



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program
- Downtown Park Fee
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- First Source Hiring (Admin. Code)
- Transit Impact Development Fee
- Other

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Planning Commission Motion 18955

HEARING DATE: AUGUST 15, 2013

Date: August 1, 2013
Case No.: **2013.0180CX**
Project Address: **72 ELLIS STREET**
Zoning: C-3-R (Downtown, Retail) Zoning District
 80-130-F Height and Bulk District
 Kearny-Market-Mason-Sutter Conservation District
Block/Lot: 0327/011
Project Sponsor: James A. Reuben
 Reuben, Junius & Rose, LLP
 One Bush Street, Suite 600
 San Francisco, CA 94104
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ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A PREVIOUSLY-APPROVED DOWNTOWN PROJECT AUTHORIZATION AND REQUESTS FOR EXCEPTIONS UNDER PLANNING CODE SECTION 309 TO EXTEND THE PERFORMANCE PERIOD FOR TWO YEARS TO ALLOW CONSTRUCTION OF AN 11-STORY, 125-FOOT TALL HOTEL CONTAINING APPROXIMATELY 156 ROOMS, LOBBY, ACCESSORY MEETING ROOMS, AND A RESTAURANT ON A SITE CURRENTLY USED AS A SURFACE PARKING LOT AT 72 ELLIS STREET, WITHIN ASSESSOR'S BLOCK 0327, LOT 011, LOCATED WITHIN THE C-3-R ZONING DISTRICT, THE 80-130-F HEIGHT AND BULK DISTRICT, AND THE KEARNY-MARKET, MASON, SUTTER CONSERVATION DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On February 21, 2013, James A. Reuben, acting on behalf of Personality Hotels, Inc. ("Project Sponsor") submitted a request with the City and County of San Francisco Planning Department ("Department") for an amendment to the conditions of approval for a previously approved project in order to extend the performance period for three years. The project was originally approved by the Planning Commission on November 15, 2001 (Case No. 2000.383CX), and would demolish an existing surface parking lot and

construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant, located at 72 Ellis Street ("Project Site"), within the C-3-R Zoning District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District. The Project was previously granted a Conditional Use Authorization, as well as a Downtown Project Authorization and Requests for Exceptions under Planning Code Section 309, including a height exception in the 80-130-F Height And Bulk District, a bulk exception, and a height extension for a vertical extension. No modifications are proposed to the design or intensity of the project as originally approved (collectively, "Project", Case No. 2013.0180CX).

On October 31, 2001, the Draft Initial Study/Mitigated Negative Declaration for the Project was prepared and published for public review. On November 15, 2001, the Planning Commission ("Commission") reviewed and considered the Final Mitigated Negative Declaration ("FMND") and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 2000.383E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program, which material was made available to the public and the Commission for the Commission's review, consideration, and action. Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

On December 9, 2004, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2004.1047CX, a request to extend the performance period of the Project for three years. The Commission reviewed and discussed the findings for approval prepared for its review by Department staff, and approved the extension of the performance period for three years (Motions 16919 and 16920), subject to the conditions of the original approval of the Project. This extension expired on December 9, 2007.

On March 25, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2009.1105CX, a request to extend the performance period of the Project for three years. The Commission reviewed and discussed the findings for approval prepared for its review by Department staff, and approved the extension of the performance period for three years (Motions 18503 and 18504), subject to the conditions of the original approval of the Project. This extension expired on March 25, 2013.

On August 15, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No 2013.0180X. 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, the Planning Department staff, and other interested parties.

MOVED, that the Commission hereby approves a two-year extension of the performance period pursuant to Application No. 2013.0180X, modifying the previous Downtown Project Authorization and Requests for Exceptions under Planning Code Section 309, as approved by Motion No. 16284, subject to conditions contained in EXHIBIT A, attached hereto and incorporated by reference, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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 located on the north side of Ellis Street, between Powell and Market Streets, Assessor's Block 0327, Lot 011. The property is located within the C-3-R Zoning District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District. The Project Site is currently developed with a surface parking lot.
3. **Surrounding Properties and Neighborhood.** The Project Site is situated within the Union Square area, a destination retail and entertainment district that draws a considerable number of visitors and serves as the retail core of San Francisco. Ground floor storefronts are typically occupied by retail stores or restaurants, while upper floors of building are generally occupied by tourist-hotels, offices, or upper floors of multi-story retail establishments. Prominent uses and attractions in the area include Union Square (located two blocks to the north), Halladie Plaza and the cable-car turnaround (located one block to the south), and the San Francisco Centre (located one block to the south). The project site is also located with the Kearny-Market-Mason-Sutter Conservation District. This District hosts a substantial number of historically significant buildings, most of which were built following the 1906 earthquake, measure four to eight stories in height, and exhibit rich detailing and ornamentation.
4. **Proposed Project.** The Project Sponsor requests an amendment to the conditions of approval for a previously approved project in order to extend the performance period for three years (to August 15, 2016). The project was originally approved by the Planning Commission on November 15, 2001, and would demolish an existing surface parking lot and construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant, located at 72 Ellis Street. No modifications are proposed to the design or intensity of the project as originally approved.
5. **Public Comment.** The Planning Department has received several communications in support of extending the performance period for the Project.
6. This Commission adopts the findings of the previous Planning Commission Motion No. 16284, as though fully set forth herein.

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 finds that, given the weakness in the hotel market due to the fluctuations of the national and global economy since the initial approval of the Project, which is beyond the control of the Project Sponsor, and given the merits of the proposed Project, it is appropriate to amend condition of approval No. 2. E. of Planning Commission Motion No. 16284 to extend the performance period of the Project to August 15, 2015.
9. On balance, the Commission hereby finds that approval of the proposed amendment to the performance period of the Project in this case would promote the health, safety, and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2013.0180X**, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 16284, as amended by this approval to extend the performance period of the project to August 15, 2015, which are incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. 2013.0180X.

The Planning Commission further finds that since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed 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 in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on August 15, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Fong, Antonini, Borden, Hillis, Moore, Sugaya, Wu

NOES:

ABSENT:

ADOPTED: August 15, 2013

Exhibit A

Conditions of Approval

This authorization is modify the previous approval granted by Motion No. 16284 to extend the performance period of the project to August 15, 2015, for a project located at 72 Ellis Street, Lot 011 in Assessor's Block 0327, within the C-3-R District, the 80-130F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District, to demolish an existing surface parking lot and construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant, subject to conditions of approval reviewed and approved by the Commission on November 15, 2001 under Motion No. 16284, as amended by the Planning Commission on August 15, 2013 under Motion No 18955. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator. The Project shall be completed in general conformity with the plans dated labeled "Exhibit B" on file in Case Docket 2013.0180X, except as modified herein.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for 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 for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on November 15, 2001 under Motion Nos. 16283 and 16284, as amended by the Planning Commission on August 15, 2013 under Motion No. 18955.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18955 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for two years from the effective date of the Motion (until August 15, 2015). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within two (2) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than two (2) years has passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.