

EMERYVILLE PLANNING COMMISSION

STAFF REPORT

Agenda Date: April 23, 2020

Report Date: April 16, 2020

TO: Planning Commission

FROM: Community Development Department
Miroo Desai, Senior Planner

SUBJECT: **Adeline Springs Extension Request
(UPDR17-009)**

**PROJECT
LOCATION:** 3637 Adeline Street
(APN: 49-481-15)

**APPLICANT/
OWNER:** RB Adeline LLC, Ali Kashani
505 Sansome Street, Suite 900
San Francisco, CA 94111

**PROJECT
DESCRIPTION:** A request for a second and the last one-year extension of a Conditional Use Permit and Design Review permit to demolish an existing 5,866 square foot building (“U.S. Spring”) and construct a new, five story building that will accommodate 29 rental residential units and 4 to 6 live/work units on a 12,528-square foot parcel located at 3637 Adeline Street.

**GENERAL
PLAN:** Mixed Use with Residential and Major Transit Hub

**ZONING
DISTRICT:** Mixed Use with Residential South (MURS) and Transit Hub Overlay (TH)

**ENVIRONMENTAL
STATUS:** This Project is exempt from environmental review under State CEQA Guidelines Section 15332, which applies to infill development projects, and under the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

**RECOMMENDED
COMMISSION
ACTION:**

1. To open the public hearing and take testimony regarding the extension request.
2. To close the public hearing and consider the staff report and Resolution.
3. Adopt Resolution CPC No. UPDR17-009/**Second** Extension approving the requested extension.

DISCUSSION

On March 22, 2018, the Planning Commission approved a Conditional Use Permit and Design Review to construct the Adeline Springs project to demolish an existing 5,866 square foot building (“U.S. Spring”) and construct a new, five story building that will accommodate 29 rental residential units and 4 to 6 live/work units. The Commission then approved a one-year extension on March 28, 2019 due to the applicant’s inability to secure financing to construct the project.

The applicant now requests a second one-year extension of the entitlements for the project. According to the applicant, the project has been delayed because of an inability to find financing to construct the project as a market rate project due rising construction costs in the Bay Area. At the time of the last extension, the applicant had provided information related to various feasibility analyses and other options explored for finding funding. (See attached 2019 Extension Request Letter.)

At this time the applicant is proposing to construct the project as a 100 per cent affordable housing project by using Measure C funds, the housing bond that was passed by Emeryville voters in June 2018. The applicant plans to apply for these funds when the City releases a Notice of Funding Availability (NOFA) for Measure C funds. The applicant also plans to apply for applicable state and federal funds as well and to construct the project at an average affordability of 50 per cent of area median income, or “very low income”. (See attached 2020 Extension Letter Request.)

STAFF FINDINGS

Pursuant to Section 9-7.213(a) of the Emeryville Planning Regulations, unless the Planning Commission specifies otherwise, any conditional use permit and design review permit automatically expires unless an application for a building permit has been filed and fees have been paid within one year from the date of approval. The application was approved on March 22, 2018, and originally would have expired on March 22, 2019. The applicant received an extension last year with a new expiration date of March 22, 2020, and is now requesting a second extension, until March 22, 2021. The Planning Regulations do not allow extensions beyond three years of the original approval date, so this would be the last extension. If this extension is approved, and the applicant does not apply for a building permit by the expiration date, the planning entitlements for the project will expire, and any future development on the site will require new planning permits.

Section 9-7.213(b) of the Planning Regulations allows the Planning Commission to grant extensions to previously approved permits to a maximum of three years from the original approved date and Section 9-7.213 (c) permits two one-year extensions. The applicant is requesting a second and the final one-year extension for reasons described above.

In order to grant such a request, the Commission must make the following findings pursuant to Section 9-7.213(e):

- (1) That the permit holder has clearly documented that it has made a good faith effort to commence work upon the use; and
- (2) That it is in the best interest of the City of Emeryville to extend the permit; and
- (3) That there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken, and no new information of substantial importance that would require any further environmental review pursuant to the California Environmental Quality Act; and
- (4) That the permit holder is maintaining the property in compliance with all applicable City regulations.

In staff's view, these findings can be made in this case. There is a housing crisis in the Bay Area and it is in the City's interest to extend entitlements for another year. There are no circumstances that would require any further environmental review of the project, and the property is being maintained in conformance with applicable City regulations.

ENVIRONMENTAL REVIEW

At the time of approval this Project was exempt from environmental review under State CEQA Guidelines Section 15332, which applies to infill development projects, and under the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. To qualify for the Section 15332 infill development exemption, a project must be consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; occur within city limits on a project site of no more than five acres substantially surrounded by urban uses; have no value as habitat for endangered, rare or threatened species; not result in any significant effects relating to traffic, noise, air quality, or water quality; and be adequately served by all required utilities and public services. As there no changes to the project or circumstances under which the project was approved this exemption still holds.

RECOMMENDATION:

Staff recommends that the Commission approve this request for a one-year extension, with a new expiration date of March 22, 2021.

Attachments:

1. Applicant 2020 Permit Extension Request Letter
2. Applicant 2019 Permit Extension Request Letter
3. Draft Resolution

ATTACHMENT 1

**Applicant 2020 Permit Extension
Request Letter**

March 10, 2020

RB Adeline, LLC
505 Sansome Street, Suite 900
San Francisco, CA 94111
415-684-9345

Charlie Bryant
Community Development Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517

RE: 3637 Adeline Street; Extension of Planning Approvals

Dear Mr. Bryant:

We write to request a one-year extension of planning approvals for Adeline Springs granted by the Planning Commission on March 22, 2018, and was extended on March 28, 2019. Our request is based on the following:

1. Completed financial feasibility of building the Project as market-rate;
2. Given the continually rising construction costs, concluded the Project as conceived was not financially feasible to initiate building during 2019;
3. Completed financial feasibility of the Project as an all affordable project by leveraging City of Emeryville funds with State and Federal sources;
4. Held several meetings with City staff regarding the timing of the City's release of Measure C funds.

At this point, we await the City of Emeryville's release of an RFP for allocation of Measure C funds. We expect by March 2021, we will be applying for State and Federal funds to build the Project as a 100% affordable at an average affordability of 50% AMI.

It is in the City of Emeryville's interest to grant such an extension as the approved project will provide 29 housing units, including five affordable units, six live/work units, ample parking and landscaping, along with street improvements. Moreover, the new project will replace a non-conforming industrial use in a neighborhood that has been completely transformed.

The approved project remains intact and we expect to make no changes to the physical environmental during the holding period. Finally, we are maintaining the property in compliance with all applicable City requirements.

We would appreciate your recommendation to the Planning Commission to grant us a one-year extension.

Adeline Springs
3637 Adeline St

Sincerely,

Ali R. Kashani

Ali R. Kashani
Co-Managing Partner

Joseph Blum

Joseph Blum
Co-Managing Partner

ATTACHMENT 2

**Applicant 2019 Permit Extension
Request Letter**

RB Adeline, LLC
505 Sansome Street, Suite 900
San Francisco, CA 94111
415-684-9345
January 16, 2019

Charlie Bryant
Community Development Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517

RE: 3637 Adeline Street; Extension of Planning Approvals

Dear Mr. Bryant:

We write to request a two-year extension of planning approvals for Adeline Springs granted by the Planning Commission on March 22, 2018. Our request is based on the following:

1. We have pursued several venues for construction of the approved project, including:
 - a. Secured construction budget and pricing from West Builders Inc in April, June and August 2018;
 - b. Secured construction budget and pricing from Zcon Builders in April, June and August 2018;
 - c. Completed a Market Study by The Concord Group in April 2018;
 - d. Completed various financial feasibility studies during April, June and August 2018.
2. Procured Broker's Opinion of Value from Greystone Real Estate Advisors, Inc. and from The Pinza Group, Inc.;
3. Listed the property for-sale with Greystone Real Estate Advisors, Inc. who in-turn performed extensive marketing for the sale as an approved project to developers;
4. Performed financial feasibility analyses to build the project as a 100% affordable project with funding support from the City of Emeryville;
5. Held several meetings with Chad Smalley regarding the City's interest in participating in the project as an all-affordable project with average affordability at 50% AMI.

At this point, we are pursuing all of the above venues to build the approved project, by either us, another developer, or build it as an all affordable project, all of which require more time.

The former tenant, US Spring Services has moved out of the property effective January 15, 2019, and we have listed the property for short-term leasing with Newmark Knight Frank, and expect to have it leased for short-term for light-industrial uses, that require no discretionary planning approvals.

It is in the City of Emeryville's interest to grant such an extension as the approved project will provide 29 housing units, including five affordable units, six live/work units, ample parking and landscaping, along

Adeline Springs
3637 Adeline St

with street improvements. Moreover, the new project will replace a non-conforming industrial use in a neighborhood that has been completely transformed.

The approved project remains intact and we expect to make no changes to the physical environmental during the holding period. Finally, we are maintaining the property in compliance with all applicable City requirements.

We would appreciate your recommendation to the Planning Commission to grant us a two-year extension.

Sincerely,

Ali R. Kashani

Ali R. Kashani
Co-Managing Partner

Joseph Blum

Joseph Blum
Co-Managing Partner

ATTACHMENT 3
Draft Resolution

RESOLUTION CPC NO. UPDR17-09/ SECOND EXTENSION

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE GRANTING A SECOND AND FINAL ONE-YEAR EXTENSION OF THE APPROVAL OF A CONDITIONAL USE PERMIT AND DESIGN REVIEW TO DEMOLISH AN EXISTING 5,866 SQUARE FOOT BUILDING (“U.S. SPRING”) AND CONSTRUCT A NEW, FIVE STORY BUILDING THAT WILL ACCOMMODATE 29 RENTAL RESIDENTIAL UNITS AND 4 TO 6 LIVE/WORK UNITS ON A 12,528-SQUARE FOOT PARCEL LOCATED AT 3637 ADELINE STREET (APN: 49-481-15)

WHEREAS, on June 5, 2017 RB Adeline LLC (“Applicant”) submitted an application for a Conditional Use Permit and Design Review to demolish an existing 5,866 square foot building (“U.S. Spring”) and construct a new, five story building (“Adeline Springs”) that will accommodate 29 rental residential units and 4 to 6 live/work units on a 12,528-square foot parcel located at 3637 Adeline Street (the “Project”); and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on March 22, 2018 and approved the Project (Resolution No. **UPDR17-009**) and determined that the Project was exempt from review under the California Environmental Quality Act (CEQA) Guideline 15332 ; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on March 28, 2019 and approved a one-year extension of the Project with a new expiration date of March 22, 2020 (Resolution No. **UPDR17-009/EXTENSION**); and

WHEREAS, the Applicant now requests a second one-year extension of the permits in order to secure adequate financing for constructing the project; and

WHEREAS, the Planning Commission held a duly and properly noticed public hearing on April 23, 2020 to review and consider the request for an extension and to solicit public comments; and

WHEREAS, the Planning Commission has reviewed and considered the request to extend UPDR17-009 along with the staff report dated April 23, 2020 and attachments thereto, and all public comments for the Adeline Springs project (“the Record”); now therefore, be it

RESOLVED, that the Planning Commission of the City of Emeryville hereby finds that the project is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15332 which applies to in-fill development projects; and the “general rule” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment; and be it further

RESOLVED, that in extending **UPDR17-009** the Emeryville Planning Commission makes the findings as required by Emeryville Planning Regulations Section 9-7.213(e) as follows:

- (1) That the permit holder has clearly documented that it has made a good faith effort to commence work upon the use.

The applicant has explored several avenues for obtaining construction financing including the possibility of securing applicable funds available for affordable housing via City of Emeryville Measure C housing bond funds.

- (2) That it is in the best interest of the City of Emeryville to extend the permit.

It is clearly in the best interest of the City to extend this permit as this Project will provide much needed housing on one of the City's gateway sites that is currently underutilized.

- (3) That there are no substantial changes to the project, no substantial changes to the circumstances under which the project is undertaken, and no new information of substantial importance that would require any further environmental review pursuant to the California Environmental Quality Act.

The project is exempt from environmental review under State CEQA Guidelines Section 15332 which applies to in-fill development projects, and the "general rule" at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. Since approval of the project, there have been no substantial changes to the Project, no substantial changes to the circumstances under which the Project is to be undertaken, and no new information of substantial importance that would require reevaluation of the exemption criteria.

- (4) The permit holder is maintaining the property in compliance with all applicable City regulations.

The buildings on the site are currently vacant and have been listed by the owner/applicant for leasing to businesses that are permitted by right in the zoning district. The property is being maintained in compliance with applicable City regulations.

and be it further

RESOLVED, that the Planning Commission hereby grants a second and final one-year extension of the Conditional Use Permit and Design Review approval (UPDR17-009) for the Adeline Springs project, with the new expiration date of March 22, 2021.

APPROVED by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, April 23, 2020, by the following votes:

AYES: _____

NOES: _____ **ABSTAINED:** _____

EXCUSED: _____ **ABSENT:** _____

CHAIRPERSON

APPROVED AS TO FORM:



RECORDING SECRETARY

/s/ Andrea Visveshwara

ASSISTANT CITY ATTORNEY