



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: AUGUST 16, 2012
Continued from the June 28, 2012 Hearing

Date: August 9, 2012
Case No.: **2012.0611CEV**
Project Address: **1601 Larkin Street**
Zoning: RM-3 (Residential, Mixed, Medium Density) District
65-A Height and Bulk District
Block/Lot: 0620/006
Project Sponsors: Pacific Polk Properties, LLC
- c/o David Silverman
Reuben & Junius
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org
Recommendation: **Disapproval**

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BACKGROUND

On June 28, 2012, the Planning Commission considered a request for Conditional Use authorization for a proposal to demolish an existing vacant church and surface parking lot, and construct a new six-story over basement building containing 27 dwelling units and 29 off-street parking spaces. The project sponsor is requesting exceptions from the bulk limitations of the 65-A Height and Bulk District, as well as a Variance from the requirement to provide a complying rear yard at grade level, as discussed herein. Staff recommended approval of the project, subject to conditions of approval, and modifications to the design of the project to achieve greater compatibility with the scale and character of the neighborhood.

After hearing public testimony and discussing the item, the Commission approved a motion to certify the EIR prepared for the project by a vote of 5-2. However, the Commission expressed concerns with the scale and compatibility of the project, as well as the demolition of the existing vacant church, which is considered an historic resource under the California Environmental Quality Act. The Commission passed a motion of intent to disapprove the Conditional Use Authorization for the project by a vote of 6-1, and continued the item to a future hearing to allow staff to prepare a motion for disapproval.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, if the Commission wished to approve the project, the Commission would need to approve specific CEQA findings (including a statement of overriding considerations due to the significant and unavoidable environmental impact of the project), grant Conditional Use

authorization to approve development that exceeds 40 feet in height within an "R" District, and grant the requested exceptions to the bulk limitations of the 65-A Height and Bulk District.

BASIS FOR RECOMMENDATION

- The project would result in an abrupt change in scale compared with existing buildings in the vicinity.
- The massing of the project is not sculpted to appropriately transition to adjacent lower building or to reflect the underlying topography.
- The project does not sufficiently break the apparent scale of the building into discrete elements to a degree that justifies the requested bulk exceptions.
- The project would result in the demolition of an historic resource.
- The project not desirable for or compatible with the surrounding neighborhood.

RECOMMENDATION: Disapproval

Attachments:

- 1) Draft Motion for Disapproval



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Draft Motion

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ADOPTING FINDINGS RELATED TO THE DISAPPROVAL OF A CONDITIONAL USE AUTHORIZATION, PURSUANT TO SECTIONS 253, 271, AND 303 OF THE PLANNING CODE, TO ALLOW DEVELOPMENT TO EXCEEDING 40 FEET IN HEIGHT WITHIN AN "R" DISTRICT AND TO GRANT AN EXCEPTION TO BULK REQUIREMENTS, WITH RESPECT TO A PROPOSAL TO DEMOLISH AN EXISTING VACANT CHURCH BUILDING AND SURFACE PARKING LOT AND CONSTRUCT A NEW 6-STORY OVER BASEMENT BUILDING CONTAINING 27 DWELLING UNITS AND 29 OFF-STREET PARKING SPACES, LOCATED AT 1601 LARKIN STREET, LOT 006 IN ASSESSOR'S BLOCK 0620, WITHIN THE RM-3 DISTRICT AND THE 65-A HEIGHT AND BULK DISTRICT.

RECITALS

1. On June 15, 2004, Stu During, acting on behalf of Polk Pacific Properties, LLC ("Project Sponsor") and the California-Nevada Annual Conference of the United Methodist Church (the owners of the project site), submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2004.0557E. The Department issued a Notification of Project Receiving Environmental Review on February 11, 2005, and issued a Notice of Preparation of Environmental

Review on July 8, 2006, to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

2. On August 25, 2004, Bruce Baumann, acting on behalf of the Project Sponsor, filed an application with the Department requesting, under Planning Code Sections ("Sections") 303, Conditional Use Authorization to allow development on a lot greater than 40 feet in height within an "R" District for a development at 1601 Larkin Street (Lots 006 in Assessor's Block 0620), northwest corner at Clay Street ("Project Site"). The project proposed to demolish an existing vacant building formerly used as a church and a surface parking lot and to construct a new six-story over basement building containing 28 dwelling units and 35 off-street parking spaces. The Conditional Use application was subsequently amended to request bulk exceptions per Planning Code section 271, and to modify the project to propose 27 dwelling units and 29 off-street parking spaces. On August 25, 2004, Bruce Baumann, acting on behalf of the Project Sponsor, filed an application with the Department requesting a Variance from the requirements of Section 134(a), because the proposed development does not provide a complying rear yard at grade level (Case No. 2004.0557CV; collectively, "Previous Project").
3. On June 12, 2006, the Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Section 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2004.0557K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Previous Project would have no impact to properties subject to Section 295.
4. On April 14, 2007, the Department published a draft Environmental Impact Report (EIR) for public review. The draft EIR was available for public comment until May 29, 2007. On May 24, 2007, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On May 27, 2010, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Previous Project.
5. On June 24, 2010, the Commission reviewed and considered the Final EIR, but did not certify the Final EIR prepared for the Previous Project.
6. On June 24, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2004.0557C, at which time the Commission reviewed and adopted the findings for disapproval prepared for its review by Department staff.
7. On August 10, 2010, the Zoning Administrator issued a Variance Decision Letter denying the Variance request (Case No. 2004.0557V) associated with the Previous Project.
8. On May 11, 2012, Ian Birchall and John McNerney, acting on behalf of the Project Sponsor, filed an application with the Department requesting, under Planning Code Sections 303, Conditional Use Authorization to allow development on a lot greater than 40 feet in height within an "R" District for a development at 1601 Larkin Street (Lots 006 in Assessor's Block 0620), northwest corner at Clay Street ("Project Site"). The project proposes to demolish an existing vacant building formerly used as a

church and a surface parking lot and to construct a new six-story over basement building containing 27 dwelling units and 29 off-street parking spaces, and requests bulk exceptions per Section 271. The project design as submitted on May 11, 2012 reflects a revised massing, architectural language, and finish materials compared with the Previous Project. On May 11, 2012, Ian Birchall and John McNerney, acting on behalf of the Project Sponsor, filed an application with the Department requesting a Variance from the requirements of Section 134(a), because the proposed development does not provide a complying rear yard at grade level (Case No. 2012.0611CV; collectively, "Project").

9. On June 14, 2012, the Department published a revised EIR for the Project ("Revised EIR") that reflects the current design of the Project and describes several variants to the partial preservation alternative presented in the draft EIR, which variants would preserve portions of the existing church located on the Project Site while constructing a new residential building on portion of the Project Site. Like the prior drafts of the EIR, the Revised EIR identified a significant and unavoidable impact to a historic resource resulting from the demolition of the existing building.
10. On June 28, 2012, the Commission reviewed and certified the Revised EIR in compliance 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"). (See Motion No. 18657.) At the same meeting on June 28, 2012, the Commission conducted a duly noticed public hearing on Conditional Use Application No. 2012.0611C, at which time the Commission reviewed the proposed Revised Project and passed a motion of intent to disapprove the proposed Revised Project. In its motion, the Commission directed staff to prepare findings supporting disapproval for its consideration.
11. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.
12. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.
13. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.
14. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

MOVED, that the Commission hereby disapproves the request in Application No. 2012.0611C, 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 at the northwest corner of Larkin and Clay Streets, Assessor's Block 0620, Lot 006, within the RM-3 District and the 65-A Height and Bulk District. The site measures 11,181 square feet, and is regularly shaped. The frontage of the site is nearly flat along the Larkin Street frontage, but is steeply sloped along the Clay Street frontage. The property is currently developed with an existing vacant church that measures approximately 19,050 square feet, as well as a surface parking lot accessed via Larkin Street.
3. **Surrounding Properties and Neighborhood.** The immediate area around the Project Site is predominantly residential in character, a pattern which continues eastward up the slopes of Nob Hill. The Polk Street Neighborhood Commercial District (NCD) is located one block to the west, and is a linear commercial strip that extends between Post and Filbert Streets. Ground floor retail spaces are occupied by convenience and specialty uses, as well as numerous restaurants and bars. Many of the buildings within the Polk Street NCD have residential uses situated on upper floors above the ground-floor retail spaces. The intersecting streets adjacent to the Polk Street corridor tend to be more residential in character, with scattered commercial uses interspersed on selected blocks. The Pacific Avenue NCD extends along Pacific Avenue three blocks to the north of the Project Site, between Polk and Taylor Streets. The Pacific Avenue NCD is predominantly residential in character, with some small, neighborhood-serving commercial uses interspersed on the ground floor.

Within one block of the subject property, the majority of buildings measure three to four stories in height, with a few isolated two-story and five-story buildings. The scale of existing buildings varies greatly along the Polk Street corridor, with heights ranging from one-story commercial buildings to five-story residential and mixed use buildings. Residential and commercial buildings exceeding seven stories can be found on Van Ness Avenue further to the west.

4. **Project Description.** The proposal is to demolish an existing vacant building, formerly used as a church, and surface parking lot, and construct a new six-story over basement building containing 27 market-rate dwelling units and 29 off-street parking spaces. The mix of dwelling units is two one-bedroom units, 24 two-bedroom units, and a three-bedroom unit that occupies the entire top story. The project sponsor is requesting exceptions from the bulk limitations of the 65-A Height and Bulk District, as well as a Variance from the requirement to provide a complying rear yard at grade level, as discussed herein.

The current iteration of the project proposes the same program as the previous project, involving the demolition of the existing church structure and the construction of a six-story building containing 27 dwelling units and 29 off-street parking spaces. However, the design of the project has been substantially revised in terms of massing, architectural language, and finish materials. Specifically, the current design incorporates setbacks above the fourth story along the Clay Street elevation such that the building appears to step with the sloping topography of the block, creating a more suitable transition to the adjacent lower buildings to the west. The sixth level

incorporates various setbacks from the roofline, lessening the apparent height of the project by making the uppermost story visually subservient to the remainder of the building. Deep voids have been added at the center of both the Clay and Larkin Street elevations to break the massing of the project into a rhythm of discrete, vertically-oriented modules. Compared to the previous project, the current design proposes a much higher proportion of solid wall planes versus glazing, and would be finished in a light-colored limestone plaster material.

The Department had recommended that the upper floors of the project be sculpted further to better transition to adjacent buildings on Clay Street, respond to the sloping topography of the site, achieve greater compatibility with the surrounding context, and further reduce the visible height of the project.

5. **Public Comment.** The Department has received several communications in opposition to the Project, as well as verbal comments received at meetings with residents of the area. These comments include concerns over the overall height and massing of the project, light and air impacts to adjacent properties, the demolition of the existing church, and the desire to have affordable housing units provided on-site. Similar comments in opposition were reiterated by speakers at the public hearing on June 28, 2012.
6. **Planning Code Compliance:** The Commission finds that the project is inconsistent with some, but not all of the relevant provisions of the Planning Code in the following manner:

- A. **Use and Density.** Section 209.1 permits residential uses within the RM-3 District at a maximum density of one dwelling unit for each 400 square feet of lot area.

The Project proposes 27 dwelling units on a Project Site measuring 11,181 square feet. A maximum of 28 dwelling units would be permitted on the Project Site, therefore, the Project complies with the use and density regulations of the RM-3 District.

- B. **Height and Bulk.** The subject property is located within a 65-A Height and Bulk District, which permits a maximum height of 65 feet. This District also limits the horizontal dimension of a building above 40 feet in height to 110 feet, and the diagonal dimension to 125 feet.

Pursuant to Section 102.12(d), where a lot has frontage on two streets, the project sponsor may choose the street from which the measurement of height is taken.

Measuring from the Larkin Street frontage, the finished roof of the Project would reach a height of approximately 65 feet. As permitted by Section 260(b), the stair/elevator/mechanical penthouse would exceed the 65-foot height limit, up to a maximum height of approximately 74 feet. The Project complies with the maximum allowable height of the 65-A Height and Bulk District.

Portions of the fourth floor, as well as the fifth and sixth floors exceed 40 feet in height, therefore, these floors are subject to the bulk limitations of the 65-A Height and Bulk District. The fourth and fifth

floors have a horizontal dimension of approximately 114 feet and a diagonal dimension of 137 feet. Therefore, the Project exceeds the maximum permitted length and diagonal dimensions. The Project Sponsor requested that the Commission allow the Project to exceed the specified bulk limits after considering the criteria specified in Section 271(c), through the Conditional Use Authorization process. Conformance with these criteria is discussed under item #8 below. The sixth floor has a maximum horizontal dimension of approximately 109 feet, and a maximum diagonal dimension of approximately 121 feet. Therefore, the sixth floor complies with the maximum horizontal and diagonal dimensions.

- C. **Floor Area Ratio.** In the RM-3 District, Section 124 allows a Floor Area Ratio (FAR) of up to 3.6. The project site has an area of 11,181 square feet, therefore the allowable FAR would permit a building of up to 40,252 square feet of Gross Floor Area as defined in Section 102.9.

The Project would measure approximately 59,950 square feet. Pursuant to Section 124(b), within "R" Districts, the cited Floor Area Ratio limits do not apply to residential uses. Subtracting the area of the residential uses, approximately 27,450 square feet of Gross Floor Area within the Project would be subject to the allowable FAR. The Project therefore complies with the maximum allowable FAR.

- D. **Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth. Within the RM-3 District, the required rear yard must be provided at grade level and at each succeeding story of the building.

The depth of the lot along the Clay Street frontage measures approximately 97.5 feet, requiring a rear yard that is approximately 24 feet in depth. The Project proposes a rear yard at the second story in the form of a deck that measures approximately 24 feet in depth, therefore the proposed rear yard complies with the required dimension. However, the rear yard is configured as a deck situated atop an at-grade parking garage, and does not comply with the requirement that the yard be provided at grade level. The Project Sponsor is requesting a Variance from this requirement. At the Commission hearing on June 28, 2012, the Zoning Administrator considered this request and indicated an intent to deny the requested Variance. The Zoning Administrator will issue a future Decision Letter regarding the requested Variance.

- E. **Usable Open Space.** Section 135 requires that a minimum of 60 square feet of private usable open space, or 79.8 square feet of common usable open space be provided for dwelling units within the RM-3 District. This Section specifies that the area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

The Project proposes private decks for five dwelling units with private decks which meet the requirements for private open space, and an additional five dwelling units with private decks that partially meet the requirements for private open space. Subtracting these private decks, the Project must provide a total of 1,655 square feet of common open space for the remainder of the dwelling units. The rear deck at the second story includes approximately 1,775 square feet of commonly accessible open space that meets the minimum requirements for area, horizontal dimensions, and exposure. The project therefore complies with the usable open space requirements of Section 135.

- F. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

All of the dwelling units face onto either Larkin Street, Clay Street, or the rear yard. The Project proposes a rear yard at the second story that measures approximately 24 feet in depth, therefore the proposed rear yard complies with the required dimension and provides exposure for the abutting dwelling units.. However, the rear yard as configured does not comply with the requirement that the yard be provided at grade level and at each succeeding story. The Project Sponsor is requesting a Variance from this requirement, and this Variance request will be considered by the Zoning Administrator at the Commission hearing on June 28, 2012.

- G. **Bay Window Dimensions.** Section 136(c) permits bay windows to project over the public right-of-way, provided that the bays meet specified limitations for dimensions and separation.

The Project includes bay windows at various levels that comply with the limitations of Section 136(c). However, the bay windows proposed for the corner at Clay and Larkin Streets at levels three, four, and five do not meet these requirements. Section 136(c) requires that bays be separated from property lines. By definition, this Section does not permit bays at corners and thus the Project does not comply with this requirement.

- H. **Off-Street Parking.** Section 151 establishes off-street parking requirements for all uses in all districts. Pursuant to this section, one independently accessible space is required for each dwelling unit. The project proposes 27 dwelling units. The Project therefore requires 27 independently accessible parking spaces. Section 204.5 specifies that up to 150 percent of the required number of spaces may be proposed as accessory parking facilities for a development. Pursuant to this Section, the Project could seek up to 41 off-street parking spaces.

The Project proposes 29 off-street parking spaces, including one parking space identified for a car sharing operator. Therefore, the project meets the minimum requirements for off-street parking, and does not exceed the maximum amount of accessory off-street parking spaces.

- I. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market. Pursuant to this Section, residential uses of less than 100,000 square feet do not require off-street loading spaces.

The Project proposes approximately 32,500 square feet of residential uses, and is therefore not required to provide off-street loading. The Project proposes no loading spaces.

- J. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program for projects such as this that propose to construct market-rate housing. Under Planning Code Section 415.3, the current percentage requirements would apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for before July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing for the purpose of increasing affordable housing citywide.

The Project Sponsor has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing at a rate equivalent to an off-site requirement of 17%. The project sponsor has not selected an alternative to payment of the Fee. The EE application was submitted on June 15, 2004.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. For the reasons set forth below, this Commission finds that the project does not comply sufficiently with the criteria of Section 303 to warrant approval, in that:

- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

As described in item #6 above, the project largely complies with basic requirements of the Planning Code, such as allowable use, density, floor area ratio, height, and off-street parking. However, the massing and design of the proposed building conflicts with numerous aspects of the Residential Design Guidelines, such as:

- *(Neighborhood Character): "In areas with a defined visual character, design buildings to be compatible with the patterns and architectural features of surrounding buildings."*
- *(Site Design): "Respect the topography of the site and the surrounding area."*
- *(Building Scale and Form): "Design the height and depth of the building to be compatible with the existing building scale at the street."*
- *(Building Scale and Form): "Design the building's facade width to be compatible with those found on surrounding buildings."*

The character of the area surrounding the subject property is defined by buildings that are three to four stories in height, generally situated on narrow lots, and developed in a variety of architectural styles. Those buildings in the area that are wider than the prevailing lot pattern often employ variations in roofline, modulation of fenestration patterns, or rich details at the pedestrian level that avoid a dominating appearance.

The height of the Project is taller than existing buildings in the vicinity, and the massing of the Project is not sufficiently sculpted to respect the prevailing scale of the neighborhood or to transition to the height of adjacent buildings. The urban fabric along Clay Street is heavily influenced by topography, as buildings step with the sloping terrain to the base of the slope at Polk Street. While the Project technically complies with the 65-foot height limit for the property, the change in topography on the subject block reinforces a dramatic difference in height between the Project and adjacent buildings situated downslope on Clay Street. Furthermore, the treatment of the facade is relatively uniform across visible elevations, and is not sufficiently articulated or differentiated to reduce the scale of the Project. Because the design of the Project does not reflect the prevailing scale or fine-grained development pattern of the neighborhood, and does not respect the prevailing pattern resulting from the underlying topography of the subject block, the Project is not necessary or desirable for, or compatible with the surrounding neighborhood.

- B. The use or feature as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:
- i. The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.

Within the blocks of Clay Street to the east and west of the Project Site, building heights generally step with the terrain, reflecting and reinforcing the underlying landforms. The Project Site slopes steeply along Clay Street, however, the height of the Project is uniform across the Project Site, and the massing of the building does not adequately respond to the change in grade along this frontage. The overall height of the proposed building and the large size of the Project Site exacerbates the contrast in scale with the immediately adjacent building to the west. Furthermore, the uniformity of the facade treatments does not break down the massing of the Project in a manner that respects the small-lot development pattern of the neighborhood. The size, shape, and arrangement of the proposed structure are not appropriate to the Project Site.

- 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 and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166.

The EIR prepared for the project found that the project would not result in significant transportation and circulation impacts. The Project Site is located within an urban context, where convenience goods and services are available within walking distance. Residents of the project would be able to walk to such services in the vicinity, as well as the on-site grocery store. In addition, the area is served by ample public transit, so that residents do not need to solely rely on private automobile transportation.

The Project proposes less than 100,000 square feet of residential uses, and is therefore would not be required to provide off-street loading spaces. The Project proposes 29 off-street parking spaces, which meet the minimum requirements for off-street parking without exceeding the maximum amount of accessory off-street parking spaces permitted by the Planning Code. The transportation patterns resulting from the Project would not be detrimental to the area. The proposed Project generally complies with this criteria.

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

The Project includes residential uses that are typical of the neighborhood, and should not introduce operational noises or odors that are detrimental, excessive, or atypical for the area. While some temporary increase in noise can be expected during construction, this noise is limited in duration and will be regulated by the San Francisco Noise Ordinance which prohibits excessive noise levels from construction activity and limits the permitted hours of work. The Project Sponsor would be required to utilize dust attenuation measures throughout demolition, excavation, and construction to minimize airborne particular matter. The building will not use mirrored glass or other highly reflective materials, therefore, the Project is not expected to cause offensive amounts of glare. The proposed Project generally complies with this criteria.

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

The Project provides open space in the form of a common courtyard at the second story, as well as a number of private decks for selected units. A bamboo screen at the northerly edge of this deck would introduce a soft living wall that would be visible from some perspectives along the streetscape. If the Project were to be approved, street trees would be planted along the Clay and Larkin Street frontages in accordance with the requirements of Section 138.1. The proposed parking complies with the requirements of the Code, and the Project is not required to provide any loading spaces. If the Project were to be approved, conditions of approval would be added requiring that the Project Sponsor will continue to work the Department to refine details of lighting, signage, materials, street trees, and other aspects of the design.

- C. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.

The Project generally complies with some, but not all applicable sections of the Code. The residential use, as well as the proposed density and height, are permitted within the RM-3 District and the 65-A Height and Bulk District. The development includes the amount of common and private open space required by the Code. The Project generally meets the criteria for the requested exception to the bulk limitations of the 65-A Height and Bulk District, as discussed under item #8 below. The Project does not comply with the applicable policies of the General Plan, as discussed under item # 10 below.

8. **Planning Code Section 271** establishes criteria for the Planning Commission to consider when reviewing application for projects that exceed the applicable bulk limits, through the Conditional Use Process. The 65-A Height and Bulk District limits the horizontal dimension of a building above 40 feet in height to 110 feet, and the diagonal dimension to 125 feet.. The fourth and fifth floors have a horizontal dimension of approximately 114 feet and a diagonal dimension of 137 feet. Therefore, the Project exceeds the maximum permitted length and diagonal dimensions. The Project Sponsor requested that the Commission allow the Project to exceed the specified bulk limits after considering the criteria specified in Section 271(c), through the Conditional Use Authorization process. Such deviations might occur for one of two specified positive reasons. The Project does not meet either of the specified reasons, in that:

- A. Achievement of a distinctly better design, in both a public and a private sense, than would be possible with strict adherence to the bulk limits, avoiding an unnecessary prescription of building form while carrying out the intent of the bulk limits and the principles and policies of the General Plan.
- B. Development of a building or structure with widespread public service benefits and significance to the community at large, where compelling functional requirements of the specific building or structure make necessary such a deviation.

The intent of the bulk regulations, in part, is to shape buildings in a manner that is sensitive to the surrounding context of a proposed development. As discussed elsewhere in this motion, the Project conflicts with a number of aspects of the Residential Design Guidelines (see item #7A), as well as the General Plan (see item #10). The Project Site is a corner lot that is relatively large for the District, and the proposed building is taller than the majority of buildings in the immediate area which reach three to four stories in height. The bulk limitations of the 65-A Height and Bulk District apply above 40 feet in height, corresponding to the fifth and sixth floors of the Project. Adherence to the bulk limits would reconfigure the massing through setbacks or the modulation of the building height across the site. Such modifications would achieve a distinctly better design than the design proposed in the Project, in that the resultant building would better respond to the lower scale and sloping topography that characterizes the area. Thus, the proposed Project does not meet this criteria.

In acting upon any application for a conditional use to permit the bulk limits to be exceeded under this section, the Commission shall consider the following standards and criteria, in addition to the criteria of Section 303 discussed under Item #7 above:

- A. The appearance of bulk in the building, structure, or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
 - i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass.

Processions of bay windows create a rhythm of voids and projections across the Larkin and Clay Street elevations, articulating the facade and creating depth and shadow. However, these changes in plane do not reduce the apparent scale of the building to a degree that compensates for the difference in scale between the Project and the surrounding context.

- ii. Significant differences in the heights of various portions of the building, structure, or development that divide the mass into distinct elements.

The building does not utilize enough upper story setbacks, changes in height, or significant changes in massing or architectural language that would fracture the mass of the Project into distinct elements.

- iii. Differences in materials, colors, or scales of the facades that produce separate major elements.

The building is finished with warm materials and colors that are generally compatible with the architectural character of older structures in the area. However, these materials and colors are applied consistently across the visible elevations of the Project, without substantial differentiation or variety that would fracture the large scale of the Project to create separate elements that are reflective of the fine-grained development pattern of the neighborhood.

- iv. Compensation for those portions of the building, structure, or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted.

The Project generally maximizes the building envelope that is defined by the height limits and rear yard dimensions specified by the Code. While the Project incorporates some setbacks into the upper stories of the building, these setbacks are not sufficient to compensate for the bulk limit exceedances at the fourth and fifth floors, or to break down the scale of the Project in a manner that is compatible with the surrounding neighborhood.

- v. In cases where two or more buildings, structures, or tower are contained within a single development, a wide separation between such buildings, structures, or towers.

The Project consists of a single building, therefore, this factor does not apply.

- B. In every case the building, structure, or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:

- i. A silhouette harmonious with natural landforms and building patterns, including the patterns produced by height limits.

The area surrounding the project site is predominantly comprised of three and four story buildings. The Project, proposed at six stories, is taller than the existing built context and is

not sculpted in a manner that is sensitive to adjacent buildings. The variation in scale is particularly dramatic along the Clay Street frontage, where the slope of the street exacerbates the difference in height between the Project and adjacent downslope buildings to the west. The resulting silhouette is not harmonious with the natural landforms or building patterns of the area.

- ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character.

The building heights on the block faces adjacent to the project site are relatively uniform, with the majority of buildings reaching a height of four stories or less. The Project does not employ modulations in height, substantial upper story setbacks, or other changes in building form to help respect the character of surrounding development. Instead, the building represents a dramatic change in scale to the neighboring buildings and other buildings in the vicinity.

- iii. Use of materials, colors, and scales either similar to or harmonizing with those of nearby developments.

Existing buildings in the vicinity exhibit an eclectic variety of architectural character, materials, and colors. While there are no predominant architectural styles or materials that define the visual character of the neighborhood, the facades in the area are generally simple and lack extravagant ornamentation.

While the Project utilizes forms and materials that are evocative of other buildings in the district, the massing and organization of these forms and materials does not sufficiently break the scale of the project to harmonize with existing development.

- iv. Preservation and enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The streetscape of the project is largely characterized by residential windows that are slightly setback from the sidewalk, behind low landscaped planter walls. This configuration creates an interface and activation between the Project and the public realm, while also providing privacy for residents at the ground floor. The scale of the pedestrian realm is further defined and distinguished from the upper floors through changes in exterior materials and projecting metal awnings.

- C. While the above factors must be present to a considerable degree for any bulk limit to be exceeded, these factors must be present to a greater degree where both the maximum length and the maximum diagonal dimension are to be exceeded than where only one maximum dimension is to be exceeded.

The Project exceeds both the maximum length and maximum diagonal dimensions specified for the fourth and fifth stories of the building by the 65-A Height and Bulk District. As discussed above,

the Project does not adequately meet the specified criteria of Section 271 that would merit an exception to these bulk limitations.

9. **Planning Code Section 253** requires that, for projects exceeding 40 feet in height in an "R" District, the Planning Commission consider the expressed purposes of the applicable "R" district and the general purposes of the height and bulk district in which the property is located. The Project fails to comply with these purposes, in that:

- A. **RM-3 (Residential, Mixed, Medium Density) District.** Section 206.2 describes that the RM-3 District contains, "...some smaller structures", but mostly characterized by, "...apartment buildings of six, eight, 10 or more units." It further states that, "Many buildings exceed 40 feet in height, and in some cases additional building over that height may be accommodated without disruption of the District character.", and that "Although lots and buildings wider than 25 or 35 feet are common, the scale often remains moderate through sensitive facade design and segmentation."

Section 206.2 recognizes that, on a City-wide basis, many structures within the RM-3 District are six stories or greater in height. However, the area surrounding the Project site is an exception to this description. In addition, Section 206.2 acknowledges the importance of minimizing the apparent scale of development on larger lots through sensitive massing and facade treatment. The Project generally reads as a large, single development, and does not achieve a segmentation of the massing that would help to reconcile the disparate scale of the proposed building with the existing built context.

- B. **65-A Height and Bulk District.** Section 251 establishes that the general purposes of the height and bulk district are to relate the scale of new development to be harmonious with existing development patterns and the overall form of the City, respect and protect public open spaces and neighborhood resources, and to synchronize levels of development intensity with an appropriate land use and transportation pattern.

The Project is situated on a relatively large lot, and the upper stories of the building do not comply with the applicable bulk limitations. The scale of the Project does not relate appropriately to the prevailing height and development pattern of the neighborhood, and is not designed with changes in massing or height that would help to alleviate the transition in scale compared with adjacent buildings.

10. **General Plan Compliance.** The Project is not consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT:

Objectives and Policies

OBJECTIVE 3

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1:

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.2:

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

Policy 3.5:

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

Policy 3.7:

Recognize the special urban design problems posed in development of large properties.

The Project would require the demolition of an existing church building that is a historical resource. The church was constructed in 1911, and is considered a significant historical resource because of its association with reconstruction following the 1906 earthquake and fire, and as a representative example of an innovative church design developed by a leading master architect, William Kramer. The Final EIR prepared for the Project found that the demolition of this historic resource would be a significant and unavoidable impact on the environment. In addition, the new development proposed to replace the demolished church does not complement the pattern of existing older development in the area.

The character of the surrounding area is defined by lower buildings that are three to four stories in height, generally developed on narrow lots. However, the massing of the Project is not sculpted to respect the prevailing scale of the neighborhood or to transition to the height of adjacent buildings. Within the subject block of Clay Street, buildings step with the sloping terrain to the base of the slope at Polk Street. The roofline of the Project is consistent across the Project Site, resulting in a massing that does not reflect the terrain and creates an abrupt increase in scale compared to the adjacent buildings in the area. The Project Site is a relatively large lot compared with other properties in the area. Projecting a flat roofline across this large lot further accentuates and exacerbates this increase in scale. While buildings in the vicinity exhibit a variety of architectural styles, these different styles harmonize through the use of warm finish materials, such as wood, brick, and stucco. The proposed Project is finished with expanses of glass, concrete, and bays wrapped in metal screens, materials which strongly contrast with the prevailing character of the area. The design of the Project does not adequately complement and respond to the existing development pattern, topography, or neighborhood character of the area.

11. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. The Project complies with some, but not all of 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 Project will not displace any existing retail uses.

- 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 would not diminish the existing housing stock, and would add dwelling units to the area. However, the Project would require the demolition of an existing historic resource, and would therefore not preserve the cultural diversity of the neighborhood.

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

The Project would add not demolish any dwelling units, and would be required to contribute to in-lieu funds to the City's Inclusionary Housing Program to support the development of affordable housing opportunities.

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

A wide variety of goods and services are available within walking distance of the Project Site without reliance on private automobile use. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network.

- 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 Project does not propose any office development, and would not displace any existing industrial or service sector uses.

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

The Project would be designed and constructed to conform to the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

The Project would demolish a historic resource, which is contrary to the policy that historic buildings be preserved. The existing vacant church that would be demolished as part of the Project is considered to be an historic resource under CEQA, resulting in a significant and unavoidable impact as identified in the EIR prepared for the project.

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

The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.

13. **Demolition of an historic resource under CEQA.** As noted above, the Final EIR for the Project found that demolition of the existing church building would result in a significant and unavoidable impact under CEQA. Under CEQA section 21081 and CEQA Guidelines Sections 15092(b)(2)(B) and 15093, the Commission would have to determine that the Project should nevertheless be approved due to specific overriding economic, legal, social, technological and other benefits. Such benefits would have to outweigh the significant and unavoidable impact of the Project caused by the demolition of the historic resource. This Commission does not so find. The proposed Project would construct market-rate housing, at a height and bulk out of scale with the existing neighborhood character. The proposed Project would require conditional use approval, which requires that the Commission determine that the proposed Project, at the size and intensity contemplated and at the proposed location, would provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community. For the reasons set forth about, the Commission has not made this finding. Without a greater showing of specific overriding economic, legal, social, technological or other benefits, this Commission can not find that the proposed Project's environmental harm resulting from the demolition of a historic resource is outweighed.
14. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City, especially when considering the proposed Project's identified significant and unavoidable impact on the environment.

DECISION

That based upon the Record, the submissions by the Project Sponsor, 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 **DISAPPROVES Conditional Use Application No. 2012.0611C**.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this approval of a Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on August 15, 2012.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: August 16, 2012

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