



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input checked="" type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input checked="" type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input checked="" type="checkbox"/> Other |

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 19027

HEARING DATE: NOVEMBER 21, 2013

(Continued from November 7, 2013 hearing)

Date: October 31, 2013
Case No.: **2013.1285C**
Project Address: **1095 MARKET STREET**
Zoning: C-3-G (Downtown General)
90-X Height and Bulk District
Category I (Significant) – Joseph D. Grant Building
Block/Lot: 3703/ 059
Applicant: Jim Abrams
Gibson, Dunn & Crutcher
555 Mission Street Suite 3000
San Francisco, CA 94103
Staff Contact Pilar LaValley - (415) 575-9084
pilar.lavalley@sfgov.org

ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 216(B) AND 303 TO EXTEND THE PERFORMANCE PERIOD FOR THREE YEARS FOR A PREVIOUSLY APPROVED PROJECT, TO CONVERT THE SUBJECT BUILDING FROM OFFICE TO A HOTEL/HOSTEL WITH UP TO 94 ROOMS WITH ASSOCIATED RESTAURANT, BAR, AND NIGHTCLUB USES FOR THE PROPERTY LOCATED ON LOT 059 IN ASSESSOR'S BLOCK 3703, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE SUBJECT BUILDING IS WITHIN A C-3-G (DOWNTOWN GENERAL) ZONING DISTRICT AND A 90-X HEIGHT AND BULK DISTRICT AND IS A CATEGORY I (SIGNIFICANT) BUILDING UNDER ARTICLE 11 OF THE PLANNING CODE.

PREAMBLE

On September 11, 2013, Jim Abrams of Gibson Dunn and Crutcher, acting on behalf of the property owner ("Project Sponsor"), submitted a request (Case No. 2013.1285C) 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 Historic Preservation Commission ("Preservation Commission") on October 6,

2010 (Case No. 2009.1100H, Motion No. 0080) and the Planning Commission ("Commission") on October 14, 2010 (Case No. 2009.1100C, Motion No. 18199), and would convert the existing office building to a hotel/hostel with up to 94 rooms with associated restaurant, bar, and nightclub uses and rehabilitate the exterior of the building ("Project"), located at 1095 Market Street ("Project Site"), within the C-3-G (Downtown General) Zoning District, the 90-X Height and Bulk District, and a Category 1 (Significant) building. The project was previously granted Conditional Use Authorization under Planning Code Sections 216(B) and 303 for conversion to a hotel or hostel and a Major Permit to Alter under Planning Code Section 1111 for exterior rehabilitation.

On October 6, 2010, the Preservation Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2009.1100H and granted a Major Permit to Alter (Motion No. 0080) for exterior rehabilitation, including reconstruction of the historic cornice based on pictorial evidence and the installation of canopies, signage, and awnings for the Project. The Major Permit to Alter does require reauthorization at this time.

On October 14, 2010, the Commission conducted a duly notice public hearing at a regularly scheduled meeting on Case No. 2009.1100C and granted Conditional Use Authorization (Motion No. 18199) for conversion of the building to a hotel/hostel with up to 94 rooms.

On March 23, 2010, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 32 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project. Since the Categorical Exemption was issued, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Categorical Exemption 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 Categorical Exemption.

On November 7, 2013, the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1285C. 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 approves the three-year extension of the performance period (to November 7, 2016) requested in Application No. 2013.1285C, subject to the conditions of Motion No. 18199 and 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 is located on the southwest corner of Market and 7th Streets, Block 0703, Lot 059. 1095 Market Street is an existing 9-story (including basement), 61,000sf commercial office building built in 1904. The subject building is a Category I (Significant) building identified under Article 11 of the Planning Code. The building sits on an 8,250sf site in the C-3-G (Downtown Commercial General) zoning district with a 90-X Height and Hulk limit. The current use of the building is Office.
3. **Surrounding Properties and Neighborhood.** The project site is located in the Mid-Market area and is well-served by public transit. The surrounding neighborhood presents an eclectic mix of uses and building stock is primarily from the early part of the 20th- Century, ranging in height from 2-to-10-stories. The site is adjacent to the east to the Uptown Tenderloin National Register District (Primarily Zoned RC-4 (Residential Commercial, High Density)) and the Article 10 Civic Center 10 Historic District (Zoned P (Public)).
4. **Project Description.** The proposed Project at 1095 Market Street is a seismic strengthening and architectural rehabilitation of an existing historic 9-story (including basement), 61,000sf commercial office building built in 1904. The Project would rehabilitate the historic building (which is rated Category I under Article 11 of the San Francisco Planning Code) in a manner consistent with the *Secretary of Interior's Standards for Rehabilitation*. The proposed Project would also convert the building use from office to a 42,000sf, 94-room, R-1 occupancy hostel/hotel. The hotel/hostel will include a 2,500sf commercial (restaurant), a 3,500sf nighttime entertainment and two rooftop terraces that total 8,500 sf. The Project intends to preserve, repair and rehabilitate, or, if possible, to reconstruct several of the major architectural elements of the building.

The ground floor storefront on Market and 7th Street and Stevenson, which has been heavily modified and bears no resemblance to the original storefront, would be replaced with a new storefront and building entrance that is compatible with the historic character of the building. The building's double-hung wood windows on its main facades (Market, 7th St and Stevenson) will be retained and rehabilitated. The Project would likely replace the window glazing with more energy efficient and acoustically insulated double pane glazing. The exterior brick façade would be cleaned, re-pointed and repaired where needed. Studies demonstrate that the building is currently seismically unsound and its building systems are failing.

The Project proposes to hire formerly homeless and emancipated foster youth from Larkin Street Youth Services ("Larkin Street"). Larkin Street is a highly respected organization located in the Tenderloin District of San Francisco and has a successful record of finding employment opportunities for formerly homeless and emancipated foster youth.

5. **Public Comment.** Staff has not received any input regarding the Project as of the date of this report.
6. This Commission adopts the findings of the previous Planning Commission Motion No. 17838, as though fully set forth herein with the following updates to the findings related to compliance with the current Planning Code.
 - a. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- i. **Bird Safety.** Section 139 of the Planning Code requires treatment of feature-related hazards include free-standing glass walls, wind barriers, skywalks, balconies, and greenhouses on rooftops that have unbroken glazed segments 24 square feet and larger in size, to reduce bird mortality from circumstances that are known to pose a high risk to birds and are considered to be "bird hazards." Any structure that contains these elements shall treat 100% of the glazing on Feature-Specific hazards.

The Project proposes a glass guardrail mounted to the back of the building parapet at the street-facing façades of the building. This guardrail, which constitutes a feature-related hazard for bird safety, shall be treated with fritting, permanent stencils, frosted glass, or physical grids placed on the exterior of glazing or UV patterns visible to birds in compliance with the Code.

- ii. **Bicycle Parking.** Sections 155.1-155.5 of the Planning Code requires provision of bicycle parking when change of occupancy or increase in intensity of use would increase the number of total required bicycle parking spaces (inclusive of Class 1 and 2 spaces in aggregate) by 15 percent. As the existing office use would require more bicycle parking spaces than the proposed new hotel/hostel and commercial uses, the proposed Project does not have a bicycle parking requirement.

The Project proposes no bicycle parking in compliance with the Code.

- iii. **Transit Impact Development Fee.** Planning Code Section 411 applies the Transit Impact Development Fee to projects cumulatively creating more than 800 gross square feet of non-residential uses, including Retail/Entertainment, Management, Information and Professional Services, Production/Distribution/Repair, and Visitor Services.

The proposed project would convert the existing office use (Management, Information, and Professional Services) to hotel/hostel (Visitor Services) and associated retail and entertainment (Retail/Entertainment). Provisions of Section 411 provide for a credit for prior uses eliminated on the project site. As the applicable fees for the proposed uses equal the credit for existing uses, the Project owes no fees pursuant to Section 411.

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. 1 of Planning Commission Motion No. 18199 to extend the performance period of the Project to November 7, 2016.

9. On balance, the Commission hereby finds that approval of the proposed amendment to Condition of Approval No. 1 of Planning Commission Motion No. 18199 in this case 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. 2013.1285C** subject to the following conditions attached hereto as "EXHIBIT A," and subject to the Conditions of Approval of Planning Commission Motion No. 18199, as amended by this approval to modify Condition of Approval No. 1 to extend the performance period of the project to November 7, 2016.

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. 19027. 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 November 21, 2013.

Jonas P. Ionin
Commission Secretary

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

NAYS: None

ABSENT: Commissioner Sugaya

ADOPTED: November 20, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a Hotel/Hostel Use with up to 94 rooms located at 1095 Market Street, Lot 059 in Assessor's Block 3703, pursuant to Planning Code Section(s) **216(b) and 303** within the **C-3-G (Downtown General)** District and a **90-X** Height and Bulk District; in general conformance with plans, dated **October 14, 2010**, and stamped "EXHIBIT B" included in the docket for Case No. **2013.1285C** and subject to conditions of approval reviewed and approved by the Commission on **October 14, 2010** under Motion No. **18199**, as amended by the Commission on November 21, 2013 under Motion No. **19027**. 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 October 14, 2010 under Motion No. 18199, as amended by the Planning Commission on November 7, 2013 under Motion No. **19027**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19027** 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 years from the effective date of the Motion (until November 21, 2016), amending the expiration date of the performance period specified in the approval granted per Motion No. 18199. 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. The validity of this authorization is further limited as follows:
 - a. The Project Sponsor shall submit an application for a Site Permit within one year from the effective date of the Motion (until November 21, 2014); and,
 - b. The Project Sponsor shall submit a First Construction Building Permit Application within two years from the effective date of the Motion (until November 21, 2015).

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

MONITORING - AFTER ENTITLEMENT

6. **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

7. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

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

8. **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

9. **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