RESOLUTION NO. 150-2004

Adopted December 14, 2004


BASIS OF RESOLUTION

1. In 1987, the Redevelopment Agency of the City and County of San Francisco (the "Agency") sold Agency Parcels 707-A, 726-A, 731-A, 749-C, 750-A and a portion of vacated Ellis Street (the "Site" and, as developed "The Fillmore Center") for development of The Fillmore Center. Under the December 16, 1985 Agreement for Disposition of Land for Private Development (the "LDA"), up to 1,113 residential units, up to 73,000 square feet of Retail and Commercial space, 27,000 square feet of primarily resident-serving Recreational Space, and 30,000 square feet of Community Space could be constructed on the Site.

2. At the time, the 27,000-square-foot recreational facility was excluded from the project’s overall development density calculation because it was supposed to serve as an amenity for the residents of The Fillmore Center. In the original development density calculation, about 329,075 total square feet of lot area was designated for 1,113 residential units, or a total of 3,472 Agency Rooms. The Agency approved this development density by granting The Fillmore Center owners a variance in 1985, reducing the development density standard to 94.77 square feet of lot area per Agency Room from 100 square feet of lot area per Agency Room, as is required in the Western Addition A-2 Redevelopment Plan (the “Plan”).

3. In 1998, the current owner, Fillmore Properties, LLC, a Delaware limited liability company (“Fillmore Properties”), purchased The Fillmore Center (excluding the Community Space, commonly known as West Bay Conference Center, which was subsequently conveyed to a nonprofit entity pursuant to the LDA).

4. After The Fillmore Center was built, the primarily resident-serving recreational space became a commercial fitness center that primarily serves the public (the “Commercial Recreation Facility”). At that time, the Commercial Recreation Facility also was enlarged by an additional 4,669 square feet, for a total of 31,669 gross square feet. In addition, 1,114 residential units were built one unit and three Agency Rooms more than allowed under the LDA.
5. The first variance involves a change to The Fillmore Center’s development density calculation in order to include the Commercial Recreation Facility’s gross square footage into the project’s overall development density calculation. Now, to allow for the 31,669-gross-square-foot fitness center, about 26,390 square feet of lot area has been deducted from the 329,075 total square feet of lot area. The remaining 302,685 square feet of lot area has been spread across 3,475 Agency Rooms (based on the currently existing 1,114 residential units). As a result, the Plan’s development-density standard of 100 square feet of lot area per Agency Room has been further reduced to 87.10 square feet of lot area per Agency Room.

6. The second variance modifies The Fillmore Center’s residential parking requirement. Currently, the Plan requires one parking space per residential unit, a ratio of 1 to 1. No parking spaces were required for the original fitness center because it was supposed to primarily serve the residents of The Fillmore Center. Now that the fitness center is a commercial operation that primarily serves the public, it must meet the Plan’s parking requirements. Under the Plan, 54 parking spaces are required for a 31,669-gross-square-foot commercial fitness center. However, due to the layout and configuration of The Fillmore Center’s garage space, the only feasible solution is for Fillmore Properties to provide 63 parking spaces. In addition, Fillmore Properties has requested that such 63 parking spaces be available to the public at large, including but not limited to users of the Commercial Recreation Facility. Therefore, the residential parking variance transfers 63 spaces from the residential parking garage to the commercial parking garage. This variance: (1) reduces the residential parking requirement from a 1-to-1 ratio to a .94-to-1 ratio, and (2) is based on four years of operating history at the private residential garage, which shows it to be between 30% and 40% occupied.

7. The Agency, at its discretion, has the authority to modify the Plan’s development standards in situations involving unusual and special conditions, where enforcement would result in undue hardship or would constitute an unreasonable limitation beyond the intent and purposes of such development standards.

8. The Agency believes that, in this unique and limited situation, an undue hardship will result if the Agency does not authorize the two proposed variances. If the variance concerning the Recreational Space and related requirements is not approved, Fillmore Properties (together with its successors-in-interest as to The Fillmore Center, sometimes referred to as the “Developer”) must either remove the Commercial Recreation Facility from the Site or limit use of such facility to The Fillmore Center residents, also reduce the Recreational Space to its originally authorized square footage and permitted use in compliance with the LDA. In addition, if the variances are not approved, the Developer would be required to eliminate a substantial number of residential units from The Fillmore Center and such removal would have a detrimental impact on The Fillmore Center’s operations and result in a loss of housing stock.
Furthermore, the Agency believes that the two variances are justified because they encourage a successful commercial use that has notable economic development benefits for the Fillmore Jazz Preservation District. Specifically, the variances increase the number of much-needed commercial parking spaces, and permit a use that serves as a successful anchor tenant and customer draw for the commercial corridor.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED that the Redevelopment Agency of the City and County of San Francisco hereby grants the two variances described above for The Fillmore Center, as requested by Fillmore Properties, LLC, a Delaware limited liability company, modifying certain development standards and requirements of the Western Addition A-2 Redevelopment Plan for Agency Parcels 707-A, 726-A, 731-A, 749-C, 750-A and a portion of vacated Ellis Street in the Western Addition Redevelopment Project Area A-2.

APPROVED AS TO FORM:

[Signature]
James B. Morales
Agency General Counsel