



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) |
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| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion 18119

HEARING DATE: JUNE 24, 2010

Date: June 24, 2010 (Continued from the August 6, 2009 hearing)
Case No.: **2009.0322C**
Project Address: **617-621 SANSOME STREET**
Zoning: C-2 (Community Business)
65-A Height and Bulk District
Jackson Square Historic District, Jackson Square Special Use District, and
Washington-Broadway #1 Special Use District
Block/Lot: 0196/002
Project Sponsor: Dennis Fisco
Seagate Properties, Inc.
980 5th Avenue
San Rafael, CA 94901
Staff Contact: Tim Frye – (415) 575-6822
tim.frye@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 249.25 AND 303 OF THE PLANNING CODE TO CHANGE THE LEGAL USE OF THE GROUND-FLOOR RETAIL SPACE TO ALLOW AN OFFICE USE AT THE GROUND-FLOOR WITHIN THE JACKSON SQUARE SPECIAL USE DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT

PREAMBLE

On March 31, 2009, the Planning Department (Department) issued a Notice of Violation for a change of use from retail to office without Planning Commission Conditional Use Authorization at the subject site.

On April 22, 2009, Dennis Fisco (Project Sponsor) filed an application with the Department for Conditional Use Authorization to change the legal use of the ground-floor retail space to an office use at the subject site.

On August 6, 2009, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.0322C.

On August 6, 2009 the Department determined that the proposed Project is exempt/excluded from environmental review; pursuant to CEQA Guideline Section 15301, Class One, Existing Facilities.

On August 6, 2009, the Commission continued the item to allow the Project Sponsor and the Community more time to discuss options to create an active and open storefront that is more consistent with the commercial retail character of the Jackson Square Special Use District.

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. 2009.0322C, 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.** Adjacent to the southwest corner of the intersection of Sansome and Jackson Streets, Block 0196, Lot 002. The property is located within a C-2 (Community Business) District and within a 65-A height and bulk district. Historically known as the Ghirardelli Annex, the subject building is on the California Register of Historic Resources and is a contributing building to the Jackson Square Historic District. The subject property within the Washington-Broadway #1 Special Use District and the Jackson Square Special Use District.
3. **Surrounding Properties and Neighborhood.** The project site is located near the intersection of Sansome and Jackson Streets. Only the west side of the block between Jackson and Washington Streets is located within the Jackson Square Historic District. The Immigration and Citizenship Bureau occupies the block to the east and lies outside the boundaries of the district. The project site is located at the fringe of the small scale historic district, is surrounded by a wide variety of building types that also vary in massing and scale. A surface parking lot occupies the southwest corner of Sansome and Jackson Streets and is located adjacent to the subject site.
4. **Project Description.** The existing tenant (KodamaDiseño Architects) replaced a "by appointment only" retail antique store in January 2009. The office space is approximately 2,957 square feet. There is main entrance which opens onto a waiting area for clients and an ADA accessible entrance adjacent to the south. There were no interior or exterior alterations that required a building permit as part of the new tenant moving into and utilizing the space.
5. **Public Comment.** As of the date of this motion, the Department has received no correspondence from the public.

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. **Floor Area Ratio.** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. FAR is the ratio of the gross floor area of all the buildings on a lot to the total area of the lot. Under Section 124(a), the FAR for the subject site (C-2) is 3.6 to 1. Under Section 124(c), in a C-2 District that is nearer to a C-3 District than an R District, the floor area ratio is increased to 10.0 to 1.

With a lot area of 3,125 square feet, 34,650 nonresidential gross square feet can be developed on the Project Site. However, the subject building is a contributor to the Jackson Square Historic District and any exterior alteration and expansion is subject to the review and approval of the Historic Preservation Commission for compliance and conformity with the Secretary of the Interior's Standards. Since the project will not include the physical expansion of the space, there will be no increase in nonresidential gross floor area.

- B. **Parking Requirement.** Section 151 requires Offices or Studios of Architects to provide one parking space for every 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

With a gross floor area of under 5,000 square feet, the project is not required to provide parking.

- C. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Offices up to 100,000 square feet in gross floor area are not required to provide off-street freight loading.

With a gross floor area of under 100,000 square feet, the Project is not required to provide off-street loading. There are nearby yellow zones that can be used for deliveries, if needed.

7. **Planning Code Section 303.** The Project requires Conditional Use Authorization per Sections 249.25 and 303 for the change of use from retail to office at the ground-floor within the Jackson Square Special Used District. Section 249.25 of the Planning Code 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:

1. The use shall be necessary to preserve the historic resource and no other use can be demonstrated to preserve the historic resource.

According to the Project Sponsor, the Boro Family has owned the subject property since 1952. They take great pride in the historic importance of the subject building and have taken great care to ensure that it remains in good condition and it retains its historic integrity. In 2002 the owners performed a voluntary seismic and ADA upgrade. The building is routinely maintained.

2. The use shall be compatible with, and shall enhance, the unique retail character of the District.
 - **UPDATE:** *In discussions with the Jackson Square Association the project sponsor has agreed to create an active storefront display area and will rotate the design of the display every 90 days in the spirit of the commercial retail character of the Jackson Square Special Use District. This participation will reinforce necessary and desirable conditions within the Special Use District in that all surrounding businesses are represented equally in preserving the retail character of the neighborhood.*

The previous tenant was John Doughty Antiques. Mr. Doughty occupied the space for over 25 years. Despite the longevity, lack of business required him to close the store in December of 2005 – the space was vacant and the Project Sponsor was unable to secure a tenant until January 2009. Mr. Doughty’s store operated by appointment only and the public was allowed in the showroom by ringing a buzzer for access. As a result, very little foot traffic was associated with this business. While not a retail business, KodamaDiseño Architects employs more people and provides a more active use than the previous tenant and is open during regular business hours. The firm hosts clients at the office on a regular basis.

Section 303 of the Planning Code 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 would allow the continued operation of an architecture firm that has occupied the space since early 2009. Prior to leasing the space, the Project Sponsor was unable to find a tenant for approximately 3 years. The fact that the space is occupied provides a function to the public realm of this historic building that is necessary and desirable for 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;

There are no exterior alterations or expansion associated with this 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;

This amount of parking will not affect existing traffic patterns, No off-street parking or loading is required or provided. The project site is well served by public transit.

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

The project is not anticipated to contribute any odor or noise in the neighborhood because it is an office use.

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

All work is interior and there are no proposed exterior light fixtures or signage as part of the project.

- 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:

NEIGHBORHOOD COMMERCE - COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6 - MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.2 – Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

Policy 6.10 – Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The project is a 2,957 office space for the architecture firm, KodamaDiseño Architects. The project would allow the continued operation of an architecture firm that has occupied the space since early 2009. According to their website KodamaDiseño Architects is a small firm with a number of employees that work remotely and has been in business since 1978. The firm is best known for their work in affordable and special needs housing.

Prior to leasing the space, the Project Sponsor was unable to find a tenant for approximately 3 years. The fact that the space is occupied provides a function to the public realm of this historic building that is necessary and desirable for the neighborhood.

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.

No existing neighborhood-serving businesses shall be impacted or removed as part of this project.

- 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 shall have no impact upon housing Neighborhood character shall be enhanced by the continued operation of the architecture firm in a location that has been vacant for over here years. .

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

The project has no bearing on the City's supply of affordable housing.

- 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. In addition, the subject property is well served by public transit.

- 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.

This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The project does not propose any exterior alterations to this significant building, nor does the project adversely impact any significant character-defining features of the landmark building.

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

The project will not shadow any existing parks or open spaces.

10. This Conditional Use Approval is granted by the Planning Commission based on the understanding that the Project Sponsor will adhere to the conditions agreed upon with the Jackson Square Association
11. 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.
12. The Commission hereby finds that the project as proposed is necessary and desirable, and 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. 2009.0322C** 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. 18119. 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 June 24, 2010.

Linda D. Avery
Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: June 24, 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.

General Conditions

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 249.25, and 303 of the Planning Code to change the legal use of the property from retail use to office use at the ground-floor within a C-2 (Community Business) District with a 65-A Height and Bulk District, the Jackson Square Special Use District, and within the Jackson Square Historic District in general conformance with plans filed stamped "EXHIBIT B" and included in the docket for **Case No. 2005.0267C**, reviewed and approved by the Commission on June 24, 2010.
2. The project sponsor or the responsible party shall record a Notice of Special Restrictions as approved by the Zoning Administrator in the Official Records of the Recorder of City and County of San Francisco for the premises (Assessor's 0196 Lot 002), which notice shall state that the proposed use has been authorized by the Motion No. 18119 and is subject to the conditions of approval of this Motion.
3. 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.

Storefront Transparency and Sidewalk Maintenance

4. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
5. As per Planning Code Section 145.1, all storefront windows shall maintain a minimum of 75 percent open to perpendicular view. Such windows shall use clear, untinted glass, except for decorative or architectural accent.

Monitoring and Violation

6. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Code Section 176.
7. Should monitoring of the Conditions of Approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
8. Failure to comply with these Conditions of Approval shall be grounds for revocation of the authorization. Should the Project result in complaints from neighbors that are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the specific Conditions of Approval contained in this Exhibit A of this motion, the Zoning Administrator shall report such complaints to the Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures in Planning Code Section 174, 306.3 and 306.4 to consider revocation of this Conditional Use Authorization.