



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 18511

HEARING DATE: DECEMBER 15, 2011

Date: December 1, 2011
Case No.: **2011.1177X**
Project Address: **340 FREMONT STREET**
Zoning: RH DTR (Rincon Hill Downtown Residential Mixed Use) District
85/400-R Height and Bulk Designation
Block/Lot: 3748/006 - 009
Project Sponsor: Jackson Pacific Ventures, LLC
Archstone Smith Operating Trust
c/o Andrew Junius
Reuben & Junius, LLP
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Corey Teague – (415) 575-9081
corey.teague@sfgov.org

ADOPTING FINDINGS UNDER PLANNING CODE SECTIONS 309.1 AND 827 TO AUTHORIZE AN EXTENSION IN THE PERFORMANCE PERIOD FOR 12 MONTHS FROM THE DATE OF COMMISSION ACTION WITHIN THE RH DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) DISTRICT WITH A 85/400-R HEIGHT AND BULK DESIGNATION.

PREAMBLE

On October 20, 2011, Andrew Junius, on behalf of Jackson Pacific Ventures, LLC and Archstone Smith Operating Trust (hereinafter "Project Sponsor") filed Application No. 2011.1177X (hereinafter "Application") with the Planning Department (hereinafter "Department") for the extension of performance period per Planning Code Sections 309.1 and 827 for an additional 12 months from the date of Commission action on this application. Case No. 2004.0552X (Motion No. 17267) was approved on June 15, 2006, to construct a new residential project that would consist of approximately 332 dwelling units, up to 332 off-street parking spaces, and for the granting of exceptions to allow greater than one parking space for every two dwelling units under Planning Code Sections 151.1(d) and 309.1(b)(1)(B), for reduction of the dwelling unit exposure requirements under Planning Code Sections 140 and

309.1(b)(1)(D), and to provide an exception to the separation of towers requirement under Planning Code Sections 270(e) and 309.1(b)(1)(A).

The majority of the environmental effects of the Project were determined by the San Francisco Planning Department (hereinafter "Department") to have been fully reviewed under the Rincon Hill Plan Environmental Impact Report (hereinafter "Rincon EIR"). The Rincon EIR was prepared, circulated for public review and comment, and on May 5, 2005, by Motion No. 17007 certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et. Seq., hereinafter "CEQA"). The Rincon EIR is a Program EIR. On June 1, 2006, the Commission reviewed and considered the Project's final EIR that included analysis of additional project specific preservation issues, and certified the Final EIR through Motion No. 17266 on June 15, 2006.

The Commission adopted CEQA findings related to the Rincon EIR and the Project Final EIR in support of its approval of the Rincon Hill Plan and related actions in its Motion No. 17267 and hereby incorporates such findings by reference. The Application to extend the approval period was determined by the San Francisco Planning Department (hereinafter "Department") not to require additional environmental review under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA").

On November 13, 2008, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2008.1083X, and granted a 12-month extension to the performance period of Motion No. 17745.

On June 11, 2009, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2009.0319X, and granted a second 12-month extension to the performance period of Motion No. 17900.

On December 16, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2010.0799X, and granted a third 12-month extension to the performance period of Motion No. 18247.

The file for this project, including the 2006 Final EIR, the Rincon EIR, and Motions No. 17007 and 17266, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

On December 15, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2011.1177X.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the extension of the performance period requested in Application No. 2011.1177X, subject to the previously approved conditions and based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The approximately 31,404 square foot project site consists of four parcels that are located between Folsom and Harrison Streets with frontage on Fremont Street. The site is currently improved by two buildings that include a total of 45,000 square feet of area. The 3-story concrete building at 340 Fremont Street was constructed in 1962 and was previously occupied by the National Maritime Engineers Benefit Association. The building at 350 Fremont Street was constructed in 1952 and was previously occupied by the Seafarer's Union. Both buildings are currently vacant.
3. **Past History and Actions.** On the basis of the Initial Study published on March 10, 2001, the San Francisco Planning Department determined that an Environmental Impact Report ("EIR") was required to analyze the environmental impacts of the Rincon Hill Plan in accordance with the California Environmental Quality Act (Planning Department Case No. 2000.1081E). A Notice of Preparation ("NOP") of the Draft EIR was filed with the Planning Commission on March 10, 2001, and was circulated for public comments for the following 30 day period. On September 25, 2004, the Planning Department published the Draft EIR and provided public notice of the availability of the Draft EIR for public review and comment. The public comment period for the Draft EIR ran from September 25, 2004, through December 10, 2004. A Notice of Completion ("NOC") and copies of the Draft EIR were distributed to the State Clearinghouse on September 25, 2004, as well as local and State responsible and trustee agencies. The Planning Commission held a duly advertised public hearing on said Draft EIR on November 29, 2004, at City Hall, Room 400. At this hearing, opportunity for public comment was given, and public comment was received on the Draft EIR. The period for acceptance of written comments ended on December 10, 2004. The Planning Department prepared responses to comments on environmental issues received at the public hearing and in writing prepared revisions to the text of the Draft EIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the Draft EIR. This material was presented in the "Comments and Responses," published on April 11, 2005, was distributed to the Planning Commission and to all parties who commented on the Draft EIR, and was available to others upon request at the Planning Department's office. A Final EIR was prepared by the Planning Department, consisting of the Draft EIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses. On May 5, 2005, the Planning Commission, pursuant to Motion No. 17007, certified the Final Rincon Hill Program EIR and in the same motion adopted a statement of overriding considerations.

On June 15, 2006, an application was approved for the demolition of existing improvements and the construction of a single residential high-rise tower, per Motion No. 17267, that would include the following features:

- The Project will be 400 feet tall (measured from Fremont Street) with an 85-foot podium and total approximately 290,000 gross square feet.
- The Project will consist of up to 332 dwelling units, including at least 40 percent two-bedroom and three-bedroom condominium apartments.
- Off-street parking for up to 332 vehicles will be provided in a four-level underground garage. Less than 50 percent of the parking spaces will be independently accessible and the remainder will be efficiently-stored valet spaces. Up to 95 Class 1 bicycle spaces will be provided in a secure room on the ground floor.

On November 13, 2008, the San Francisco Planning Commission, pursuant to Motion No. 17745, granted a 12-month extension to the performance period of Motion No. 17267.

On June 11, 2009, the San Francisco Planning Commission, pursuant to Motion No 17900, granted a second 12-month extension to the performance period of Motion No. 17267.

On December 16, 2010, the San Francisco Planning Commission, pursuant to Motion No 18247, granted a third 12-month extension to the performance period of Motion No. 17267.

4. **Proposal.** The project proposes to extend the performance period for another 12 months, taken from the date of expiration of the previous extension granted per Motion No. 18247.
5. **Public Comment.** The Department received no public comment regarding the proposal.
6. **The Rincon Hill Downtown Residential Mixed Use District – Planning Commission Design Review and Determination of Compliance Required.** On July 26, 2005, the Board of Supervisors approved, on a first reading, the Rincon Hill Plan Element of the General Plan and associated General Plan Amendments. On August 2, 2005, the Board of Supervisors approved, on a first reading, General Plan amendments, zoning text and map amendments, along with other associated legislation in adopting the new Rincon Hill Plan. The new Rincon Hill Plan further encourages the conversion of the existing Rincon Hill area to a high-density residential neighborhood with significant pedestrian and residential amenities such as parks and open space. The proposed new zoning provides more specific direction in designing new buildings, to assure their bulk and height is appropriate and that their interaction with the pedestrian realm contributes to the creation of a new neighborhood. Among the goals of the new zoning controls is to encourage high-rise development in slender towers amply separated, and to limit the amount of excessive off-street parking. To provide more specific direction to project sponsors and to help assure a more predictable project review process, the controls are designed to be more specific and allow less variability. The new controls utilize a design review process before the Commission, similar to the project review process for Downtown C-3 Districts, rather than utilizing the Conditional Use and Planned Unit Development review processes.

7. **Findings Under the California Environmental Quality Act (CEQA).** After considering the 2006 FEIR and other information in the record, the Commission hereby makes the following findings:

A. The Commission has independently reviewed and analyzed the 2006 FEIR, the findings contained in Motion No. 17266, and the other information in the record and has considered the information contained therein and hereby finds that no additional environmental review is required for the Project for the following reasons:

(1) No changes have been made to the Project that constitute substantial changes requiring major revisions in the 2006 FEIR due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified effects;

(2) Substantial changes have not occurred with respect to the circumstances under which the Project will be undertaken which require major revisions to the 2006 FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2006 FEIR was certified, which shows (a) that the Project will have one or more significant effects not discussed in the 2006 FEIR; (b) that significant effects previously examined will be substantially more severe than shown in the 2006 FEIR; or (c) that mitigation measures or alternatives previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Based on the foregoing, the Commission finds that none of the conditions described in Section 15162 or 15164 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR or addendum have occurred and that therefore no further environmental review is required for the Project.

B. The Commission has reviewed and considered the Final EIR and record as a whole, and finds that the Final EIR is adequate for its use as the decision-making body for the action taken herein and incorporates the CEQA findings contained in Motion No.17266, including the Statement of Overriding Considerations and adoption of a Mitigation Monitoring and Reporting Program, by this reference thereto as though set forth in this Motion.

C. **Mitigation Monitoring and Reporting Program.** The Mitigation Monitoring and Reporting Program for the Project, adopted as Exhibit C to Commission Motion No. 17267, continues to apply to the Modified Project.

8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

9. The Commission hereby finds that approval of the request for extension would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** Case No. 2011.1177X subject to the following conditions attached hereto as EXHIBIT A (Conditions of Approval), which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this determination of compliance authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 18511. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at 1650 Mission Street, 3rd Floor (Room 304), San Francisco, CA 94103, or call 575-6880.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **December 15, 2011**.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel, Moore, Olague, and Sugaya

NAYS: None

ABSENT: None

ADOPTED: December 15, 2011

EXHIBIT A

AUTHORIZATION

This authorization is for a performance period extension for the project located at 340 Fremont Street, Block 3748, and Lots 6, 7, 8 and 9 pursuant to Planning Code Section **309.1** within the **RH DTR** District and a **85/400-R** Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on **December 15, 2011** under Motion No **18511**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator. This Motion No. **18511** does not modify or nullify any conditions of approval adopted under the original approval Motion No. 17267.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **December 15, 2011** under Motion No **18511**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of Planning Commission Motion No. **17267** shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference the development authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require new Planning Commission approval pursuant to Planning Code Section 309.1(c) and (d).

Conditions of approval, Compliance, Monitoring, and Reporting

PERFORMANCE

Extension. This authorization is valid for a period of 12 months after the date of expiration of the previous extension granted per Motion No. 18247 and shall expire on November 13, 2012. Specific procedures regarding this performance requirement follow Planning Code Section 309.1(e).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

Enforcement. Violation of any of the Planning Department conditions of approval contained in this or previous motions, or of any other provisions of Planning Code applicable to this Project, shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Revocation due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

Site Upkeep. The parking lot on the site shall be fenced and be kept free of weeds, debris and blight. The Project Sponsor shall keep the existing buildings secure and free of graffiti and postings.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org