



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission 18070

HEARING DATE: APRIL 8, 2010

Date: April 1, 2010
Case No.: **2010.0065C**
Project Address: **1800 VAN NESS AVENUE (and 1754 Clay Street)**
Zoning: RC-4 (Residential-Commercial Combined, High Density) District
80-D Height and Bulk District
Block/Lots: 0619/009 & 010
Project Sponsor: Sunrise Clay Street Senior Living, LLC
c/o Reuben and Junius, LLP
Attn: Tuija Catalano
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Glenn Cabrerros – (415) 558-6169
glenn.cabreros@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. 17364 TO ALLOW AN EXTENSION OF AUTHORIZATION FOR A PLANNED UNIT DEVELOPMENT TO ALLOW CONSTRUCTION OF A BUILDING GREATER THAN 40 FEET IN HEIGHT IN THE VAN NESS SPECIAL USE DISTRICT AND TO EXCEED THE PRESCRIBED BULK LIMITS. THE PROJECT IS AN 80-FOOT TALL, 62-UNIT MIXED-USE BUILDING WITH UP TO 73 PARKING SPACES AND APPROXIMATELY 5,100 SQUARE FEET OF GROUND-FLOOR COMMERCIAL SPACE IN AN RC-4 (RESIDENTIAL, COMMERCIAL COMBINED, HIGH DENSITY) DISTRICT, THE VAN NESS SPECIAL USE DISTRICT AND AN 80-D HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 2, 2010, Reuben and Junius LLP for Sunrise Clay Street Senior Living, LLC (hereinafter "Project Sponsor") filed Application No. 2010.0065C (hereinafter "Application") with the Planning Department (hereinafter "Department") for the modification of condition No. 12 of Motion No. 17364, Case No. 2004.0339C, per Planning Code Section 303(e) to add an additional 24 months to the

performance period. The project approved in Motion No. 17364 included authorization of a Planned Unit Development to construct a building greater than 40 feet in height in the Van Ness Special Use District and to exceed the prescribed bulk limits pursuant to Planning Code Sections 253.2, 303, 304 and 306. The project proposes demolition of a two-story commercial building and new construction of an 80-foot tall, 62-unit mixed-use building with up to 73 parking spaces and approximately 5,100 square feet of ground-floor commercial space in an RC-4 (Residential, Commercial Combined, High Density) District, the Van Ness Special Use District and a 80-D Height and Bulk District.

The original Project was reviewed pursuant to the California Environmental Quality Act ("CEQA"), On September 21, 2005, a Final Mitigated Negative Declaration, Case No. 2004.0339E, was adopted and issued for the proposal per CEQA Guidelines. On January 25, 2007, the San Francisco Planning Commission (hereinafter "Commission") reviewed and affirmed the decision to issue a Mitigated Negative Declaration. On March 25, 2010, the Major Environmental Analysis Division of the Planning Department issued a note to Case File No. 2004.0339E that no additional environmental review would be required for the requested Conditional Use extension, as there are no changes to the project from the original proposal analyzed in the 2005 Mitigated Negative Declaration. On April 8, 2010, the Commission concurred with said determination.

On April 8, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0065C and granted an extension of the Conditional Use Authorization per Motion No. 17364 for a 24-month period from the time of approval of Case No. 2010.0065C.

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 modification of conditions of Motion No. 17364 requested in Application No. 2010.0065C, 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 at 1800 Van Ness Avenue, on the northeast corner of Van Ness Avenue and Clay Street. The project site includes 1754 Clay Street, which is a through lot also having frontage on Washington Street. The project site is within an RC-4 (Residential-Commercial Combined, High Density) District, the Van Ness Special Use District and an 80-D Height and Bulk District. The project encompasses two lots; Lots 009 and 010 in Assessor's Block 0619, totaling approximately 25,820 square feet. The project site contains a two-story commercial building at the corner of Van Ness Avenue and

Clay Street, which formerly housed Kinko's Copies. The remainder of the site is devoted to surface parking lots.

3. **Surrounding Properties and Neighborhood.** The subject property is in a high-density residential district with nearby residential, commercial, mixed-use and religious institutional uses. Along Van Ness Avenue, the lot north and directly adjacent to the proposed project contains a four-story, mixed-use building with eight apartments over a ground floor commercial space. Across Van Ness Avenue, at the northwest corner of Van Ness Avenue and Clay Street, is a two-story commercial building currently occupied by Citibank with an adjacent surface parking lot. Along Clay Street, the lot east and directly adjacent to the project is a two-story building housing the California Club. Across Clay Street, at the southeast corner of Van Ness Avenue and Clay Street, is St. Luke's Church. The project site is at the western edge of the Nob Hill neighborhood.
4. **Past Actions and Project Description.** On January 25, 2007, the Planning Commission approved the following project per Motion No. 17364:; demolition of the existing two-story commercial building and new construction of an 80-foot tall, 8-story, 62-unit mixed-use building with approximately 5,100 square feet of ground-floor commercial space and up to 73 parking spaces within two basement levels.
5. **Proposal.** The project proposes to extend the performance period an additional 24 months from the approval of Case No. 2010.0065C per Motion No. 18070.
6. **Public Comment.** The Department received letters opposing the project from five individuals/neighbors. The letters have been made part of the docket file, Case No. 2010.0065C.
7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval, which the Commission also considers when modifying conditions to the Conditional Use approval. On balance, the proposal to extend the performance period 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 extension of the performance period will grant additional time for financing and construction of a project that is necessary and desirable—per Motion No. 17364—during an extremely challenging economic period of unknown length and severity in the city, state, and nation. The proposal to construct an 80-foot tall, 62-unit mixed-use building would add 62 market-rate dwelling units to the City's housing stock. The proposed building scale and dwelling unit density are compatible with the prescribed zoning districts and the neighborhood.
 - 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 approval found that the proposed building has a shape, size and use that are consistent with the existing surrounding development, particularly development along Van Ness Avenue. The location of the trash and loading areas within the basement level, to contain such noxious uses, is consistent with promoting or creating positive general welfare for the persons residing or working in the vicinity particularly to existing adjacent buildings. The quality of the open space provided is inviting and barrier-free and encourages recreational uses by the tenants and residents of the building.

- 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 approval allowed for 73 independently-accessible spaces within two basement levels. Seventy-two parking spaces for the project are required. The amount of proposed parking spaces was found to be acceptable.

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

The original approval found that noxious or offensive emissions such as noise, glare, dust and odor are typically not associated with residential and commercial uses. The original approval found the location of the trash and loading areas within the basement level to effectively mitigate the potential adverse impacts of noxious uses and offensive emissions to the rear yard and mid-block open space areas.

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

The original approval found the rear yard open space to be well-designed. The proposed rear yard open space was designed to be more barrier-free, which visually enlarges the amount of useable open space perceived by residents of the project. The proposed rear yard is accessible from common areas of the building, i.e. a common hallway or lobby, which also encourages use of the open space by building residents. The project also proposes street trees along Van Ness Avenue, Clay Street and Washington Street, and the vehicular access points along Clay and Washington Streets are proposed to be landscaped.

- 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 proposed performance period extension complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan.

8. **Findings Under the California Environmental Quality Act (CEQA).** After considering the 2005 Final Mitigated Negative Declaration (Case No. 2004.0339E) and other information in the record, the Commission hereby makes the following findings:
 - A. The Commission has independently reviewed and analyzed the 2005 Final Mitigated Negative Declaration (Case No. 2004.0339E), the findings contained in Motion No. 17364, and the other information in the record and has considered the information contained therein and hereby finds that no additional environmental review is required for the Project for the following reasons:
 - (1) No changes have been made to the Project that constitute substantial changes requiring major revisions in the 2005 Final Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified effects;
 - (2) Substantial changes have not occurred with respect to the circumstances under which the Project will be undertaken which require major revisions to the 2005 Final Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
 - (3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2005 Final Mitigated Negative Declaration was issued.
 - B. The Commission has reviewed and considered the 2005 Final Mitigated Negative Declaration and record as a whole, finds that the 2005 Final Mitigated Negative Declaration is adequate for its use as the decision-making body for the action taken herein and incorporates the CEQA findings contained in Motion No. 17364, including adoption of a Mitigation Measures and Improvement Measures.
9. The findings of the original approval, as established in Motion No. 17364, are hereby incorporated by reference.
10. The proposed performance period extension 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 positively contribute to the character and stability of the neighborhood and would constitute a beneficial development to the City as a whole.
11. The Commission hereby finds that approval of the request for extension 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. 2010.0065C** 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. 18070. 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 April 8, 2010.

Linda D. Avery
Commission Secretary

Ayes: Commissioners Miguel, Olague, Antonini, Borden, Moore, Sugaya

Nays: Commissioner Lee

Absent: (none)

ADOPTED: April 8, 2010

Exhibit A

Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is pursuant to Sections 303(e) to modify Condition No. 12 of Motion No. 17364 to add an additional 24 months to the performance period from the date of approval of Motion No. 18070. The original proposal included authorization of a Planned Unit Development to construct a building greater than 40 feet in height in the Van Ness Special Use District, and to exceed the prescribed bulk limits pursuant to Planning Code Sections 253.2, 303, 304 and 306. The proposal authorized under Motion 17364 includes demolition of a two-story commercial building and new construction of an 80-foot tall, 62-unit mixed-use building with up to 73 parking spaces and approximately 5,100 square feet of ground-floor commercial space in an RC-4 (Residential, Commercial Combined, High Density) District, the Van Ness Special Use District and a 80-D Height and Bulk District. All previously granted exceptions and Conditions of Approval would remain and are in the docket file, Case No. 2010.0065C, stamped as Exhibit B. The amendment extends the approval to April 8, 2012.

GENERAL CONDITIONS

1. Performance. This extension is valid for a period of 2 years. The new expiration date is April 8, 2012.
2. The project sponsor shall appoint a Community Liaison Officer within 30 days to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
3. Recordation. Prior to the issuance of any building or site permit for the construction of 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, which notice shall state that construction of the Project 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, and record said writing if requested.

SITE MAINTENANCE

4. The property owner shall provide periodic clean-up and maintenance of the site using best efforts to keep the property free of blight, as defined by San Francisco Administrative Code 80. Maintenance to be performed shall include, but not limited to, Conditions #5 through 10 below.

5. The property shall be kept free of weeds, debris and graffiti. Any existing landscaping shall be maintained in good condition.
6. Door and windows on existing vacant buildings on-site shall be secured and maintained in an attractive manner to minimize the security threat to the surrounding neighborhood. Buildings, fences and other vertical surfaces shall be kept free of graffiti, postings and general advertising. In the event glazing is broken and not replaced in-kind, replacement boards to secure the building shall be securely and attractively installed and painted to match the existing building.
7. Interior spaces of vacant buildings shall be maintained in an attractive manner so not cause blight from interior spaces that are visible from the public right-of-way. The project sponsor is encouraged to explore short-term leasing of the vacant building and/or window displays – i.e. art displays, architectural displays of proposed project, etc. – as possible options to minimize potential negative impacts of the vacant building to the surrounding neighborhood.
8. The sidewalks abutting the property shall be kept free of debris and swept regularly. The sidewalks shall be occasionally washed.
9. For vacant lots, or for vacant areas within the lot such as surface parking, the Project Sponsor shall maintain a fence to secure the site. The fence shall be kept free of graffiti, postings and general advertising.
10. Two months after the date of approval of this Authorization and quarterly thereafter, the project sponsor shall provide a memorandum report to the Zoning Administrator regarding site maintenance performed. Such reporting mechanism shall remain in place until the start of construction and at any time construction is stopped for a period of two months or more.
11. The project sponsor shall register any vacant structure(s) according to the Department of Building Inspection's Vacant Building Ordinance (VBO). A copy of the document registering the structure(s) under VBO shall be provided to the Zoning Administrator within 2 months of this Authorization for inclusion with the docket files.