



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 18129

HEARING DATE: JULY 1, 2010

Date: June 24, 2010
Case No.: **2010.0248X**
Project Address: **399 FREMONT STREET**
Zoning: RH DTR (Rincon Hill Downtown Residential Mixed Use) District
85/400-R Height And Bulk Designation
Block/Lot: 3747/002
Project Sponsor: Fifield Realty Corp.
425 Market Street, Suite 2229
San Francisco, CA 94105
c/o Andrew Junius
Reuben & Junius, LLP
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Ben Fu – (415) 558-6318
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ADOPTING FINDINGS UNDER PLANNING CODE SECTIONS 309.1, 825, AND 827 TO AUTHORIZE AN EXTENSION IN THE PERFORMANCE PERIOD FOR 12 MONTHS FROM THE PREVIOUS EXTENSION DATE WITHIN THE RH DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) DISTRICT WITH A 85/400-R HEIGHT AND BULK DESIGNATION.

PREAMBLE

On April 08, 2010, Fifield Realty Corp. (hereinafter "Project Sponsor") filed Application No. 2010.0248X (hereinafter "Application") with the Planning Department (hereinafter "Department") for the extension of performance period per Planning Code Sections 309.1, 825 and 827 for an additional 12 months from the approval under Motion No. 17901. The proposal was originally approved on June 15, 2006 to construct a new residential project that would consist of approximately 432 dwelling units, up to 432 off-street parking spaces (216 independently accessible and 216 tandem spaces), 120 bicycle spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a).

Planning Commission Motion No. 17671, granted on August 08, 2008, extended the approval from June 15, 2008 to June 15, 2009, and amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing bicycle spaces to 150, and minor design modifications.

Planning Commission Motion No. 17901 extended the approval from June 15, 2009 to June 15, 2010. The current proposal would extend the approval for an additional 12 months to June 15, 2011. No other changes to the project are proposed with this request.

The environmental effects of the Project were determined by the San Francisco Planning Department (hereinafter "Department") to have been fully reviewed under the Rincon Hill Plan Environmental Impact Report (hereinafter "Rincon EIR"). The Rincon EIR was prepared, circulated for public review and comment, and on May 5, 2005, by Motion No. 17007 certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et. Seq., hereinafter "CEQA"). The Rincon EIR is a Program EIR.

The Commission adopted CEQA findings related to the Rincon EIR in support of its approval of the Rincon Hill Plan and related actions in its Motion No. 17008 and hereby incorporates such findings by reference. The Application to extend the approval period was determined by the San Francisco Planning Department (hereinafter "Department") not to require additional environmental review under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA").

On July 01, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2010.0248X.

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 extension of the performance period requested in Application No. 2010.0248X, subject to the previously approved conditions and 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 approximately 37,812 square foot project site consists of three parcels that are located along the east side of Fremont Street between Harrison Street and Folsom Street. The Project site is on the north slope of Rincon Hill and slopes up toward Harrison Street and down toward Folsom Street. The site was improved with three structures – 355-375 Fremont, known as the Hjul Building, a two-story, approximately 46,500 square-foot office building constructed in 1929 as an industrial building and subsequently converted to office uses;

385 Fremont, a two-story, approximately 15,000 square-foot building with mezzanine containing an auto repair garage and office space; and 399 Fremont, the Apostleship of the Sea, a three-story plus basement, 35,000 square-foot building used as a social service center, with a chapel and temporary shelter for homeless people. The Hjul Building at 355-375 Fremont Street was listed in four local surveys containing buildings that could be considered historic resources. When it certified the Final EIR for the Rincon Hill Plan, the Planning Commission found that the benefits of the Plan, including development of the 355-375 Fremont Street site, outweigh its significant impacts, including demolition of the Hjul Building. The buildings were demolished in February of 2008.

3. **Past History and Actions.** On November 28, 2005, an application was approved for the construction of a 250-foot residential tower at 375 Fremont Street (Case No. 2002.0449V). That approval was supported by the 375 Fremont Street Final EIR. In addition, on January 13, 2005, an application was submitted for a 250-foot residential project at 399 Fremont Street (Case No. 2003.0169C). An application for environmental review for the 399 Fremont was submitted on February 20, 2003 and a Preliminary Draft EIR was prepared (Case No. 2003.0169E). The proposed Project would be built in lieu of these two separate projects. When the Rincon Hill Downtown Residential Mixed Use plan was approved, it included both the two 250-foot residential projects and, as the preferred alternative, the single, proposed 400-foot Project on the two sites combined. On May 5, 2005, the Planning Commission certified the final Environmental Impact Report ("EIR") for the Rincon Hill Downtown Residential Mixed Use plan. The final EIR included analysis of the potential impacts of the proposed Project. In addition, the Planning Department determined that no further environmental review was required as documented in a letter to the file dated May 25, 2006.

On June 15, 2006, an application was approved under Motion No. 17268 for the demolition of the three existing structures, and the construction a single residential high-rise tower that would include the following features:

- The Project will be 400 feet tall (measured from Harrison Street) with an 85-foot podium and total approximately 528,000 gross square feet.
- The Project will consist of up to 432 dwelling units, including approximately 60 percent one-bedroom and studio units and at least 40 percent two-bedroom and three-bedroom condominium apartments.
- Off-street parking for up to 432 vehicles will be provided in a four-level underground garage.

On August 08, 2008, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2009. Motion No. 17671 also amended the project by increasing the unit count to 452, reducing the off-street parking spaces to 238, increasing the bicycle spaces to 150, and minor design modifications. The parking will include 202 independently accessible spaces and 36 tandem spaces. The tandem spaces will be served by valet. The garage will also include 9 ADA compliant spaces, 2 car share spaces and 150 bicycle storage spaces.

On June 11, 2009, Planning Commission granted a 12-month extension from the original approval date. The extension expired on June 15, 2010.

4. **Proposal.** The project proposes to extend the performance period for another 12 months, taken from the date of expiration of the previous extension granted per Motion No. 17901.
5. **Public Comment.** The Department has received no opposition to the proposal.
6. **The Rincon Hill Downtown Residential Mixed Use District – Planning Commission Design Review and Determination of Compliance Required.** On July 26, 2005, the Board of Supervisors approved the Rincon Hill Plan Element of the General Plan and associated General Plan Amendments. On August 2, 2005, the Board of Supervisors approved, on a first reading, General Plan amendments, zoning text and map amendments, along with other associated legislation in adopting the new Rincon Hill Plan. The new Rincon Hill Plan further encourages the conversion of the existing Rincon Hill area to a high-density residential neighborhood with significant pedestrian and residential amenities such as parks and open space. The proposed new zoning provides more specific direction in designing new buildings, to assure their bulk and height is appropriate and that their interaction with the pedestrian realm contributes to the creation of a new neighborhood. Among the goals of the new zoning controls is to encourage high-rise development in slender towers amply separated, and to limit the amount of excessive off-street parking. To provide more specific direction to project sponsors and to help assure a more predictable project review process, the controls are designed to be more specific and allow less variability. The new controls utilize a design review process before the Commission, similar to the project review process for Downtown C-3 Districts, rather than utilizing the Conditional Use and Planned Unit Development review processes.
7. 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.
8. 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** Case No. 2010.0248X subject to the following conditions attached hereto as EXHIBIT A (Conditions of Approval) which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this determination of compliance authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 17901. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission Street, Third Floor, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **July 1, 2010**.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Miguel, Moore, Olague, and Sugaya

NAYS: None

ABSENT: Commissioner Lee

ADOPTED: July 1, 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 309.1 to extend the performance period for another 12 months from June 15, 2010. The approved project is to construct a new residential project that would consist of approximately 452 dwelling units, up to 238 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(b), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and 309.1(b)(1)(d), and to provide exceptions to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(a). All previously granted exceptions and Conditions of Approval would remain and are attached as Exhibit C. The amendment extends the approval to June 15, 2011.

GENERAL CONDITIONS

1. Performance. This authorization is valid for a period of 12 months after the date of expiration of the previous extension granted per Motion No. 17901. Specific procedures regarding the performance requirement follow Planning Code Section 309.1(e).
2. 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.
3. The property shall be kept free of weeds, debris, and blight. The Project Sponsor shall install a fence to prevent vagrant camping, unlawful dumping and to minimize the security threat to the neighborhood. The fence shall be kept free of graffiti and postings.
4. The Project Sponsor shall submit plans for revised fencing, grading, and covering of site for Planning Department review and approval within 30 days after the date of this Motion.