



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution 17616 HEARING DATE JUNE 12, 2008

Case No.: 2008.0548 ETZ
Project Address: 901 BUSH STREET
Current Zoning: RC-4 (Residential-Commercial, Combined-High Density)
65-A Height and Bulk District
Proposed Zoning: 901 Bush Street Special Use District
Block/Lot: 0282/001
Project Sponsor: M-J SF Investments
San Francisco, CA
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE BY ADDING SECTION 249.36 AND AMENDING SHEET SU01 OF THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO TO ESTABLISH THE 901 BUSH STREET SPECIAL USE DISTRICT; AND ADOPTING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1(B)

WHEREAS, on May 8, 2007, M-J SF Investments, as an interested property owner, filed an application to amend the Planning Code and change the Zoning Map of the City and County of San Francisco, proposing creation of the 901 Bush Street Special Use District (SUD); and,

The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 12, 2008; and,

The Commission adopted the resolution on June 12, 2008 to approve the Code text and Map changes; and,

The Property at 901 Bush Street, Lot 001 in Assessor's Block 0282; generally bounded by Bush Street to the north, Taylor Street to the east, and Assessor's Block 0282 Lots 017 and 022 to the west and south, respectively, is developed with a five-story over basement, presently vacant apartment building, dating from 1909 and originally containing 37 units and a "housekeeping unit," which is considered to be a dwelling under the Planning Code; and,

The subject multi-family residence, formerly an Unreinforced Masonry Building (UMB), withstood two fires occurring in 1999, which destroyed the windows, interior and roof; and,

Said structure, after purchase by the Project Sponsors, has now been seismically upgraded, reconstructed, and rehabilitated into a 38-unit building, with 16 studio units, 17 one-bedroom units, and five 2-bedroom units, ranging in size from about 310 square feet to approximately 540 square feet; and,

Such repair and reconstruction was permitted under Planning Code Sections 186(d) and 188(b) which allow, respectively, the restoration of a non-conforming use and the repair or rebuilding of a non-complying structure where damage or destruction occurred as a result of fire or other calamity; and,

The Project Sponsors obtained a letter from the Department of Public Works (the lead agency for the review of subdivisions) that indicated that DPW would process a condominium map application for the site as new construction due to the extent of post-fire reconstruction. Such a determination was seen as a means for enabling the existing building (with more than six units) to become condominiums, using this "Article 9 Exemption" (A9E) for new construction, exempting the project from a prohibition on condominium conversion otherwise mandated by the San Francisco Subdivision ordinance; and,

The Project Sponsors filed a condominium map application to approve 38 new condominiums at 901 Bush Street; and,

In 2005, the Sponsors' condominium map application was referred to the Planning Department for review of consistency with the General Plan. The Department found it could not take the internally contradictory position that the project, which could restore the nonconforming use (dwelling density) and rebuild a non-complying structure *only as existing dwellings*, is simultaneously *new dwellings* for purposes of the condominium map application.; and,

On August 15, 2005, the Planning Department sent a letter to the Director of DPW requesting denial of the tentative map in accordance with Government Code Sections 66473.5 and 66474, among other applicable provisions, based on the project's inconsistency with the General Plan. The Director did disapprove the map; and,

The Project Sponsors then appealed the map disapproval to the Board of Supervisors, and ultimately the Supervisors upheld the City's decision at duly noticed public hearings. On April 6, 2006, the Project Sponsors filed suit in San Francisco Superior Court against the City and County, the San Francisco Planning Department, and a staff Planner; and,

On March through April of 2009, the Project Sponsors and the City entered into a settlement agreement and release of claims, resulting in the cessation of legal action and a commitment from the Project Sponsors to provide on-site affordable housing. One term of the settlement agreement requires the Project Sponsor to initiate a Planning Code amendment that would create a special use district to legalize certain existing quantitative elements, including lack of parking, usable open space dimensional deficiencies, and density of the existing building, and would further require provision of five on-site Below Market Rate Units referenced above; and,

These actions enable the Department to recognize the project as new construction, and because the Project Sponsors are assisting former tenants with alternative off-site housing or restored housing on-site, and are providing affordable units. The Commission finds this current proposal to be, on balance, in conformity with the General Plan as described below; and,

On June 4, 2008 the Planning Department determined the proposed Planning Code text and map amendments are subject to a Class 31 Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to Section 15331(d) of the Guidelines for Implementation of the California Environmental Quality Act; and,

The Department has received several letters from former tenants in support of the proposed Ordinance. No correspondence has been received in opposition; and,

The proposal will promote the following relevant objectives and policies of the General Plan:

HOUSING ELEMENT

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 DEMAND.

POLICY 1.1 Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support.

POLICY 1.2 Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.

POLICY 1.4 Locate in-fill housing on appropriate sites in established residential neighborhoods.

POLICY 1.7 Encourage and support the construction of quality, new family housing.

OBJECTIVE 3

ENHANCE THE PHYSICAL CONDITION AND SAFETY OF HOUSING WITHOUT JEOPARDIZING USE OR AFFORDABILITY.

POLICY 3.5 Improve the seismic stability of existing housing without reducing the supply of affordable housing.

POLICY 3.6 Preserve landmark and historic residential buildings.

POLICY 4.2 Include affordable units in larger housing projects.

OBJECTIVE 9

AVOID OR MITIGATE HARDSHIPS IMPOSED BY DISPLACEMENT.

POLICY 9.1 Minimize the hardships of displacement by providing essential relocation services.

POLICY 9.2 Offer displaced households the right of first refusal to occupy replacement housing units that are comparable in size, location, cost, and rent control protection.

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

- POLICY 2.4: Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.
- POLICY 2.5: Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.
- POLICY 4.12: Install, promote and maintain landscaping in public and private areas.

The proposed amendment to the Planning Code and map is consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code, which require:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;
The proposed amendment could positively affect the viability of existing neighborhood serving retail uses by restoring residential use in a long-vacant building.
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
The proposed amendment enables reoccupation of 38 residential units, five of which are BMR units, helping to preserve neighborhood character and diversity.
3. That the City's supply of affordable housing be preserved and enhanced;
The proposed amendment requires provision of five BMR units.
4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;
The proposed amendment would not impede MUNI transit service as no curb cuts or off-street parking is provided in the project, nor will it adversely impact street circulation or parking, as it supports the City's Transit First policy.
5. 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 proposed amendment would not affect the industrial and service sectors.
6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;
The former UMB in the proposed SUD has been seismically upgraded, thus promoting the greatest possible preparedness to protect against injury and loss of life in an earthquake.
7. That the landmarks and historic buildings be preserved;
The proposed amendment facilitates appropriate reuse of an historic residential building.
8. That our parks and open space and their access to sunlight and vistas be protected from development;
The proposed amendment will have no effect on our parks and open space.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Code amendment and Map change as described in this Resolution and in the draft Ordinance.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 12, 2008.

Linda Avery
Commission Secretary

AYES: Olague, Miguel, Lee, Antonini, Moore

NOES: none

ABSENT: Sugaya (recused)

ADOPTED: June 12, 2008