



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- ☐ Inclusionary Housing (Sec. 315)
- ☐ Jobs Housing Linkage Program (Sec. 313)
- ☐ Downtown Park Fee (Sec. 139)

- ☐ First Source Hiring (Admin. Code)
- ☐ Child Care Requirement (Sec. 314)
- ☐ Other

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Planning Commission Motion No. 18027

HEARING DATE: FEBRUARY 4, 2010 (CONT'D FROM JANUARY 14, 2010)

Date: January 7, 2010
Case No.: **2009.0946C**
Project Address: **727 – 41ST AVENUE**
Zoning: RH-2 (Residential House, Two-Family)
40-X Height and Bulk District
Block/Lot: 1603/004
Project Sponsor: Lucia Foronda
727 – 41st Avenue
San Francisco, CA 94121
Staff Contact: Glenn Cabreros – (415) 558-6169
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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.3 AND 303 OF THE PLANNING CODE TO ALLOW A RESIDENTIAL CARE FACILITY FOR UP TO TEN PERSONS IN THE EXISTING TWO-STORY SINGLE FAMILY RESIDENCE WITHIN AN RH-2 (RESIDENTIAL HOUSE, TWO-FAMILY) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On October 9, 2009, Lucia Foronda (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Sections 209.3 and 303 of the Planning Code to allow a residential care facility for up to 10 persons in the RH-2 (Residential House, Two-Family) District and a 40-X Height and Bulk District.

On January 14, 2010 and February 4, 2010, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.0946C.

The Project was determined by the Department to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1a exemption under CEQA Guidelines. The Commission has reviewed the project and concurs with said determination.

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. 2009.0946C 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 west side of 41st Avenue, between Balboa and Cabrillo Streets, Block 1603, Lot 004. The property is located within the RH-2 (Residential House, Two-Family) District with 40-X height and bulk district. The property is developed with a two-story, single-family residence presently used as a residential care facility for six elderly persons. The Project Sponsor acquired the existing residential care facility in 1980.
3. **Surrounding Properties and Neighborhood.** The project site is located in an RH-2 (Residential House, Two-Family District) and in close proximity (3 lots away) from an NC-1 (Neighborhood Commercial) District at the intersection of 41st Avenue and Balboa Street. On either side of the subject property and for most of the block-face are two-story, single-family residences of similar size, depth and massing as the subject building. Opposite the block-face, the neighborhood character is more mixed, comprised of two-story, single-family residences and three-story, multi-unit buildings ranging from 3 to 16 units. Directly across the street from the subject property is a wide (approximately 75 feet) 16 unit, apartment building.
4. **Project Description.** The applicant proposes to increase the amount of residential care from six persons to ten persons. Currently, the upper floor is used as elderly care for six persons. Various interior alterations are proposed at the garage level to accommodate elderly care for four additional persons. Building permit application 2009.05.27.9227 is concurrently filed with the Planning Department for the proposed alteration at the garage level.
5. **Public Comment.** The Department has received phone calls from two persons regarding the project. One person did not voice specific concerns and did not provide additional comment by the publication of the draft motion. The other person is opposed to the project and has concerns regarding mental health issues as related to the persons living at the facility. Specifically, she is concerned with the safety of the neighborhood, particularly children that reside in the immediate vicinity.

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. **Residential Care.** Planning Code Section 209.3 allows for residential care facilities in the RH-2 District for up to six persons as-of-right. Residential care facilities for seven or more persons may be allowed with Conditional Use Authorization.

The Project Sponsor currently operates the existing single-family residence as a residential care facility for six elderly persons, and the Project Sponsor has operated the facility since acquiring it in 1980. A Conditional Use Authorization application has been filed to request the Planning Commission approve a residential care facility for ten persons.

- B. **Rear Yard.** Planning Code Section 134 requires a 45-percent rear yard in an RH-2 District.

The required rear yard for the subject property is 54 feet. The existing rear yard measures 63 feet. No expansion of the existing building envelope is proposed as part of the project.

- C. **Parking.** Section 151 of the Planning Code requires one off-street parking space for each 10 residents, where the number of residents exceeds nine.

The one parking space within the existing garage is proposed to be retained.

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 size of the proposed use is in keeping with the massing and scale of other residential buildings in the immediate area, as no building expansion is proposed. The proposal would add elderly care facilities for four additional persons. The smaller-scale residential care facility is necessary and desirable as the project maintains the residential appearance of the existing neighborhood while diversifying residential care options for the City's aging population.

- 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;

No expansion of the existing building envelope is proposed as part of the project.

- 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;

One off-street parking space as required by the Planning Code is provided. The nature of the proposed use should not generate significant amounts of pedestrian or vehicular traffic from the neighborhood or citywide; however the project site is well-served by MUNI. MUNI lines # 5, 18, 31 and 31AX are located less than two blocks from the project.

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

Noxious or offensive emissions are not associated with the proposed use as the elderly care facility is residential in nature.

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

The project is proposed within the existing building envelope. Additional tenant improvements with regard to open space, landscaping, etc. are not required.

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

RESIDENCE ELEMENT – NEIGHBORHOOD ENVIRONMENT

OBJECTIVE 12:

PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1:

Assure housing is provided with adequate public improvements, services and amenities.

RESIDENCE ELEMENT - ACCESSIBILITY

OBJECTIVE 13:

PROVIDE MAXIMUM HOUSING CHOICE.

Policy 3:

Increase the availability of units suitable for special user groups with special housing needs including large families, the elderly and the homeless.

The proposed project is consistent with the above Objectives and Policies of the City's General Plan in that the residential care facility specializes in elderly care within a neighborhood environment. The smaller-scale facility would diversify residential care options for the aging population of the City. As the facility is within an existing single-family structure, the project would allow for elderly care in a residential setting.

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 proposal would not affect neighborhood-serving retail uses as the project is located in a residential district. The proposed alterations are within the existing building footprint.

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

The existing housing and neighborhood character would not be adversely affected. The proposal is residential in nature.

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

No housing is removed for this Project.

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

The project should not generate high volumes of pedestrian and/or vehicular traffic; however the site is well served by transit. Nearby Balboa Street has three MUNI bus lines (#18, 31 and 31AX). Fulton Street, less than two blocks from the project, is served by MUNI line #5.

- 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 proposed interior alterations will be constructed to conform to the structural and seismic safety requirements of the City Building Code as applicable.

- 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 project will have no negative impact on existing parks and open spaces, as the project is proposed within the existing building and no expansion of the existing building is proposed.

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. 2009.0946C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on October 6, 2009 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. 18027. 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 February 4, 2010.

Linda D. Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, W. Lee, Miguel, Olague, Sugaya

NAYS: (none)

ABSENT: Commissioner Moore

ADOPTED: February 4, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Sections 209.3 and 303 of the Planning Code to allow a residential care facility for up to ten persons within the existing two-story, single-family residence in an RH-2 (Residential, House, Two-Family) District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on October 6, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2009.0946C**, reviewed and approved by the Commission on January 14, 2010.
2. The project shall display nothing on or near the facility which gives an outward appearance of the nature of the facility except for a sign as/if permitted by the Article 6 of the Planning Code.
3. The exterior appearance (including lighting, landscaping, etc.) of the existing building shall be maintained to appear residential in character. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition.
4. Residents, employees and visitors to the facility shall not loiter or congregate in front of the property.
5. The project shall not provide any outpatient services.
6. Parking in the existing driveway shall not be permitted.
7. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
8. An enclosed garbage area shall be provided within the facility. All garbage containers shall be kept within the building until pick-up by the disposal company.
9. Prior to the issuance of the Building Permit 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 premises (Assessor's 1603, Lot 004), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.

10. The Project Sponsor shall photocopy the Notice of Special Restrictions onto the coversheet of the plan sets submitted with the Building Permit Application for this project.
11. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.