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12/13/2021

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place - City Hall, Room 244
San Francisco, CA 94102

Board.of.Supervisors@sfgov.org
Via Email

Re:

Item 42, File No. 42. 211274 [Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street]
Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20935, approving a Planned Unit Development and Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project located at 450-474 O'Farrell Street and 532 Jones Street.

Dear San Francisco Board of Supervisors,

YIMBY Law submits this letter to discourage you from adopting the above referenced findings. As we have informed you previously, the Housing Accountability Act (HAA) only permits cities to evaluate proposed housing development using objective findings, and does not permit cities to disapprove projects or approve them at a lower density based on subjective findings. All of the findings you will be considering today are subjective or don't reference an "applicable, objective general plan and zoning standards [or] criteria". In addition, some of the findings are inaccurate and some of them, frankly, are embarrassing.

The San Francisco zoning code permits up to 13 stories at 450 O'Farrell with a conditional use permit. Fortunately for the cause of abundant housing, and unfortunately for local discretion, San Francisco's criteria for receiving a conditional use permit are all subjective. Correspondingly, as mentioned above, none of the findings are objective or reference objective criteria required for receiving a conditional use permit.

If San Francisco would like to continue to use the Conditional Use process to allow different outcomes for different types of projects, the Board of Supervisors must pass ordinances creating objective criteria for receiving Conditional Use permits.

The first several findings on pages 3 and 4 attempt to justify denying the CU for 13 stories based on the fact that the proposed units are small and don't have full kitchens. However, there is no existing zoning plan standard or criteria requiring a minimum unit size or a full kitchen in order to receive a Conditional Use permit. Therefore, this finding can't be used as a justification for denying the Conditional Use permit.

In addition, the reasoning in this section is weak. In San Francisco 38% of adults, and 60% of all renters, live with roommates (this does not include married couples).[1] These adults share 2,3 and 4 bedroom apartments with each other. At least some of them would prefer to live alone. Insofar as the future residents of the proposed studio apartments at 450 O'Farrell would be moving out of roommate situations (or not entering into them in the first place), these studios would, in fact, be meeting the city's need for more larger units.

The Board of Supervisors is also going to be voting on findings to delay almost 500 apartments at 469 Stevenson today, all of which have full kitchens, and most of which have 2 or more bedrooms. It is hard for the public to understand why the SF Board of Supervisors would deny this Conditional Use permit because the proposed housing units are too small, and also vote to delay - possibly fatally- another proposed project that has larger units, *on the same day.* If the purpose of adopting these findings is to encourage larger apartments with full kitchens, then why would the Board also vote to frustrate a project that actually has larger apartments with full kitchens?

The next type of finding, on page 5, starting on line 5 is that the CU should be denied because the residents will cause traffic by ordering food delivery. There is also a finding on page 6, line 1 that small units will cause a lot of TNC use. Again, there is no objective standard for the CU regarding traffic, or rates of food delivery, or rates of TNC use so this finding cannot be used to justify reducing the density of the proposed project. Moreover, this line of reasoning is speculative and not supported by any data or modeling.

The most embarrassing finding is on page 6, lines 13 to 18. It is so astonishing, we will copy it here.

> WHEREAS, Appellants have provided evidence of a glut of similar small units without full kitchens in the Tenderloin/mid-Market area; the Panoramic development at 1321 Mission Street is an example of this glut, the Panoramic,

[1] https://sf.curbed.com/2017/12/18/16791954/san-francisco-roommates-double-households-rent-data

> which consists of efficiency units that do not have full kitchens, and that lack stoves, full-size refrigerators and adequate food storage and preparation space, has high vacancy rates and has been unsuccessful, and is being marketed for sale;

The Board surely recalls that just weeks ago, on Oct 19, it approved the purchase of the Panoramic, to be used as housing for formerly homeless individuals and families.[2]

If the proposed housing at 450 O'Farrell project wound up in the same position as the Panoramic - available for San Francisco to buy and use as low income housing - this would be a great benefit to San Francisco, and is a compelling reason to **approve** the conditional use permit.

The last finding, on page 6 line 19, that residents of this project won't be "long term permanent residents" and will therefore be unlikely to "volunteer for and contribute to the community, advocate for community improvements, and serve as eyes on the street" is speculative, unsupported and frankly insulting to the thousands of residents of the Tenderloin who live in studio apartments and are active in the Tenderloin community.

The project proposed at 450 O'Farrell Street would demolish three existing buildings and construct a mixed use building up to 13-stories on O'Farrell and Shannon Streets and up to 4-stories on Jones Street. The project currently includes 316 group housing rooms with a maximum of 632 group housing beds; 48 of the rooms are designated to be rented at below-market rates.

The project was entitled by the Planning Commission at their September 13, 2018 meeting, and a revised application was approved again at their June 24, 2021 hearing with Conditions as amended to include: 1. Increase the number of larger group housing units, wherever feasible; 2. Provide balconies to maximum projection on all sides except O'Farrell Street; 3. Continue working with Staff to increase the number of bicycle parking spaces, up to 200; 4. Convert the ground-floor retail space to group housing units; and 5. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

An appeal letter was filed by the Tenderloin Housing Clinic and Pacific Bay Inn, Inc. on July 21, 2021. The Appeal Letter challenges previous actions that were not part of the June 24, 2021 action by the Planning Commission. Specifically, the appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. None of the reasons stated as the basis for the appeal concern the items modified by the Planning Commission action. Nothing in the action of the Planning Commission affects the previously approved site plan and associated construction

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[2] https://hoodline.com/2021/10/supes-approve-panoramic-apartments-for-homeless-housing-despite-community-pushback/

impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission or Board of Supervisors approval.

The amended Conditional Use Authorization which was approved by the Planning Commission falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is outside the scope of the city's general plan to conclude that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the City is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

Conclusion

This project must be treated as any other project would be under the HAA. This means that the Board of Supervisor's discretion is limited in this case. The project does not pose a threat to public health and safety and complies with every objective General Plan standard. Not only was this project approved by Planning Commission on June 34, 2021, it has already been entitled previously, with very similar characteristics, on September 13, 2018.

The Board of Supervisors should NOT adopt these findings. If these findings are not adopted, the Planning Commission's approval will stand, and San Francisco will avoid a costly lawsuit.

Yimby Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

Sonja Trauss

Sonja Trauss
Executive Director
YIMBY Law