT

- The Department received a letter of support for this project from the Mayor's Office of Housing, and a letter of support from an owner/occupant in the subject building.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow the modification of Motion No. 16400 to allow the two existing on-site affordable units to convert from rental to ownership units.

BASIS FOR RECOMMENDATION

- The Planning Code currently requires on-site affordable units be the same tenure as the market rate units in the same building.
- Due to recent legal cases in California regarding affordable housing, the Planning Code currently does not permit on-site affordable units to be rental units unless it meets specific criteria.
- According to the Mayor's Office of Housing, rental units in ownership buildings are not preferred from a lending standpoint because owners in such buildings can find difficulty in reselling or refinancing when an ownership building holds too many rental units.
- The mixed use project approved by Motion No. 16400 is already constructed. The modification of Condition Nos. 6, 9 and 10 will not impact any physical characteristics of the project, and it will still be consistent with the Planning Code and General Plan.

RECOMMENDATION: Approval with Conditions
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Attachments:

Block Book Map

Sanborn Map

Aerial Photographs

Zoning Map

Site Photos

Letters of Support

Project Sponsor Submittal, including:

- Sponsor Letter
- Support Email from MoH

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Site Photo |
| <input checked="" type="checkbox"/> Draft Motion | <input type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Environmental Determination | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Zoning District Map | <input type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Height & Bulk Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report |
| <input type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |

Exhibits above marked with an "X" are included in this packet

Planner's Initials

CT: G:\Documents\C\2011\2196 3rd St\Executive Summary.doc



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input 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 Draft Motion

HEARING DATE: JULY 14, 2011

Date: July 7, 2011
Case No.: **2011.0296C**
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1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Corey Teague – (415) 575-9081
corey.teague@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATING TO THE MODIFICATION OF CONDITIONS OF A CONDITIONAL USE AUTHORIZATION APPROVED BY PLANNING COMMISSION MOTION NO. 16400, PURSUANT TO PLANNING CODE SECTION 303(E), TO ALLOW THE TWO EXISTING ON-SITE AFFORDABLE DWELLING UNITS TO CONVERT FROM RENTAL TO OWNERSHIP UNITS IN THE UMU (URBAN MIXED USE) ZONING DISTRICT, 68-X HEIGHT AND BULK DISTRICT, AND THE LIFE SCIENCE AND MEDICAL SPECIAL USE DISTRICT.

PREAMBLE

On March 31, 2011 Tuija Catalano (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section 303(e) to modify Condition Nos. 6, 9, and 10 of Motion No. 16400 to allow the two existing on-site affordable dwelling units to convert from rental to ownership units in the UMU (Urban Mixed Use) Zoning District, 68-X Height and Bulk District, and the Life Science and Medical Special Use District.

On January 8, 2000, the Preliminary Negative Declaration for the Project was prepared and published for public review. On February 2, 2000, the Planning Commission ("Commission") reviewed and considered

the Final Negative Declaration ("FND") and found that the contents of said report and the procedures through which the FND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The FND was amended on February 7, 2002, and prepared pursuant to the Guidelines of the State Secretary for Resources, Sections 15064 (Determining Significant Effect), 15065 (Mandatory Findings of Significance), and 15070 (Decision to Prepare a Negative Declaration). The Commission found the FND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the FND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 1999.707E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program, which material was made available to the public and the Commission for the Commission's review, consideration, and action. Since the FND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FND 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 FND.

On May 2, 2002 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2002.0184C and approved the project per Motion No. 16400.

On July 14, 2011 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0296C.

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. 2011.0296C, 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 approximately 14,000 square feet and is located at the northwest corner of 3rd Street and 19th Street. The site is occupied by a five-story mixed use building containing ground floor retail space, 18 dwelling units, and 23 parking spaces. The existing development was approved by Motion No. 16400 and received its Certificate

of Occupancy on June 24, 2010. The two on-site affordable units proposed to be converted from rental to ownership units are currently unoccupied.

3. **Surrounding Properties and Neighborhood.** The project site is located in the Central Waterfront area and the surrounding context has a wide mix of commercial, industrial, maritime, residential and live/work uses within a large area of mostly UMU zoning. The site is located on 3rd Street, which is a major north-south thoroughfare on the City's east side, and the MUNI T line has stops nearby at Mariposa and 20th Streets. Buildings in the immediate vicinity range in height from 15-feet to 50-feet. Immediately to the north are two two-story flat-over-commercial structures.
4. **Original Project Description.** On May 2, 2002, the Planning Commission approved a mixed use project, per Motion No. 16400, that meets the following description. The Project consists of a new building that contains 18 dwelling-units, three ground-floor commercial units, and 23 parking spaces. The building fronts on both 3rd and 19th Streets. The residential units are configured along an exterior corridor that runs on three levels along the perimeter of the building's internal courtyard. There are three commercial units along the ground floor totaling approximately 5,500 gross square feet. The building is 50-feet tall as measured from 3rd Street. The building is clad in stucco and metal and the façade design features deep recessed entrances and windows, canted bays, and an industrial-influenced series of peaked roofs that extend above the building's base. Off-street parking is accessed from 3rd Street and the main pedestrian entrance is on 19th Street.
5. **Proposal.** The project proposes to modify Condition Nos. 6, 9, and 10 of Motion No. 16400 to allow the two existing on-site affordable dwelling units to convert from rental to ownership units.
6. **Public Comment.** The Department received a letter of support for this project from the Mayor's Office of Housing, and a letter of support from an interested party.
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 original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built.

- 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 original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built.

- 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 original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no impact on traffic patterns, traffic volumes, or off-street parking and loading.

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

The original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built and therefore will not increase any emissions from the building.

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

The original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built and therefore will have no impact on landscaping, screening, open spaces, parking and loading areas, service areas, lighting and 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 proposal will make the existing project more consistent with the Planning Code and General Plan because Section 415 currently requires that affordable units be the same tenure as the market rate units in the same building. Additionally, rental units in ownership buildings are not preferred from a lending standpoint because owners in such buildings can find difficulty in reselling or refinancing when an ownership building holds too many rental units.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The project site is not located in a Neighborhood Commercial District.

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

HOUSING

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support.

OBJECTIVE 4:

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY.

Policy 4.2:

Include affordable units in larger housing projects.

The originally approved project is already constructed and includes two on-site affordable dwelling units. The Housing Element states that on-site provision of affordable dwelling units is preferred to "to ensure economic integration in housing development." Converting the on-site units from rental to ownership will further the economic integration objective.

9. **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 original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built and therefore will have no impact on neighborhood serving retail uses.

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

The original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built. However, the sixteen other dwelling units in this project are ownership units. Therefore, converting the two affordable units from rental to ownership is more in character with the project overall.

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

The proposal will not increase or decrease the amount of affordable dwelling units. The proposal will make the existing project more consistent with the Planning Code and General Plan because Section 415 currently requires that affordable units be the same tenure as the market rate units in the same building. Additionally, rental units in ownership buildings are not preferred from a lending standpoint because owners in such buildings can find difficulty in reselling or refinancing when an ownership building holds too many rental units.

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

The original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built and therefore will not impact traffic or transit services.

- 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 proposal 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 original project approved per Motion No. 16400 met this criterion and is already constructed. The proposal to convert the two on-site affordable dwelling units from rental to ownership units will have no physical impact on the project as built.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The proposal will have no negative impact on existing parks and open spaces. The proposal does not have an impact on 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. 2011.0296C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 14, 2011.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 14, 2011

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to modify Condition Nos. 6, 9, and 10 of Motion No. 16400 for the project at 2196 3rd Street, Block 4044, Lots 31-51, to allow the two existing on-site affordable dwelling units to convert from rental to ownership units pursuant to Planning Code Section 303(e) in the UMU (Urban Mixed Use) Zoning District, 68-X Height and Bulk District, and the Life Science and Medical Special Use District, and subject to conditions of approval reviewed and approved by the Commission on **July 14, 2011** under Motion No **XXXXXX**. 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 **July 14, 2011** under Motion No **XXXXXX**.

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

The following conditions shall supersede Condition Nos. 6, 9 and 10 outlined in Motion No. 16400. The conditions of approval for Motion No. 16400 are attached as Exhibit B for reference.

AFFORDABLE UNITS

6. The Project Sponsor shall designate a total of two units as affordable ownership units to be constructed on the site of the principal project. This total represents 11 percent of all units in the project.
9. The affordable units shall be sold to qualifying households, as defined in the 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>.
10. 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 one hundred (100) percent of the median income for the City and County of San Francisco as defined in the Inclusionary Affordable Housing Program, an amount that translates to 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.

EXHIBIT B
CONDITIONS OF APPROVAL FOR ORIGINAL PROJECT

PLANNING COMMISSION
May 2, 2002

Case No. 2002.0184CV
2196 3rd Street
Motion No. 16400
Assessor=s Lot 30 and Block 4044
Exhibit A
Page 1

EXHIBIT A

CONDITIONS OF APPROVAL

1. This authorization is for the construction of a new building that would contain 18-dwelling units, approximately 5,500 gross square feet of retail use, and 23 off-street parking spaces at 2196 3rd Street, Lot 30 (formerly lots 15 and 17) in Assessor's Block 4404, in general conformity with the plans labeled Exhibit B and included in the docket for Case No. 2002.0184C.
2. The project sponsor shall continue to work with staff to refine the design and assure that all building materials, including finishes, windows, entries, storefronts, and detailing are appropriate for the site and neighborhood.
3. Any merger of units, such that there would be fewer units, or any reconfiguration of units, such as any of the units would be made smaller, shall require separate Planning Department approval.
4. All applicable City Codes and standards shall be met.
5. Tenant improvements for the three commercial units shall require separate Planning Department review and approval.

CONDITIONS OF APPROVAL -- AFFORDABLE UNITS

6. The Project Sponsor shall designate a total of two units as affordable [Below Market Rate (BMR)] for rental units to be constructed on the site of the principal project. This total represents 11 percent of all units in the project.
7. The subject BMR units shall reflect the unit size mix of the market rate units and shall be distributed in the following range of unit sizes:
 2 three-bedroom units
8. The BMR units shall be designated as units nos. 1 and 2 as indicated in those plans labeled Exhibit B and dated May 2, 2002, as reviewed by the Planning Commission. The Project Sponsor shall record a Notice of Special Restriction on the property, which records a copy of this Motion and identifies the BMR units satisfying the requirements of this Motion.
9. The BMR units shall be rented to qualifying households, as defined in the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual") published and adopted by Resolution No. 13405 on September 10, 1992

EXHIBIT B
CONDITIONS OF APPROVAL FOR ORIGINAL PROJECT

PLANNING COMMISSION
May 2, 2002

Case No. 2002.0184CV
2196 3rd Street
Motion No. 16400
Assessor=s Lot 30 and Block 4044
Exhibit A
Page 2

by the City Planning Commission, whose gross annual income, adjusted for household size, **does not exceed 60 percent of the median income** for the San Francisco Principal Metropolitan Statistical Area (PMSA). The percentage of median income specified herein shall be the maximum income for qualifying households and the basis of base rent for BMR units. Base rent for such units, together with a utility allowance as described in the Procedures Manual, shall not exceed thirty (30) percent of **60 percent** of such median income, adjusted annually for permitted rent increases as described in the Procedures Manual, for a period of fifty (50) years from the date of initial rental of the BMR unit.

10. All BMR units shall be rented to qualifying households for the 50 year term of this approval or, after a period of twenty (20) years, the owner of a BMR unit may apply to the Planning Commission to modify this condition to permit conversion of a BMR rental unit to an affordable condominium ownership unit pursuant to the requirements of the Procedures Manual, provided that such unit shall be governed by the sale and resale procedures outlined in the Procedures Manual.
11. The Project Sponsor shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such a fee is authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.
12. The definitions, procedures and requirements for BMR units set forth in the Procedures Manual, attached as Exhibit C to this Motion, are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.

CONDITIONS OF APPROVAL – MONIORING AND VIOLATIONS

13. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Code Section 176.
14. Should implementation of this Project result in complaints from neighborhood residents or business owners and tenants, which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the City 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 report such complaints to the City Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.

EXHIBIT B
CONDITIONS OF APPROVAL FOR ORIGINAL PROJECT

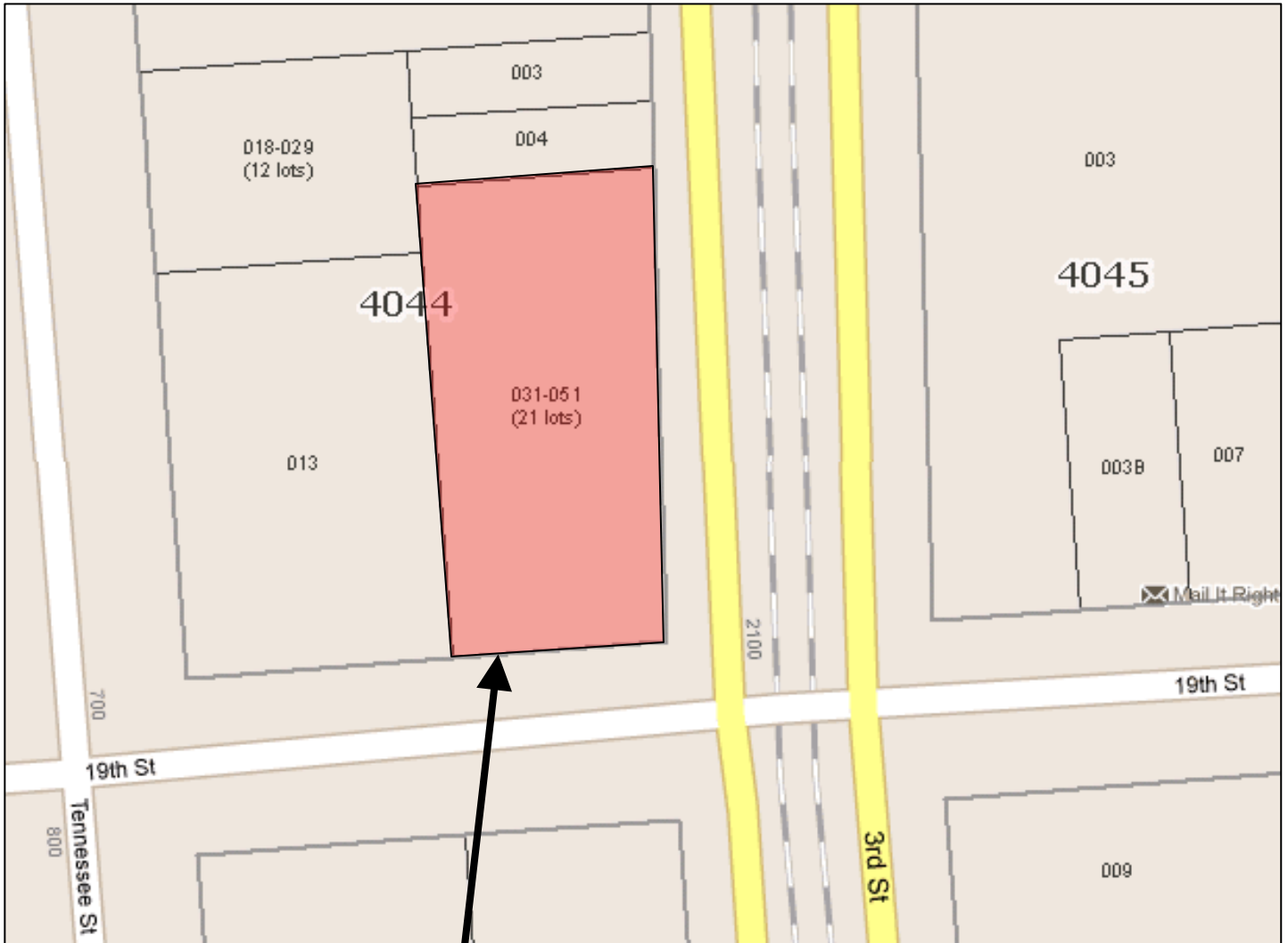
PLANNING COMMISSION
May 2, 2002

Case No. 2002.0184CV
2196 3rd Street
Motion No. 16400
Assessor=s Lot 30 and Block 4044
Exhibit A
Page 3

15. Should the monitoring of the conditions of approval contained in Exhibit A of this Motion be required, the Project Sponsor or successor's shall pay fees as established in Planning Code Section 351(f)(2).

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Parcel Map

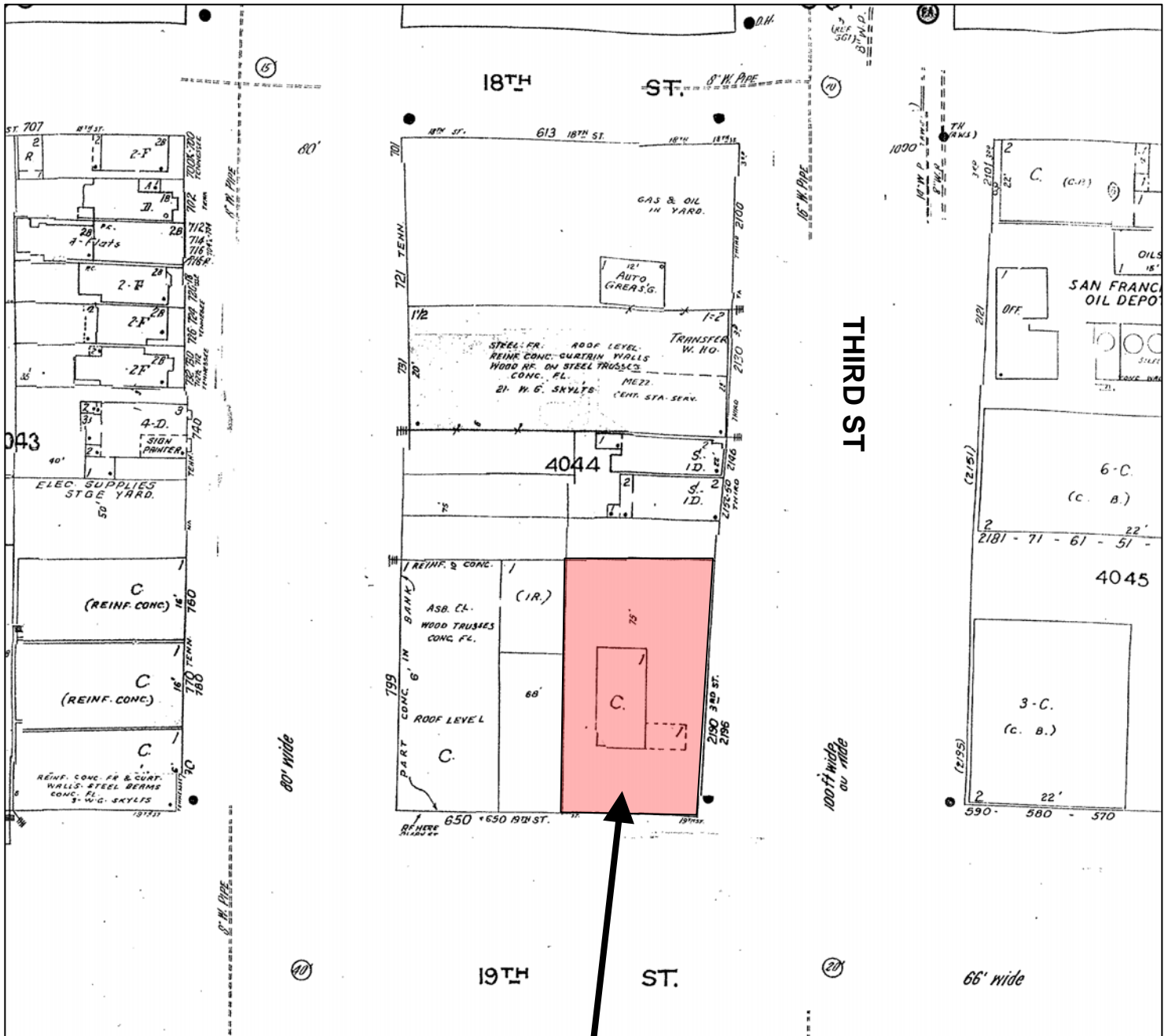


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.0296C
Motion Modification
2196 3rd Street

Sanborn Map*



SUBJECT PROPERTY

*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
 Case Number 2011.0296C
 Motion Modification
 2196 3rd Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.0296C
Motion Modification
2196 3rd Street

Aerial Photo

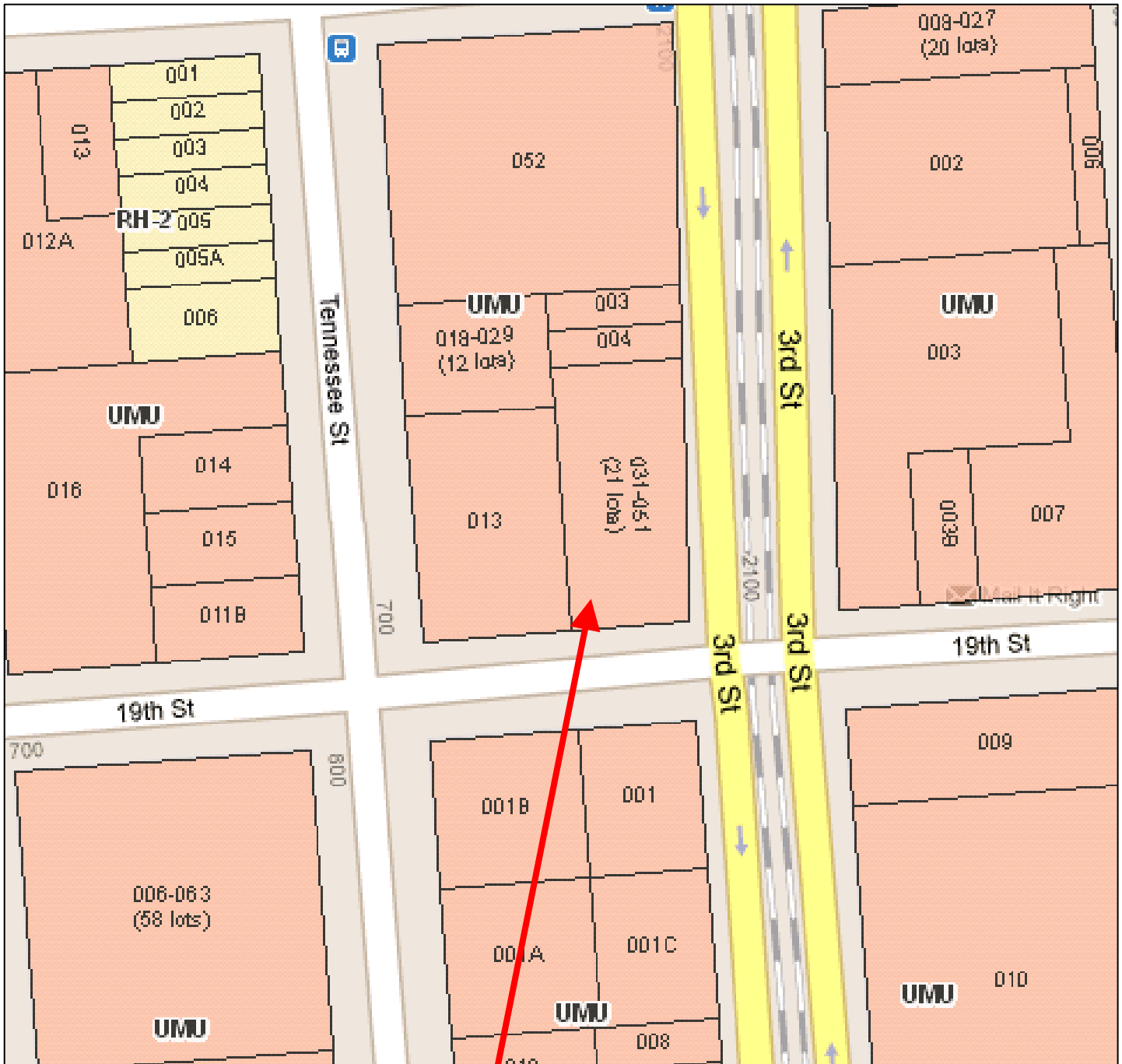


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.0296C
Motion Modification
2196 3rd Street

Zoning Map



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.0296C
Motion Modification
2196 3rd Street

Site Photos

Corner of 3rd St
and 19th St



3rd St Facade

Conditional Use Hearing
Case Number 2011.0296C
Motion Modification
2196 3rd Street

From: [Chandra Egan](#)
To: [Corey Teague](#)
Cc: [Brian Cheu](#); [Douglas Shoemaker](#)
Subject: 2196 3rd Street - Letter of Support for BMR Tenure Conversion
Date: 05/19/2011 10:23 AM

To whom it may concern:

The Mayor's Office of Housing supports the conversion in tenure of the on-site BMR units at 2196 3rd Street from rental to ownership. Section 415 requires that BMR units be the same tenure as the market rate units in one building. Rental units in ownership buildings are also not preferred from a lending standpoint because owners in such buildings can find difficulty in reselling or refinancing when an ownership building holds too many rental units. Most important, we cannot require that a building provide on-site rental BMR units under the recent Palmer decision.

Thank you,

Chandra Egan
Inclusionary Housing Program Manager
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
phone: (415) 701-5546

From: [Gautam and Jessica Shah](#)
To: corey.teague@sfgov.org
Subject: 2011.0296C - 2196 3rd Street (aka 63819th Street) Hearing
Date: 06/08/2011 01:19 PM

Mr. Teague,

I hope this e-mail finds you well. I am a resident and owner in the building located at 2196 3rd Street/638 19th Street and am writing to you today in support of the changes requested in Case 2011.0296C.

It is my considered opinion that converting the two on-site units from retail to for-sale units will be beneficial to the other residents of the building by providing a measure of security and accountability that would not be present with absentee owners. The balance of the units in this building are owned by their occupants.

Please do not hesitate to contact me if you have any questions. I, unfortunately, will be unable to attend the planning meeting.

Respectfully,

Gautam M. Shah

REUBEN & JUNIUS_{LLP}

May 26, 2011

VIA HAND DELIVERY

Ms. Christina Olague, President
San Francisco Planning Commission
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 2196 3rd Street (aka 638 19th Street)
Change of a Condition of Approval – Consent Calendar
Planning Dept. Case No.: 2011.0296C
Planning Commission Hearing Date: June 9, 2011
Our File No.: 6796.01

Dear President Olague and Members of the Commission:

Our office represents Bay City View, LLC, the owner and project sponsor of an 18-unit residential project with ground floor retail at 2196 3rd Street. The project was approved by the Planning Commission on May 2, 2002 in its Motion No. 16400, under Planning Department Case No. 2002.0184CV. As of today, the project has been built, and is in large part already occupied. We are requesting a minor change to the prior, somewhat unusual, approval conditions in order to allow the on-site BMR units to be marketed and sold as soon as possible.

The Project was approved just few days before the City's Inclusionary Affordable Housing Program became effective on May 6, 2002. Nevertheless, consistent with then-pending inclusionary legislation, and the then-existing "Guidelines for Inclusionary Affordable Housing Policy", the Project was required to provide 12% of its units as affordable below-market-rate ("BMR") units, or 2 units for the 18-unit project. The Project's approval conditions reflect the 12% BMR requirement, and the project sponsor properly designated two of the units as BMR units. However, the Project's conditions of approval further required that the two (2) BMR units be rental units, despite the fact that the Project itself was not proposed or required to be a rental project. Today it is the very rare that the Commission would mandate the occupancy type for BMR units, and in fact, the City's current Inclusionary Program, including the Procedures Manual, provides that the BMR units must be either for-sale or rental units similarly to the market-rate units. In other words if the market rate units are for-sale, then the BMR units must also be for sale, and vice versa.

In this case, the Project's 16 market rate units are for-sale units, and most of them have already been sold. The Project Sponsor would prefer to also sell the BMR units, instead of renting them, and would like to commence the marketing and sale of the BMR units as soon as possible. However, because the conditions of approval for the Project expressly state that the

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President Olague and Members of the Commission

May 26, 2011

Page 2

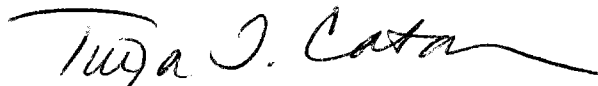
BMR units must be rental units, an amendment of the prior conditional use authorization with respect to these conditions is necessary in order to proceed with the sale and occupancy of the BMR units. This request seeks to amend the conditions of approval found in Motion No. 16400 to eliminate the requirement that the BMR units be rental units, and to allow the sale of the BMR units. No other change to the project is requested or proposed. The project will continue to have two (2) BMR units, and this request will merely allow them to be sold as opposed to restricting them as rentals per the prior approval.

This request is supported by the Mayor's Office of Housing, per Chandra Egan, the Inclusionary Housing Program Manager for MOH. I have enclosed with this letter an email from Ms. Egan to Julian Banales at the Planning Department expressing MOH's support for the modification as **Exhibit A**. We respectfully request that the Planning Commission approve the modification in order to avoid any further delay in the marketing and occupancy of the BMR units. The building itself was completed last year, and most of the units have already been sold and occupied.

We respectfully request that the Commission approve the amendment of Motion No. 16400 with respect to conditions of approval nos. 6, 9 and 10, to eliminate any reference and requirement that the two (2) required BMR units be rental units, and to allow the two (2) BMR units to be for-sale units.

Very truly yours,

REUBEN & JUNIUS, LLP



Tuija I. Catalano

cc: Commissioner Michael Antonini
Commissioner Gwyneth Borden
Commissioner Rodney Fong
Commissioner Ron Miguel
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator
Linda Avery, Commission Secretary
Corey Teague, Project Planner
Chandra Egan, MOH
Harry Low, Bay City View, LLC

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From: chandra.egan@sfgov.org [<mailto:chandra.egan@sfgov.org>]
Sent: Monday, April 11, 2011 11:58 AM
To: Tuija Catalano
Cc: Julian.Banales@sfgov.org
Subject: Re: 638 19th Street - BMR change of condition

Hi Julian,

MOH does support this change in tenure for the BMR units. We would love to get these BMR units marketed and sold. The only thing holding them up is language in the approval stating that the units must be rented. The entire building is being sold now and it's MOH's preference to have the BMR units sold, as well, in this case.

Thank you,
Chandra

Chandra Egan
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Please visit our website at www.sf-moh.org
BMR homebuyer page: <http://sf-moh.org/index.aspx?page=291>