



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code 83) |
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| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 18051

HEARING DATE: MARCH 25, 2010

Date: March 25, 2010
Case No.: **2009.0743Q**
Project Address: **1038 Pine Street**
Zoning: RM-4 (Residential, Mixed Districts, High Density)
Nob Hill Special Use District
65-A Height and Bulk District
Block/Lot: 0253/009
Project Sponsor: David Gellman
Goldstein, Gellman, Melbostad, Gibson & Harris, LLP
1388 Sutter Street, Suite 1000
San Francisco, CA 94109
Staff Contact: Aaron Hollister – (415) 575-9078
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ADOPTING FINDINGS RELATING TO THE REVIEW FOR CONSISTENCY WITH THE GENERAL PLAN OF A FIVE-UNIT CONDOMINIUM CONVERSION LOCATED AT 1038 PINE STREET WITHIN AN RM-4 (RESIDENTIAL, MIXED DISTRICTS, HIGH DENSITY) DISTRICT, THE NOB HILL SPECIAL USE DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT. THE PROPOSAL IS TO ALLOW THE CONDOMINIUM CONVERSION SUBDIVISION OF A FIVE-UNIT RESIDENTIAL BUILDING.

PREAMBLE

1. On July 20, 2009, The Department of Public Works, Bureau of Street Use and Mapping (hereinafter Applicant) made application for Planning Department review to allow the Condominium Conversion Subdivision of a five-unit residential building (hereinafter Project) located at 1038 Pine Street, between Jones and Taylor Streets, Assessor's Block 0253, Lot 009 in an RM-4 (Residential, Mixed Districts, High Density) District, the Nob Hill Special Use District and a 65-A Height and Bulk District. The subject building is considered a legal use as a Report of Residential Building Record indicates the legal authorized occupancy and use of the building as a five-family residential building.

2. On March 25, 2010, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2009.0743Q, at which time the Commission reviewed and discussed the findings prepared for their review by the staff of the Department.
3. Section 1396, Article 9 of the Subdivision Code of the City and County of San Francisco sets forth the following rules and regulations for condominium conversions:
 - a. A maximum of two-hundred (200) units may be converted to condominium units annually. An exception is provided for two-unit buildings where both units are owner-occupied for one year or one unit is owner occupied for three years.
 - b. The following categories of buildings may be converted to condominiums:
 - i. Buildings consisting of four units or less in which at least one of the units has been occupied continuously by one of the owners of record for three years prior to the date of registration for the lottery as selected by the Director of Public Works.
 - ii. Buildings consisting of six units or less in which at least 50 percent of the units have been occupied continuously by one of the owners of record for three years prior to the date of registration for the lottery as selected by the Director of Public Works.
4. The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six units for consistency with the General Plan where at least one unit is residential. The Code calls for a sales program which promotes affirmative action in housing, a non-transferable tenant right of first-refusal to purchase the unit occupied by the tenant and various relocation requirements, including the right to a \$1,000 relocation payment.
5. The Code further provides for a lifetime lease for all tenants aged 62 years or older and/or are permanently disabled, and requires that no less than 40 percent of the tenants either have signed Intent to Purchase forms or be in a position of accepting such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.
6. The proposed Condominium Conversion Subdivision application was determined by the San Francisco Planning Department (hereinafter Department) to be Categorically Exempt from environmental review under Class 1(k), Section 15101(k) under the California Environmental Quality Act Guidelines.
7. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to this Project.
8. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the applicant, the Department staff, and other interested parties.
9. **MOVED**, that the Commission hereby approves the Condominium Conversion Subdivision as requested in Application No. 2009.0743Q.

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and also constitute findings of this Commission.
2. The applicant requests Planning Department review of a Condominium Conversion Subdivision Application to allow for the conversion of a five-unit residential building.
3. As required by Section 1396 of the San Francisco Subdivision Code, 50 percent or more of the units have been owner occupied continuously by one or more of the owners of record for three years prior to the date of registration for the lottery as selected by the Director of Public Works.
4. Tenants in the subject building were notified of their right-of-first refusal to purchase the unit they occupy, as required by the Subdivision Code, and of other rights to which they are entitled under provisions of the same Code.
5. A search of the Rent Board database did not show any tenant petitions or eviction notices filed with the Rent Board in the last 5 years.
6. On balance, the Project is consistent with the Objectives and Policies of the General Plan, as follows:

2004 HOUSING ELEMENT

OBJECTIVE 2: DISCOURAGE THE DEMOLITION OF SOUND EXISTING HOUSING.

POLICY 3:

Restrict the conversion of rental housing to other forms of tenure or occupancy.

This application was selected through the condo subdivision lottery, which sets an annual limit on condo conversions. Conversion of the subject property would allow for home ownership opportunities for San Francisco residents.

OBJECTIVE 9: AVOID OR MITIGATE HARDSHIPS IMPOSED BY DISPLACEMENT

Three units are owner-occupied and two units are tenant-occupied. The occupants of the tenant-occupied units do not intend to purchase their units. The tenants were notified of the right-of-first refusal to purchase their units, as required by the Subdivision Code, and of other rights to which the tenant is entitled under provisions of the same Code.

7. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires a review for consistency with said policies prior to taking any action that requires a finding of consistency with the General Plan. Review of the relevant priority planning policies yielded the following determinations:

- a) That the proposed project will be in keeping with the existing neighborhood character
- b) That the proposed project will have no effect on landmarks or historic buildings, public transit, the number of affordable housing units in the city, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, or public parks and open space.
- c) The subject property is currently at least 50 percent owner occupied. Conversion to condominium ownership will not affect the City's supply of affordable housing.
- d) The conversion will not affect commuter traffic or neighborhood parking in that existing residential use will neither change nor intensify.
- e) No displacement of industrial or service sectors will be caused by this conversion
- f) The applicant has applied for an inspection of the subject building by the Department of Building Inspection and will be required to make any Code-required repairs, including those relative to life safety issues, prior to recordation of the final condominium subdivision map.
- g) The conversion will not affect landmarks or historic buildings.
- h) Conversion to condominium ownership will not affect public parks or open space.

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 Condominium Conversion Subdivision Application No. 2009.0743Q.**

EFFECTIVE DATE OF MOTION: The effective date of Motion No. 18051 shall be the date of this Motion.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 25, 2010.

Linda Avery
Commission Secretary

AYES: R. Miguel, C. Olague, M. Antonini, G. Borden, W. Lee, K. Moore

NAYS:

ABSENT: H. Siguaya (Recused)

ADOPTED: March 25, 2010