



SAN FRANCISCO PLANNING DEPARTMENT

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January 4, 2007

Mr. Leonard E. Blakesley, Jr.
Continental Development Corporation, LLC
2041 Rosecrans Avenue, P.O. Box 916
El Segundo, CA 90245-0916

Re: Satisfaction of the 4,000-sq. ft. off-site open space requirement for the 888 Howard Street hotel project (The InterContinental San Francisco Hotel) through payment of an in-lieu fee to assist with the development and maintenance of Mint Plaza.

Dear Mr. Blakesley:

This letter summarizes the outcome of the Planning Department's recent discussions with CDC San Francisco LLC (CDC), the Martin Building Company (MBC) and the San Francisco Museum and Historical Society (SFMHS) regarding payment of an in-lieu fee by CDC to Friends of Mint Plaza (FMP), a non-profit corporation established by MBC to manage the development and long-term maintenance of Mint Plaza, an approximately 18,000 square feet (sq.-ft.) public open space proposed for the portion of Jessie Street adjacent to the Old U.S. Mint. I have determined that CDC may satisfy its requirement to provide off-site open space through payment of an in-lieu fee of \$194,406 to FMP, \$99,000 of which must be dedicated to the development costs of Mint Plaza and \$95,406.00 which must be deposited in an interest-bearing account to fund Mint Plaza's long-term maintenance.

As set forth in Conditions 5(B)(1) and 6(A)(1) of Planning Commission Motion No. 16421, CDC, the project sponsor of the InterContinental San Francisco Hotel, must provide 4,000 sq.-ft. of off-site public open space prior to issuance of the first temporary or permanent certificate of occupancy for the hotel. At the May 23, 2002, public hearing when the Commission approved Motion No. 16421, both Department staff and members of the public expressed concern about the utility and quality of the proposed on-site terraces located on the north side of the hotel building at the third and fifth floor levels. Wind and shadow studies indicated that the proposed terraces would be subject to uncomfortable winds and often be in the shade of the 32-story hotel building.¹ For these reasons the Commission decided that an additional 4,000 square feet of off-site open space, meeting the criteria of Section 138 of the Planning Code and the *Guidelines for Downtown Open Space*, should be provided by the project sponsor in the immediate neighborhood. Subsequent to issuance of a site permit for the hotel project, the project sponsor recorded a Notice of Special Restrictions (NSR) under the Planning Code and the requirement to provide off-site public open space was made a condition precedent to the issuance of the first temporary or permanent certificate of occupancy for the project (see Condition 6(A)(1), p. 8 of the NSR).

¹ For additional details see Director's Report dated May 23, 2002, for Case No. 2000.790EKXTMZ.

Planning Code Section 138(c) requires that off-site public open space be provided within 900 feet of a project site. Mint Plaza is located within 900 feet of the hotel site, and thus satisfies this requirement. Plazas may be used to satisfy the open space requirement, so long as the open space meets the eleven criteria set forth in Section 138(d). The Department has reviewed the applicable criteria and determined that Mint Plaza satisfies all of them. Finally, Section 138(e) states that public open space must generally conform to the *Guidelines for Downtown Open Space* set forth in the Downtown Plan. On September 7, 2006, the Planning Commission unanimously approved Resolution No. 17308 which found Mint Plaza to be consistent with the elements and policies of the General Plan and more specifically the policies that compromise the *Guidelines for Downtown Open Space*.

Based on our previous discussions with CDC, SFMHS and MBC, we agreed that a payment of \$24.75 per sq.-ft. was sufficient to pay for the development of "quality paving, lighting, banners, seating and landscaping" in a 4,000 sq.-ft. portion of the future Mint Plaza (see September 14, 2005, letter from Dean Macris to Mr. Jim Lazarus, attached). Accordingly, payment of \$99,000 (\$24.75 per sq.-ft. x 4,000 sq.-ft.) to FMP would satisfy CDC's obligation to pay for the costs of development of a 4,000 sq.-ft. off-site open space.

However, in addition to payment for the capital costs, the project sponsor must also pay "for the continued maintenance of the open space for the actual lifetime of the building giving rise to the open space requirement." Based on a review of comparative maintenance costs at Union Square, the Department applied an annual maintenance cost of \$0.90 per sq.-ft. to the 4,000 sq.-ft. of required off-site open space to arrive at an estimated annual maintenance cost of \$3,600. We understand that CDC would prefer to make a one-time payment to FMP sufficient to fund an annuity that would generate continuing annual payments for the life of the hotel project. Consistent with Department practice, staff calculated the initial principle necessary, at three percent interest, to fund annual maintenance payments of \$3,600 for 50-years, the assumed life of the Hotel Project. Applying this methodology, the initial principal required to fund a 50-year annuity for the hotel project's share of the maintenance costs of Mint Plaza would be \$95,406.00.

Accordingly, I hereby determine that CDC, the hotel project sponsor, may make a one-time payment of \$194,406 (\$99,000 for the costs of construction and \$95,406.00 for the costs of maintenance) to Friends of Mint Plaza citing Planning Department Case No. 2000.790EKCXTM and Conditions 5(B)(1) and 6(A)(1) of Planning Commission Motion No. 16421. When the Department is presented proof of payment in the form of a deposit receipt from Friends of Mint Plaza for \$194,406, including a copy of the check from CDC, it shall constitute final satisfaction of Conditions 5(B)(1) and 6(A)(1) of Motion No. 16421 and CDC shall be released of any and all further obligations or liability related to the future construction or maintenance of its 4,000 sq.-ft. share of the Mint Plaza off-site open space. Furthermore, a copy of this letter and the proof of payment may be presented to the Director of Building Inspection as evidence that Conditions 5(B)(1) and 6(A)(1) of Motion No. 16421 and the NSR have been satisfied.

If you have any questions about this determination, please call Ms. Kelley Amdur at (415) 558-6351. If you believe that this determination represents an error in interpretation of the Planning Code or abuse of discretion by the Zoning Administrator an appeal may be filed with the Board of Appeals, 1660 Mission Street, within 15 days of the date of this letter.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

cc: Kelley Amdur, NE Quadrant Team, Neighborhood Planning
Michael Yarne, Director of Development, Martin Building Company
Erin McGrath, Mayor's Office of Economic and Workforce Development

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