

City of Burlingame

Conditional Use Permit

Item No. 8g
Regular Action

Address: 988 Howard Avenue

Meeting Date: February 25, 2019

Request: Application for Conditional Use Permit for a real estate use.

Applicant: Urban Compass, Inc. c/o Law Offices of Mark Hudak

APN: 029-214-220

Property Owner: Opus One Properties

Lot Area: 15,352 SF

General Plan: Burlingame Downtown Specific Plan: Burlingame Avenue Commercial District

Zoning: MMU (Myrtle Road Mixed Use Area)

Environmental Review Status: The project is Categorically Exempt from review pursuant to the California Environmental Quality Act (CEQA), per Section 15301, which states that existing facilities, consisting of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination are exempt from environmental review.

Project Description: The law offices of Mark Hudak, on behalf of Urban Compass, Inc. (Compass), is requesting a Conditional Use Permit to allow a real estate office on the third floor at 988 Howard Avenue, zoned MMU. The building is a three-story office building that was approved in 2016 and is currently under construction. The building contains approximately 22,295 SF of office space with 1,325 SF of retail space.

The site is bound by three streets, East Lane, Howard Avenue and Myrtle Road and is located within the boundaries of the Downtown Special Plan. The property is zoned Myrtle Road Mixed Use (MMU) which requires a Conditional Use Permit for real estate offices (Code Section 25.34.030(b)).

The proposed real estate office will occupy the entire third floor, approximately 12,872 SF. The remainder of the building will be occupied by a financial services firm that manages investment funds, which is defined as an office use (C.S. 25.08.264(d)). They will occupy the entire second floor and either may sublease the ground floor retail space or use it as meeting room space. This change would increase the parking requirement because retail has a parking requirement of 1 space per 400 SF, where office has a parking requirement of 1 space per 300 SF, resulting in an increase of 1 additional space. However, because the building has 67 on-site spaces where 66 were required, this change would be permitted without an amendment to the entitlements. In addition, office use is permitted by right in the MMU zone.

The hours of operation for the proposed real estate office will be 8:00 a.m. to 6:00 p.m. on Monday through Friday, and there will be occasional use of the office on evenings and weekends by a limited number of agents. There will be a maximum of six regular employees reporting to work at this location, with an anticipated maximum of 10 employees on-site at any given time, including agents and/or visitors in addition to the six regular employees. Compass will initially begin operations with approximately 45 real estate agents and anticipate potentially growing to 100 agents over the next five years. Due to the nature of the real estate business, the agents will be in the field and working remotely with limited time spent at the office at 988 Howard Avenue. There will be company meetings twice a month, on Monday mornings for about one hour. This will be the only time when all of the agents and employees will be meeting at the site. However, only about 50-60% of the agents actually attend these meeting in person; many join the meeting via telephone or video conferencing. In addition it is common for agents to carpool together to these meetings. There are no exterior alterations to the building proposed with this application. There is no expansion proposed by this tenant space.

Parking: The code requires one parking space for each 300 SF of office space and one parking space per 400 SF of retail space, for a total of 73 on-site parking spaces required based on the square footage of uses on-site. However, the building was approved with one car share space which allows the on-site parking requirement to be reduced by up to 10% per the Downtown Specific Plan; therefore the required parking for this building was reduced to 66 spaces. The project includes 67 on-site spaces (including the car share space).

The ground floor includes 29 spaces tucked behind the retail space and (office) lobby with an entrance along Howard Avenue. The ground floor parking includes five, 5-car puzzle stackers, three accessible parking spaces, and one car share space. In the underground garage there are 38 parking spaces with access from a driveway along East Lane. Eight of the 38 spaces are provided as tandem spaces. These creative parking approaches (tandem parking, mechanical lifts and car share vehicle) were approved by the Planning Commission per the Downtown Specific Plan with the original approval in 2016.

As part of the approval for the construction of this building, a trip generation and parking demand analysis was prepared by Nelson Nygaard. In summary, the trip generation analysis indicated that due to the project location near the Caltrain station and services, such as Samtrans Route 292 (connects to San Francisco and Millbrae BART), bike routes, pedestrian connectivity and retail services that the number of trips generated would be reduced by 16.2% when compared to standard ITE trip generation rates. The parking demand analysis used ITE's Parking Generation Manual, 4th Edition, and when compared to the City's parking requirements the study indicated that the project would generate a demand for 59 spaces where the City's Zoning Code requires 73 spaces (before applying the 10% reduction for the car share). A total of 67 on-site parking spaces are provided where 66 are required when applying the 10% parking reduction.

The 12,872 SF of third floor lease space to be used by the real estate office requires 43 off-street parking spaces based on the 1:300 SF ratio required by the zoning code for office uses. However, when you apply the 10% reduction that was granted to this building, a total of 39 off-street spaces are required for the proposed real estate use. These spaces are available on-site and the remaining 37 spaces would be utilized by the remaining tenant(s).

	Proposed	Existing	Allowed/Req'd.
Use:	Real Estate Office ¹	General office	Conditional use for real estate office above the first floor in BAC
Area:	12,872 SF – entire 3 rd floor	N/A	N/A
Parking:	39 spaces for real estate use (37 spaces for remaining tenants)	67 spaces total on-site (includes stackers/tandem/ car share space)	66 spaces required (entire building) *

¹ Conditional Use Permit required for real estate office in the MMU zone.

Staff Comments: Planning staff placed this application directly on the action calendar due to the nature of the request being similar to the originally approved office use. However, if the Commission feels there is a need for more discussion, this item may be placed on a future action calendar for a second review and/or public hearing with direction to the applicant.

Findings for a Conditional Use Permit: In order to grant a Conditional Use Permit, the Planning Commission must find that the following conditions exist on the property (Code Section 25.52.020, a-c):

- (a) The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience;
- (b) The proposed use will be located and conducted in a manner in accord with the Burlingame general plan and the purposes of this title;

- (c) The planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of this title and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses on adjoining properties in the general vicinity.

Suggested Findings for a Conditional Use Permit: The proposed real estate use is considered an office use in terms of parking calculations; however the proposed use will have a lower impact than a traditional office use as it will only have six regular employees on-site with only two meetings per month when all employees will be on-site for approximately one hour. Furthermore, the business generates a low level of walk-in customers as most of the transactions are done off-site, therefore the impact to the on-site and street parking in the area will be minimal. This use would not impact the public health, safety and welfare of tenants in the building or on adjacent lots because the proposed use is a typical office use, operated at a low density. Based on the conditions noted above the proposed use may be found to be compatible with the required findings for a conditional use permit.

Planning Commission Action:

The Planning Commission should conduct a public hearing on the application, and consider public testimony and the analysis contained within the staff report. Action should include specific findings supporting the Planning Commission's decision, and should be affirmed by resolution of the Planning Commission. The reasons for any action should be stated clearly for the record. At the public hearing the following conditions should be considered:

1. that the real estate use shall be limited to 12,872 SF on the third floor of the building at 988 Howard Avenue, as shown on the as-built plans submitted to the Planning Division and date stamped January 15, 2019; any increase in the square footage of the real estate use shall require an amendment to the Conditional Use Permit;
2. that the real estate business on the third floor shall operate in general conformity as described in the application materials and the staff report and that any significant changes in operation, floor area, or use shall require an amendment to this Conditional Use Permit; and
3. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, in effect at time of building permit submittal, as amended by the City of Burlingame.

Catherine Keylon
Senior Planner

- c. Urban Compass, Inc., applicant
Mark Hudak, agent for the applicant
Opus One Properties, property owner

Attachments:

Application to the Planning Commission
Applicant's letter of explanation, date stamped January 15, 2019
Conditional Use Permit Application
Planning Commission Resolution (Proposed)
Notice of Public Hearing – Mailed February 5, 2019
Area Map



APPLICATION TO THE PLANNING COMMISSION

Type of application:

- ☐ Design Review ☐ Variance ☐ Parcel #:
☒ Conditional Use Permit ☐ Special Permit ☐ Zoning / Other:

PROJECT ADDRESS: 988 Howard Ave., third floor**APPLICANT**

Name: Urban Compass, Inc
Address: 90 Fifth Ave., 3rd floor
City/State/Zip: New York, NY 10011
Phone: (212) 913-9058
E-mail: jonathan.satz@compass.com

PROPERTY OWNER

Name: Opus One Properties
Address: 1290 Howard Ave.
City/State/Zip: Burlingame, CA 94010
Phone: (650) 703-1042
E-mail: _____

ARCHITECT/DESIGNER

Name: Vocon
Address: 366 Madison Avenue, 10th floor
City/State/Zip: New York, NY 10017
Phone: (646) 865-1200
E-mail: _____

Burlingame Business License #: application submitted**RECEIVED**

JAN 15 2019

CITY OF BURLINGAME
CDD-PLANNING DIV**Authorization to Reproduce Project Plans:**

I hereby grant the City of Burlingame the authority to reproduce upon request and/or post plans submitted with this application on the City's website as part of the Planning approval process and waive any claims against the City arising out of or related to such action. _____ (Initials of Architect/Designer)

CVP for**PROJECT DESCRIPTION:** Real Estate office on third floor of
new building**AFFIDAVIT/SIGNATURE:** I hereby certify under penalty of perjury that the information given herein is true and correct to the best of my knowledge and belief.**Applicant's signature:** Poonet Kant **Date:** 01/14/2019

I am aware of the proposed application and hereby authorize the above applicant to submit this application to the Planning Commission.

Property owner's signature: [Signature] **Date:** 1/15/2019**Date submitted:** 1/15/19

**LAW OFFICES OF
MARK D. HUDAK**

177 Bovet Road, Suite 600
San Mateo, CA 94402

(650) 638-2390
Mark@mhudaklaw.com

January 14, 2019

Burlingame Planning Commission
Burlingame City Hall
501 Primrose Road
Burlingame, CA 94010

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JAN 15 2019

Re: Conditional Use Permit for 988 Howard Avenue
Compass Realty

CITY OF BURLINGAME
CDD-PLANNING DIV.

Dear Commissioners:

My firm represents Compass Realty [*confirm name of entity for application*]. Compass is proposing to lease the entire third floor of the new office building under construction at 988 Howard Avenue. Because this will be a real estate use, a conditional use permit is required.

As detailed below, the real estate operations will create a light footprint in the Myrtle Avenue Mixed Use Area. Except for morning meetings twice per month, Compass will use few of the parking spaces allocated to it. The office will have very low impacts on the neighboring residential areas. It will be an ideal use for this building.

BACKGROUND

Compass is a fast-growing, national real estate firm. It is a forward-looking company that pairs top agents with advanced technology to deliver superior service to its clients. Compass is headquartered in New York but has been operating in the Bay Area for the past three years. It now has offices in San Francisco, the North Bay, the East Bay, and San Jose as well as several office in Southern California and in other states. Compass sees Burlingame and the surrounding communities as a logical place to extend its coverage in the Bay Area market.

Compass has an agreement with the owners of 988 Howard to lease the third floor of the new office building, subject to approval of the conditional use permit application. Compass will be leasing approximately 12,872 SF. Compass would be allocated 29 spaces in the building's parking area for use by employees and visitors.

We understand that the remainder of the building will be leased to a professional services firm. The building owners believe that this mix of tenants is preferable to a single-use, high tech company that might generate more traffic and parking demand than the neighborhood could tolerate.

PROJECT DESCRIPTION

Compass expects to have approximately 45 agents on board when the office is ready to be opened. Compass is actively recruiting successful agents for this location. Over the course of the next five years, Compass hopes to grow the number of agents to a maximum of 90-100. The floor plan submitted with the application shows that this number could be accommodated.

Due to the nature of their real estate business, the agents would be in the field most of the day and in the office only infrequently, to pick up mail or marketing materials or meet with clients. When in the office, they would use the dedicated parking spaces.

In addition to the agents, Compass would have five-six full-time employees on site. They would include a receptionist, office administrator, IT professional, marketing professional, and an operations associate. These employees would park on-site in the dedicated spaces for most of each day.

A real estate office has relatively few visitors. Occasionally, clients may come to the office to pick up materials or sign documents. Several of the dedicated spaces would be designated for "Compass Visitors" for this purpose.

The office would be open to the public Monday through Friday, 8:00 a.m. through 6:00 p.m. Although not open, agents could come to the office on weekends or in the evening for brief periods.

PARKING IMPACTS

Real estate uses are treated differently from other kinds of office uses, which do not require a conditional use permit. The reasons for the differential treatment are rooted in the history of the downtown area's development, primarily relating to perceived parking challenges. However, the evolution of the real estate business, driven largely by improvements in technology and communications, has eliminated most of these concerns. At nearly all hours of operation, Compass would expect to be using fewer than 10 of its allocated 29 parking spaces for the full-time employees, the agents stopping by for brief periods, and the occasional visitor.

The exception to the prevailing condition is the agents' meeting. These meetings used to be held every week. Compass holds them twice a month. The meetings allow agents to receive training and education, inquire about upcoming deals or potential clients, and network. Meetings in Burlingame would be on Monday mornings between 8:30 and 10:00.

In theory, all of the agents could attend a meeting. In practice, only 50-60% of agents attend in person. Many agents arrive in carpools. Some agents will attend by video conferencing from remote locations. Others have business commitments and will miss a particular meeting. As technology improves, it is expected that even fewer agents will attend the Monday morning meetings in person.

This unusual swing in parking demand has been studied by the Commission in the past. In 2004,

Planning Commission
January 14, 2019

Alain Pinel Realty was proposing to lease the second floor of the office building at 1440 Chapin. For that application, we presented detailed information about the parking demand this use would generate to show that, under nearly all conditions, the building would be able to accept the parking demand. The Planning Commission accepted the premise that there would be extra demand during the Monday morning meetings but it could be accommodated with nearby street and public lot spaces because demand from other businesses was low at that hour. The Commission granted the conditional use permit and later allowed Alain Pinel to expand its office in 2010. This has proved to be a very successful office that creates few impacts for other businesses in the area. To our knowledge, the morning meetings have not created a problem.

Based on this model, we expect that the Compass agents attending the twice-monthly meetings can be accommodated with the available on-site parking. In the event of overflow parking, agents will be instructed that they may not park in the residential areas nearby. Compass is aware that it may need to avoid conflicts with the morning drop-off at Washington School. These efforts should minimize any concerns about conflicts with other activities in this mixed use area.

Compass and the building owners want the 988 Howard building to be a success for the community. The mitigation measures we are offering reflect that commitment. We look forward to addressing any other concerns that staff or the Commission may have.

Very truly yours,

Mark D. Hudak

Enclosures

cc: Clients

CITY OF BURLINGAME
CONDITIONAL USE PERMIT APPLICATION

This Conditional Use Permit Application is submitted by Compass Real Estate. Compass proposes to lease the third floor for a real estate office in the new building under construction at 988 Howard Avenue. The building is located in the Myrtle Road Mixed Use District. A conditional use permit is required under Section 25.43.030(b) of the Zoning Code.

The Compass office will have 5-6 full-time employees. The leased space can accommodate up to 90-100 agents who would be in the office only occasionally. Employees and visitors will use 29 dedicated parking spaces on-site. The office will have more than sufficient parking for its normal demand. Further information about the proposed use is set out in the letter of explanation submitted with this application.

1. ***Explain why the proposed use at the proposed location will not be detrimental or injurious to property or improvements in the vicinity or to public health, safety, general welfare or convenience.***

The new building at 988 Howard is in a transition area, between single family residential districts and the downtown area. The potential impacts from the building itself were addressed during the design review and environmental impact study conducted in 2016.

Consistent with the approvals granted at that time, the owners want to have a complimentary mix of uses in the building that will not impact the neighborhood through spillover parking while still taking advantage of the nearby train station and downtown amenities. At present, the building owners expect to lease the second floor and first floor retail space to a professional services company, providing a reasonable mix of uses that should not have adverse impacts on the neighborhood.

The Compass office will have very low impact compared to a traditional office use. The prevailing parking demand at nearly all times during the week will be less than 10 spaces, which will accommodate 5-6 employees and the few agents or visitors who may be in the office at any given time. Compass will have 29 dedicated parking spaces to meet this demand.

The exception will be the Monday meeting of the agents, which occur twice per month at 8:30 or 9:00 a.m. Not all agents attend these meetings in person – some attend via videoconferencing and some have other commitments. Many who attend will come in car pools or ride-hailing cars. Approximately 50-60% of the agents may be expected to attend any given meeting. It is expected that the building will be able to accommodate the parking demand during these limited, off-peak meeting times, but in any case, the agents will be instructed that they may not park in the residential areas nearby. Please see the letter of explanation for further details.

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2. ***How will the proposed use be located and conducted in accordance with the Burlingame General Plan and Zoning ordinance?***

A real estate office is a conditional use in the Myrtle Road Mixed Use District under Section 25.43.030(b). Conditions can be fashioned to address the potential impacts from the twice-monthly Monday morning meetings. Many other real estate offices successfully operate in the downtown area with conditional use permits. Because commercial parking demand is very low on weekday mornings before 10:00 a.m., the agent meetings for these offices have not been a problem. The meetings for the Compass office should be treated in a similar manner.

3. ***How will the proposed project be compatible with the aesthetics, mass, bulk, and character of the existing and potential uses on adjoining properties in the general vicinity?***

The proposed real estate office will be located in a new mixed use building currently under construction. The potential impacts from the building itself were studied during the design review and environmental review process and addressed in the conditions of approval at that time. The Compass office on the third floor will be consistent with the uses for the office portion of the mixed use building anticipated during the review process.

Compass does not propose any changes to the building façade, other than signage.

Adequate parking will be provided on site, so there should be no adverse impact on parking in the nearby residential neighborhood. In the event of overflow parking at a morning meeting, agents will be instructed to not park in the residential areas.

In the event that the twice-monthly meetings interfere with the drop-off period for Washington School, Compass can adjust the time of its agent meetings.

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JAN 15 2019

**COMMERCIAL APPLICATION**

PLANNING COMMISSION APPLICATION SUPPLEMENTAL FORM

CITY OF BURLINGAME
CDD-PLANNING DIV

1. Proposed use of the site Real Estate Office
2. Days and hours of operation 8:00 A.M. - 6:00 PM, Monday - Friday
3. Number of trucks/service vehicles to be parked at site (by type) NONE
4. Current and projected maximum number of employees (including owner) at this location:

	At Opening/Existing		In 2 Years		In 5 Years	
Hours of Operation	Before 5:00 pm	After 5:00 pm	Before 5:00 pm	After 5:00 pm	Before 5:00 pm	After 5:00 pm
Weekdays Full-time	6	0	6	0	6	0
Part-time	50	10	75	10	90-100	10
Weekends Full-time	0	0	0	0	0	0
Part time	10	0	10	10	10	10

5. Current and projected maximum number of visitors/customers who may come to the site:

	At Opening/Existing		In 2 Years		In 5 Years	
Hours of Operation	Before 5:00 pm	After 5:00 pm	Before 5:00 pm	After 5:00 pm	Before 5:00 pm	After 5:00 pm
Weekdays	5	1	5	1	5	1
Weekends	5	1	5	1	5	1

6. What is the maximum number of people expected on site at any one time (include owner, employees and visitors/customers): 25 (except Monday Mornings, see letter of explanation)
7. Where do/will the owner and employees park? On-site spaces
8. Where do/will the customers/visitors park? On-site spaces
9. Present or most recent use of site None - new construction (former gas station)
10. List other tenants on property, their number of employees, hours of operation (attach a list if more room is needed) MAP Energy - number of employees and hours to be determined

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BURLINGAME,
APPROVING A CONDITIONAL USE PERMIT

RESOLVED, BY THE PLANNING COMMISSION OF THE CITY OF BURLINGAME THAT:

WHEREAS, an application has been made for a Conditional Use Permit for a real estate use on the third floor at 988 Howard Avenue, zoned MMU, Opus One Howard LLC, 988 Howard Avenue, Burlingame, CA, 94010 property owner, APN: 029-214-220;

WHEREAS, said matters were heard by the Planning Commission of the City of Burlingame on February 25, 2019, at which time it reviewed and considered the staff report and all other written materials and testimony presented at said hearing;

NOW, THEREFORE, IT IS RESOLVED AND DETERMINED BY THIS PLANNING COMMISSION THAT:

1. On the basis of the Initial Study and the documents submitted and reviewed, and comments received and addressed by this Commission, it is hereby found that there is no substantial evidence that the project set forth above will have a significant effect on the environment, and categorical exemption, per CEQA Section 15301 - Existing facilities, Class 1(a) of the CEQA Guidelines, which states that interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances are exempt from environmental review, is hereby approved.
2. Said Conditional Use Permit for a real estate office is approved subject to the conditions set forth in Exhibit "A" attached hereto. Findings for such Conditional Use Permit are set forth in the staff report, minutes, and recording of said meeting.
3. It is further directed that a certified copy of this resolution be recorded in the official records of the County of San Mateo.

Chairman

I, _____, Secretary of the Planning Commission of the City of Burlingame, do hereby certify that the foregoing resolution was introduced and adopted at a regular meeting of the Planning Commission held on the 25th day of February, 2019 by the following vote:

Secretary

EXHIBIT "A"

Conditions of approval for Conditional Use Permit – Real Estate

988 Howard Avenue

Effective **March 7, 2019**

1. that the real estate use shall be limited to 12,872 SF on the third floor of the building at 988 Howard Avenue, as shown on the as-built plans submitted to the Planning Division and date stamped January 15, 2019; any increase in the square footage of the real estate use shall require an amendment to the Conditional Use Permit;
2. that the real estate business on the third floor shall operate in general conformity as described in the application materials and the staff report and that any significant changes in operation, floor area, or use shall require an amendment to this Conditional Use Permit; and
3. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, in effect at time of building permit submittal, as amended by the City of Burlingame.