



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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Planning Commission Motion 19191

HEARING DATE: JULY 17, 2014

Date: July 10, 2014
Case No.: **2014.0888C**
Project Address: 1239 TURK STREET
Zoning: RM-3 (Residential, Mixed, Moderate Scale)
 50-X Height and Bulk District
Block/Lot: 0757/027
Project Sponsor: Benjamin Brandin
 Tenderloin Neighborhood Development Corporation (TNDC)
 215 Taylor Street
 San Francisco, CA 94102
Staff Contact: Sara Vellve – (415) 558-6263
 sara.vellve@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS TO AMEND CONDITION NO. 19a AND RESCIND NO. 19b OF PLANNING COMMISSION MOTION 18535 (CASE NO. 2011.0176CEK) PURSUANT TO SECTION 303 OF THE PLANNING CODE TO REMOVE LANGUAGE PERTAINING TO AGE AND INCOME RESTRICTIONS, AND UNIT MIX, AND TO ADD A STANDARD CONDITION FOR 100% AFFORDABLE HOUSING DEVELOPMENTS WITH REGARD TO PLANNING CODE SECTION 415 FOR A PROJECT THAT WAS APPROVED BY THE PLANNING COMMISSION ON FEBRUARY 2, 2012 FOR CASE NO. 2011.0176CEK TO DEVELOP UP TO 97 AFFORDABLE DWELLING UNITS FOR SENIOR OCCUPANTS AND ONE MANAGER’S UNIT WITHIN THE RM-3 (RESIDENTIAL, MIXED, MEDIUM DENSITY) DISTRICT AND A 50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 10, 2014, the Tenderloin Neighborhood Development Corporation (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section 303 to amend Condition of Approval No. 19a and rescind No. 19b of Motion No. 18535 to remove language pertaining to age and income restrictions, and unit mix, and add a standard condition for 100% affordable housing developments with regard to Planning Code Section 415 for a project that was approved by the Planning Commission on February 2,

2012 to develop up to 97 affordable dwelling units for senior occupants and one manager's unit through Case No. 2011.0176CEK within the RM-3 (Residential, Mixed, Medium Density) District and a 50-X Height and Bulk District. This approval does not alter any physical or programmatic aspects of the development approved through Case No. 2011.0176CEK.

On July 17, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0888C.

The subject entitlement does not involve any significant changes or provide new information to the project analyzed pursuant to the California Environmental Quality Act ("CEQA") under Case Numbers 2002.0211E and 2011.0176E. Pursuant to Section 15162 of CEQA, since the Commission adopted the Final Mitigated Negative Declaration (FMND) and approved the Project in 2012, the Commission finds that there have been no substantial changes to the Project that would require major revisions to the FMND or result in new or substantially more severe significant environmental impacts that were not evaluated in the FMND; no new information has become available that was not known and could not have been known at the time the FMND was certified as complete and that would result in new or substantially more severe significant environmental impacts not evaluated in the FMND; and no mitigation measures or alternatives previously found infeasible would be feasible or mitigation measures or alternatives considerably different than those analyzed in the FMND would substantially reduce significant environmental impacts, but the project proponent declines to adopt them. Therefore, no further environmental review is required.

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. 2014.0888C, 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. **Project Description.** On February 2, 2012, the Planning Commission approved Case No. 2011.0176CEK to construct a 50-foot tall building containing 97 dwelling units to be occupied by senior residents whose household income does not exceed 50% of the Area Median Income. The sponsor, Tenderloin Neighborhood Development Corporation (TNDC) in conjunction with the Mayor's Office of Housing and Community Development (MOH), are diligently pursuing permits to construct the development for the intended population and level of affordability.

As originally written, Condition of Approval Nos. 19a and 19b of Planning Commission Motion No. 18535 contain the following language:

- a. Condition 19a: **Affordability and Unit Mix.** The Project contains 32 studios, 65 one-bedroom, and 1 two-bedroom units. The project shall be 100% affordable to a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development, whose household income does not exceed 50% of the Area Median Income.”
- b. Condition 19b: **Duration.** Should the affordability restrictions for the units in the RPII development set forth above terminate for any reason, the development must comply with the Inclusionary Affordable Housing Program per Planning Code Section 415.

Through the financing process, it was found that language pertaining to age and income restrictions in Condition 19a was unnecessary, and detrimental to securing financing as discussed in TNDC’s submittal. The age and income restrictions of the condition are unnecessary because the development is a 100% affordable project that is exempt from Planning Code Section 415 for the Inclusionary Affordable Housing Program. The unit mix is not a project requirement. While Condition 19b is adequate as written, the revised Condition 19a will replace it.

To resolve the financing concern and standardize language, the applicant proposes that the Commission amend Condition of Approval No. 19a of Motion No. 18535 as shown below. Condition of Approval No. 19b of Motion No. 18535 would be rescinded.

- a. Condition 19a: **100% Affordable Project.** As currently proposed, the Project will be 100 percent affordable, with 98 dwelling units. In the event that the Project changes and some or all of the units become market-rate, the Project shall comply with the inclusionary housing requirements set forth in Section 415 of the Code. This condition of approval shall constitute the written determination and notice of the inclusionary housing requirement pursuant to the procedures set forth in Code Section 415.

Amending the conditions would not alter the intent or outcome of the approved project to provide affordable housing to a specific age range of adults and their household income. The amendments are to facilitate financing and include standardized language.

3. **Site Description and Present Use.** The approximately 26,000 square foot development site is located on the south side of Turk Street between Webster and Laguna Streets, Block 0757, Lot 027. The development site is located directly north of the existing Rosa Parks I development, which is owned and operated by the San Francisco Housing Authority. The property is located within the RM-3 (Residential, Mixed, Moderate Scale) District with 50-X height and bulk district. The site is located in the former Western Addition A-2 Redevelopment Area, which expired in December, 2009.

4. **Surrounding Properties and Neighborhood.** The site is located in the Rosa Parks Block of the Western Addition Neighborhood and is bounded by Turk Street to the north, Webster Street to the west, Golden Gate Avenue to the south and Buchanan Mall to the east. The “Rosa Parks” neighborhood is dominated by low to mid-rise residential development with community centers and churches scattered throughout the neighborhood. San Francisco Fire Department Station 5 is located directly west of the project across Webster Street. Fillmore Street is one block west of the site and provides a broad range of commercial and retail services.
5. **Public Comment.** As of July 10, 2014, the Department has not received any public comment regarding the proposal.
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. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Section 415.3(c)(4), the Inclusionary Affordable Housing Program does not apply to “[a] 100% affordable housing project in which rents are controlled or regulated by any government unit, agency or authority”.

As currently approved, the Project is 100% affordable with rents to be controlled by a government unit, agency or authority and is therefore exempt from Planning Code Section 415. As currently proposed, the Project will be 100 percent affordable, with 98 dwelling units. In the event that the Project changes and some or all of the units become market-rate, Section 415 will apply and the Project shall comply with the inclusionary housing requirements set forth in Section 415 of the Code.

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 original development’s (Case No 2011.0176CEK) use, size, density and height are compatible with the surrounding neighborhood and community. The surrounding area is dominated by residential uses in buildings ranging from 2 to 11 stories in height. The Rosa Parks I senior affordable housing development is located directly south of the development site and contains 198 units in 11 stories. Buildings on the opposite side of Turk Street and Buchanan Mall are two and three stories in height. Buildings on the opposite side of Webster Street range from one to seven stories. The subject parcel is located in the former Western Addition A-2 Redevelopment Area and parcels in this area are generally substantially larger than the typical 25 foot by 100 foot lot size.

This Conditional Use Authorization does not include a new proposed use or building. The proposal is to amend Condition 19a and rescind Condition 19b of Motion 18535 regarding age, income and unit mix restrictions of a previously approved development's occupants. Amending the conditions would not alter the intent or outcome of the approved project to provide affordable housing to a specific age range of adults and their household income. The amendments are to facilitate financing and include standardized language.

- 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;

At approximately 50 feet in height, the original development's (Case No 2011.0176CEK) building will provide an appropriate transition between surrounding buildings of 20, 30, 70 and 110 feet in height. The site and building design more closely resembles other residential developments in the area where buildings are constructed to the sidewalk. Through fenestration, building materials, setbacks and decks, the proposed building's Turk Street frontage will be appropriately segmented to break down its volume at the street.

This Conditional Use Authorization does not include a new proposed use or building. The proposal is to amend Condition 19a and rescind Condition 19b of Motion 18535 regarding age, income and unit mix restrictions of a previously approved development's occupants and such a modification will not have a detrimental effect on those residing 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;

This Conditional Use Authorization does not include a new proposed use or building. The proposal is to amend Condition 19a and rescind Condition 19b of Motion 18535 regarding age, income and unit mix restrictions of a previously approved development's occupants. Amending Conditions 19a and 19b of Motion 18535 regarding age and income restrictions will not change accessibility and traffic patterns.

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

Since the original development (Case No 2011.0176CEK) will be an exclusively residential project, the project will not generate unusual noise, odor, dust and glare as a result of its operations.

This Conditional Use Authorization does not include a new proposed use or building. The proposal is to amend Condition 19a and rescind Condition 19b of Motion 18535 regarding age, income and unit mix restrictions previously approved development's occupants. Amending Conditions 19a and 19b of Motion 18535 regarding age and income restrictions will not result in noxious or offensive emissions such as noise, glare, dust and odor.

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

The original development's (Case No 2011.0176CEK) includes a number of landscaping improvements. The existing porte cochere on Turk Street will be improved by constructing landscaped "bulb outs" to increase the area devoted to non-vehicular movement around the porte cochere. The sidewalk extending through the driveways will be repaved in the sidewalk material and grid. Landscaping will be incorporated in front of the west building on Turk Street and in the area of the 6-foot building setback at Buchanan Mall. The proposed parking lot at the corner of Golden Gate Avenue and Webster Street will be partially paved with a permeable surface and screened from view with a fence and planted materials. Permeable pavers will be incorporated between street trees along Turk and Webster Streets and landscaped groundcover will be used at the utility doors along Webster Street. An existing community container garden in the proposed parking area will be relocated north closer to the open area between the RPI "wings." Parking in the RPII west building will be wrapped by a program room, display windows and utility rooms.

This Conditional Use Authorization does not include a new proposed use or building. The proposal is to amend Condition 19a and rescind Condition 19b of Motion 18535 regarding age, income and unit mix restrictions previously approved development's occupants. Landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs are not relevant to a project that amends Conditions 19a and 19b of Motion 18535 regarding age and income restrictions.

- 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 to amend conditions 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:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 8:

BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

POLICY 8.1:

Support the production and management of permanently affordable housing.

Amending Condition 19a and rescinding Condition 19b of Motion 18535 will facilitate a partnership between a nonprofit housing developer and private investor to provide funding options to ensure the development authorized through Conditional Use Authorization pursuant to Case No. 2011.0176CEK and Motion No. 18535 is constructed and occupied by the intended population at the intended income level.

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.

The subject property is used as a surface parking lot and landscaping, and does not contain a neighborhood-serving retail use.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The project will promote the construction of moderate-density housing intended for seniors with limited income. The existing neighborhood is occupied by moderate-density housing developments for people of all income ranges.

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

Amending the conditions of approval will facilitate financing of the 100% affordable project authorized through Case No. 2011.0176CEK and result in increasing the City's supply of affordable housing by approximately 100 units.

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

Parking and traffic will not change as a result of amending Condition 19a and rescinding Condition 19b of Motion 18535 in order to facilitate financing a 100% affordable housing development.

- 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.

The proposal is related to financing a 100% affordable housing development and would not decrease future opportunities for resident employment and ownership in industrial or service sectors.

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

Amending Condition 19a and rescinding Condition 19b of Motion 18535 is not related to earthquake safety. The building proposed to be constructed under Case No. 2011.0176CEK, which is related to the subject case, will be built to all current seismic safety standards.

- G. That landmarks and historic buildings be preserved.

The subject property is occupied by a surface parking lot and landscaping serving the Rosa Parks I housing development.

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

Amending Condition 19a and rescinding Condition 19b of Motion 18535 does not involve a building subject to Section 295 of the Planning Code. The 50-foot tall building proposed pursuant to Case No. 2011.0176CEK and was found to have no negative impact on a park subject to Section 295 of the Planning Code.

10. The Commission finds it appropriate to amend Condition 19a of Planning Commission Motion No. 18535 to eliminate language pertaining to age, income and unit mix restrictions.
11. The Commission finds it appropriate to rescind Condition 19b of Planning Commission Motion No. 18535 as it will be superseded by the amended Condition 19a.
12. The Commission finds it appropriate to incorporate all Conditions of Approval contained in Motion No. 18535 of Case No. 2011.0176C with the exception of 19a and 19b, which are to be amended and rescinded through the subject case.
13. 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 and intended, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
14. On balance, the Commission hereby finds that approval of the proposed amendments to Conditions of Planning Commission Motion No. 18535 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. 2014.0888C** subject to the following conditions attached hereto as "EXHIBIT A", which is incorporated herein by reference as though fully set forth. Plans for the proposal were not necessary because the project does not relate to any physical or programmatic changes to the development approved pursuant to Planning Commission Motion 18535 and Case No. 2011.0176CEK.

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. 19191. 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on July 17, 2014.

Christine LaMorena
Acting Commission Secretary

AYES: Moore, Sugaya, Antonini, Johnson, Wu, Fung, Hillis

NAYS: None

ABSENT: None

ADOPTED: July 17, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow amendment of Condition of Approval 19a and rescinding of Condition of Approval 19b of Motion No. 18535 of Case No. 2011.0176CEK relating to the 100% affordable senior housing development at 1239 Turk Street, Block 0757, Lot 027 pursuant to Planning Code Section 303 within the **RM-3** District and a **50-X** Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on **July 17, 2014** under Motion No **19191**. 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 **July 17, 2014** under Motion No **19191**.

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

PROVISIONS

1. Condition of Approval No. 19a of Motion No. 18535 is hereby amended to the Condition 19a of this Motion as shown below:

19a. 100% Affordable Project. As currently proposed the Project will be 100 percent affordable and is therefore exempt from Planning Code Section 415 and the Inclusionary Affordable Housing Program. The Project contains 97 dwelling units and one manager's unit. In the event that the Project changes and some or all of the units become market-rate, the Project shall comply with the inclusionary affordable housing requirements set forth in Section 415 of the Code. This condition of approval shall constitute the written determination and notice of the inclusionary housing requirement pursuant to the procedures set forth in Code Section 415.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-mohcd.org.

2. Condition of Approval No. 19b of Motion No. 18535 is hereby rescinded in its entirety.