



# 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

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## Planning Commission Motion No. 18783 Section 309

HEARING DATE: JANUARY 17, 2013

*Date:* January 3, 2013  
*Case No.:* **2011.1043 CEKUX**  
*Project Address:* **1400 MISSION STREET**  
*Zoning:* C-3-G (Downtown General)  
 150-S/200-S Height and Bulk District  
*Block/Lot:* 3507/042  
*Project Sponsor:* Mara Blitzer  
 Tenderloin Neighborhood Development Corporation  
 201 Eddy Street  
 San Francisco, CA 94102  
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**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR AN EXCEPTION FOR THE REDUCTION OF GROUND-LEVEL WIND CURRENTS UNDER PLANNING CODE SECTION 148, OFF-STREET LOADING UNDER PLANNING CODE SECTION 152.1, AND REAR YARD REQUIREMENTS UNDER PLANNING CODE SECTION 134(D), TO CONSTRUCT A 10-TO-15-STORY, APPROXIMATELY 150-FOOT TALL BUILDING WITH APPROXIMATELY 190 AFFORDABLE DWELLING UNITS AND APPROXIMATELY 4,350 GSF OF GROUND FLOOR COMMERCIAL SPACE, AT 1400 MISSION STREET WITHIN THE C-3-G (DOWNTOWN GENERAL) DISTRICT AND THE 150-S/200-S HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

### PREAMBLE

On March 10, 2003, Steve Atkinson on behalf of Steefel Levitt & Weiss submitted an Environmental Evaluation Application with the Planning Department (“Department”), Case No. 2003.0262E, in connection with the Tenth/Market/Mission Streets Mixed-Use Project at 1400 Mission Street and 1455

Mission Street (formerly Assessor's Block 3507; Lot 039, now Assessor's Block 3507, Lot 042 and Assessor's Block 3507; Lot 041, respectively).

The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on November 15, 2003.

On May 14, 2004, the Department published a Draft Environmental Impact Report (EIR) for public review (Case No. 2003.0262E). The Draft EIR was available for public comment until June 28, 2004. On June 17, 2004, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the Draft EIR. On September 30, 2004, the Department published a Comments and Responses document, responding to comments made regarding the Draft EIR prepared for the Project. Together, the Comments and Responses document and the DEIR comprise the Final EIR ("FEIR").

On October 14, 2004, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed complied with CEQA, the CEQA Guidelines, and Chapter 31.

The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and certified the FEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

On March 8, 2007, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that the project would not cause and new significant impacts not identified in the original Final EIR (Case No. 2003.0262E).

On February 18, 2009, the Department prepared and published a second Addendum to the previously-certified Final EIR which determined that the project would not cause and new significant impacts not identified in the original Final EIR (Case No. 2003.0262E).

On August 8, 2012, the Department prepared and published a third Addendum to the previously-certified Final EIR which determined that (1) the proposed project has not been substantially revised so as to result in new significant impacts or a worsening of significant impacts identified in the previously certified EIR; (2) the background conditions under which the proposed project would be constructed have not changed substantially from those conditions described in the previously certified EIR; and (3) new information of substantial importance has not surfaced (Case No. 2003.0262E).

Since the FEIR was finalized, and the Addendums to the FEIR were published, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, require new or modified mitigation measures, or cause impacts of greater severity than previously reported in the FEIR, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR. On October 28, 2004, by

Motion No. 16880 the Commission adopted findings, including a statement of overriding considerations and an MMRP, pursuant to CEQA, which CEQA findings are incorporated by reference in this Motion.

On August 3, 2012, Mara Blitzer of Tenderloin Neighborhood Development Corporation (hereinafter "Project Sponsor") filed an application with the Department for a Determination of Compliance with Planning Code Section 309, with exceptions to the Rear Yard requirements (Section 134), Off-Street Loading requirements (Section 152.1), and requirements for the reduction of Ground-Level Wind Currents (Section 148) within the C-3-G (Downtown General) District and a 150-S/200-S Height and Bulk District.

On November 20, 2012, the Project Sponsor also filed an application with the Department for a Conditional Use Authorization under Planning Code Sections 124(f) and 303, to allow additional square footage above that permitted by the base FAR limit for the construction of dwellings affordable for 20 years to households whose incomes are within 150 percent of the median income affordable dwelling-units within the C-3-G (Downtown General) District and a 150-S/200-S Height and Bulk District.

On January 17, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Determination of Compliance Application No. 2011.1043CEKUX.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2011.1043CEKUX, at 1650 Mission Street, Fourth Floor, San Francisco, California.

The mitigation measures presented in the 2004 EIR, 2007 Addendum, and 2009 Addendum would continue to apply to the currently proposed project except as follows: (1) the currently proposed project would not result in significant impacts on transportation, and therefore the mitigation measures from the 2004 EIR are replaced by improvements measures from the 2009 Addendum suggested to address less-than-significant impacts of the currently proposed project, and (2) the City has adopted a Construction Dust Control Ordinance, ensuring that potential dust-related air quality impacts would be reduced to a less-than-significant level, which replaces mitigation measures related to air quality from the original project. The Addendum also updates the mitigation measures to reflect current Planning Department practices. The MMRP has been revised accordingly, and summarized in an "Agreement to Implement Mitigation Measures", dated August 7, 2012, which material was made available to the public and this Commission for this Commission's review, consideration and action. The updated mitigation measures do not change the conclusions of significant reached in the 2004 EIR, 2007 Addendum, and 2009 Addendum.

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 Determination of Compliance requested in Application No. 2011.1043CEKUX, subject to the conditions 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 the west side of 10<sup>th</sup> Street between Mission and Jessie Streets; Lot 042 in Assessor's Block 3507. The project site is on an approximately 24,631 sq. ft. lot. It is located in the South of Market neighborhood within the Downtown Area Plan and the Downtown General Commercial District (C-3-G) with split 150-S and 200-S Height and Bulk Districts. The site is currently improved with a surface parking lot, which is being used as a staging area for the development of the adjacent parcel on the southwest corner of Market and 10<sup>th</sup> Streets (Crescent Heights development).
3. **Surrounding Properties and Neighborhood.** The project site comprises a single parcel in the Downtown Area Plan and the South of Market (SoMa) neighborhood. The project site is within the C-3-G (Downtown-General Commercial) Zoning District, and in the 150-S and 200-S Height and Bulk Districts. The Project Site is adjacent to the Market and Octavia Neighborhood Plan Area and is in close proximity to the Western SoMa Community Plan Area. The existing site was formerly used as a surface parking lot and currently the parking lot is being used as a construction staging area for the adjacent Crescent Heights residential development. Currently, the project area is in transition from low- and mid-rise commercial and industrial uses, to high-density mid- to high-rise office and residential uses. Existing land uses in the vicinity of the Project Site include residential, retail, hotel, office, institutional, mixed uses, and parking. Development fronting Mission Street between Van Ness Avenue and 8th Street is characterized by a range of low- to high-rise commercial and residential buildings that have ground-floor retail space and are built out to the sidewalk and property lines.
4. **Project History.** There have been several development proposals at the subject property over the last decade: the original project was proposed in 2004, with revisions proposed in 2007 and 2009, and a new project proposed in this application.

The 2004 project and the 2007 revision describe development on Assessor's Block 3507, Lot 039, an approximately 95,000-square-foot (sf) site, consisting of seven vacant office buildings, and an active, 155-space surface parking lot (the portion of the lot subject to this application).

The Project Site has since been subdivided into Lots 042 (southeasterly-most parcel, the Subject Property) and Lot 041 (northwesterly-most parcel), of Block 3507. The 2009 revision and the proposed project consist of the development of Lot 042, an approximately 25,000-sf parcel fronting Mission Street and Tenth Street.

On October 14, 2004, the Planning Commission certified a Final EIR for the original project, involving the demolition of seven vacant office buildings, and an active, 155-space surface

parking lot, located on the west side of Tenth Street, between Market and Mission Streets, and the construction of a mixed-use development including office, housing, parking, retail, and community-serving uses. The project consisted of three buildings: (1) a 150-foot-tall affordable housing building on the corner of Mission and Tenth Streets (Mission Street Affordable Housing), consisting of up to 200 units over 3,500 gsf of ground floor retail space; (2) a 200-foot-tall residential building on Tenth Street, consisting of up to 250 units; and (3) a 320-foot-tall municipal office building on the corner of Tenth and Market Streets. The original 2004 project would have resulted in a total of 513,250 gsf of office space, 450 residential units, 12,750 gsf of ground floor commercial/retail space, and 313 parking spaces (ten spaces attributable to the Mission Street Affordable Housing building). The original project also entailed subdivision of the project site into at least two parcels.

According to the 2004 EIR, Tenderloin Neighborhood Development Corporation and Citizens Housing Corporation were going to develop the Mission Street Affordable Housing and the Tenth Street Housing, while the Myers Development Company would be responsible for developing the Office Building for the City's use.

Following certification of the 2004 EIR, the Mission Street Affordable Housing and the Tenth Street Housing were approved by the Planning Commission in November of 2004, but the Office Building component was never approved, as the City made alternate plans for its municipal office needs.

Subsequently, in 2007, the Tenth and Market LLC purchased from TNDC and CHC a portion of the project site for the purpose of developing a high-rise residential project, the "Market Street Residential Building." That portion of the site consisted of the Office Building and Tenth Street Housing locations. Under the 2007 revision, the number of units in the Mission Street Affordable Housing building (200 units) was unchanged from the original project; however, it proposed a different building envelope on the revised project site. The 2007 revision covered two buildings with three towers (one tower associated with the Mission Street Affordable Housing building, and two towers associated with the newly proposed Market Street Residential Building). The Mission Street Affordable Housing tower included approximately 10,000 gsf of ground-floor retail (an increase of about 6,500 gsf from the original project). The two Market Street Residential Building towers were connected by a two-story landscaped podium, and included ground-floor retail below both towers.

The 2007 revision's EIR Addendum also covered an affordable housing Variant for the Mission Street Affordable Housing building. The revised project Variant included 200 residential units; however, instead of affordable, senior housing, the Variant included 200 units of affordable, family housing, with a different one- and two-bedroom unit mix. In addition, the Variant included 36 parking spaces (an increase of 26 spaces compared to the revised project) and approximately 3,500 gsf of ground floor commercial/retail space (a decrease of about 6,500 gsf compared to the revised project).

In 2009, the project was further revised and consisted of development on an approximately 25,000-sf parcel that was an active, 155-space surface parking lot, located on the west side of Tenth Street, between Mission and Jessie Streets. Under the 2009 revision, the project included approximately 150 units of affordable, family housing space over 3,640 gsf of ground floor commercial/retail space. The project was variable in height, with the portion fronting Jessie Street being five stories, the portion fronting Mission Street being ten stories, and the portion fronting Tenth Street being 15 stories. The building was proposed to be approximately 150 feet tall (up to 15 stories) and would include 18 off-street parking spaces and one loading facility.

5. **Project Description.** The currently proposed Project consists of a development on an approximately 25,000-sf parcel that was previously used as a 155-space surface parking lot, located on the west side of Tenth Street, between Mission and Jessie Streets. The paved parking lot parcel is currently leased to Swinerton Builders for construction staging for the Tenth Street and Market Street project (“Crescent Heights”). No permanent structures exist on the parcel that is being evaluated for the currently proposed.

The Project Sponsor proposes to construct an approximately 150-foot-tall, 15-story, mixed-use building. The Project is variable in height, with the 10<sup>th</sup> Street and corner portions of the building being 15 stories, and the western segment of the building fronting Mission Streets being ten stories.

The Project would be a total of approximately 241,745 gsf in size and consisting of approximately 203,733 gsf of affordable, family housing (190 units), approximately 4,350 gsf of ground floor commercial/retail space, and approximately 38,012 gsf of mechanical/storage/circulation/service areas. A podium courtyard would also be located on the second floor of the proposed Project and approximately 58 of the units would contain private balconies or patios.

Of the 190 total units, 167 of the units serve as the off-site below-market rate units for the 201 Folsom Street project. Pursuant to Ordinance 20-04, all of the units designated as the off-site units for 201 Folsom Street must be completed within 5 years of the start of construction of the 201 Folsom Street project. Of the remaining 23 units, 20 of them are affordable units pursuant to Planning Code Section 124(f) –affordable for 20 years to households whose incomes are within 150 percent of the median income – and three of the units are the corresponding on-site below-market rate units. The dwelling-unit mix would consist of 4 studios, 66 one-bedrooms, 102 two-bedrooms, and 18 three-bedrooms.

There is no FAR available for the project site because it was previously applied to the adjacent “Crescent Heights” development, and as such, all components of the project must be either be excluded from gross floor area, as defined in Planning Code Section 102.9, or be allowed to exceed the “base” floor area through a Conditional Use Authorization. The only floor area proposed in this project that is not excluded from the gross floor area calculations under Planning Code Section 102.9 is the component of the project (20 units) dedicated as affordable housing for households whose incomes are within 150 percent of the median income, pursuant to Planning Code Section 124(f), which is the subject of the Project’s Conditional Use authorization.

The proposed project would include an approximately 8,456 sf at-grade parking garage for up to 42 vehicles and one loading facility. The parking garage would include 20 standard surface spaces, 20 stalls utilizing car lifts, one Americans with Disabilities Act (ADA)-compliant space, and one car-share stall. Access to the parking garage would be from Jessie Street, with internal access to the residential/retail portion of the building from within the garage. Pedestrian access to the project would be from Mission and 10<sup>th</sup> Streets.

6. **Public Comment.** The Department has not received any comments expressing support or opposition to this project.
7. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown General Commercial District is 6.0 to 1. Section 124(f) provides that in C-3-G Districts, additional square footage above the base FAR of 6.0 to 1 may be approved by conditional use for the construction of dwelling units affordable for 20 years to households whose incomes are within 150 percent of the median income, as defined in Section 124(f).

*In the C-3-G District, the maximum floor area ratio (FAR) is 6.0:1. However, under Planning Code Section 124(f), the floor area of affordable housing to be constructed on a project site in a C-3-G District can be approved with Conditional Use Authorization over and above that permitted by the base FAR limits, provided certain requirements are met. Here, there is no existing FAR available for the project site because it was previously applied to the adjacent "Crescent Heights" development.<sup>1</sup> Thus, Conditional Use Authorization is required for all of the floor area dedicated to households whose incomes are within 150 percent of the median income, regardless of the exact amount of FAR proposed. The proposed project requests Conditional Use Authorization for approximately 55,912 sq. ft. of housing pursuant to Planning Code Section 124(f).*

- B. **Rear Yard (Section 134).** Planning Code Section 134 requires that a project's minimum rear yard depth be equal to 25 percent of the total depth of the lot on which the building is situated at all residential levels.

*The proposed project would not meet the Planning Code's minimum rear yard requirement in that the required 25% rear yard at all residential levels is not provided. The Planning Code makes no provision for the proposed courtyard configurations as a method of complying with rear yard requirements. However, Section 134(d) allows for an exception from the strict application of these*

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<sup>1</sup> The Planning Department previously determined that the project site and the adjacent parcel constituted a single development lot for the purposes of calculating FAR, and that FAR could be allocated between the development sites. The project applicant of the Market Street Residential Building acquired the available gross square footage, and the funds are available to the non-profit owners of the project site to support the development of affordable housing. See Planning Commission Motion No. 17414.

*requirements through the Section 309 review process, provided that the building location and configuration assure adequate light and air to all residential units and to the usable open space areas. As such, the project is seeking an exception from the rear yard requirements of Planning Code Section 134.*

- C. Residential Open Space (Section 135).** Under Planning Code Section 135, the standard residential open space requirement is 36 sf per dwelling unit if the open space is private and 47.88 sf per dwelling unit if it is provided through common open space.

*The project includes 190 units, and 58 of those units include private open space (the balconies are a minimum of 36 square feet and the patios are a minimum of 100 square feet), meeting the private open space requirements. The remaining 132 units necessitate a minimum of 6,320 square feet of common open space, which is provided in a commonly-accessible open space on top of the building's podium, which satisfies the requirement of Planning Code Section 135.*

- D. Public Open Space (Section 138).** New buildings in the C-3-G Zoning District must provide public open space at a ratio of one sq. ft. per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building.

*The project includes approximately 4,350 sq. ft. of ground floor retail space, which is excluded from the gross floor area of the building, pursuant to Planning Code Section 102.9(b)(13). As such, there is no public open space requirement. Nonetheless, the Project includes as part of the Streetscape Plan, approximately 94 sf of publically accessible seating and open space, located along the Mission Street frontage, setback from the property line between the building's residential multipurpose room and the proposed retail space. The design of the open space will be further refined throughout the building permit review process.*

- E. Streetscape Improvements (Section 138.1).** Section 138.1(b) requires that when a new building is constructed in the C-3 District, street trees and sidewalk paving must be provided. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

*The project proposes streetscape elements along Mission, 10<sup>th</sup> and Jessie Streets as part of a Streetscape plan. Features include street trees and landscaping within a continuous trench along all street frontages. The 10<sup>th</sup> Street sidewalk will be widened if allowed by the Department of Public Works, and the Mission Street frontage includes publically-accessible bike parking and public open space with seating. The Streetscape Plan will continue to be refined through the Site Permit process, as required by the Conditions of Approval.*

- F. **Exposure (Section 140).** Planning Code Section 140 requires that all dwelling units face directly onto 25 feet of open area (a public street, alley, or side yard) or onto an inner courtyard that is 25 feet in every horizontal dimension for the floor at which the dwelling unit in question is located and the floor immediately above it, with an increase in five feet in every horizontal dimension at each subsequent floor.

*All dwelling-units would comply fully with Section 140, by either facing one of the three abutting streets (Jessie, 10<sup>th</sup>, or Mission Streets) or by facing the outer court that measures a minimum of 25 feet.*

- G. **Street Frontage in Commercial Districts: Active Uses (145.1(c)(3)).** Section 145.1(c)(3) of the Planning Code requires that within Downtown Commercial Districts, space for “active uses” shall be provided within the first 25 feet of building depth on the ground floor. Spaces accessory to residential uses, such as fitness or community rooms, are considered active uses only if they meet the intent of this section and have access directly to the public sidewalk or street. Building systems including mechanical, electrical, and plumbing features may be exempted from this requirement by the Zoning Administrator only in instances where those features are provided in such a fashion as to not negatively impact the quality of the ground floor space.

*The ground floor space along Mission Street and 10<sup>th</sup> Streets have “active uses” with direct access to the sidewalk within the first 25 feet of building depth and are thus compliant with this Code Section. Along Jessie Street, the Project does not include any active space, since the entire frontage is occupied by building systems or ingress for parking/loading. The Zoning Administrator has determined that those building systems do not negatively impact the quality of the ground floor space, since Jessie Street is not a through Street the other two building frontages are well designed and include more than the requisite amount of active uses.*

- H. **Street Frontage in Commercial Districts: Ground Floor Transparency (Section 145.1(c)(6)).** Section 145.1(c)(6) of the Planning Code requires that within Downtown Commercial Districts, frontages with active uses that are not residential or PDR must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

*The Project has two street frontages with Active Uses: 10<sup>th</sup> Street and Mission Street. The 10<sup>th</sup> Street frontage measures 160'-3" and proposes approximately 96 feet or 60 percent of transparent frontage. The Mission Street frontage measures 153'-6" and proposes approximately 150'-0" or 97% glazing. The Jessie Street frontage contains no active uses and is thus not required to meet the transparency requirements.*

- I. **Shadows on Public Sidewalks (Section 146).** Section 146(a) establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings, not located on the specific streets identified in Section

146(a), shall be shaped to reduce substantial shadow impacts on public sidewalks, if it can be done without unduly creating an unattractive design and without unduly restricting development potential.

*Section 146(a) does not apply to construction on 10<sup>th</sup> Street, Mission Street, or Jessie Street, and therefore does not apply to the Project.*

*As it relates to Section 146(c), the project would replace a vacant parcel with a 10-to-15-story structure. Although there would be new shadows on sidewalks and pedestrian areas adjacent to the site, the project's shadow effects would be limited in scope and would not increase the total amount of shading above levels that are commonly and generally accepted in urban areas. The Project is proposed at a height that is zoned for the property (and significantly shorter than a portion of the zoned height) and cannot be further shaped to reduce substantial shadow impacts on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project will not create substantial shadow impacts to public sidewalks.*

- J. **Shadows on Public Open Spaces (Section 147).** Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible open spaces other than those protected under Section 295. Consistent with the dictates of good design and without unduly restricting development potential, buildings taller than 50 feet should be shaped to reduce substantial shadow impacts on open spaces subject to Section 147. In determining whether a shadow is substantial, the following factors shall be taken into account: the area shaded, the shadow's duration, and the importance of sunlight to the area in question.

*A shadow analysis determined that the Project would not cast net new shadow on Civic Center Plaza or any other open space under the jurisdiction of, or designated to be acquired by the Recreation and Park Commission. No other significant public or private open spaces – including those not protected by Section 295 – would be affected by shadows from the Project.*

- K. **Ground Level Wind (Section 148).** Pursuant to Section 148, in C-3 Districts, buildings and additions to existing buildings shall be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed more than 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 miles per hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing

requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

*The existing wind environment near the project site is relatively windy, with the highest pedestrian level winds near the intersection of Market/10th Street/Polk Street, primarily attributable to the Fox Plaza building. According to the project's 2004 Final EIR, the 11 mph pedestrian comfort level is exceeded at all test points, with the average wind velocity of 16 mph and the wind speed exceeding the 11 mph comfort level an average 27% of the time (Final EIR, p. 136). With construction of the project, along with completion of the under-construction Crescent Heights project at 10th and Market Street (also analyzed in the 2004 Final EIR), the average wind speed will remain at 16 mph and the project will not cause any significant increase in pedestrian level wind speeds. The 2012 Addendum to the Final EIR confirmed that the currently proposed project will not cause any increase in average pedestrian level wind speeds (2012 FEIR Addendum, p. 36). Nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria, a Section 309 exception is requested, as discussed in Section 8 below.*

*The 2004 EIR states that under existing conditions, 16 of the 24 test point locations meet the Planning Code's wind hazard criterion of 26 mph, while eight test point locations exceed it. The original 2004 project would eliminate two of the pre-existing eight locations of wind hazard exceedances and reduce the total duration of exceedances by 25 hours per year, from 482 hours per year to 457 hours per year*

*For the 2007 Addendum, which included the 15-story Mission Street Affordable Housing component, an updated wind-tunnel study was prepared. The analysis showed that there is little difference between wind patterns predicted for the original project analyzed in the 2004 EIR and the project covered in the 2007 Addendum. Though there would continue to be exceedances, the design of the project under the 2007 Addendum would not worsen wind conditions at the project area study locations, as compared to the design of the original 2004 project, or as compared to wind conditions under the existing setting. Therefore, as the 2004 EIR concluded that the original project would not increase the occurrence of hazardous winds and would not have a significant adverse impact on wind conditions, the 2007 Addendum concluded that the revised project would also not have a significant adverse impact on hazardous wind conditions.*

*A technical memorandum was completed for the 2009 Addendum that evaluated how the then revised project could change pedestrian winds and project wind impacts in relation to designs previously tested in the wind tunnel. In the technical memorandum, it is noted that various*

*previous studies in the study area included a 15-story building at the project site within their cumulative analysis, and indicated improvement in conditions at the project site compared to existing conditions. In addition, given the project site's downwind location from the Tenth and Market Streets intersection (an area known for extreme winds), the revised 2009 project would have no effect on this intersection and would not further exacerbate this problem. The memorandum concludes that the revised 2009 project "does not have the potential to cause significant changes to the wind environment in pedestrian areas adjacent or near the site" when compared to the original 2004 project and the revised 2007 project. Therefore, the 2009 Addendum concluded that the revised project would not have a significant adverse impact on hazardous wind conditions, similar to the original 2004 project and the revised project covered in the 2007 Addendum.*

*In March 2012, a technical memorandum was prepared for the currently proposed project based on a site visit, review of project plans and elevations, and consideration of previous wind tunnel tests for proposed development on the project site and other nearby sites. The technical memorandum states that given the currently proposed project's downwind location with respect to the Tenth and Market Streets intersection and the multiple wind tunnel tests conducted for development on the project site that shows that development at Tenth and Mission Streets would have no effect on wind conditions at the Tenth and Market Streets intersection, the currently proposed project would not exacerbate the problematic winds at that location. The memorandum concludes that based on consideration of the exposure, massing, and orientation of the currently proposed project, this project does not have the potential to cause significant changes to the wind environment in pedestrian areas adjacent to or near the project site. Furthermore, the currently proposed project would not affect winds at the known wind problem area near the Tenth and Market Streets intersection. Therefore, the currently proposed project would not have a significant adverse impact on hazardous wind conditions, similar to the original 2004 project, the 2007 Addendum, and the 2009 Addendum.*

- L. **Parking (Section 151.1).** Planning Code Section 151.1 does not require off-street parking for the project, but it allows .25 spaces per dwelling-unit as-of-right, and up to 7% of the gross floor area for non-residential uses.

*The project proposes 40 off-street parking spaces, plus one accessible van space and one car share parking space, per Section 151.1(d). The residential parking is at a ratio of .21 and thus complies with the principally permitted parking allowed in the C-3-G District. The project does not include any off-street parking for the ground floor retail uses.*

- M. **Car Share (Section 166).** Planning Code Section 166 requires one car-share space when a residential project includes between 50 and 200 residential units.

*The project provides one off-street car share parking space within the garage accessed from Jessie Street.*

- N. **Loading (Section 152.1).** Section 152.1 establishes minimum requirements for off-street loading. In C-3 Districts, the loading requirement is based on the total gross floor area of the structure or use. Residential uses exceeding 200,000 square feet are required to provide two off-street loading spaces. Retail uses less than 10,000 square feet are not required to provide any loading spaces. Two service-vehicle spaces may be provided in place of one full-sized loading space.

*With a floor area of approximately 203,733 square feet, the residential component of the Project is required to provide two off-street loading spaces. No off-street loading is required for the approximately 4,350-square-foot retail/personal service space. The Project is only providing one compliant loading space, and thus requires an exception pursuant to Section 309.*

- O. **Bicycle Parking (Section 155.5).** Planning Code Section 155.5 requires projects over 50 dwelling units to provide at least 25 Class 1 bicycle parking spaces plus one space for every four dwelling units over 50.

*The project requires a minimum of 60 Class 1 bicycle parking spaces. The proposed multipurpose room would accommodate approximately 38 Class 1 bicycle parking spaces, and the ground floor storage units would provide an additional 28 Class 1 bicycle parking spaces, for a project total of 66 spaces.*

- P. **Density (Section 215).** Planning Code Section 215(a) permits up to 197 dwelling units (a ratio of 1 unit per 125 sf of lot area) and allows a density greater than that through a Conditional Use Authorization.

*The proposed residential density of 190 dwelling units would be within the permitted density for the C-3-G Zoning District, which allows up to 197 units.*

*The project also satisfies the off-site below-market-rate units for a previously approved project at 201 Folsom Street (Ordinance No. 20-04; Motion No. 16647). The rezoning ordinance for 201 Folsom Street specified that in exchange for increased heights, the project would be subject to a heightened inclusionary requirement of 25% off-site or 17.5% on-site. If an off-site project is sought, it would be required to match the dwelling-unit mix of the 201 Folsom Street project.*

*The project meets both the 25% off-site inclusionary requirement, as well as the dwelling-unit mix. The project at 201 Folsom Street includes 668 dwelling-units, which necessitates 167 off-site inclusionary units (25%). The Project includes 167 designated "off-site" units that meet the inclusionary obligations for the project at 201 Folsom Street. The project also includes a comparable mix of units, consistent with the mix of 201 Folsom Street (57 1-bedrooms, 92 2-bedrooms, and 18 3-bedrooms dedicated to the off-site portion of the project).*

*The remaining units within the project are comprised of 20 units that are maintained as affordable for at least 20 years to households whose incomes are within 150 percent of the median income,*

*pursuant to Planning Code Section 124(f), and three on-site Below Market Rate units to satisfy Planning Code Section 415.*

- Q. **Use (Sections 215(a), 218(b)).** The project site is located in a Downtown General (C-3-G) District wherein residential and commercial uses are permitted. Areas in the City identified as Downtown General include a variety of different uses, such as retail, offices, hotels, entertainment, clubs and institutions, and high-density residential. Many of these uses have a Citywide or regional function, although the intensity of development is lower here than in the downtown core area.

*The residential and retail uses of the proposed project at the density proposed would be consistent with the permitted Downtown General uses, pursuant to Planning Code Sections 215(a) and 218(b).*

- R. **Height (Section 260).** The property is located in a split 150-S/200-S Height and Bulk District, thus permitting structures up to a height of 150 and 200 feet, respectively.

*The Project would reach a height of approximately 147'-0", conforming in it's entirety to the lesser of the property's two Height Districts. The building includes various features, such as elevator/stair penthouses, mechanical structures, and wind screens, that extend above the 150-foot height limit in accordance with Planning Code Section 260(b): features excluded from the height limit. The proposed project would therefore comply with the Planning Code's 150-foot Height and Bulk District.*

- S. **Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project will result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department.

*The Department conducted a shadow analysis and determined that the Project would not shade any properties under the jurisdiction of, or designated for acquisition by, the Recreation and Park Department.*

- T. **Bulk (Section 270).** The project falls under the "S" bulk designation, as defined in Planning Code Section 272.

*The "S" bulk designation includes no bulk limitations for the base of the building (which is the lowest portion of the building extending vertically to a street wall height up to 1.25 times the width of the widest abutting street or 50 feet, whichever is more), but is required to be delineated from the tower and related to abutting buildings by a setback, cornice line or equivalent projection or other appropriate means. For the lower tower, which is the portion of the building above the base and up to 160 feet, the bulk controls are a maximum length of 160 feet, a maximum floor size of 20,000 square feet, and a maximum diagonal dimension of 190 feet.*

*For the portion of the building above the base (above 103 feet), the maximum length would be 160 feet, the maximum diagonal dimension would be approximately 171 feet, and the maximum floor area would be 11,085 gsf. As designed, the project complies with the "S" bulk controls.*

- U. **Inclusionary Affordable Housing Program.** 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 (EE or BPA) was applied for on or after July 18, 2006. The Inclusionary Affordable Housing Program requirements were modified through a recent Charter Amendment, known as "Proposition C", which among other changes reduced the percentage of On-site Inclusionary Affordable Housing requirements from providing 15% of the proposed dwelling units as affordable to 12%, which is a twenty percent reduction. The Project is meeting the Inclusionary Affordable Housing Program requirement through the On-site Inclusionary Affordable Housing Alternative by providing 12% of the proposed dwelling units as affordable.

*The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an '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. The Project Sponsor submitted such Affidavit on December 18, 2012. The EE application was originally submitted on March 10, 2003. Three dwelling-units (2 one-bedroom, and 1 two-bedroom) of the 23 units provided will be Below Market Rate affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.*

- V. **Affordable Housing (Section 415).** Planning Code Section 415 requires residential projects to provide affordable housing. The affordable housing requirements were modified through a recent Charter Amendment, known as "Proposition C", which among other changes reduced the percentage of on-site affordable housing requirements to 12%, which is a twenty percent reduction from the previous 15% requirement.

*The proposed project includes 167 units that satisfy the off-site affordable housing requirements of the project at 201 Folsom Street (Motion No. 16647), and includes 23 remaining units (for a project total of 190 units) that are affordable under Planning Code Section 124(f) (up to 150% of median income). These remaining 23 units require compliance with Planning Code Section 415. The project proposes three (3) on-site for-sale Below Market Rate units to satisfy the 12% affordable housing requirement.*

- W. **Street Trees (Sections 138.1 and 428).** Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties.

*The Project includes a total of approximately 428 feet of street frontage, along the 10<sup>th</sup>, Mission, and Jessie Street frontages, which means that 21 street trees are required. Conditions of approval have to be added to require the project to plant 21 street trees as part of the project's streetscape plan, along the Tenth, Mission, and Jessie Street frontages, unless DPW cannot grant approval for installation of any of the required trees on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare. In any such case, the requirements of Section 138.1 may be modified or waived by the Zoning Administrator.*

- X. **Public Art (Section 429).** In the case of construction of a new building or addition of floor area in excess of 25,000 sf to an existing building in a C-3 District, Section 429 requires a project to include works of art costing an amount equal to one percent of the construction cost of the building.

*The Project would comply by dedicating one percent of construction cost to works of art, as required through the Conditions of Approval. The conceptual plans for the Project show artwork located within the building's multipurpose room, which is visible from the Mission Street frontage, and along the 10<sup>th</sup> Street retail frontage. The public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.*

8. **Exceptions Request Pursuant to Planning Code Section 309.** The Planning Commission has considered the following exceptions to the Planning Code, makes the following findings and grants each exception as further described below:

- A. **Section 134: Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at the first level containing a dwelling unit, and at every subsequent level. Per Section 134(d), exceptions to the rear yard requirements may be granted provided that the building location and configuration assure adequate light and air to the residential units and the open space provided.

*The proposed project would not meet the Planning Code's minimum rear yard requirement in that the 25% rear yard does not span the full width of the lot. Although a rear yard is provided in a courtyard fashion, the building volume holds the street wall on the entirety of the Mission Street façade and a portion of the Jessie Street façade, thereby not allowing for a rear yard that spans the full width of the lot. All dwelling units face onto either this "modified" rear yard courtyard, or onto 10<sup>th</sup>, Mission, or Jessie Streets; therefore, ample separation for light and air is provided for the*

*residential units within the Project. Therefore, it is appropriate to grant an exception from the rear yard requirements of Planning Code Section 134.*

- B. **Section 152.1: Loading.** Section 152.1 of the Planning Code requires two off-street loading spaces as part of the proposed project. Under the provisions of Planning Code Sections 309 and 161(i), the Commission may authorize an exception from the required off-street freight loading or service vehicle spaces if it is found to be undesirable or impractical, and meet the criteria of Planning Code Section 161(i).

*Planning Code Section 152.1 requires in C-3 districts one (1) freight loading space for a building with from 100,001-200,000 gross square feet of residential space; and two (2) freight loading spaces for a building with from 200,001 to 500,000 gross square feet of residential space. The project contains 203,733 gross square feet of residential spaces, including units, circulation, resident storage and residential amenity space. Excluding the resident storage and amenity space, the building contains less than 200,000 gross square feet of residential space.*

*One off-street freight loading space is proposed, with access from Jessie Street through a joint parking/loading entrance. One loading space is compliant if the floor area of the units and circulation space is considered; however, if all residential space is counted (including resident storage and amenity space), two spaces are required and a Section 309 exception is required.*

*The requested exception is warranted for the following reasons:*

- 1. The gross residential space exceeds the 200,000 square foot threshold for a second loading space by less than 2%.*
- 2. To provide two off-street loading spaces would require the joint parking/loading entrance on Jessie Street to be significantly widened, reducing the urban design amenities of that street.*
- 3. One loading space is adequate to meet project demand. The 2004 EIR determined the average loading space demand is 0.44 space per hour and the peak demand is 0.55 space per hour, well below the one loading space proposed. (See Final EIR, p. 110).*
- 4. The project units will be a condominium development, such that move-in/move-out activity will be less frequent than in a rental development.*
- 5. There is adequate curb space along 10th and Mission Streets should a need arise in the future for designation of an additional on-street loading space.*

*Based on these findings, it is appropriate to grant an exception from the off-street loading requirements of Planning Code Section 152.1.*

- C. **Section 148: Ground-Level Wind Currents.** In C-3 Districts, buildings and additions to existing buildings shall be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed more than 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11

miles per hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

Section 309(a)(2) permits exceptions from the Section 148 ground-level wind current requirements. No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

#### Comfort Criterion

*The existing wind environment near the project site is relatively windy, with the highest pedestrian level winds near the intersection of Market/10th Street/Polk Street, primarily attributable to the Fox Plaza building. According to the project's 2004 Final EIR, the 11 mph pedestrian comfort level is exceeded at all test points, with the average wind velocity of 16 mph and the wind speed exceeding the 11 mph comfort level an average 27% of the time (Final EIR, p. 136). With construction of the project, along with completion the under-construction Crescent Heights project at 10th and Market Street (also analyzed in the 2004 Final EIR), the average wind speed will remain at 16 mph and the project will not cause any significant increase in pedestrian level wind speeds. The 2012 Addendum to the Final EIR confirmed that the currently proposed project will not cause any increase in average pedestrian level wind speeds (2012 FEIR Addendum, p. 36).*

*Nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria, a Section 309 exception is requested. An exception is warranted because the project will not add to the amount of time that the comfort level is exceeded. In addition, because the current exceedances are primarily attributable to the existing Fox Plaza building, the project cannot be shaped and other wind-baffling measures cannot be adopted to meet the comfort criteria without creating an unattractive and ungainly building form and without unduly restricting the development potential of the project site.*

9. **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 proposed mixed-use project responds to the need for new affordable housing by creating 190 units.*

*The project is located within a neighborhood rich with public transportation and the people occupying the building are expected to rely heavily on public transit, bicycling, or walking for the majority of their daily trips. The project includes bicycle parking for 66 bicycles within the building's multipurpose room, which will include a bicycle workshop and toolkits to further foster the use of bicycling. Within a few blocks of the project site, there is an abundance of local and regional transit lines, including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally such transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain.*

#### **OBJECTIVE 4:**

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

#### **Policy 4.5:**

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

*The proposed project would provide for-sale housing for low and moderate income households. 170 of the units would be Below Market Rate Units retained as such for the life of the project, sold to first time home buyer households, whose gross annual income, adjusted for household size, would not exceed an average of 90 percent of Area Median Income. The remaining 20 units would be retained as affordable units for 20 years to households whose incomes are within 150 percent of the Area Median Income. The building*

*includes a mix of unit sizes, further adding to the diversity of unit types provided at a range of income levels.*

**OBJECTIVE 11:**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.1:**

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

**Policy 11.6:**

Foster a sense of community through architectural design, using features that promote community interaction.

*The proposed project is well design and compatible with the scale and proportions of buildings in the area, and will be built of high quality materials. The design is compatible with design elements in the neighborhood and would add to the image and mixed-use orientation of the downtown district. The design of the building incorporates contemporary design and detailing that responds appropriately to the variety of heights, scales, styles and periods found in the area. The design and proportions feature clean lines with appropriately scaled massing coupled with quality materials and fixtures that will add to the evolving rich and varied pedestrian experience in this neighborhood.*

**OBJECTIVE 12:**

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

**Policy 12.1:**

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

**Policy 12.1:**

Ensure new housing is sustainably supported by the City's public infrastructure systems.

*The project is located within a neighborhood rich with public transportation and infrastructure, and the people occupying the building are expected to rely heavily on public transit, bicycling, or walking for the majority of their daily trips.*

*Within a few blocks, the project site is served by local and regional transit lines including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally such transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain. The project includes spaces for 66 bicycles in a secure location within the building's multipurpose room, which will include a bicycle workshop and toolkits to further foster the use of bicycling.*

**OBJECTIVE 13:**

PRIORITIZE SUSTAINABLE DEVELOPMENT IN PLANNING FOR AND CONSTRUCTING NEW HOUSING.

**Policy 13.1:**

Support “smart” regional growth that locates new housing close to jobs and transit.

**Policy 13.3:**

Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

*The proposed project would be sustainably designed in that it would support smart growth by locating new affordable housing close to jobs and transit. Within a few blocks, the project site is served by local and regional transit lines including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally such transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain. The project includes bicycle parking for 66 bicycles within the building’s multipurpose room, which will include a bicycle workshop and toolkits to further foster the use of bicycling.*

**COMMERCE AND INDUSTRY ELEMENT**

**Objectives and Policies**

**OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

**Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

**Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed project would add approximately 4,350 sf of new commercial space that is intended to serve residents in the building and likely draw a wider range of new neighborhood-serving retail businesses than it does today. Retail is encouraged and principally permitted on the ground floor of buildings in the Downtown General District, and is thus consistent with activities in the commercial land use plan.*

## DOWNTOWN AREA PLAN

### Objectives and Policies

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### **Policy 1.1:**

Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

*The proposed project will bring additional housing with minimal off-street parking and an abundance of bicycle parking into a neighborhood that is well served by public transit on the outskirts of Downtown. The project will create substantial net benefits for the City without any undesirable consequences that cannot be mitigated.*

#### **OBJECTIVE 7:**

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

#### **Policy 7.1:**

Promote the inclusion of housing in downtown commercial developments.

#### **Policy 7.2:**

Facilitate conversion of underused industrial and commercial areas to residential use.

*The proposed project would construct a fifteen-story, 190-unit residential building, intended for use as affordable housing, thereby increasing the City's limited supply of affordable housing.*

*The proposed project also includes approximately 4,660 sf of ground floor commercial space, which will provide services to the immediate neighborhood. Unlike the existing undeveloped lot, this new commercial space will create pedestrian-oriented, active uses along Mission and 10<sup>th</sup> Streets.*

#### **OBJECTIVE 9:**

PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

#### **Policy 9.1:**

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

#### **Policy 9.2:**

Provide different kinds of open space downtown.

**Policy 9.2:**

Provide a variety of seating arrangements in open spaces throughout downtown.

*The proposed project would include street trees, landscaping, and other streetscape elements along Mission, 10<sup>th</sup>, and Jessie Streets as part of a streetscape plan. Features include a widened sidewalk along 10<sup>th</sup> Street and publically-accessible open space and bike parking and along Mission Street. The public open space would be designed to include an intimate seating area, appropriated for the size and location of the public open space. The open spaces within the project – specifically the multipurpose room on the ground floor of the building and the podium-level open space for tenants of the building – would be designed to be inviting to building residents.*

**URBAN DESIGN ELEMENT**

**Objectives and Policies**

**OBJECTIVE 3:**

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

**Policy 3.2:**

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

**Policy 3.5:**

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

**Policy 3.6:**

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

*The Project would result in a visual change to the project site and its surroundings because it would entail construction of a 10-to-15-story, 103-to-150-foot-tall building on a site that was previously surface parking and that is currently functioning as staging for the adjacent parcel's development. The immediate context has a mixture of buildings, with taller buildings to the north of Mission Street with lower-scale commercial buildings primarily south of Mission Street. The area includes a 12-story primarily residential building across 10<sup>th</sup> Street to the east Street (10th and Mission Family Housing), a 35-story tall building adjacent to the subject property that is under construction on 10<sup>th</sup> between Jessie and Market Street (Crescent Heights), and the adjacent 7-story tall building to the west along 11<sup>th</sup> Street between Mission and Market Streets (Bank of America Data Center). The surrounding skyline to the north, northwest, and northeast of the project site features additional buildings that are of a similar height or taller than the proposed project. Although the proposed building would be taller than several buildings in the immediate vicinity, the Project's proposed height is consistent with the requirements of the 150/200 Height District and with similar sized buildings in the area, and meets the "S" Bulk Limits.*

**OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENTAL TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

**Policy 4.4:**

Design walkways and parking facilities to minimize danger to pedestrians.

**Policy 4.11:**

Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

**Policy 4.12:**

Install, promote and maintain landscaping in public and private areas.

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*The Project will include streetscape improvements along its three street frontages, including the installation of new street trees, new landscaping, a widened sidewalk along 10<sup>th</sup> Street, new publically accessible bicycle racks along Mission Street, and a small public seating area at along the Mission Street frontage. These improvements will provide much needed streetscape improvements that will help to improve pedestrian safety through a landscaped buffer from the busy 10<sup>th</sup> and Mission Street corridors, and will help to promote a human scale and interest in an area that lacks public open space.*

10. **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 proposed project would not displace existing neighborhood-serving retail uses because no retail uses currently exist at the project site. The proposed project would enhance neighborhood-serving retail uses by providing approximately 4,660 square feet of neighborhood-serving retail space.*

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

*The proposed project would not remove any existing housing, and would create 190 new dwelling units. The project site is located within a dense, urban-infill neighborhood on Mission Street between 10<sup>th</sup> and 11<sup>th</sup> Streets and within a C-3-G Downtown General Commercial District. Existing properties within the vicinity of the project site include high-density residential, retail, office and light industrial uses of varying intensities. The proposed project would enhance the character of the neighborhood by*

*replacing a surface parking lot on the site with affordable housing. The design is compatible with design elements in the neighborhood and would add to the image and mixed-use orientation for the downtown district. The design of the building in incorporates contemporary design and detailing that responds appropriately to the variety of heights, scales, styles and periods found in this C-3-G District. The building design and proportions feature clean lines and appropriately scaled massing coupled with quality materials and fixtures that will add to the evolving rich and varied pedestrian experience in this neighborhood. The project would add to the economic diversity of the area by providing approximately 4,660 square feet of ground-floor retail space and approximately 190 new affordable housing units, with a mixed-income, economically diverse residential tenant population.*

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

*There is currently no housing on the site, so no affordable housing will be lost as part of this project. The proposed project would, however, significantly enhance the City's supply of affordable housing serving moderate income households. The proposed project would be an affordable housing development (with ground-floor retail space) which would provide approximately 190 affordable dwelling-units in a combination of studios, one-bedroom, two-bedroom and three-bedroom units. 170 of the units would be Below Market Rate Units retained as such for the life of the project, sold to first time home buyer households, whose gross annual income, adjusted for household size, would not exceed an average of 90 percent of Area Median Income. The remaining 20 units would be retained as affordable units for 20 years to households whose incomes are within 150 percent of the Area Median Income.*

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

*Commuter traffic would be extremely limited, consisting primarily of support staff and retail space employees. It is expected that the 42 proposed off-street parking spaces would be more than sufficient to satisfy the number of tenants expected to have private automobiles. The project site, located within one block of Market Street and about three blocks from the Civic Center BART and MUNI station, is very well-served by public transportation. In addition, the project will include one car-share parking space and 66 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.

*No industrial or service sector business would be displaced by the proposed project, and there is no commercial office space in the development. The project includes only residential dwelling units and neighborhood-serving retail. Many of the building's new residents will support the existing industrial or service sector businesses in the neighborhood, prompting the creation of more employment opportunities.*

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

*The proposed project would be constructed to meet all of the most current and rigorous seismic and life-safety requirements of the San Francisco Building Code. This proposal will not adversely affect the property's ability to withstand an earthquake; rather, it will result in the production of seismically safe affordable housing.*

- G. That landmarks and historic buildings be preserved.

*No landmarks or historic buildings would be demolished, and the property is not part of a historic or conservation district.*

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

*The project will have no negative impact on existing parks and open spaces. Existing public parks and open space areas in the project vicinity include the Civic Center Plaza, the United Nations Plaza, the South of Market Recreation Center and Victoria Manalo Draves Park, which are all at least .2 miles away. The project would not shade any of these parks.*

11. 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.
12. The Commission hereby finds that approval of the Determination of Compliance with exceptions 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 a Determination of Compliance with Exceptions under Section 309, Application No. 2011.1043CEKUX**, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 18783, in general conformance with plans on file, dated December 14, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

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

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 17, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Fong, Antonini, Borden, Hillis, Moore, Sugaya, Wu

NAYS: None

ABSENT: None

ADOPTED: January 17, 2013

## EXHIBIT A

### AUTHORIZATION

1. This authorization is for the granting of certain exceptions pursuant to Section 309 to allow the construction of a new, 10-to-15-story, approximately 150-foot tall building containing approximately 203,733 gsf of residential space and up to 190 affordable dwelling-units, and approximately 4,660 gsf of commercial space, with exceptions to Ground-Level Wind Currents in C-3 Districts (Section 148), Off-Street Loading (Section 152.1), and Rear Yard Requirements (Section 134), located at 1400 Mission Street, Block 3507, and Lot 042 within the C-3-G District and 150-S/200-S Height and Bulk District; in general conformance with plans, dated December 14, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.1043CEKUX and subject to conditions of approval reviewed and approved by the Commission on **January 17, 2013**, under Motion No. 18783. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

2. Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **January 17, 2013**, under Motion No. 18783.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

3. The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18783 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 Planning Code Section 309 Determination of Compliance and any subsequent amendments or modifications.

### SEVERABILITY

4. 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

5. 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 Planning Code Section 309 Determination of Compliance.

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

### PERFORMANCE

- 6. 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 Determination of Compliance 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)*

- 7. 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).*

- 8. Additional Project Authorization.** The Project Sponsor must obtain a Conditional Use Authorization, pursuant to Planning Code Sections 124(f) and 303, to allow a Floor Area Ratio (FAR) over the base permitted for affordable housing. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

- 9. 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 – COMPLIANCE AT PLAN STAGE

- 10. Affordable Units**

- a. **Number of Required Units.** The Project includes two components: 1) 167 off-site affordable units required as part of 201 Folsom Street; Block: 3746, Lot: 003 (Motion No. 16647); and 2) 23 other units that are comprised of 20 units that meet the 150% affordability requirement of Planning Code Section 124(f) and three related on-site affordable units.

Pursuant to the Ordinance 20-04, the off-site inclusionary affordable housing requirement for 201 Folsom Street (Motion No. 16647) is 25% of the proposed number of dwelling units, which shall be built as affordable dwelling units available to qualifying households. The 201 Folsom Street project contains 668 units; therefore, to satisfy the off-site inclusionary affordable housing requirements for that project, 167 affordable units are required to be built as part of this project. If the number of market-rate units change in the 201 Folsom Street Project, 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").

Pursuant to San Francisco Charter Section 16.110(g) for the remaining 23 units proposed as part of this Project, 12% of the proposed dwelling units are required to be provided as affordable to qualifying households. The Project contains 23 units not already designated as part of the off-site requirement for 201 Folsom Street; therefore, 3 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 3 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).*

- b. **Unit Mix.** The 201 Folsom Street Project contains 227 one-bedroom, 368 two-bedroom, and 73 three-bedroom units; therefore, the required affordable unit mix for the portion of the project that satisfies the off-site inclusionary affordable housing requirements for 201 Folsom Street is 57 one-bedroom, 92 two-bedroom, and 18 three-bedroom units. If the market-rate unit mix changes in the 201 Folsom Street project, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

The remaining portion of this Project contains 4 studios, 7 one-bedroom, and 9 two-bedroom; therefore, the required affordable unit mix is 2 one-bedroom, and 1 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).*

- c. **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).*

- d. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than eighty-eight (88%) percent of the each phase's total number of dwelling units as the off-site affordable units for 201 Folsom Street, and one and one-half percent (1.5%) of the each phase's total number of dwelling units as the on-site affordable units for the remaining scope of the project. Pursuant to Ordinance 20-04, all of the units designated as off-site units for 201 Folsom Street must be completed within 5 years of the start of construction of the 201 Folsom Street 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).*

- e. **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).*

- f. **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).*

- i. 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.

- ii. If the 170 Below Market Rate 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. The remaining 20 units would be retained as affordable units for 20 years to households whose incomes are within 150 percent of the Area Median Income, pursuant to Planning Code Section 124(f).
- iii. 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.
- iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- v. 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.
- vi. 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.

- vii. 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.
  - viii. 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.
11. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, ground floor, open spaces 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.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*
12. **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)*
13. **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. 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).*
14. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.

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

15. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

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

16. **Street Trees.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating a total of twenty-one (21) street trees. The installed 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 any additional trees 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 Section 138.1 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)*

## **PARKING AND TRAFFIC**

17. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. 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)*

18. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 48 off-street parking spaces for the residential units (.25 spaces per unit), and no more than 326 gsf of off-street parking for the retail use (7% of the retail gross square-footage).

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

19. **Usable Open Space.** A final plan showing location and area of common usable open space shall be submitted for review by, and shall be satisfactory to, the Zoning Administrator. The Project shall include the common usable open space and private usable open space patios and balconies generally as described in this Motion, as shown in Exhibit B.

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

20. **Car Share Parking.** Pursuant to Planning Code Section 166, one off-street car-share parking space is required.

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

21. **Bicycle Parking.** Although the Project proposes 66 Class 1 bicycle parking spaces, no fewer than 60 Class 1 bicycle parking spaces shall be provided as required by Planning Code Section 155.5.

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

## **PROVISIONS**

22. **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)*

23. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

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

24. **Art - C-3 District.** Pursuant to Planning Code Section 429 (formerly 149), the Project shall include work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.

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

25. **Art Plaques - C-3 District.** Pursuant to Planning Code Section 429(b) (formerly 149(b)) the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.

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

26. **Art - C-3 District.** Pursuant to Planning Code Section 429 (formerly 149), the Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application

*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**

27. **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)*

28. **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**

29. **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>*

30. **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>*

31. **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)*

32. **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)*