

Commission on Community Investment and Infrastructure

RESOLUTION NO. 4-2013
Adopted March 5, 2013

RESOLUTION ADOPTING ENVIRONMENTAL REVIEW FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING A COMBINED BASIC CONCEPT AND SCHEMATIC DESIGN FOR A NEW COMMERCIAL PROJECT ON BLOCK 40 IN MISSION BAY SOUTH, PURSUANT TO THE OWNER PARTICIPATION AGREEMENT WITH FOCIL-MB, LLC, AN AMENDMENT TO THE BLOCK 40 MAJOR PHASE, AND FOUR VARIANCES TO THE MISSION BAY SOUTH DESIGN FOR DEVELOPMENT; MISSION BAY SOUTH REDEVELOPMENT PROJECT AREA

WHEREAS, On September 17, 1998, by Resolution No. 190-98, the Commission of the former Redevelopment Agency of the City and County of San Francisco (“Redevelopment Agency”) approved the Redevelopment Plan for the Mission Bay South Redevelopment Project Area (“Plan”). On the same date, the Redevelopment Agency Commission adopted related documents, including Resolution No. 193-98 authorizing execution of an Owner Participation Agreement (“South OPA”) and related documents between Catellus Development Corporation, a Delaware corporation (“Catellus”), and the Redevelopment Agency. On November 2, 1998, the San Francisco Board of Supervisors (“Board of Supervisors”), by Ordinance No. 335-98, adopted the Plan. The Plan and its implementing documents, as defined in the Plan, constitute the “Plan Documents”; and,

WHEREAS, On September 17, 1998, the Redevelopment Agency Commission adopted Resolution No. 182-98 which certified the Final Subsequent Environmental Impact Report (“FSEIR”) as a program EIR for Mission Bay North and South pursuant to the California Environmental Quality Act (“CEQA”) and State CEQA Guidelines Sections 15168 (Program EIR) and 15180 (Redevelopment Plan EIR). On the same date, the Redevelopment Agency Commission also adopted Resolution No. 183-98, which adopted environmental findings (and a statement of overriding considerations), in connection with the approval of the Plan and other Mission Bay project approvals (the “Mission Bay Project”). The San Francisco Planning Commission (“Planning Commission”) certified the FSEIR by Resolution No. 14696 on the same date. On October 19, 1998, the Board of Supervisors adopted Motion No. 98-132 affirming certification of the FSEIR by the Planning Commission and the Redevelopment Agency, and Resolution No. 854-98 adopting environmental findings and a statement of overriding considerations for the Mission Bay Project; and,

WHEREAS, Subsequent to certification of the FSEIR, the Redevelopment Agency has issued several addenda to the FSEIR, as described below. The addenda do not identify any substantial new information or new significant impacts or a substantial increase in the severity of previously identified significant effects that alter the conclusions reached in the FSEIR. Hereinafter, the Final Subsequent Environmental Impact Report, including any addenda thereto, shall be collectively referred to as the “FSEIR”; and,

WHEREAS, The first addendum, dated March 21, 2000, analyzed temporary parking lots to serve the AT&T Ballpark. The second addendum, dated June 20, 2001, analyzed revisions to 7th Street bike lanes and relocation of a storm drain outfall provided for in the Mission Bay South Infrastructure Plan, a component of the South OPA. The third addendum, dated February 10, 2004, analyzed revisions to the Mission Bay South Design for Development (“Design for Development”) with respect to the maximum allowable number of towers, tower separation and requires step-backs. The fourth addendum, dated March 9, 2004, analyzed the Design for Development with respect to the permitted maximum number of parking spaces for bio-technical and similar research facilities and the Mission Bay North OPA with respect to changes to reflect a reduction in permitted commercial development and associated parking. The fifth addendum, dated October 4, 2005, analyzed the UCSF proposal to establish a Phase I 400-bed hospital in the Mission Bay South Redevelopment Project Area (“Mission Bay South”) on Blocks 36-39 and X-3. The sixth addendum, dated September 10, 2008, addressed revisions of the UCSF Medical Center at Mission Bay. The seventh addendum, dated January 7, 2010, addressed the construction of a Public Safety Building on Block 8 in Mission Bay South; and,

WHEREAS, Catellus, the original master developer of the Mission Bay North and South Redevelopment Project Areas, has sold most of its remaining undeveloped land in Mission Bay to FOCIL-MB, LLC, (“FOCIL-MB”), a subsidiary of Farallon Capital Management, LLC, a large investment management firm. The sale encompassed approximately 71 acres of land in Mission Bay, and the remaining undeveloped residential parcels in Mission Bay South. FOCIL-MB assumed all of Catellus’s obligations under the South OPA and the Redevelopment Agency’s Owner Participation Agreement for Mission Bay North (collectively, the “OPAs”), as well as all responsibilities under the related public improvement agreements and land transfer agreements with the City and County of San Francisco (“City”). FOCIL-MB is bound by all terms of the OPAs and related agreements, including the requirements of the affordable housing program, equal opportunity program, and design review process; and,

WHEREAS, Under California Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) (“AB 26”) and the California Supreme Court’s decision in California Redevelopment Association v. Matosantos, No. 5194861, all redevelopment agencies in the State of California (the “State”), including the Redevelopment Agency, were dissolved by operation of law as of February 1, 2012, and their non-affordable housing assets and obligations were transferred to certain designated successor agencies; and,

WHEREAS, Under the provisions of AB 26, the City was designated as the successor agency to the Redevelopment Agency (“Successor Agency”), commonly known as the Office of Community Investment and Infrastructure (“OCII”), to receive the non-affordable housing assets of the Redevelopment Agency; and,

WHEREAS, In June of 2012, the California legislature adopted Assembly Bill 1484 (“AB 1484”) amending certain provisions of AB 26, and the Governor of the State signed the bill and it became effective on June 27, 2012. Among other things, AB 1484 provided that a successor agency is a separate public entity from the public agency that provides for its governance; and,

WHEREAS, Subsequent to the adoption of AB 1484, on October 2, 2012 the Board of Supervisors of the City, acting as the legislative body of the Successor Agency, adopted Ordinance No. 215-12 (the “Implementing Ordinance”), which

Implementing Ordinance was signed by the Mayor on October 4, 2012, and which, among other matters: (a) acknowledged and confirmed that, as of the effective date of AB 1484, the Successor Agency is a separate legal entity from the City, and (b) established this Successor Agency Commission and delegated to it the authority to (i) act in place of the Redevelopment Agency Commission to, among other matters, implement, modify, enforce and complete the Redevelopment Agency's enforceable obligations, (ii) approve all contracts and actions related to the assets transferred to or retained by the Successor Agency, including, without limitation, the authority to exercise land use, development, and design approval, consistent with applicable enforceable obligations, and (iii) take any action that the Redevelopment Dissolution Law (AB 26 and AB 1484, as amended in the future) requires or authorizes on behalf of the Successor Agency and any other action that this Commission deems appropriate, consistent with the Redevelopment Dissolution Law, to comply with such obligations; and,

WHEREAS, The Board of Supervisors' delegation to this Commission includes the authority to grant approvals under specified land use controls for the Mission Bay Project consistent with the approved Plan and enforceable obligations; and,

WHEREAS, The Plan and the Plan Documents, including the Design Review and Document Approval Procedure, designated as Attachment G to the South OPA ("DRDAP"), provide that development proposals in Mission Bay South will be reviewed and processed in "Major Phases," as defined in and consistent with the Plan and the Plan Documents. Submission of design plans and documents for any specific building ("Project") must be consistent with the requirements established for each Major Phase, though the DRDAP allows for a Major Phase to be amended by a schematic design submittal if the overall submittal is still consistent with the Plan and Plan Documents. The DRDAP sets forth the review and approval process for Major Phases and Projects; and,

WHEREAS, On November 18, 2008, by Resolution No. 135-2008, the Redevelopment Agency Commission approved the Master Developer's Major Phase Application for Block 40 ("Major Phase") in the Mission Bay South; and,

WHEREAS, Block 40 is currently owned by FOCIL-MB ("Developer"), which is bound by the South OPA. Any future owners of Block 40 will also be bound by all relevant terms of the South OPA and related agreements, including the requirements of the equal opportunity program and design review process; and,

WHEREAS, Pursuant to the Plan and Plan Documents, including the DRDAP, Developer submitted a Combined Basic Concept and Schematic Design application for Block 40 ("Schematic Design"). The commercial building consists of approximately 665,000 gross square feet of office space and associated parking; and,

WHEREAS, The Schematic Design also includes a request for approval of four variances ("Variances") from the Design for Development related to tower heights, size, and spacing, as well as streetwall setbacks at corners; and,

WHEREAS, Section 305 of the Plan allows the Successor Agency, at its discretion, to grant a variance to the design standards contained in the Design for Development when (1) "the enforcement would otherwise constitute an unreasonable limitation beyond the intent and purpose of the Design for Development and the Redevelopment Plan" and (2) if "the variance is consistent with the public health, safety and welfare"; and,

- WHEREAS, Agency staff believes the Variances should be granted. The Block 40 site is unique in that it is triangular and located adjacent to Interstate-280 and the Caltrain tracks. As a result of its layout and location, strict application of the Design for Development, which was developed to apply to smaller and more rectangular sites, would result in a design that does not achieve the intent of the Design for Development with regards to holding the streetwall, promoting visual variety, and reducing the scale of development. With the Variances, the project provides breaks in the building at the pedestrian level and creates a roofline that provides more interesting changes in elevation. Lastly, allowing the Variances at this location will not injure or be detrimental to the health or safety of members of the public.
- WHEREAS, As allowed by the DRDAP, the Schematic Design also includes an amendment to the Major Phase (“Amendment”). The Amendment would amend the Major Phase to reflect the revised building design and ensure consistency between the two documents; and,
- WHEREAS, Pursuant to the provisions of Section 304.11 of the Plan, the Planning Commission also has schematic design review purview for Mission Bay commercial buildings because they are office development projects. On February 14, 2013, the Planning Commission reviewed the schematic design and confirmed a Planning Code Section 321 “Prop M” design approval providing authorization for up to 700,000 square feet of office allocation for the Block 40 project.; and,
- WHEREAS, Successor Agency staff has reviewed the Schematic Design for purposes of compliance with CEQA and the State CEQA Guidelines; and,
- WHEREAS, The FSEIR is a program EIR under CEQA Guidelines Section 15168 and a redevelopment plan EIR under CEQA Guidelines Section 15180. Approval of the Schematic Design is an undertaking pursuant to and in furtherance of the Plan in conformance with CEQA Section 15180 (“Implementing Action”); and,
- WHEREAS, Successor Agency staff, in making the necessary findings for the Implementing Action contemplated herein, considered and reviewed the FSEIR, and has made documents related to the Implementing Action and the FSEIR files available for review by the Successor Agency Commission and the public, and these files are part of the record before the Successor Agency Commission; and,
- WHEREAS, The FSEIR findings and statement of overriding considerations adopted in accordance with CEQA by the Redevelopment Commission by Resolution No. 183-98 dated September 17, 1998, reflected the independent judgment and analysis of the Redevelopment Agency, were and remain adequate, accurate and objective and were prepared and adopted following the procedures required by CEQA, and the findings in said resolutions are incorporated herein by reference as applicable to the Implementing Action; and,
- WHEREAS, Successor Agency staff has reviewed the Schematic Design submitted by FOCIL-MB, which includes the requested Variances and Major Phase Amendment, and finds it acceptable and recommends approval thereof, subject to the resolution of certain conditions; and, now, therefore, be it
- RESOLVED, That the Successor Agency Commission finds and determines that the Schematic Design submission is an Implementing Action within the scope of the Project analyzed in the FSEIR and requires no additional environmental review pursuant

to State CEQA Guidelines Sections 15180, 15162 and 15163 for the following reasons:

1. The Implementing Action is within the scope of the Project analyzed in the FSEIR and no major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the FSEIR.
2. No substantial changes have occurred with respect to the circumstances under which the Project analyzed in the FSEIR was undertaken that would require major revisions to the FSEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FSEIR.
3. No new information of substantial importance to the Project analyzed in the FSEIR has become available which would indicate that (a) the Implementing Action will have significant effects not discussed in the FSEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives which are considerably different from those in the FSEIR will substantially reduce one or more significant effects on the environment;

and, now, be it further

RESOLVED, That the Successor Agency Commission has reviewed and considered the FSEIR findings and statement of overriding considerations and hereby adopts the CEQA findings set forth in Redevelopment Commission Resolution No. 183-98, which are incorporated herein, and those set forth above; and, be it further

RESOLVED, That the Successor Agency Commission approves the Combined Basic Concept and Schematic Design for the commercial building on Block 40 subject to the following conditions:

1. The building materials, colors, finishes, architectural detailing (including window details and rooftops) shall be subject to further review and approval by OCII staff during the Design Development phase, with special attention given to the use of materials and colors to differentiate the northern and southern towers. Material and color samples shall be provided as part of the review. A material and color mock-up of sufficient size to be built on the construction site during an early phase of construction shall be prepared for OCII staff review and approval to ensure consistency with this Schematic Design.
2. The landscape design and public art projects shall be subject to further review and approval by OCII staff during the Design Development phase. In particular, the ground floor open space areas require further refinement to ensure that each area is activated to the maximum extent feasible, and designed to take into consideration safety concerns related to site conditions resulting from the location of the railroad along the western border of the property.
3. The design of the parking shall be subject to further review and approval by OCII staff during the Design Development phase. Areas of focus will

include the treatment of the screening of the upper levels of parking, the treatment and screening of the exterior expression of the partially submerged parking level of the southern building, and methods to avoid or diminish the light spillover from the upper levels of the garage.

4. The design of the trash and recycling areas shall be subject to further review and approval by OCII staff during the Design Development phase to ensure that they allow for direct pick-up by the solid waste collector from the service areas on the western façade of the building to avoid trash and recycling bins on-street.
5. The loading docks, generator, transformer rooms and other utility space shall be minimized and located along the western façade to the extent feasible. The design of the loading docks in relation to the service elevators shall be further developed to ensure adequate connections between the two.
6. Any service yards required by future tenants of the building shall be subject to review and approval by OCII staff to ensure appropriate screening and preserve opportunities for landscaping.
7. All building signage shall be subject to further OCII staff review and approval. A signage plan shall be prepared prior to or concurrent with Design Development for OCII staff approval, pursuant to the Mission Bay South Signage Master Plan.
8. The Developer shall comply with the process outlined in the Mission Bay Program in Diversity/Economic Development Program ("Program") for the remaining consultants. The Developer will comply with the Minority/Women-Owned Business Enterprises (M/WBE) professional services subcontracting goal of meeting or exceeding 38% (20 percent for MBEs and 18 percent for WBEs) on all soft costs associated with the project. During construction, the developer shall be bound by the Program's construction subcontracting goals of 31 percent for MBEs and 10 percent for WBEs. The Mission Bay Construction Workforce Program shall also apply to this project with a local San Francisco resident goal of 50% of total workforce hours and the requirement for the payment of prevailing wages.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of March 5, 2013.

Natasha Jones

Commission Secretary