

Commission on Community Investment and Infrastructure

RESOLUTION NO. 46-2014

Adopted June 17, 2014

RESOLUTION ADOPTING ENVIRONMENTAL REVIEW FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CONDITIONALLY APPROVING A COMBINED BASIC CONCEPT AND SCHEMATIC DESIGN FOR TWO RESIDENTIAL BUILDINGS WITH 350 UNITS ON BLOCK 1 IN MISSION BAY SOUTH, BOUNDED BY THIRD, FOURTH AND CHANNEL STREETS AND PARK P3, AND AN AMENDMENT TO THE BLOCK 1 MAJOR PHASE PURSUANT TO THE OWNER PARTICIPATION AGREEMENT WITH FOCIL-MB, LLC; 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 and Successor Agency, as defined below, 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; the eighth addendum, dated May 15, 2013, addressed the third Mission Bay South OPA amendment on Block 1 to allow residential uses in addition to a hotel. The ninth addendum, dated May 30, 2013, addressed the fourth Mission Bay South OPA amendment to allow an institutional use on Block 7 East; 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 and obligations 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, The Redevelopment Dissolution Law required creation of an oversight board to the successor agency and provided that with approval from its oversight board and the State Department of Finance (“DOF”), a successor agency may continue to implement “enforceable obligations” such as existing contracts, bonds and leases, that were executed prior to the suspension of redevelopment agencies’ activities.. On January 24, 2014, DOF finally and conclusively determined that the Mission Bay North and South OPAs and Mission Bay Tax Increment Allocation Pledge Agreements are enforceable obligations pursuant to Health and Safety Code Section 34177.5(i); 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, including design review; 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 March 21, 2013 by Resolution No.19-2013, the Successor Agency Commission approved the Major Phase Application for Block 1 (“Major Phase”) in the Mission Bay South; and,

WHEREAS, Pursuant to the Plan and Plan Documents, including the DRDAP, the Developer submitted a Combined Basic Concept and Schematic Design application for the residential portion of Block 1 (“Schematic Design”). The two residential buildings consists of 350 units and associated parking and open space, and approximately 15,000 square feet of retail; and,

WHEREAS, As allowed by the DRDAP, the Schematic Design also includes an amendment to the Major Phase (the "Amendment"). The Amendment would increase the amount of mid-rise and tower heights allocated to the residential portions of Block 1 within Height Zone-2 and will not exceed the total amount of mid-rise and tower height allowed under the Mission Bay South Design for Development for Height Zone-2; 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 the Developer 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, 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 two residential buildings on Block 1 subject to the following conditions, which require further review and approval by the Executive Director, or her designee:

1. To ensure that any resulting rental project provides 15% inclusionary units in compliance with the OPA, adjustments to the location and unit mix of the inclusionary units may be allowed from what is approved in the Schematic Design once the Developer has determined if either of the buildings will be rental as long as the location of the inclusionary units continue to meet the requirements of the OPA that the inclusionary units be substantially equivalent in size, location, amenities and quality to reflect the mix of unit sizes and room configurations of the market rate residential units in the rental project, with a goal of comparability in square footage and interior features. The inclusionary units shall be dispersed throughout the rental project in a unit type mix that is representative of the market rate dwelling units.
2. The building and landscaping materials, colors, finishes, and architectural detailing shall be subject to further review and approval during the Design Development phase to ensure the richness, quality and diversity shown in the Schematic Design is achieved. 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 review and approval to ensure consistency with this Schematic Design. The color and material selection shall ensure that the R-1 and R-2 residential buildings read as two separate projects with a variety of materials and stronger colors incorporated as appropriate to add additional visual interest to the project. The Developer will also continue to work during the Design Development stage to identify opportunities to individualize the R-2 townhomes, such as through the use of different color doors, window treatments, balconies, and additional setbacks of the window stacks.
3. The design of the corners at the ends of Park P3 shall be subject to further design and review during the Design Development stage to ensure that the buildings retain a strong presence above the ground level.
4. The design of the first floor shall be subject to further review and approval during the Design Development phase to ensure that the pedestrian realm is as active and visually interesting as possible with a varied approach to the glazing system, recognizing the need to locate utility rooms and vehicular access along Channel Street.

5. The landscaping of the Block 1 residential project shall continue to be integrated with the design of Park P3. In addition, the Block 1 landscaping along the Park P3 frontage shall be designed to ensure that a clear delineation for maintenance between the park and private property is made to facilitate the on-going maintenance of the public and private landscaping.
6. The design of the green wall connecting the podium with Park P3 shall be designed to allow it to be retrofitted for the growth of vines, versus pocket planting, if the pocket planters were to fail or be determined to be too costly to maintain.
7. The design of the trash and recycling areas shall be subject to further review and approval during the Design Development phase to ensure that they allow for internal pick-up by the solid waste collector to avoid trash and recycling bins on-street.
8. All building signage shall be subject to further review and approval. A signage plan shall be prepared prior to or concurrent with Design Development documents for approval, pursuant to the Mission Bay South Signage Master Plan.
9. To avoid noise impacts to adjacent residents, prior to the start of any construction, the Developer and their general contractor shall meet with OCII to discuss noise regulations and hours of construction operation to ensure that they understand the existing regulations and do not work outside the allowed hours of operations.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of June 17, 2014.


Commission Secretary