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Planning Commission Motion No. 18981

HEARING DATE: SEPTEMBER 26, 2013

Date: September 19, 2013
Case No.: **2013.0675 C**
Project Address: **2709 22ND STREET**
Zoning: RM-1 (Residential, Mixed, Low-Density)
40-X Height and Bulk District
Block/Lot: 4151/001B
Project Sponsor: Van Ly
8 Brussels Street
San Francisco, CA 94134
Staff Contact: Erika S. Jackson – (415) 558-6363
erika.jackson@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE (CU) AUTHORIZATION UNDER PLANNING CODE SECTIONS 209.3(J) AND 303 TO ALLOW THE EXPANSION OF AN EXISTING CHURCH (D.B.A. IGLESIA ROCA DE SALVACION) WITHIN AN RM-1 (RESIDENTIAL, MIXED, LOW-DENSITY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT. THE PROPOSAL ALSO INCLUDES A VARIANCE REQUEST FOR REAR YARD, WHICH WILL BE HEARD BY THE ZONING ADMINISTRATOR.

PREAMBLE

On May 30, 2013, Van Ly (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 209.3(j) and 303 to allow the expansion of an existing church (d.b.a. Iglesia Roca de Salvacion) within an RM-1 (Residential, Mixed, Low-Density) Zoning District and a 40-X Height and Bulk District.

On September 26, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0675C.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption under CEQA.

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. 2007.0386C, 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.** The Project site at 2709 22nd Street is located on the south side of 22nd Street, between York and Bryant Streets and is developed with an approximately 4,800 square foot two-story building (approximately 65 feet deep and 40 feet wide) with an existing church on the ground floor and a single residential unit on the second floor. The existing building was constructed circa 1925. The ground floor was used as a retail store and deli until the church bought the property in May 1971, which was zoned R-4 at the time. Churches were considered a principally permitted use in R-4 Zoning District in 1971. The property also contains an approximately 350 square foot single story kitchen building located within the required rear yard along the rear property line. It is unclear when the building in the rear yard was constructed; however, the Project Sponsor indicates that the kitchen building was there when the property was purchased by the church in 1971. The existing building on the front of the lot contains a sanctuary, a church office room, and several small storage rooms. The subject lot is approximately 85 feet deep, 40 feet wide, with 3,271 square-feet of area and with 40 feet of frontage along 22nd Street.
3. **Surrounding Properties and Neighborhood.** The Project site is located within an RM-1 (Residential, Mixed, Low-Density) District situated within the Mission District. The immediately surrounding areas are zoned RM-1, RH-2, and RH-3. Land uses in the immediate vicinity of the site are typical of neighborhoods with primarily residential uses. Most of the buildings in the vicinity are between two and four stories tall. There is a mix of residential densities ranging from single-family to multi-family, as well as churches, schools, and some commercial businesses a few blocks from the subject lot. An elementary school is located on the subject block to the south of the subject site. The vicinity of the site is well served by public transit.
4. **Project Description.** The existing church, Iglesia Roca de Salvacion, has operated at this location since May 1971. The church has a sanctuary with a capacity of 162. The church has activities and services throughout the week at scheduled times – Tuesday, Thursday, and Friday from 6:00pm to 10:00pm, Saturday from 8:00am to 1:00pm or 1:00pm to 5:00pm, and Sunday from 8:00am to 6:00pm. At the rear of the property is an approximately 350 square foot kitchen. The kitchen is

used to provide food for church patrons on medication programs and children attending all-day activities. In updating the kitchen exhaust system, it was discovered that the kitchen building was constructed without the benefit of a permit. The proposal to legalize the existing kitchen building will also require the approval of a Rear Yard Variance. As part of the proposal, the kitchen exhaust system will be updated. The existing system is located along the western side property line. The new system will be located further from the property lines, will meet current Codes, and will operate a quieter motor for ventilation.

5. **Public Comment.** The Department has received one letter of opposition to the proposed expansion of the existing church.
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. **Institutions – Church.** Planning Code Section 209.3(j) requires Conditional Use authorization for a church within an RM-1 District.

The Project Sponsor seeks Conditional Use Authorization to expand an existing church within an RM-1 District.

- B. **Rear Yard.** Planning Code Section 134(a)(2) requires the minimum rear yard to be equal to 45 percent of the total lot. Section 134(c)(1) allows a reduction in the minimum rear yard to the average between the depths of the rear building walls of the two adjacent buildings, but not less than 25 percent of lot depth.

The Proposed Project seeks to legalize a building located completely within the required rear yard and along the rear property line. For this property the rear yard requirement is 16 feet. Therefore, the approval of a Rear Yard Variance is required.

7. **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 Project is compatible with the surrounding neighborhood as the Proposed Project will upgrade an existing kitchen building on the site of an existing church. There is no proposed construction as part of this proposal. The Project is desirable for the neighborhood in that it provides a needed service for the neighborhood and surrounding community. The proposed use is desirable for nearby residents in that approval of this Project would enable the existing church to continue its religious services and community based activities in this neighborhood. The proposed use is also desirable in that it creates a more positive neighborhood aesthetic by providing an updated and efficient exhaust system.

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;

The existing buildings would not change in shape or size. No construction is proposed as part of the Project. The use will remain the same and therefore will not be detrimental to the health, safety, convenience or general welfare of the nearby residents or workers. The proposed Project will not be injurious to existing properties or improvements or potential developments in the area.

- 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;

The church use is intended to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips citywide.

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

No noxious or offensive emissions such as noise, glare, dust and odor are expected to be emitted during normal operations. The proposed Project is exempt from environmental review.

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

No new landscaping is proposed as part of the Project. Any proposed signage will be subject to the review and approval of the Planning Department.

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:

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

The Project would enhance the city living and working environment by providing religious services with associated community based activities for residents and workers within the City.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

Policy 3:

Maintain a favorable social cultural climate in the city in order to enhance its attractiveness as a firm location.

The Project will enhance the diverse economic base of the City, by providing for a community serving use.

MISSION AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.8:

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS.

Policy 1.8.2:

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

No commercial tenant would be displaced and the Proposed Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Community Facilities

OBJECTIVE 7.1:

PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES.

Policy 7.1.2:

Recognize the value of existing facilities, including recreational and cultural facilities, and support their expansion and continued use.

Through this Project, an existing religious and community facility will be able to continue its current operations and service to the surrounding community.

OBJECTIVE 7.3:

REINFORCE THE IMPORTANCE OF THE MISSION AS THE CENTER OF LATINO LIFE IN SAN FRANCISCO.

Policy 7.3.1:

Support efforts to preserve and enhance social and cultural institutions.

Policy 7.3.3:

Protect and support Latino and other culturally significant local business, structures, property and institutions in the Mission.

The existing church has operated as a religious, social, and cultural center for families in the Mission District since 1971.

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 neighborhood-serving retail use would be displaced by the 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 existing buildings would not change in shape or size. No construction is proposed as part of the Project. Therefore, the proposed project will not adversely affect existing housing or character of the neighborhood.

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

No affordable housing will be removed for this Project.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

Because the Project proposes no new construction, there are no anticipated adverse effects upon MUNI service or on neighborhood parking.

- 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.

Approval of this Project will not adversely affect any industrial or service sector jobs.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will not impact the subject property's ability to withstand an earthquake and all improvements shall meet the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

No landmarks or historic buildings will be adversely affected by the Project.

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

This Project will not affect any parks or open space.

9. 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.
10. 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. 2013.0675C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 26, 2013, and stamped "EXHIBIT B", 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. 18981. 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 September 26, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: September 26, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the expansion to an existing church (d.b.a. **Iglesia Roca de Salvacion**) located at 2709 22nd Street, Lot 001B, Block 4151 pursuant to Planning Code Section(s) **209.3(j) and 303** within the **RM-1 Zoning** District and a **40-X** Height and Bulk District; in general conformance with plans, dated **December 14, 2011**, and stamped "EXHIBIT B" included in the docket for Case No. **18981** and subject to conditions of approval reviewed and approved by the Commission on **September 26, 2013** under Motion No. **18981**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

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 **September 26, 2013** under Motion No. **18981**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18981** 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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

6. This Conditional Use Authorization is subject to approval of a Variance for Rear Yard by the Zoning Administrator.

DESIGN – COMPLIANCE AT PLAN STAGE

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

10. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

11. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the 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 refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

OPERATION

12. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

13. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

14. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

16. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information

change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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