



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other (In-lieu Fee Agreement)

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## Planning Commission Motion No. 18775

HEARING DATE: JANUARY 10, 2013

*Date:* January 10, 2013  
*Case No.:* **2005.0694C**  
*Project Address:* **2554-2558 Mission Street**  
*Zoning:* Mission Street NCT (Neighborhood Commercial Transit) Zoning District  
 Mission Street Alcoholic Beverage Special Use Subdistrict  
 85-X Height and Bulk District  
*Block/Lot:* 3616/007  
*Project Sponsor:* Dean Givas  
 Oyster Development Corp.  
 355 1<sup>st</sup> Street #809  
 San Francisco, CA 94105  
*Staff Contact:* Richard Sucre – (415) 575-9108  
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*Recommendation:* **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION FOR A PLANNED UNIT DEVELOPMENT, DEVELOPMENT ON A LOT EXCEEDING 10,000 SQ FT, OFF-STREET RESIDENTIAL PARKING ABOVE THE PRINCIPALLY PERMITTED AMOUNT, STREET FRONTAGE HEIGHT ALONG MISSION STREET EXCEEDING 65 FEET, AND FORMULA RETAIL USE WITHIN THE NEW MISSION THEATER, PURSUANT TO SECTIONS 121.1, 151.1(g), 253.4, 303, 304, 703.03, 703.4, AND 736.11 OF THE PLANNING CODE, WITH SPECIFIC MODIFICATIONS TO PLANNING CODE REGULATIONS RELATED TO REAR YARD, OPEN SPACE, DWELLING UNIT EXPOSURE, STREET FRONTAGE AND OFF-STREET FREIGHT LOADING PARKING, AND WITH SPECIFIC CONDITIONS TO MODIFY THE PROPOSED PROJECT, WITH RESPECT TO A PROPOSAL TO CONSTRUCT A NEW EIGHT-STORY, MIXED-USE BUILDING CONTAINING APPROXIMATELY 114 DWELLING UNITS, 14,750 SQUARE FEET OF GROUND FLOOR COMMERCIAL USES, AND 89 OFF-STREET PARKING SPACES AND TO REHABILITATE/CHANGE THE USE OF LANDMARK NO. 245 (NEW MISSION THEATER) TO A FIVE-SCREEN THEATER/RESTAURANT, LOCATED AT 2554-2558 MISSION STREET, LOT 007 IN ASSESSOR'S BLOCK 3616, WITHIN THE MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, MISSION STREET ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT, AND A 85-X HEIGHT AND BULK DISTRICT, AND TO ADOPT FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND PLANNING CODE SECTION 101.1.

## **PREAMBLE**

On December 21, 2005, Andrew Junius of Rueben & Junius, on behalf of Oyster Development Corp. (Project Sponsor) and Gus Murad & Associates (Property Owner), filed a Conditional Use Authorization Application with the Planning Department (“hereinafter Department”), under Planning Code Sections 121.1, 151.1(g), 253.4, 303, 304, 703.3, 703.4, and 736.11 to allow a Planned Unit Development (PUD), to allow development on a lot greater than 10,000 square feet, to allow off-street parking for residential uses above the amount principally permitted by the Planning Code, to allow a street frontage height exceeding 65 feet along Mission Street, and, to allow a formula retail use (d.b.a Alamo Draffhouse Cinema) within the landmark theater for the development on the midblock lot (Lot 007 in Assessor’s Block 3616) at 2554-2558 Mission Street, between 21<sup>st</sup> and 22<sup>nd</sup> Streets. The proposed project would demolish the existing three-story department store; subdivide the subject lot into two lots; construct a new eight-story mixed-use building with 114 dwelling units, ground floor commercial space (14,750 sq ft), and 89 off-street parking spaces; and, rehabilitate the landmark theater to accommodate a five-screen theater and restaurant.

On November 21, 2012, a Preliminary Mitigated Negative Declaration (PMND), Initial Study and Community Plan Exemption for the proposed project was prepared and published for public review. The PMND, Draft Initial Study, and Community Plan Exemption was available for public comment until December 11, 2012.

On January 10, 2013, the Planning Department/Planning Commission reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code (“Chapter 31”): and

The Planning Department/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department and the Planning Commission, [and that the summary of comments and responses contained no significant revisions to the Draft IS/MND,] and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2005.0694E at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting program (MMRP), which material was made available to the public and this Commission for this Commission’s review, consideration and action.

On December 19, 2012, the San Francisco Historic Preservation Commission conducted a duly notice public hearing at a regularly scheduled meeting on Certificate of Appropriateness Application No.

2006.0494A, to review exterior and interior alterations to the New Mission Theater, which is designated as Landmark No. 245 in Article 10 of the San Francisco Planning Code.

On January 10, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2005.0694C.

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 Conditional Use Authorization requested in Application No. 2005.0694E, subject to the conditions of Motion No. 18775, except as specifically modified herein, contained in "EXHIBIT A" of this motion, 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 Project is located on an irregularly-shaped parcel on the west side of Mission Street between 21<sup>st</sup> and 22<sup>nd</sup> Streets (Block 3616, Lot 007) with frontage onto Mission and Bartlett Streets. The existing parcel is roughly 208-ft along Bartlett Street by 160-ft along Mission Street, and is approximately 250-ft deep (44,291 sq ft). The project would subdivide the existing lot into two lots measuring 23,973 sq ft and 20,318 sq ft. The subject parcel is located within the Mission Street NCT (Neighborhood Commercial Transit) Zoning District, Mission Street Alcoholic Beverage Special Use Subdistrict, and a 85-X Height and Bulk District. Currently, the subject parcel is developed with two buildings: a three-story, single-screen theater known as the New Mission Theater, and a three-story department store (aka Giant Value Store). The New Mission Theater at 2554 Mission Street is designated as Landmark No. 245 in Article 10 of the San Francisco Planning Code.
3. **Surrounding Properties and Neighborhood.** The area surrounding the project site is mixed-use in character. A variety of residential, retail, restaurant, office and institutional uses are located within the surrounding area, including a few two-story commercial buildings, and a number of multi-family residences and apartment buildings with ground floor retail uses. Also located within the immediate vicinity are the San Francisco Buddhist Center (37-39 Bartlett Street), and the City College of San Francisco Mission Campus at Bartlett and 22<sup>nd</sup> Streets. Along Mission Street, buildings in the immediate vicinity primarily range from two to three stories in height, and contain residential or commercial uses, including restaurant, retail, bar, and grocery store uses. Within the immediate vicinity are a few buildings that are taller than three-stories in height, including the five-story-tall newer development at 2522 Mission Street and the ten-story tall U.S. Bank Building at 2601 Mission Street. Along Bartlett Street, buildings in the immediate vicinity

are predominantly two-to-three-stories tall, and are mostly residential in character. Directly across Bartlett Street from the project site is a mixed-use development with two floors of parking and residential above. All of the parcels surrounding the subject property are also located within the Mission Street NCT Zoning District. Nearby zoning districts include the RTO-M (Residential Transit Oriented-Mission), P (Public), and RH-3 (Residential, House, Three-Family) Zoning Districts.

4. **Historic Preservation Commission.** On December 19, 2012, the Historic Preservation Commission (HPC) reviewed the proposed project at the New Mission Theater, and granted a Certificate of Appropriateness for the proposed work at the New Mission Theater (Landmark No. 245), as noted in HPC Motion No. 0183.
5. **Public Comment.** The Department has received twelve letters expressing support for the proposed project proposal (See Attached). The Department has received one phone call expressing concern over the use of the land dedication alternative to meet the inclusionary affordable housing requirements.
6. **Planning Code Compliance:** The Commission finds that the project is consistent with the relevant provisions of the Planning Code in the following manner:
  - a. Use, Density & Dwelling Unit Mix. Planning Code Section 736 outlines the residential and commercial uses permitted within the Mission Street NCT Zoning District. Per Planning Code Section 207.6, dwelling unit density is restricted by physical envelope controls of height, bulk, setback, open space, exposure, and other applicable controls of the Planning Code. Planning Code Section 207.6 states that no less than 40 percent of the total number of dwelling units on site shall contain at least two bedrooms or no less than 30 percent of the total number of dwelling units on site shall contain at least three bedrooms.

*The Project proposes three ground-floor retail spaces and 114 new dwelling units with 63 one bedroom dwelling units and 51 two-bedroom dwelling units. The proposed project meets requirements for dwelling unit mix by providing for 51 two-bedroom dwelling units (or at least 40 percent of the total number of dwelling units contain two bedrooms), which exceeds the required number of two-bedroom dwelling units. Any future retail tenant will comply with the land use requirements outlined within the Planning Code.*
  - b. Height & Bulk. The subject property is located within a 85-X Height and Bulk District. Pursuant to Planning Code Section 270, projects within a "X"-Bulk District are not subject to specific bulk controls. Pursuant to Planning Code Section 253.4, projects with frontage along Mission Street that are located within the 85-X Height and Bulk District and the Mission Street NCT Zoning District are required to provide a 15-ft front setback above a height of 65-ft measured from the front lot line.

*The Project is requesting Conditional Use Authorization to waive the requirement for a fifteen foot setback along Mission Street for a height above 65-ft (See Below). Although the majority of the proposed project is designed within the 65-ft height limit along Mission Street, a portion of the building projects past the 65-ft height limit along Mission Street to 74-ft 8-in. This portion of the project provides visual interest along Mission Street and assists in varying the massing and façade.*

- c. Rear Yard & Useable Open Space. Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth of the lot to be provided at every residential level. Planning Code Section 135 requires a minimum of 80 sq ft of private useable open space per dwelling unit or 106.4 sq ft of common useable open space per dwelling unit. Private useable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 sq ft is located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 sq ft if located on open ground, a terrace or the surface of an inner or outer court. Common useable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 sq ft. Further, inner courts may be credited as common useable open space if the enclosed space is not less than 20 feet in every horizontal dimension and 400 sq ft in area, and if the height of the walls and projections above the court on at least three sides is such that no point on any such wall or projection is higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court.

*Currently, the Project is designed to have full lot coverage and does not provide a required rear yard. The Project provides open space through two interior courtyards, a commonly-accessible roof deck, and a series of private balconies. In total, the project provides 55 dwelling units with private useable open space and 59 dwelling units with common useable open space located in one interior courtyard (2,100 sq ft) and a roof deck (2,050 sq ft). The Project provides a total of 4,400 sq ft of private open space through a series of balconies and a private inner courtyard, which is the appropriate amount of square footage for 55 dwelling units. However, the Project only provides 4,150 sq ft of common useable open space, which is below the required 6,278 sq ft for 59 dwelling units. The Project is seeking a modification of the rear yard and open space requirements as part of the PUD (See Below). Further, not all of the provided private and common open spaces meet the exposure, location and dimension requirements for usable open space, as outlined within the Planning Code.*

*The Project occupies a through lot bounded by Mission and Barlett Streets to the east and west, between 21<sup>st</sup> and 22<sup>nd</sup> Streets. This block does not possess a pattern of mid-block open space. Therefore, providing a code complying rear yard for the Project would result in a configuration that does not reflect the traditional San Francisco development pattern, with buildings located at or near front property lines, thus creating an urban streetscape framing an interior core of mid-block open space. By using a courtyard design, the Project maintains the street wall along Mission and Bartlett Streets, and provides an urban intervention which more closely resembles a traditional mid-block open space pattern on the project site.*

- d. Dwelling Unit Exposure. Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, rear yard or other open area that meets minimum requirements for area and horizontal dimensions. To meet exposure requirements, a public street, public alley, side yard or rear yard must be at least 25 ft in width, or an open area (inner court) must be no less than 25 ft in every horizontal dimension for the floor at which the dwelling unit is located.

*The Project organizes the dwelling units to have exposure either on Mission or Bartlett Streets, or within one of the two inner courtyards. The two inner courtyards do not meet the dimension requirements of the Planning Code, since the northern courtyard does not increase by five feet in every horizontal dimension at each upper floor and the southern courtyard measures approximately 20-ft by 144-ft. The Project is seeking a modification of the dwelling unit exposure requirements for 74 dwelling units as part of the PUD (See Below).*

- e. Street Trees. For new construction, Planning Code Section 138.1 requires one street tree for every 20-ft of frontage along a street or alley. Currently, the project site has 161-ft of frontage along Mission Street, and 208-ft of frontage along Bartlett Street. However, the Project has applied for a lot subdivision, which would reduce the street frontage of the new mixed-use building 53-ft along Bartlett Street and 130-ft along Mission Street. Therefore, six street trees are required along Mission Street and three street trees are required along Bartlett Street for the Project.

*The Project provides five new street trees along Mission Street. Due to the width of Bartlett Street and underground utilities, the Project cannot provide additional street trees along Bartlett Street or the required number of street trees along Mission Street. Therefore, the Project will pay the in-lieu fee for street trees, as specified in Planning Code Section 428.*

- f. Bird-Safe Standards. Planning Code Section 139 outlines bird-safe standards for new construction to reduce bird mortality from circumstances that are known to pose a high risk to birds and are considered to be "bird hazards." Feature-related hazards may create increased risk to birds and need to be mitigated. The project site is not located within an urban bird refuge.

*The Project meets the requirements of Planning Code Section 139, and does not any feature-related hazards, such as free-standing glass walls, wind barriers, or balconies that have unbroken glazed segments 24 sq ft or larger in size.*

- g. Street Frontage. Planning Code 145.1 outlines requirements for street frontages within the Mission Street NCT Zoning District. Under Planning Code Section 145.1(c)(2), no more than one-third of the width of any given street frontage may be dedicated to parking and loading ingress and egress.

*Currently, the Project provides a garage door that measures 18-ft 10-in; therefore, the Project is seeking a modification of the street frontage requirements as part of the PUD (See Below).*

- h. Off-Street Parking. Planning Code Section 151.1 specifies parking maximums for dwelling units within the Mission Street NCT Zoning District. Per Planning Code Section 151.1, one car for each two dwelling units would be principally permitted, while up to .75 cars for each dwelling unit would be allowed with Conditional Use Authorization. Per Planning Code Section 155, one off-street parking space per 25 off-street parking spaces shall be designed and designated for persons with disabilities. Per Planning Code Section 166, one car-share parking space shall be required for the construction of 50 to 200 residential units.

*The Project would provide 89 off-street parking spaces, composed of 86 residential parking spaces (of which three parking spaces would be handicap accessible), one car share parking space, and two retail parking spaces. The Project is seeking Conditional Use Authorization to allow parking in excess of .5 parking spaces for each dwelling unit, which is principally permitted (See Below).*

- i. Off-Street Freight Loading. Planning Code Section 152 outlines the requirements for off-street freight loading spaces. Since the Project would construct 14,750 sq ft of retail space, the Project would be required to provide one off-street freight loading space.

*The Project does not provide any off-street freight loading space and is seeking a modification of the off-street freight loading requirement as part of the PUD (See Below).*

- j. Bicycle Parking, Showers & Lockers. Planning Code Section 155.5 requires new residential buildings to install bicycle parking spaces. For projects that have over 50 units, 25 spaces plus one Class 1 space for every four units over 50 are required. Therefore, the Project is required to provide 41 bicycle parking spaces for the 114 dwelling units. The Project is not required to provide bicycle parking space for the commercial space (14,750 sq ft).

*The Project meets this requirement and provides 46 off-street parking spaces composed of 41 residential bicycle parking spaces and 5 retail bicycle parking spaces, thus exceeding the bicycle parking requirements.*

- k. Unbundled Parking. Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

*The Project is providing off-street parking that is accessory to the dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units; therefore, the Project meets this requirement.*

- l. Shadow. Planning Code Section 295 generally does not permit new buildings over 40-feet in height to cast new shadows on a property under the jurisdiction of the Recreation and Park Commission.

*The Project would construct an 85-ft tall, eight-story, mixed-use building. The Department conducted a shadow analysis, which has shown that the Project would not cast any shadows upon property under the jurisdiction of the Recreation and Parks Commission.*

- m. Affordable Housing-Land Dedication. Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of five or more units, where the first application was applied for on or after July 18, 2006. Under Planning Code Section 419.6, the Land Dedication Alternative may be elected as an alternative to the inclusionary housing component. As further described in Planning Code Section 419.5(a)(2), an Applicant may dedicate a portion of the total development area of the principal site to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households. To meet this requirement, the developer must convey title to land in fee simple absolute to the Mayor's Office of Housing (MOH). The dedicated site must result in a total amount of inclusionary units not less than 40 units; however, MOH may conditionally approve and accept dedicated sites which result in no less than 25 units at their discretion. Per Planning Code Section 419.2, all sites within the Mission Street NCT Zoning District electing to utilize the land dedication alternative would be subject to the "Tier A" requirements.

*The Project Sponsor has elected to pursue the land dedication alternative to meet the inclusionary affordable housing program requirements. As a result of the pending lot subdivision, the new mixed-use building would be located on a parcel measuring 23,973 sq ft. Since the Project is located on a site that has less than 30,000 square feet of developable area, the Project Sponsor must provide a dedicated site that measures at least 35% of the project site or 8,391 sq ft. The Project Sponsor meets these requirements and shall convey the parcel (Block 6571 Lot 026) located at 1296 Shotwell Street to MOH, which measures 11,672 sq ft. This lot meets the requirements of the land dedication alternative. Further, the Project Sponsor has demonstrated that up to 46 dwelling units may be constructed on the dedicated land. If the Project were to pursue the on-site affordable housing alternative, the Project would be required to provide 12% or 14 below-market-rate dwelling units on the project site.*

*MOH concurs with the Project Sponsor's dedicated land and has conveyed a letter expressing conditional approval of the dedicated land (See Attached).*

- n. Development Fees. The Project is subject to the Eastern Neighborhoods Impact Fee per Planning Code Section 423.

*The Project Sponsor shall pay the appropriate Eastern Neighborhoods Impact fees, pursuant to Planning Code 423, at the appropriate stage of the building permit application process. To assist*

*in reducing the amount of impact fees required, the Project Sponsor will seek an In-Kind Agreement, which will be brought forward to the Planning Commission at a later date for review and approval.*

7. **Planning Code Section 121.1** establishes criteria for the Planning Commission to consider when reviewing applications for projects within the Mission Street NCT on lots that exceed 10,000 square feet, through the Conditional Use authorization process. On balance, the project complies with said criteria in that:

- 1) The mass and facade of the proposed structure are compatible with the existing scale of the district.

*The existing development in the area is varied in scale, intensity and character. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the Project uses undulating and offset planes, deep recesses, and changes in fenestration patterns to divide the elevations into discrete modules. Further, the Project does provide for a setback at the topmost floor, though portions of the façade will rise to 74-ft 8-in along Mission Street. The Project is consistent with other nearby development including the ten-story U.S. Bank Building at the corner of Mission and 22<sup>nd</sup> Street, and the five-story building at 2522 Mission Street (formerly Medjool). While the design of the Project is suitable at a conceptual level, the details of the project will be further refined and developed throughout the building permit review in an effort to better relate to the surrounding neighborhood.*

- 2) The facade of the proposed structure is compatible with the design features of adjacent facades that contribute to the positive visual qualities of the district.

*Existing buildings in the area exhibit an eclectic architectural character, with no prevailing style establishing a dominant visual pattern for the neighborhood. Along Mission Street, the existing development ranges in size, scale, character and time period. While no single architectural style or development pattern predominates, the Project reflects the disparate elements of this context while establishing its own contemporary language. Although the Project occupies a relatively large lot, the building is articulated by a series of undulating planes, which are roughly organized into eleven bays along Mission Street. Further, the Project provides a contemporary architectural vocabulary with the use of opaque and clear glass, white metal panels, and varying colors of cement plaster, which relate to the color and feel of the surrounding neighborhood. The variations in fenestration patterns assist in reinforcing the seemingly differential in the façade treatment. The Project provides a strong horizontal articulation of the ground floor level, which relates to the definition of the ground floor level within the surrounding buildings. Finally, the new mixed-use development is setback from the pylon sign of the adjacent historic theater through a bay, which rises to roughly the same height as the new construction. This setback avoids conflict with the reading of the historic pylon sign and marquee. Overall, the building provides a relatable scale relative to the surrounding neighborhood, while reinforcing important characteristics, such as color, ground floor and sensitivity towards the LNADMARK.*

8. **Planning Code Section 151.1(g)** establishes criteria for the Planning Commission to consider when reviewing applications for residential and commercial off-street parking that exceed the principally permitted amount within an NCT District. On balance, the project complies with some, but not all of the said criteria in that:

A. Parking for all uses

- i. Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district.

*The Project Sponsor proposes a quantity of parking beyond the principally permitted amount through Conditional Use Authorization, pursuant to Section 151.1. The MND prepared for the project does not identify transportation or circulation impacts that rise to the level of a significant impact under CEQA. However, the ready availability of excessive parking for the project may serve as a disincentive for residents to travel by means other than the private automobile. The resulting movement of additional vehicles around the Project Site and in the vicinity may degrade the experience of pedestrians and bicyclists.*

*Excessive parking to this degree also conflicts with multiple policies in the General Plan, and specifically the Mission Area Plan, to contribute to a built environment that encourages a variety of transportation options and discourages private automobile use as a primary mode of travel in walkable, transit-rich neighborhoods.*

*Therefore, this Conditional Use Authorization is subject to a condition of approval limiting the amount of parking permitted for the project. The residential parking is limited to an amount smaller than permitted by Conditional Use Authorization by Section 151.1 for the Mission Street NCT District, not to exceed 77 spaces (equal to .67 cars for each dwelling unit). Therefore, the condition of approval limits the number of residential parking spaces to 77. Section 166 requires one car-share parking spaces to be provided for the Project. Section 166(d) specifies that the provision of these required spaces is not counted against the number of parking allowed by the Code as a principal, accessory, or conditional use.*

- ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal.

*The Project is principally permitted to have 57 parking spaces and is seeking approval for 29 additional parking spaces for a total of 86 off-street parking spaces for the dwelling units. As noted in the condition of approval, the Project would be limited to a maximum of 77 residential off-street parking spaces, as opposed to the 86 residential off-street parking spaces being sought. This reduction in the allowable residential parking reinforces the Mission Street transit corridor and transportation policies contained*

*within the Mission Area Plan. With the condition of approval for the number of off-street parking spaces, the accessory residential parking would not degrade the overall urban design quality of the Project, since parking would be located below ground and would be limited to one entrance/exit along Bartlett Street.*

- iii. All above-grade parking is architecturally screened and, where appropriate, lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code.

*The Project provides all accessory parking within a below-grade garage, and provides the appropriate active uses on the ground floor as defined within Planning Code Section 145.1.*

- iv. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

*The Project provides all accessory parking within a below-grade garage and would not impact the quality and viability of existing or planned streetscape enhancements.*

#### B. Parking for Residential Uses

- i. For projects with 50 dwelling units or more, all residential accessory parking in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.

*For the 114 dwelling units, the Project would have a condition of approval to provide a maximum of 77 residential off-street parking spaces, which would be located within a below-grade parking garage. All off-street residential parking spaces would be accessed via mechanical stackers.*

#### C. Parking for Non-Residential Uses

- i. Projects that provide more than 10 spaces for non-residential uses must dedicate 5% of these spaces, rounded down to the nearest whole number, to short-term, transient use by vehicles from certified car sharing organizations per Section 166, vanpool, rideshare, taxis, or other co-operative auto programs. These spaces shall not be used for long-term storage nor satisfy the requirement of Section 166, but rather to park them during trips to commercial uses. These spaces may be used by shuttle or delivery vehicles used to satisfy subsection (B).

*Since the project is located along a transit-rich corridor, the Project only provides two off-street parking spaces for the ground floor commercial spaces; therefore, this requirement does not apply.*

- ii. Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service. This is encouraged, but not required, for retail uses less than 20,000 square feet.

*The Project does not include retail uses larger than 20,000 sq ft.*

- iii. Parking shall be limited to short-term use only.

*Since the project is located along a transit-rich corridor, the Project only provides two off-street parking spaces for the ground floor commercial spaces; therefore, this requirement does not apply.*

- iv. Parking shall be available to the general public at times when such parking is not needed to serve the use or uses to which it is accessory.

*Since the project is located along a transit-rich corridor, the Project only provides two off-street parking spaces for the ground floor commercial spaces; therefore, this requirement does not apply.*

9. **Planning Code Section 253.4** states that Conditional Use Authorization is required to reduce or waive the requirement for a 15-ft front setback above a height of 65-ft for frontages along Mission Street that are located within the 85-X Height and Bulk District and located within the Mission Street NCT Zoning District.

*Findings for Conditional Use Authorization are discussed below in Finding 10-Planning Code Section 303.*

10. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

1. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

- A. In Neighborhood Commercial Districts, if the proposed use is to be located at a location in which the square footage exceeds the limitations found in Planning Code § [121.2\(a\)](#) or [121.2\(b\)](#), the following shall be considered:

- i. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-servicing uses in the area; and

*The Project would replace an under-utilized department store (approximately 58,800 sq ft) with a mixed-use development consisting of a 114 dwelling units, ground floor commercial space (14,750 sq ft), and a rehabilitated historic theater. The Project would provide smaller-scale, ground floor commercial space, which would be more in keeping with the character of Mission Street. Due to the nature of the commercial activity along Mission Street, new residential development would be welcome, since it would be expected that the new residents would walk, shop, and frequent local businesses along Mission Street. As is noted within the General Plan and Mission Area Plan, housing is a much needed commodity. The Project would provide ample new housing within the neighborhood, as well as land for the development of new affordable housing units in excess of the required on-site affordable housing requirements.*

- ii. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function; and

*The Project will add significant housing opportunities at a density suitable for an urban context that is well served by public transit. In addition, the project will include ground floor commercial space that will provide employment opportunities, and will serve the residents of the Project and the larger neighborhood. By targeting mixed-use development at this location, residents of the Project will be able to walk, bicycle, or take transit to commute, shop, and meet other needs without reliance on private automobile use. The ground floor commercial space and rehabilitated theater will create a vibrant focal point along an active commercial corridor, thus activating the streetscape and creating visual interest for pedestrians. The existing development in the area surrounding the Project site is varied in scale and intensity. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the building expresses an alternating rhythm of undulating bays that creates texture and further breaks down the massing of the building. The fenestration pattern changes at each bay to create greater variations in the texture of the Project. Overall, the Project will serve a significant portion of the neighborhood by contributing to the strong commercial character of Mission Street and through new housing opportunities (both market rate and affordable) and new community amenities via the rehabilitated historic theater.*

- iii. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district; and

*The Project provides a high quality design, which relates to nearby development and the surrounding neighborhood context. The Project includes elements, which create visual interest, breaks down the overall mass, and provides for a relationship to the other commercial properties along Mission Street. The residential component sensitively accommodates the pylon sign of the historic New Mission Theater, and provides appropriate setbacks, which address the scale of the immediate neighborhood. Along Mission Street, the project is seeking Conditional Use Authorization to exceed a height of 65-ft along Mission Street, as required by Planning Code Section 253.4. On Mission Street, the residential component is divided into eleven bays, which undulate and rise up and down in height and scale. Four of the eleven bays rise to height of 74-ft 8-in, thus exceeding the height limit of 65-ft along the street frontage. The excess in height provides variation in scale and design along Mission Street, which breaks down the mass of the façade along Mission Street.*

*The Project, as proposed and as modified by the conditions of this approval, is necessary and desirable for, and is compatible with the neighborhood.*

2. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- A. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The Project site is an irregularly-shaped through lot that is adequately sized to accommodate the development. In lieu of providing a Code-complying rear yard, the Project is arranged around two interior courtyards since the subject block does not have a pattern of mid-block open space. Existing development in the vicinity varies in size and intensity, and the Project is generally compatible with the eclectic character of the area. The building is designed with setbacks and varying fenestration patterns to reduce the apparent scale of the Project. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.*

- B. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*The MND prepared for the project found that the project would not result in significant transportation and circulation impacts. The Project Site is located within an urban*

*context, where convenience goods and services are available within walking distance. Residents of the project will be able to walk to such services in the vicinity. In addition, the area is served by ample public transit, so that residents do not need to rely on private automobile transportation. Improvement Measures have been incorporated into the MND to avoid traffic congestion during construction of the Project and to encourage transit ridership by residents and the retail employees.*

*The Project Sponsor has proposed a total of 89 off-street parking spaces, exceeding the maximum amount of residential parking that is principally permitted by Section 151.1. The sponsor has requested Conditional Use Authorization to allow parking in excess of the principally-permitted amount up to a ratio of .75 cars per dwelling unit. This amount of off-street parking fails to meet the required Conditional Use Authorization criteria specified in Section 151.1 (see above) and contradicts multiple policies of the General Plan and Mission Area Plan. Therefore, this Conditional Use Authorization is subject to a condition of approval limiting the amount of off-street residential parking for the Project to .67 cars for each dwelling unit, in recognition of the surrounding transit district. As proposed, and as modified by the conditions of approval, the traffic patterns, off-street loading, and the quantity of off-street parking will not be detrimental to persons or adjacent properties in the vicinity.*

- C. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*Since this will primarily be a residential project, unusual noise, odor, dust and glare as a result of its operations will generally not occur. The Project will comply with Title 24 standards for noise insulation. The materials for the facades of the buildings will not result in glare, since much of the fenestration will be treated with low-e coatings or spandrel glass. The project would generate additional night lighting, due to the theater, but not in amounts unusual for an urbanized area. Design of exterior lighting will ensure that off-site glare and lighting spillover are minimized.*

*Construction noise impacts would be less than significant because all construction activities would be conducted in compliance with the San Francisco Noise Ordinance (Article 29 of the San Francisco Police Code, as amended November 2008). The SF Board of Supervisors approved the Construction Dust Control Ordinance (Ordinance 176-08, effective July 30, 2008) with the intent of reducing the quantity of dust generated during site preparation, demolition and construction work in order to protect the health of the general public and of on-site workers, minimize public nuisance complaints, and to avoid orders to stop work by the Department of Building Inspection. Therefore, the Project would be required to follow specified practices to control construction dust and to comply with this ordinance. This Conditional Use Authorization includes conditions of approval to ensure the Project's compliance with relevant noise, glare, dust and odor requirements.*

- D. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project provides open space in the form of private decks, a common rooftop deck, a common interior courtyard and a private, interior courtyard. The Project would provide landscaping in the form of street trees along Mission Street. Further, the Project would rehabilitate the pylon sign and marquee of the New Mission Theater, thus providing for new lighting and signage along Mission Street. The Project is seeking a waiver of the rear yard and off-street freight loading requirements, as well as a modification of the open space, dwelling unit exposure and street frontage requirements, as part of the PUD. The Project includes off-street residential parking and a small number of commercial parking spaces. Generally, the area is well-served by transit and a variety of goods and services are within walking distance. Conditions of approval have been added to limit the overall amount of off-street residential parking for the project given the transit-oriented nature of the surrounding district. The Project Sponsor will continue to work with the Planning staff to refine details of project massing, lighting, signage, materials, street trees, and other aspects of the design.*

3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan; and.

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below. The Project is seeking the appropriate waivers and modifications from Planning Code requirements for rear yard, open space, street frontage, dwelling unit exposure and off-street freight loading, as detailed in the PUD (See Planning Code Section 304).*

4. With respect to applications filed pursuant to Article 7 of this Code, that such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District, as set forth in Zoning Control Category .1 of Planning Code Sections 710 through 729 of this Code.

*The Project is in conformity with the stated purposes of the Mission Street NCT Zoning District, and provides appropriate ground floor commercial retail frontage with residential above. The Mission Street NCT Zoning District provides a selection of goods serving the day-to-day needs of the resident, as well as eating and drinking establishments that contribute to the street's mixed-use character and evening activity. The new development and theater rehabilitation would contribute and complement the district's overall character and purpose by introducing new residents within the neighborhood, as well as by providing for a mix of new commercial activities through the rehabilitated theater and new ground floor commercial spaces. The Project generally follows the intent of the physical envelope controls for residential density and provides the appropriate amount of family-sized dwelling units. Further, the theater rehabilitation provides a community amenity, which would contribute to the vitality and continued use of Mission Street.*

11. **Planning Code Section 304** establishes criteria and limitations for the Planning Commission to consider when reviewing applications for the authorization of PUD's over and above those applicable to Conditional Uses. On balance, the project does comply with said criteria and limitations in that:

- 1) Affirmatively promote applicable objectives and policies of the General Plan;

*This project furthers multiple existing General Plan and the Mission Plan Area objectives and policies relating to housing, commercial development, historic resources and urban design. See General Plan Compliance (See Below).*

- 2) Provide off street parking adequate for the occupancy proposed;

*The Project proposed 89 off-street parking spaces in a below-grade garage. All of the off-street parking is accessed from Bartlett Street, thus minimizing the impact on Mission Street, a busy thoroughfare with heavy car and bus traffic. There will be one car share space and two commercial parking spaces. The Project is seeking a waiver of the off-street freight loading requirement. However, given the strong transit character of the surrounding neighborhood, a condition of approval has been added to the Project to reduce the amount of off-street residential parking to 77 parking spaces. To accommodate the parking, the Project is seeking an exception from the street frontage requirements under the PUD. This requirement states that the garage width can be no more than one-third the width of the street frontage. The new residential project would have a street frontage of 53-ft along Bartlett Street, thus new garage openings would be limited to 17-ft 8-in. The Project proposes a garage width of 18-ft 10-in, in order to accommodate the entry and existing within the new development. The larger garage opening is acceptable given the overall scale and character of the Project and Bartlett Street. With the condition of approval for the off-street residential parking, the Project provides more than ample off-street parking given the close proximity to public transit options.*

- 3) Provide open space usable by the occupants and, where appropriate, by the general public, at least equal to the open spaces required by this Code;

*The project includes private open space for 55 dwelling units, a common rooftop deck measuring approximately 2,050 sq ft, and a commonly-accessible courtyard measuring 2,100 sq ft. In total, the Project provides a combination of private and common open spaces for the use of residents. The Project is seeking a modification of the rear yard, open space and dwelling unit exposure requirements (Planning Code Sections 135 & 140, respectively), since the provided open space does not meet the amount, location and dimension requirements outlined within Planning Code Section 135 and 140, respectively. In particular, the Project does not provide the required 6,278 sq ft of common open space for the 59 dwelling units, which do not have access to private open space. In total, the Project provides 4,150 sq ft of common open space and 4,400 sq ft of private open space. The total amount of open area exceeds the amount of square footage if the Project were to have provided a 25 percent rear yard (or approximately 4,234 sq ft). Given the benefits of the larger project and overall design, the amount, location and dimension of the provided open space would be acceptable, since the Project provides greater public benefit to the surrounding*

*neighborhood, housing stock, and City, as a whole, and also provides open space in excess of the required rear yard amount.*

- 4) Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a district permitting a greater density, so that the PUD will not be substantially equivalent to a reclassification of property;

*The Project meets the residential density requirements as outlined within Planning Code Section 207.4. As noted in the Planning Code, dwelling unit density for NCT Districts shall not be limited by lot area, but by the applicable requirements and limitations, including but not limited to height, bulk, open space, exposure, and unit mix, as well as by applicable design guidelines. The Project meets the requirements for dwelling unit mix, and possesses the required number of two-bedroom units, as outlined in Planning Code Section 207.6.*

- 5) In R Districts, include commercial uses only to the extent that such uses are necessary to serve residents of the immediate vicinity, subject to the limitations for NC-1 (Neighborhood Commercial Cluster) districts under the Code;

*The Project is located within the Mission Street NCT Zoning District; therefore, this criterion does not apply.*

- 6) Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections;

*The Project is within the 85-ft height limit and is seeking Conditional Use Authorization to allow additional height at the street frontage along Mission Street above a height limit of 65-ft, as noted in Planning Code Section 253.4.*

- 7) In NC Districts, be limited in gross floor area to that allowed under the Floor Area Ratio limit permitted for the district in Section 124 and Article 7 of this Code.

*The Project provides non-residential space (14,750 sq ft) within the permitted floor area ratio, as outlined in Planning Code Section 124.*

- 8) In NC Districts, not violate the use limitations by story set forth in Article 7 of this Code.

*The Project is in compliance with the use limitation set forth by Article 7 of the Planning Code.*

- 9) In RTO and NCT Districts, include the extension of adjacent alleys or streets onto or through the site, and/or the creation of new publicly-accessible streets or alleys through the site as appropriate, in order to break down the scale of the site, continue the

surrounding existing pattern of block size, streets and alleys, and foster beneficial pedestrian and vehicular circulation.

*The Project is not required to include alley or street extensions through the project site.*

- 10) Provide street trees as per the requirements of Section [143\(j\)](#) of the Code.

*The Project is in compliance with the requirements of Planning Code Section 138.1, which outlines the requirements for new street trees. The Project will provide five new street trees along Mission Street, and will pay an in-lieu fee for the remaining required street trees, due to the site constraints.*

- 11) Provide landscaping and permeable surfaces in any required setbacks in accordance with Section [132](#) (g) and (h).

*The Project does not have any required front setbacks and is designed to have full lot coverage. The Project would provide landscaping on a voluntary basis in front of the new commercial spaces in coordination with other city agencies.*

12. **Planning Code Section 703.3** states that a Conditional Use Authorization is required for Formula Retail Uses within this District. Pursuant to Planning Code Section 303(i), with respect to an application for Conditional Use Authorization for formula retail use, the Planning Commission shall consider the following criteria:

- i. The existing concentrations of formula retail uses within the Neighborhood Commercial District.

*With twenty-four formula retail uses in the approximately 1.3 mile long district, the existing concentration of formula retail uses is fairly low and is under four percent of the total commercial spaces within the district. The overall district does not suffer from an over-concentration of formula retail uses and the number of independently-owned retail uses far exceeds the number of formula retail uses. The Project would construct the first Alamo Drafthouse Cinema within San Francisco and California. None of the other formula retail uses within the district provide the same goods and services as Alamo Drafthouse Cinema.*

- ii. The availability of other similar retail uses within the Neighborhood Commercial District.

*The Project is located within .6 and 1.0 miles from other theaters, including the Roxie Theater at 3117 16<sup>th</sup> Street, Victoria Theater at 2961 16<sup>th</sup> Street, and the Castro Theater at 429 Castro Street. These three theaters are all independent theaters that do not directly compete with Alamo Drafthouse Cinemas, which typically shows first-run, major motion pictures. The closest first-run theater is the AMC Theater at 1000 Van Ness Avenue, which is located approximately 2.0 miles away. This theater does not provide a convenient location for movie patrons living in the Mission*

*Street NCT Zoning District. The proposed location would allow neighborhood residents to walk, bike or take public transit to the theater.*

- iii. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

*The formula retail use would be located within a historic theater (the New Mission Theater) that has been part of the neighborhood, since 1910. The New Mission Theater is compatible with the surrounding aesthetic character of the district. The Project would rehabilitate a historic landmark and bring renewed vitality to Mission Street.*

- iv. The existing retail vacancy rates within the Neighborhood Commercial District.

*The Mission Street NCT Zoning District currently contains numerous vacant storefronts. Lack of available retail space is not an issue in the district. The Project would contribute to a diverse and thriving retail district, and the Project would work towards the continued success of the district by rehabilitating a long under-used historic property and occupying it with a new tenant and compatible new use. The New Mission Theater has been vacant since the late-1990s. Currently, there is at least one other known vacant historic theater within the Mission St NCT Zoning District.*

- v. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

*The Mission Street NCT Zoning District possesses a mix of neighborhood-serving and citywide-serving retail uses. The area is in an easily accessible part of the City and is surrounded by residential neighborhoods. For these reasons, the retail uses in the area serve both local residents and a larger citywide population. The Project would add an entertainment use that will serve this neighborhood in addition to drawing patrons and movie-goers from other parts of the City. The neighborhood is currently underserved by movie theaters with only two other active theaters in the Mission Street NCT Zoning District. The Project would provide neighborhood residents with this desired retail use and would rehabilitate a historic theater.*

- 13. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

**HOUSING ELEMENT:**

**Objectives and Policies**

**OBJECTIVE 1.**

**IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.**

**Policy 1.1:** Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

**Policy 1.8:** Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

**Policy 1.10:** Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

*The Project will add mixed-use development with residential units to an area that is well-served by transit, services, and shopping opportunities. The project site is suited for dense, mixed-use development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is in an area with abundant transit options routes that travel to the Civic Center and the Financial District areas. The Project contributes to the City's overall housing supply and includes a mix of one-bedroom and two-bedroom units in a range of sizes, which would provide housing opportunities for various household types and socioeconomic groups within the neighborhood.*

#### **COMMERCE AND INDUSTRY ELEMENT:**

##### **Objectives and Policies**

##### **OBJECTIVE 6.**

##### **MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 6.3:** Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

**Policy 6.7:** Promote high quality urban design on commercial streets.

**Policy 6.10:** Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The Project would demolish an underutilized, three-story department store (approximately 58,800 sq ft) and construct a new eight-story mixed-use building with 114 dwelling units and three ground floor commercial spaces. Residents of these units would shop for goods and services in the area, thus bolstering the viability of the existing businesses. The presence of the ground floor commercial space will contribute to the economic vitality of the area, will fulfill shopping needs for residents, and will activate the streetscape. Overall, the Project would contribute and promote neighborhood-serving commercial activities through a revitalized streetscape caused by the new commercial development and theater rehabilitation.*

#### **URBAN DESIGN ELEMENT:**

##### **Objectives and Policies**

**OBJECTIVE 2.**

**CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUTY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.**

**Policy 2.4:** Preserve notable landmarks and areas of historic, architectural or aesthetic value.

**OBJECTIVE 3.**

**MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.**

**Policy 3.4:** Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

*The Project would preserve and reuse a historic landmark, the New Mission Theater, while constructing a new mixed-use development, which is of high quality in design, material and form. The new construction introduces a contemporary architectural vocabulary into the neighborhood, which is sensitive to the adjacent historic theater by incorporating setbacks. The new construction provides a relatable ground floor scale and occupies a prominent location next to a historic theater.*

**MISSION AREA PLAN:**

**Objectives and Policies**

**OBJECTIVE 1.1**

**STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.**

**Policy 1.1.3:** Maintain the successful Mission Street, 24<sup>th</sup> Street and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating residential density limits and minimum parking requirements.

**OBJECTIVE 1.2**

**IN AREAS OF THE MISSION WHERE HOUSING AND MIXED USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.**

**Policy 1.2.2:** For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require ground floor commercial uses in new housing development. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

**Policy 1.2.3:** In general, residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

**OBJECTIVE 2.3**

**ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.**

**Policy 2.3.3:** Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO development unless all Below Market Rate units are two or more bedrooms.

**OBJECTIVE 8.2**

**PROTECT, PRESERVE, AND REUSE HISTORIC RESOURCES WITHIN THE MISSION PLAN AREA.**

**Policy 8.2.2:** Apply the Secretary of the Interior's Standards for the Treatment of Historic Properties in conjunction with the Mission Area Plan objectives and policies for all projects involving historic or cultural resources.

*The Project would construct a new mixed-use (residential and commercial) development, as well as rehabilitate and reuse a historic landmark, the New Mission Theater. On December 19, 2012, the Project received a Certificate of Appropriateness for the New Mission Theater (Landmark No. 245) from the Historic Preservation Commission. In furtherance with the goals and objectives of the Mission Area Plan, the Project provides new residential development over ground floor commercial space. This new residential development meets the dwelling unit mix requirements of the Planning Code, and provides the appropriate amount of two-bedroom dwelling units.*

14. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Project would replace an existing department store with new dwelling units, ground floor commercial space, and a new theater/restaurant. The new residents in the Project would patronize area businesses, thus bolstering the viability of surrounding commercial establishments. In addition, the Project would include ground floor commercial spaces, which may provide goods and services to area residents, while contributing to the vital economy and streetscape of Mission Street.*

B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The Project would not diminish the existing housing stock; rather, the Project would provide new housing opportunities through the development of 114 dwelling units. Further, the surrounding*

*neighborhood character would be enhanced by the high quality design, which will contribute to the vitality of the streetscape.*

- C. That the City's supply of affordable housing be preserved and enhanced.

*The Project would enhance the City's supply of affordable housing by dedicating land at 1296 Shotwell Street to the City and County of San Francisco for the purpose of constructing affordable housing units.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would not detrimentally affect the existing on-street parking supply or MUNI transit service. The Project provides adequate on-site parking for residents via a below-grade parking garage, thus minimizing competition for on-street parking resources in the surrounding neighborhood. In addition, the Project would provide one car share parking space, which will decrease the need for residents to own their own vehicles. The Project also proposes 46 Class I bicycle parking spaces.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project does not propose any office development and would assist in maintaining a diverse economic base by providing future employment opportunities with the new theater and ground floor commercial spaces.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code.*

- G. That landmarks and historic buildings be preserved.

*On December 19, 2012, the Project received a Certificate of Appropriateness Motion No. 183 for the New Mission Theater (Landmark No. 245) from the Historic Preservation Commission for the proposed project to rehabilitate/change the use of the historic theater according to the Secretary of the Interior's Standards for Rehabilitation.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.*

15. 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.
16. The Commission hereby finds that approval of the Conditional Use authorization 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 Conditional Use Application No. 2005.0694C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the IS/MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

The Planning Commission hereby adopts the MND and the MMRP attached hereto as Exhibit C and incorporated herein as part of this Resolution/Motion by this reference thereto. All required mitigation measures identified in the IS/MND and contained in the MMRP are included as conditions of approval.

The Planning Commission further finds that since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18775. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 10, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Fong, Hillis, Moore, Sugaya and Wu

NAYS: Antonini

ABSENT: Borden

ADOPTED: January 10, 2013

## Exhibit A

### AUTHORIZATION

This Conditional Use Authorization is to allow a Planning Unit Development, to allow development on a lot exceeding 10,000 sq ft, to allow accessory off-street residential parking in excess of the principally permitted amount, to allow a building height exceeding 65 feet along street frontage on Mission Street, and to allow a formula retail use (d.b.a. **Alamo Drafthouse Cinema**) located at 2554-2558 Mission Street [Block 3616, and Lot 007] pursuant to Planning Code Section(s) **121.1, 151.1(g), 253.4, 303, 304, 703.3, 703.4, and 736.11** within the **Mission Street NCT Zoning District** and a **85-X** Height and Bulk District for a project proposing new construction of an eight-story, mixed-use development of up to 114 dwelling units with ground floor commercial space (measuring 14,750 sq ft) and the rehabilitation of a historic landmark theater; in general conformance with plans, dated **December 19, 2012**, and stamped "EXHIBIT B" included in the docket for Case No. **2005.0694C** and subject to conditions of approval reviewed and approved by the Commission on **January 10, 2013** under Motion No. 18775. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The Conditions of Approval under the 'Exhibit A' of this Planning Commission Motion No. **18775** 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 to the Conditional Use 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 Planning Commission approval of a new Conditional Use authorization.

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

**Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Mitigation Measures.** Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

### DESIGN & CODE COMPLIANCE

**Final Materials.** The Project Sponsor(s) shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance, etc..

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application for each building. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

*For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

**Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **PARKING AND TRAFFIC**

**Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than **seventy-seven (77)** off-street parking spaces for the 114 dwelling units (or .67 off-street parking spaces for each dwelling unit) contained therein.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Car Share.** Pursuant to Planning Code Section 166, no fewer than **one (1)** car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than **41** bicycle parking spaces (**41** Class 1 spaces for the residential portion of the Project).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Unbundled Parking.** All off-street parking spaces shall be made available to all building residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any dwelling unit for the life of the dwelling units. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **PROVISIONS**

**First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org)*

**Eastern Neighborhoods Infrastructure Impact Fee.** Pursuant to Planning Code Section 423 (formerly 327), the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4 of the Planning Code and/or through an In-Kind Agreement, as approved by the Planning Commission.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## MONITORING - AFTER ENTITLEMENT

**Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion 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](http://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](http://www.sf-planning.org)*

## OPERATION

**Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>*

**Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

**Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org).*

*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://www.sfdbi.org).*

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, [www.sf-police.org](http://www.sf-police.org)*

**Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## INCLUSIONARY HOUSING

**Land Dedication Alternative.** The Project Sponsor has chosen to satisfy the affordability requirement for the Project through a land dedication pursuant to Planning Code Section 419.6 and 419.5(a)(2)(A)-(J). The Project Sponsor has been in discussions with the Mayor's Office of Housing (MOH) and the Planning Department. On December 20, 2012, MOH provided a letter to the Planning Department that confirmed that the site that the Project Sponsor has selected, 1296 Shotwell (Shotwell Site) [Block 6571 Lot 026], is acceptable under Planning Code Section 419.5(2), subject to the following conditions precedent:

- MOH must receive a Phase II study (the "Phase II Study") showing the results of additional investigation of potential toxic substances at the Shotwell Site, dated no earlier than January 2013; and
- If the Phase II Study reveals the presence of any hazardous materials on the Shotwell Site, MOH must be presented with a toxics remediation plan, to be approved by MOH in its sole discretion.

In the event the land dedication process is completed, and the fee title to the Shotwell Site is transferred to the City prior to the issuance of the first construction document for the Project, the Project will have fully complied with the Planning Code's Section 415 inclusionary affordable housing requirements. In the event, for whatever reason, fee title to the Shotwell Site is not transferred to the City by issuance of the first construction document for the Project, the Project Sponsor has chosen, as an alternative, to put the affordable units on site at the Project.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

**On-Site Alternative.** In the event fee title to the Shotwell Site is not transferred to the City by issuance of the first construction document for the Project, the Project Sponsor shall comply with the Planning Code's inclusionary affordable housing requirements as noted within the Planning Code. The following conditions will apply to all on-site below market rate affordable housing units:

1. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 114 dwelling units; therefore, 14 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 14 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
2. **Unit Mix.** The Project contains 18 studios, 45 one-bedroom, and 51 two-bedroom units; therefore, the required affordable unit mix is 2 studios, 6 one-bedroom, and 6 two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
3. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
4. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.

- f. The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- h. If the Project becomes ineligible at any time for the On-Site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.