



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.17528

Hearing Date: November 15, 2007
Case No.: **2007.0725C**
Project Address: **2200 MISSION STREET (Aka 3417-3419 18th STREET)**
Zoning: NC-3 (Moderate Scale) Neighborhood Commercial District
 50-X / 65-B Height and Bulk District
Block/Lot: 3589/001
Project Sponsor: T.C. Chen
 1647 Hopkins Street
 Berkeley, CA 94707
Staff Contact: Edgar Oropeza – (415) 558-6381
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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTION 303, OF THE PLANNING CODE TO REVISE FINDINGS PER PLANNING COMMISSION MOTION No. 16264. THE 23-UNIT MIXED-USE PROJECT, CURRENTLY UNDER CONSTRUCTION, WAS APPROVED AS RENTAL HOUSING. THE AMENDMENT WOULD ELIMINATE THIS REQUIREMENT, WITHIN THE NC-3 (MODERATE SCALE) NEIGHBORHOOD COMMERCIAL DISTRICT, THE MISSION ALOCOHOLIC BEVERAGE RESTRICTED USE SUBDISTRICT, AND A 50-X/65-B HEIGHT AND BULK DISTRICT.

PREAMBLE

On July 19, 2007 T.C. Chen (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Section 303 to revise findings pursuant to Planning Commission Motion No. 16264 for the property located at 2200 Mission Street, (Aka 3417-3419 18th Street), within the NC-3 (Moderate Scale) Neighborhood Commercial District, the Mission Alcoholic Beverage Restricted Use Subdistrict, and a 50-X/65-B height and Bulk District.

On October 18, 2001, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2000.692CD. Conditional Use Authorization was granted for (1) the development of a lot greater than 9,999 square feet pursuant to Planning Code Section 712.11; (2) the establishment of a use greater than 2,999 gross square feet pursuant to the Mission District Interim Controls (MDIC); (3) the establishment of

a use greater than 5,999 gross square feet pursuant to Planning Code Section 712.21; and (4) the construction of a residential project with fewer than 25-percent affordable units pursuant to the MDIC.

On November 15, 2007, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0725C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to be categorically exempt from environmental review. The Commission has reviewed 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.

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.** The subject site measures approximately 85-feet by 160-feet for a total of 13,600 square feet. The lot currently is being improved with a new structure that would include 23-dwelling units (rental) on the 2nd through 5th floors, 9,300 square foot grocery store and 600 square foot laundry on the ground floor, 15-parking spaces below grade (to serve the proposed retail uses), and 23 parking spaces on the second level (to serve the residential units). Auto ingress and egress for the grocery store parking would be along 18th Street, and automobile ingress and egress for the residential units would be along San Carlos Avenue.
3. **Surrounding Neighborhood.** The subject lot is adjacent to a fenced-in parking lot on its south side along Mission Street, and is bordered by San Carlos Avenue, a narrow 40-foot wide residential street, on its west side. A single story residential structure is adjacent to the subject property along San Carlos Avenue. Across both Mission Street and 18th Street from the subject property are single-story commercial structures. Across San Carlos Avenue from the subject parcel is a four-story apartment building. The uses along Mission Street and 18th Street in the immediate vicinity are generally comprised of residential on upper floors with retail and personal services on the ground floors. San Carlos Avenue is generally characterized as having smaller residential buildings.
4. **Project Description.** The proposal is to amend findings per Planning Commission Motion No. 16264. The 23-unit mixed-use project, currently under construction, was approved as rental housing per finding No. 12(C) which states, "The Project would have no adverse impact on the City's existing supply of affordable housing. The project does not demolish or displace any residential units and will add 23 rental units to the City's housing stock, of which two will be

affordable.” The amendment would eliminate this provision, allowing units to be rented, sold, or owner occupied.

5. **Public Comment.** The Department has received one phone call in opposition to the project stating that persons residing within the Mission District would not be able to afford market rate condominiums.

The Department has received one phone call in support to the proposed project stating that Howard Ngo has been a long time merchant of the Mission District who cares genuinely for the Mission District and its residents.

Howard Ngo, the property owner, met and discussed the project proposal with the Mission Economic Development Agency on November 7, 2007.

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. **Open Space.** Planning Code Section 135 requires that at least 80 square feet of private usable open space or 100 square feet of common usable open space be provided for each unit. For the subject project, 2,300 square feet of usable open space is required for the 23 units, it is being provided on a common deck. The project includes a 2,301 square foot roof deck.

- B. **Exposure.** Planning Code Section 140 requires that each dwelling unit face a public street or rear yard meeting the requirements of the Planning Code. All units in the proposed building have windows that face either Mission Street, 18th Street or a rear yard that is equal to 25-percent of the lot area, therefore meeting the requirements of the Code. .

- C. **Height.** Planning Code Section 260 limits building’s heights to that height limit set forth in the subject Height and Bulk District. The subject building is a 50-foot tall building on a parcel where the western half falls within a 50-X Height and Bulk District and the eastern half falls within a 65-B Height and Bulk District. Planning Code Section 260(b) allows parapets to extend four feet above the height limit and elevator and stair penthouses to extend 10-feet above the height limit. The proposed parapets and stair penthouses meet this restriction.

- D. **Street Frontage.** Planning Code Section 145.1 requires that at least 50-percent glazing be provided on facades in Neighborhood Commercial Districts that include most commercial uses on the ground floor. The proposed project includes over 50-percent glazing on both the Mission Street and 18th Street frontages.

- E. **Parking.** Planning Code Section 151 requires that at least one parking space be provided for each dwelling unit, and at least one parking space be provided for every 500 occupied square feet of retail use where the total retail occupied square footage is over 5,000 square feet. The project includes 23 code-complying parking spaces on the second level for the 23 dwelling

- units and 15 code-complying parking spaces on the basement level for the approximately 7,500 occupied square feet of retail use; therefore the requirement has been met.
- F. **Street Trees.** Planning Code Section 143 requires one new street tree for every 20-feet of street frontage with an additional street tree for any remainder 10 square feet of frontage. The plans include up to eight (8) street trees on the 160-foot wide Mission Street frontage and up to four (4) street on the 85-foot 18th Street frontage.
- G. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. The proposed business does not have a name as of this writing. Any proposed signage will be subject to the review and approval of the Planning Department.
7. **Past Actions.** The project as proposed required and received a rear yard modification. Section 134(e) allows the Zoning Administrator to modify or waive the rear yard requirement through a Variance application process. Rear yards equal to 25-percent of the lot depth are required at each level that a dwelling unit is being proposed. The subject property includes a 25-percent rear yard at the 2nd through 5th levels.
8. **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 proposed new construction is desirable because it would add 23 new residential units to the City's stock. The NC-3 District is designed to encourage the development of housing at a moderately high density. Therefore adding 23 dwelling units in the NC-3 District is appropriate. The project also includes a ground-floor grocery store and laundry. These are neighborhood serving retail uses, which are specifically encouraged in the NC-3 zoning regulations and in the General Plan.*
- The project is desirable because the alternative is the potential loss of 23 dwelling units and the prospect of blight on an important neighborhood commercial corridor.*
- B. *The project is compatible with the neighborhood, which is comprised of a mix of commercial and residential uses. The building is designed to fit in with the neighborhood while at the same time maximizing the number of units that can be provided. The 50-foot height of the building is appropriate for the site as other buildings along the block and across the street are close to 50-feet in height. General urban design standards encourage prominent structure at corner locations. The building is at a corner where taller larger buildings are encouraged as a means to mark or anchor the corner.*

- C. *The proposed new building 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. *The demolition of the existing building does not represent a loss or displacement of a tenant. The existing grocery store is owned by the project sponsor. Instead of being displaced, the current grocery store will be replaced by an updated, larger, better grocery store facility. The project will also include a laundry, a neighborhood-serving retail use that is encouraged by the NC-3 controls.*
 - ii. *The proposal would have a negligible effect on traffic and parking. The project includes 38 parking spaces below grade and on the second level. The Project Site is also extremely well served by transit, bicycle routes, and neighborhood services.*
 - iii. *The project would not cause a noticeable increase in the ambient noise level in the area, not generate substantially more light or glare than do the existing commercial, industrial, and residential uses in the neighborhood. The Project would not produce significant air quality impacts due to vehicular emissions, and would include a mitigation measure to reduce any dust generated during site preparation and construction.*

9. **Large Lot Development.** The project meets the required findings for the development of lots greater than 9,999 square feet in NC-3 Districts pursuant to Planning Code Section 121.1

- a. *The mass and façade of the proposed structure are compatible with the existing scale of the district. While the height of the building will be taller than some of the buildings in the immediate vicinity, it will be at a corner location where buildings are encouraged to be taller and more prominent.*
- b. *The façade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district. The design quality in the immediate vicinity is undefined with buildings ranging from one to five stories. While many of the building feature bay windows, not all of them do. The proposed building's facades will feature vertical articulation in the form of recessed and cantilevered balconies. The proposed building façade is designed to read as having modulation and an articulation rhythm that is consistent with the residential bay rhythm that are featured on many of the surrounding buildings.*

10. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES

INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 4:

Locate infill housing opportunities on appropriate sites in established neighborhoods.

OBJECTIVE 2

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 3

Allow flexibility in the number and size of units with permitted volumes of larger multi-unit structures, especially if the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.

OBJECTIVE 12

PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1

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

Policy 4

Promote the development of well designed housing.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6

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

Policy 9

Regulate uses so that traffic impacts and parking problems are minimized.

URBAN DESIGN ELEMENT OBJECTIVES AND POLICIES

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OR ORIENTATION.

Policy 1

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3

Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

Policy 6

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

11. **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. No neighborhood serving retail uses are being displaced or otherwise affected by the proposal. The proposal will provide a new commercial space on the ground floor facing both Mission Street and 18th Street.
 - b. Existing housing and neighborhood character will not be adversely affected by the proposed project. The new building's design maximizes housing in a building envelope that is consistent with the surrounding development. Along Mission Street and 18th Street, the street wall is maintained and enhanced by the larger building. Retail street frontage is also provided along both streets.
 - c. The Project would have no adverse impact on the City's existing supply of affordable housing. The project does not demolish or displace any residential units. The project will add 23 units to the City's housing stock, of which three will be affordable.
 - d. The Project will provide 38 off-street parking spaces and will not significantly effect automobile traffic congestion or parking problems in the neighborhood.
 - e. No industrial or service industry establishment would be displaced by the Project.
 - f. Earthquake safety requirements would be considered during review of any building permit applications.
 - g. The subject building is not a landmark, within an historic district, and is not included on any historic or architectural surveys; they proposal will therefore not effect any historic properties.
 - h. The Project has no impact on open space or parks or their access to sunlight and vistas.
12. 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.
13. 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. 2007.0725C** 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. 17528. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 15, 2007.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, S. Lee, W. Lee, Moore, Olague and Sugaya

NAYS: None

ABSENT: Commissioner Alexander

ADOPTED: January 10, 2008

Exhibit A

Conditions of Approval

1. This authorization is for the construction of a new building that would contain 23-dwelling units, approximately 9,900 gross square feet of retail use, and 38 off-street parking spaces at 2200 Mission Street, Lot 1 in Assessor's Block 3589.
2. Any merger of units, such that there would be fewer units, or any reconfiguration of units, such as any of the units would be made smaller, shall require separate Planning Department approval.
3. All applicable City Codes and standards shall be met.
4. No general advertising signs shall be permitted anywhere on the building.
5. The units will be available for sale or rental.

CONDITIONS OF APPROVAL -- AFFORDABLE UNITS

6. The Project Sponsor shall designate a total of three units as affordable [Below Market Rate (BMR)] units to be constructed on the site of the principal project. This total represents 13 percent of all units in the project.
7. The subject BMR units shall reflect the unit size mix of the market rate units and shall be distributed in the following range of unit sizes:
 - 1 three-bedroom unit
 - 1 two-bedroom unit
 - 1 one-bedroom unit
8. The BMR units shall be designated as those units labeled 3D on the second floor and 2B on the third floor on the plans labeled Exhibit B and dated October 18, 2001 as reviewed by the Planning Commission. The Project Sponsor shall record a Notice of Special Restriction on the property which records a copy of this Motion and identifies the BMR units satisfying the requirements of this Motion.
9. The BMR units labeled 3D on the second floor and 2B on the third floor shall be sold to qualifying households, as defined in the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual") published and adopted by Resolution No. 13405 on September 10, 1992 by the City Planning Commission, whose gross annual income, adjusted for household size, does not exceed 60 percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA).

10. The BMR unit labeled 1A on the third floor shall be sold to qualifying households, as defined in the Procedures Manual published and adopted by Resolution No. 13405 on September 10, 1992 by the City Planning Commission, whose gross annual income, adjusted for household size, does not exceed 120 percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA). The percentage of median income specified herein shall be the maximum income for qualifying households.
11. The Project Sponsor shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such a fee is authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.
12. The definitions, procedures and requirements for BMR units set forth in the Procedures Manual, attached as Exhibit C to this Motion, are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.

CONDITIONS OF APPROVAL-MONITORING AND VIOLATIONS

13. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Code Section 176.
14. Should implementation of this Project result in complaints from neighborhood residents or business owners and tenants, which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the City Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of this motion, the Zoning Administrator shall report such complaints to the City Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.
15. Should the monitoring of the conditions of approval contained in Exhibit A of this Motion be required, the Project Sponsor or successor's shall pay fees as established in Planning Code Section 351(f) (2.)