



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. 18788 Section 309

HEARING DATE: JANUARY 24, 2013

Date: January 10, 2013
Case No.: **2011.0312 CEKVX!**
Project Address: **1321 MISSION STREET (AKA 104 – 9TH STREET)**
Zoning: C-3-S (Downtown Support)
 120-F Height and Bulk District
Block/Lot: 3509/043
Project Sponsor: Cara Houser
 Panoramic Interests
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 Berkeley, CA 94704
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS UNDER PLANNING CODE SECTION 148, REAR YARD UNDER PLANNING CODE SECTION 134(d), AND BULK UNDER PLANNING CODE SECTIONS 270 AND 272, TO DEMOLISH THE EXISTING ONE-STORY COMMERCIAL BUILDING AND CONSTRUCT AN 11-STORY-OVER-BASEMENT, APPROXIMATELY 120-FOOT TALL BUILDING WITH UP TO 160 DWELLING UNITS WITH APPROXIMATELY 3,359 GSF OF GROUND FLOOR COMMERCIAL SPACE, AT 1321 MISSION STREET (AKA 104 – 9TH STREET) WITHIN THE C-3-S (DOWNTOWN SUPPORT) DISTRICT AND THE 120-F HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On July 08, 2011, Cara Houser on behalf of Panoramic Interests (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Environmental Review, to allow the demolition of an existing one-story commercial building with a partial basement, and the construction of a new, 11-story-over-basement, approximately 120-foot tall building containing approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units (including 120 efficiency dwelling units with reduced square footage, aka "micro units"), and approximately 3,359 gsf of commercial space.

On September 29, 2011, the Project Sponsor filed an application with the Department for a Determination of Compliance with Planning Code Section 309, with exceptions to the requirements for Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148), Bulk Limits (Section 270), and Rear Yard Requirements (Section 134) within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District.

On November 08, 2011, the Project Sponsor filed a Shadow Study Application with the Department for compliance with Planning Code Section 295. It was determined on November 8, 2011 that the Project would not cast additional shadows on any property under the jurisdiction of, or designated to be acquired by the Recreation and Parks Department.

On June 26, 2012, the Project Sponsor filed an application with the Zoning Administrator under Planning Code Sections 136, 140, and 145.1, to allow bay windows, architectural projections, and cornices that exceed the maximum dimensions allowed for projections over the sidewalk, to allow 30 units to face onto an inner court that does not comply with the dwelling-unit exposure requirements, and to allow some of the ground-floor common space facing Washburn Street to not provide direct access to the street and provide less fenestration transparency than required within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District.

On November 21, 2012, the Project Sponsor also filed an application with the Department for a Conditional Use Authorization under Planning Code Sections 124(f), 124(k), 215(b), and 303, to allow additional square footage above that permitted by the base FAR limit for Student Housing as defined in Section 102.36 and for on-site units affordable to households earning less than 150 percent of median income; and to exceed the principally permitted density of 74 units by an additional 84 units within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District.

On December 13, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Determination of Compliance No. 2011.0312CEKVX!

On November 21, 2012, the Preliminary Mitigated Negative Declaration (PMND) for the Project was prepared and published for public review; and

The PMND was available for public comment and appeal until December 11, 2012; and

On January 04, 2013, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

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

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2011.0312CEKVX!, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

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 with exceptions requested in Application No. 2011.0312CEKVX!, 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 south side of Mission Street between 9th and Washburn Streets; Lot 043 in Assessor's Block 3509. The Project site is on an approximately 9,208-square-foot (sf) lot, spanning from the southwest corner of Mission and 9th Streets to the east corner of Mission and Washburn Streets. The site is on the block bounded by Washburn Street to the west, Mission Street to the north, 9th Street to the east, and Howard Street to the south. It is located in the South of Market neighborhood within the Downtown Area Plan and the Downtown Support (C-3-S) Zoning District and a 120-F Height and Bulk District. The site is currently improved with a 12,860 sf one-story building with a partial basement. The existing building covers the entire area of the lot and was built circa 1926. The building had been vacant

prior to acquisition for development by the Project sponsor, and is currently occupied by a furniture store.

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-S (Downtown Support) Zoning District, and in the 120-F Height and Bulk Districts. The Project site is adjacent to the Western South of Market Area Plan.

The area on Mission Street north of the Project site is designated C-3-G and is developed with a mix of commercial and residential uses. Commercial uses in the area include a café (98 9th Street), a variety of music, dance, and art studios (1310, 1360, 1385 Mission Street, 116 9th Street), a market and deli (99 9th Street) kitty-corner from the Project, and a dance club (1337 Mission Street) to the west. There is a tourist hotel, Rodeway Inn (101 9th Street) to the east and several residential hotels around the Project site, including The Washburn (42 Washburn), The Potter (1284 Mission), Ram's (80 9th Street), and the El Dorado (150 9th Street). There are community aid services (1338, 1375, and 1385 Mission Street) to the west and the County Adult Assistance Program (1235 Mission). Numerous multi-family residences and mixed-use developments are located along Mission Street north of the Project site and along 9th Street to the south. In addition, there are single and multi-family residential units along the east side of Washburn Street adjacent to the proposed Project. Buildings along the north side of Mission Street are generally taller than buildings on the south side of Mission Street. Most are two-to-four stories, but some are as tall as 25 stories.

The Project block is bounded by 9th Street to the northeast, Washburn Street to the southwest, Mission Street to the northwest, and Howard Street to the southeast. Buildings in the area generally cover the entire parcel and are built to the sidewalk; two lots on the Project block include surface parking. The buildings on the Project block generally span the entire width of the block. Building heights range from two-to-four stories.

Parks and open spaces in the vicinity of the Project site include Civic Center/UN Plaza (two blocks north), Howard and Langton Mini Park (five blocks southeast), Victoria Manalo Draves Park (seven blocks southeast), and Jefferson Square Park (eight blocks northwest).

4. **Project Description.** The proposed Project would demolish the existing one-story commercial building with a partial basement, which is currently occupied by a furniture store, and construct a new, 11-story-over-basement, approximately 120-foot tall building containing approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units, and approximately 3,359 gsf of commercial space. Up to 120 of the Project's units could be "efficiency dwelling units with reduced square footage" as defined in Planning Code Sec. 318. At minimum, 80 of the Project's units would be operated as Student Housing. The remaining 80 units would be approved as a non-student residential use, but the Project Sponsor would have the flexibility to change them to Student Housing at any time up until the first Certificate of Occupancy. The Project would include no off-street parking, with the exception of one off-street car share parking space, but would include approximately 240 bicycle parking spaces.

5. **Public Comment.** The Department has received one phone call in opposition to the Project and four letters in support of the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown Support District is 5.0 to 1.

The proposed Project has a gross floor area, as defined under the Planning Code, of approximately 80,107 gsf and a lot size of 9,208 sf, resulting in a FAR of approximately 8.7:1, or 34,067 gsf above the base FAR limit. Through a Conditional Use Authorization granted under Planning Code Sections 124(k) or 124(f) respectively, the Planning Commission may allow building area above the base FAR limit for Student Housing or for on-site units affordable to households earning less than 150 percent of median income. The Project is seeking a Conditional Use Authorization, pursuant to Sections 124(k) and 124(f) to exceed the base FAR by approximately 34,067 gsf.

- 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 25% rear yard does not span the full width of the lot. Although a rear yard is provided at all residential levels for a distance of 25% of the lot depth, the building volume holds the street wall on 9th and Washburn Street facades, thereby not allowing for a rear yard that spans the full width of the lot. As such, the Project is seeking an exception from the rear yard requirements of Planning Code Section 134, as outlined in Section 7, below.

- 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. It also states that the requirement for efficiency units (i.e. units that do not exceed 350 sf, plus a bathroom) is one-third that of regular units, which would be 12 sf of privately accessible usable open space or 15.96 sf of commonly accessible usable open space per dwelling unit for larger units.

The Project includes 120 units that that do not exceed 350 sf, plus a bathroom, and 40 units that are larger. In total, the Project requires 3,830 sf of common open space (120 micro units x 15.96 sf/unit = 1,915; 40 dwelling units x 47.88 sf/unit = 1,915; thus 1,915 + 1,915 = 3,830 sf). The Project includes 4,100 sf of common usable open space on the roof deck, which satisfies the requirement of Planning Code Section 135. As required by Section 135(d)(6), the Project's micro units are provided with common, not private, open space.

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

The Project includes approximately 3,359 gsf of ground floor retail space. At a ratio of 1:50, 67 sf of publically accessible open space is required. The Project includes 72 sf of publically accessible open space along the Washburn Street sidewalk, which is being widened as part of this Project. The public open space is located entirely within new sidewalk space and has been designed by Fletcher Studios in a manner that generally complies with the adopted Guidelines for Downtown Open Space, including the provision of outdoor seating. 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, Ninth and Washburn Streets as part of a streetscape plan designed by the Project's landscape architect. Features include street trees, special pavers and landscaping within a continuous trench, and a bulb out along Washburn Street with bike parking and at least 72 sf of public open space that includes seating, the details of which will be refined during the Building Permit process, per 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 direction and that gets larger at each subsequent floor.

The proposed Project would not meet this requirement for three units on all residential floors (unit numbers 18, 19, and 20), and would require a Variance from the exposure requirements as allowed under Planning Code Section 305.

- G. **Common Area Requirements for Efficiency Dwelling Units with Reduced Square Footage (Section 140.1).** Buildings with 20 or more efficiency dwelling units with reduced square footage (aka "micro units") shall include at least one common room for use by residents. Such common rooms may be used as study or reading rooms, shared kitchens and dining facilities, media rooms, game rooms, fitness facilities, or other uses suited to residents' needs.

With up to 120 efficiency dwelling units with reduced square footage (aka "micro units"), a minimum of 1,200 sf of interior common rooms are required for the Project. The Project complies

by providing approximately 2,047 sf of common interior rooms for resident use: a lounge and study at the ground-floor and two art rooms at the basement level.

- H. **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.

The ground floor space along Mission Street and Ninth Street 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 Washburn Street, the Project has two spaces, identified as a Study Room and a Lounge for the students of the building. The spaces are both part of a larger common use area for the private use of the Project’s residents, which is accessed through a singular entry along the Mission Street sidewalk. This singular entry was created in response to discussions with interested educational institutions, who expressed the importance from a security perspective of having one entry to the building, since it allows the Project’s 24-hour staffed security desk to have the greatest level of security. Furthermore, because the sidewalk elevation along Washburn Street is lower by 1’-6” to 2’-0” than the ground floor of the Project’s main entry along Mission Street, access directly onto Washburn Street would require approximately 18 feet to 24 feet of ADA compliant ramps.

The Project is seeking a Variance from the Active Use provision of Planning Code Section 145.1(c)(3).

- I. **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’s Washburn Street frontage measures 81’-3” and proposes approximately 35’-6” or 44 percent of transparent frontage. Although the Study Room, Lounge, and exit stair enclosure contain glazing, the 60% requirement is not met due to the gas meter room, garage door, and fuel port being located along the southern end of the Washburn Frontage.

The Project is seeking a Variance from the Active Use provision of Planning Code Section 145.1(c)(6).

- J. **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 9th Street, Mission Street, or Washburn Street, and therefore does not apply to the Project.

As it relates to Section 146(c), the Project would replace a one story building with an 11-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 subject property and cannot be further shaped to reduce substantial shadow effects on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project will not create substantial shadow effects to public sidewalks.

- K. **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.

- L. **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.

A total of 20 test point locations along sidewalk areas adjacent to and near the Project site were selected for the purpose of analyzing existing and proposed wind levels and wind near the Project Site pursuant to Planning Code Section 148. Under existing conditions – without the Project – all test locations exceeded the Planning Code’s pedestrian comfort level of 11 mph (more than 10 percent of the time), and four locations (all of which are on 9th Street) exceeded the wind hazard criterion (speeds reaching or exceeding the hazard level of 26mph, as averaged for a single full hour of the year).

With the Project, the wind speeds would remain unchanged at 15 of the 20 test locations and would change by 1 mph or less at 5 locations. The Project would eliminate one existing exceedance of the pedestrian comfort criterion (on the north side of Mission Street) for a total of 19 exceedences, increase the wind speeds by 1 mph along the south side of Mission Street, and decrease the wind speeds by 1 mph at the northeast corner of Mission and 9th Street. Exceeding the seating or pedestrian comfort criteria – and not eliminating all of the pre-existing comfort exceedences as part of the Project – requires a Planning Code Section 309 exception, as outlined in Section 7, below.

The Project would not change the total number of wind hazard locations (four), but would result in a net decrease in total number of wind hazard hours (from 40 total hours to 39 total hours). The Project would increase the duration of one hazard by one hour while decreasing the duration of another hazard by two hours. Hazards would continue to occur at all three points on the east side of Ninth and one mid-block test point on the west side of Ninth Street.

- M. **Parking (Section 151.1).** Planning Code Section 151.1 does not require off-street parking for the Project.

Off-street parking would not be provided for the proposed commercial or residential use.

- N. **Car Share (Section 166).** Planning Code Section 166 does not require any car-sharing spaces since there is no off-street parking proposed as part of this Project.

Although not required, the Project provides one off-street car share parking space within a garage along Washburn Street.

- O. **Loading (Section 152.1).** Planning Code Section 152.1 requires off-street loading if the commercial space exceeds 10,000 sf or of the residential space exceeds 100,000 sf.

The Project's proposed commercial use does not exceed 10,000 sf, and the residential use does not exceed 100,000 sf. Therefore, the Project would not be required to provide an off-street loading space per Planning Code Section 152.1. The Project includes no off-street loading.

- P. **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 53 Class 1 bicycle parking spaces. The proposed basement would accommodate approximately 240 bicycle parking spaces with at least 53 of them being type Class 1 bicycle parking spaces.

- Q. **Density (Section 215).** Planning Code Sections 215(a) permits up to 74 dwelling units through a ratio of 1 unit per 125 sf of lot area, provided, however, that the maximum density ratio in a C-3 District shall in no case be less than for an RM-4 District. The RM-4 District allows 1 unit per 200 sf of lot area, but also allows units that are less than 500 square feet to be counted as $\frac{3}{4}$ of a unit. Density above the amount principally permitted may be authorized through a Conditional Use Authorization.

The Project seeks approval for 120 micro units and 40 two-bedroom units. Based on the C-3 Zoning, 74 units are permitted as of right, which would require a CU for the additional 86 units. Based on the calculations allowed in the RM-4 District, which allow micro units to be counted as $\frac{3}{4}$ of a unit for the purposes of density, 46 units would be allowed as of right, and would require a CU for the additional 84 units (120 micro units \times .75=90 studios + 40 2+bedroom units, for a total of 130 units for the purposes of calculating density). The proposed Project would require a Conditional Use Authorization for an additional 84 units.

- R. **Use (Sections 215(b), 218(b)).** The Project site is located in a Downtown Support (C-3-S) District wherein residential and commercial uses are permitted. Areas identified as Downtown Support include a variety of different uses, such as hotels, housing, museums and cultural facilities, retail and offices.

The residential and retail uses of the proposed Project would be consistent with the Downtown Support uses, pursuant to Planning Code Sections 215(b) and 218(b); the proposed density of the residential use would require a Conditional Use Authorization.

- S. **Height (Section 260).** The property is located in a 120-F Height and Bulk District, thus permitting structures up to a height of 120 feet.

The Project would reach a height of approximately 118'-3" to the roof of the building, with various features such as elevator/stair penthouses, mechanical structures, and wind screens extending

above the 120-foot height limit in accordance with Planning Code Section 260(b): features excluded from the height limit. Therefore, the proposed Project would comply with the Planning Code's 120-F Height and Bulk District.

- T. **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.

- U. **Bulk (Section 270).** The Project falls under the "F" bulk limitations, as defined in Planning Code Section 272, which require a maximum length of 110 feet, 0 inches, and a maximum diagonal dimension of 140 feet, 0 inches.

The proposed building would be a maximum of 113 feet, 4 inches long, with a diagonal dimension of 139 feet, 0 inches. The proposed length exceeds the maximum bulk allowances by 3 feet, 4 inches, thus the Project requires an exception to the bulk requirements as permitted under Planning Code Section 309, as outlined in Section 7, below.

- V. **Efficiency Dwelling Unit with Reduced Square Footage (Section 318).** Planning Code Section 318 defines as an "efficiency dwelling unit with reduced square footage" any dwelling unit that (a) has a living area under 220 sf, (b) meets the requirements of Section 1208.4 of the San Francisco Building Code, and (c) is not student housing, affordable housing, or group housing. The Planning Department is authorized to approve up to 375 such units under a pilot program.

The Project contains 120 efficiency dwelling units with reduced square footage. Although the Project intends for all or most of these 120 efficiency units to be used as Student Housing, which is excluded from the 375 unit pilot program cap, the Project is seeking authorization for all 120 efficiency units since the units may not be used as Student Housing in perpetuity. Should any of the units change from Student Housing to non-Student Housing in the future, which is allowed under the Student Housing legislation, the Sponsor does not want to be precluded from doing so in the event that all 375 units in the pilot program have been allocated to other projects.

The Project is authorized to construct up to 120 efficiency dwelling units with reduced square footage, leaving 255 units available for other projects under the pilot program.

- W. **Affordable Housing (Section 415).** Planning Code Section 415 requires residential projects to provide affordable housing, however Student Housing, as defined under Planning Code Section 102.36, is exempt from the City's Affordable Housing Program, provided that the housing is owned or master leased by an accredited educational

institution and that a certain percentage of the students living in the student housing qualify for income-based financial aid. Planning Code Section 415 requires the portion of the project that is not Student Housing to provide affordable housing. The affordable housing requirements were modified through a recent Charter Amendment (San Francisco Charter Section 16.110(g)), 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 80 units that are intended as Student Housing, which are exempt from the affordable housing requirements of Planning Code Section 415. The remaining 80 units (for a project total of 160 units) require compliance with Planning Code Section 415. The project proposes ten (10) on-site rental Below Market Rate units to satisfy the 12% affordable housing requirement. Should any of these 80 non-student housing units be converted to Student Housing prior to the first Certificate of Occupancy, the affordable housing requirements will be reduced so to only apply to the portion of the project not occupied by Student Housing.

- X. **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 or submit to the Department a contract demonstrating that the project's on-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City

Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on December 18, 2012 and a draft of the Costa Hawkins agreement on January 9, 2013. The EE application was submitted on July 08, 2011. Ten units (8 studios and 2 two-bedroom) of the 80 non-student housing units provided will be affordable rental 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. The Project must execute the Costa Hawkins agreement prior to Planning Commission approval or must revert to payment of the Affordable Housing Fee.

- Y. **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 276 feet of street frontage, along the Ninth, Mission, and Washburn Street frontages, which means that 14 street trees are required. The site contains five existing street trees, meaning an additional nine (9) must be installed. According to the Department of Public Works, only five of the required nine street trees can feasibly be installed (resulting in a total of 10 installed street trees). When a pre-existing site constraint prevents the installation of a street tree, as an alternative to payment of any portion of the in-lieu fee, pursuant to Section 138.1(c)(1)(iii)(B)(bb), the Zoning Administrator may allow the installation of sidewalk landscaping that is compliant with applicable water use requirements of Chapter 63 of the Administrative Code, to satisfy the requirements of Section 138.1(c)(1), subject to permit approval from the Department of Public Works in accordance with Public Works Code Section 810B. The Department of Public Works has recommended sidewalk landscaping along the three frontages as an alternative to the in-lieu fee. Conditions of approval have to been added to require the Project to plant ten (10) street trees and include sidewalk landscaping along the Ninth, Mission, and Washburn Street Frontages.

- Z. **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. The conceptual plans for the Project show artwork located along the southern wall that is visible when looking north along 9th Street. The public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.

7. **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 at all residential levels for a distance of 25% of the lot depth, the building volume holds the street wall on the 9th and Washburn Street facades, 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, or onto 9th, Mission, or Washburn Streets; therefore, ample separation for light and air is provided for the residential units within the Project. In addition, the Project provides abundant open space in the form of the courtyard on the on the second floor (first residential level), the common rooftop deck, and the numerous interior common spaces, such as the ground floor Lounge and Study Room. Therefore, it is appropriate to grant an exception from the rear yard requirements of Planning Code Section 134.

- B. **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.

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by Environmental Science Associates was conducted using a scale model of the Project Site and its immediate vicinity.

Comfort Criterion

Based on existing conditions, all of the 20 sidewalk locations tested currently exceed the pedestrian comfort level of 11 mph, with wind speeds ranging from 12 to 20 mph.

With the Project, the wind speeds would remain unchanged at 15 of the 20 test locations and would change by 1 mph or less at 5 locations. The Project would eliminate one existing exceedance of the pedestrian comfort criterion (on the north side of Mission Street) for a total of 19 exceedences, increase the wind speeds by 1 mph along the south side of Mission Street, and decrease the wind speeds by 1 mph at the northeast corner of Mission and 9th Street. The range of wind speeds with the Project would be similar to existing conditions, with wind speeds in sidewalk pedestrian areas ranging from 11 mph to 20 mph. With implementation of the Project, there would be localized changes throughout the Project vicinity; however, the overall wind conditions would remain substantially the same.

Because the Project would not eliminate the 20 existing exceedences, an exception is required under Planning Code Section 309. An exception is justified under the circumstances, because the changes in wind speed and frequency due to the Project are slight and unlikely to be noticeable and would remain substantially the same. It is unlikely that the Project could be designed in a manner that would affect wind conditions substantially enough to eliminate all 20 of the existing comfort exceedences, without unduly restricting the site's development potential.

Hazard Criterion

The Planning Code Section 148 wind hazard criterion is currently exceeded at four test locations on Ninth Street, between Mission and Market Streets. Adding the Project would not change the number of wind hazards; however, it would increase the duration of one hazard by one hour and would decrease the duration of another hazard by two hours. Hazards would continue to occur at all three points on the east side of Ninth Street and one mid-block on the west side of Ninth Street. The annual durations of these wind hazards would be a decrease of one in the total number of hours. With implementation of the Project, the average wind speed for all 20 sidewalk test point locations would be about 31 mph, which is the same as existing conditions. Also, with development of the Project, the range of wind speeds would be the same as under existing conditions, with wind speeds in sidewalk pedestrian areas ranging from 25 mph to 43 mph. The four test locations that exceed the wind hazard criterion under existing conditions would continue to do so with implementation of the proposed Project, with a reduction of 1 hour, for a total of 39 hours. As discussed above, the Project would reduce the exceedance of the wind hazard criterion by one hour compared to existing conditions. Therefore, the Project would comply with the hazard criterion of Section 148.

- C. **Section 270: Bulk Limits.** Section 270 establishes bulk controls by district. In the “F” Bulk District, the following bulk controls apply to portions of the building above a height of 80 feet: a maximum length of 110 feet, a maximum diagonal dimension of 140 feet. Exceptions to the Section 270 bulk limits are permitted by Section 309(a)(13).

The property has three street frontages: 9th Street, Mission Street, and Washburn Street. The 9th and Washburn Street frontages measure 81'-3", while the Mission Street frontage measures 113'-4".

The Project complies with the Planning Code Section 270's maximum diagonal dimension of 140'-0", since the Project's maximum diagonal dimension is 138'-10". The Project does not comply with the maximum length of 110'-0", since the building's Mission Street frontage is 113'-4", and the Project is designed with a uniform massing up to the maximum height of 120'-0".

Pursuant to Section 272(a), the bulk limits prescribed by Section 270 have been carefully considered in relation to objectives and policies for conservation and change in C-3 Districts. However, there may be some exceptional cases in which these limits may properly be permitted to be exceeded to a certain degree, provided, however, that there are adequate compensating factors. Exceptions to the bulk limits may be approved in the manner provided in Section 309, provided that at least one of the following criteria is met:

- (1) Achievement of a distinctly better design, in both a public and a private sense, than would be possible with strict adherence to the bulk limits, avoiding an unnecessary prescription of building form while carrying out the intent of the bulk limits and the principles and policies of the Master Plan.

Granting the requested bulk exceptions would result in a better overall design without compromising the intent of the bulk limits. A large open area is provided along the south side of the building, which reduces its true bulk and provides light and air to the residential units. The composition of the north side of the building – the Mission Street façade – consists of two distinct building elements, each using different fenestration patterns and varied articulation, which reduces the apparent bulk of the building.

- (2) Development of a building or structure with widespread public service benefits and significance to the community at large, where compelling functional requirements of the specific building or structure make necessary such a deviation; and provided further that all of the following criteria are met:

- (A) The added bulk does not contribute significantly to shading of publicly accessible open space.

- (B) The added bulk does not increase ground-level wind currents in violation of the provisions of Section 148 of this Code.

The Project will improve the vacant site with approximately 160 dwelling units intended for use as Student Housing – a widespread public benefit that is deficient in the City. The granting of this exception will provide the City with additional needed student housing, which would also help to revitalize the Mid-Market area.

As stated in the findings of compliance with Sections 147 and 295, the Project will not result in adverse shadow impacts on any public open spaces or parks in the vicinity of the Project Site. Although it will shadow the adjacent publicly accessible open space to the west of the Project site (as would virtually any building constructed on the Project Site), the streetscape has been designed to include a bulb-out at the public open space corner of Washburn and Mission Streets, along with increased pedestrian amenities, such as street trees, landscaping, seating, and bicycle racks.

As stated in finding 7(B) of this Motion, the Project is not expected to affect the overall wind conditions in the vicinity of the Project Site. The Project would decrease the overall number of locations where violations of the wind comfort exceedences occur, and would result in a net decrease to the existing wind hazard hours.

8. **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 1.9:

Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

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 rental housing by creating 160 units. Some, or all, of the Project will be used for student housing and a large proportion of the units will be micro units. Whether occupied by students or small households, the Project will protect the City's existing housing stock by reducing the demand single persons and/or students place on the family housing stock.

The Project is located within a neighborhood rich with public transportation and the students occupying the building are expected to rely on public transit, bicycling, or walking for the majority of their daily trips. The Project includes an abundance of bicycle parking, providing spaces for 240 bicycles in a secure location in the building's basement. Within a two block distance, 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.

OBJECTIVE 4:

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

Policy 4.4:

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

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 rental housing stock, which is intended to primarily house students, many of whom are low-income and qualify for need-based financial aid. Because the Project will house students that qualify for need-based financial aid, it is enhancing the supply of affordable housing in the City of San Francisco. Furthermore, because 120 of the units are "affordable-by-design" micro units, they would deliver relatively low-cost housing whether rented to students or to the general public. To the extent the Project includes non-Student Housing units, on-site affordable units would be provided pursuant to the Inclusionary Housing Program.

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 designed and compatible with the scale and proportions of buildings in the area, and will be built of high quality materials, including Swisspearl panels, which is a high quality

cement composite panel system, and high quality aluminum framed windows. The entire skin system (including windows) will be custom designed and built for the Project.

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 students occupying the building are expected to rely on public transit, bicycling, or walking for the majority of their daily trips. According to the Transportation Study for this Project, the mode split assumed a heavy reliance on alternative modes of transportation: 53.5 percent transit, 25.4 percent walking, and 16 percent other (including bicycles). Only 5 percent was assumed for autos.

Within a two block distance, 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 an abundance of bicycle parking, providing spaces for 240 bicycles in a secure location in the building's basement.

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 student housing close to educational facilities and transit. Within a two block distance, 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 an abundance of bicycle parking, providing spaces for 240 bicycles in a secure location in the building's basement.

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 3,359 gsf 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 Support 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 no off-street parking but 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 demolish an underutilized single story retail building and construct an approximately 120-foot tall, eleven-story, 160-unit residential building, intended for use as Student Housing, thereby adding beds to the City's limited supply of student housing. Any units put to non-student use would augment the supply of rental housing within easy commuting distance of downtown jobs.

The proposed Project also includes approximately 3,359 gsf of ground floor commercial space, which will provide services to the immediate neighborhood. Unlike the types of commercial uses that the existing building has had over the years—such as furniture stores—this new commercial space will create pedestrian-oriented, active uses on Mission and Ninth 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, Ninth and Washburn Streets as part of a streetscape plan designed by the Project's landscape architect. Features include a bulb out along Washburn with bike parking and at least 72 sf of public open space, which is greater than what is required by the Planning Code. 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 building, located in a second floor courtyard and roof deck, also feature high-quality landscaping and other design features which makes them 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 an 11-story, 120-foot-tall building on a site that currently is occupied by a single-story building. Although the immediate context is a mixture of two- and three-story commercial properties, and four- to six-story mixed use properties constructed between 1907 and the 1940s with a few contemporary mid-scale apartment buildings, the height of the building is consistent with more modern buildings found in neighboring blocks to the north and east. These include the building at the intersection of 9th Street and Jessie Street (Edith Witt Senior Community), the building at the intersection of Mission Street and 10th Street (10th and Mission Family Housing), the building under construction on 10th between Jessie and Market Street (Crescent Heights), and a Project in the pipeline at the intersection of 10th and Market Street (proposed by Tenderloin Neighborhood Development Corporation). These buildings are approximately one-to-two blocks away. The skyline to the north and northwest 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 120 Height District and with similar sized buildings in the area, and is deficient in meeting the "F" Bulk Limits by only 3 feet, 4 inches.

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 new bulb-out at the intersection of Washburn and Mission Streets, new publically accessible bicycle racks along Washburn Street, and a 72 sf public seating area at along the Washburn street frontage. These improvements will provide much needed streetscape improvements that will help to improve pedestrian safety through a landscaped buffer from the busy 9th Street and Mission Street corridors, and the well-designed outdoor seating area will help to promote a human scale and interest in an area that lacks public open space.

9. **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 existing building has been vacant for a couple of years and is temporarily leased to a furniture store until the proposed Project is approved and construction begins. The proposed Project would not displace any neighborhood-serving retail uses as it will add approximately 3,359 square feet of new commercial space that will serve residents in the building and likely draw a wider range of new neighborhood-serving retail businesses than it does today. Moreover, the Project will bring new residents and their guests to the neighborhood, increasing the number of customers for existing and new neighborhood-serving retail uses, thereby prompting creation of more employment opportunities.

- 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 160 new dwelling units in a downtown high-density district. The Project is primarily intended to be Student Housing, which will provide the opportunity for groups of students to live near their schools, and add to the cultural and economic diversity and the vitality of the neighborhood. Creating Student Housing and/or micro units will also serve to provide students and one or two-person households an alternative to living in groups in existing family-sized units in the area, freeing these units in the neighborhood for non-student households.

The existing building has been significantly modified over the years, and retains little of its original design. The building regularly draws graffiti and other unattractive activities and does not contribute to the neighborhood character or its cultural diversity. The proposed Project is a high-quality design and is of similar height, scale and massing to Mercy Housing's affordable family housing building on the northeast corner of tenth and Mission Street, one block west of the Project site.

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

The Project would preserve and enhance the City's supply of affordable housing. The existing commercial building on the site does not provide any affordable housing. The Project will provide housing for students, many of whom are low-income and/or qualify for need-based financial aid. Because 120 of the units will be "micro units", they are also "affordable by design". Finally, any portion of the Project that is not operated as Student Housing would be subject to the Inclusionary Housing Program and affordable units would be provided on site.

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

The proposed Project is car-free and because the residents will be students they will most often walk, use public transit, bicycles, or car-sharing alternatives to travel to classes, places of entertainment, recreation, and elsewhere. The site's prime location close to transit, shops, services and schools make it an ideal location for this type of development.

A car share vehicle will be located in the building, and the building will provide ample, secure bicycle parking. Within a two block distance, 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 these transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain. This type of development adds no commuter traffic to the city and serves to support existing public transit systems by adding additional riders to the neighborhood.

- 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 applicable 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 structure.

- 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. While the proposed Project is adjacent to a historic district to the south—the Western SOMA Light Industrial and Residential Historic District—it does not directly affect any historic resources.

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

The Project will have no negative effect on existing parks and open spaces, as there will be no net new shadows cast on any park or open space.

10. 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.
11. The Commission hereby finds that approval of this Section 309 Authorization, including 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 under Section 309, Application No. 2011.0312CEKVX!**, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 18788, in general conformance with plans on file, dated January 24, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

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

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

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 24, 2013.

Jonas P. Ionin
Acting Commission Secretary

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

NAYS:

ABSENT: Commissioner Fong

ADOPTED: January 24, 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, 11-story-over-basement, approximately 120-foot tall building containing approximately 3,359 gsf of commercial space and approximately 78,040 gsf of residential space, comprised of up to 160 dwelling-units (including up to 120 efficiency dwelling units with reduced square footage, aka "micro units"), which may be used for Student Housing, as defined in Section 102.36, and, with exceptions to Ground-Level Wind Currents in C-3 Districts (Section 148), Bulk Limits (Section 270), and Rear Yard Requirements (Section 134), located at 1321 Mission Street (aka 104 – 9th Street), Block 3509, and Lot 043 pursuant to Planning Code Sections 134, 148, 270, 272, and 309 within the C-3-S District and a 120-F Height and Bulk District; in general conformance with plans, dated January 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0312CEVX and subject to conditions of approval reviewed and approved by the Commission on January 24, 2013, under Motion No. 18788. 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 24, 2013**, under Motion No. 18788.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

3. The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18788 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 Conditional Use authorization is only an approval of the proposed Project and conveys no independent right to construct the Project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

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.

8. **Proof of Student Housing.** Prior to the first certificate of occupancy, the Project Sponsor shall present a lease or other contractual arrangement demonstrating that the Project, or portion thereof, qualifies as Student Housing, or alternatively, the Project Sponsor shall comply with Condition of Approval No. 9, below, as well as all Inclusionary Affordable Housing Requirements and all other Planning Code Requirements.

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

9. **Student Housing Exemption from Affordable Housing.** Pursuant to Planning Code Section 415.3(c)(5)(B), an institutional master plan (IMP) pursuant to Section 304.5 must be on file with the Planning Department prior to the issuance of any building permit in connection with the creation of the Student Housing project, in order for the Student Housing portion of the Project to be exempt from the requirements of Planning Code Section 415.

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

10. **Conversion from Student Housing to Non-Student Residential Use.** If a residential Project no longer qualifies as Student Housing as defined in Planning Code Section 102.36, the Zoning Administrator may allow the conversion of the Student Housing to any permitted residential use in the C-3-S Zoning District upon determination that the converted Student Housing has complied with any applicable Inclusionary Affordable Housing Requirements at the date of proposed conversion, as outlined in Planning Code Section 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable to that residential use have been met or modified through appropriate procedures.

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

11. **Additional Project Authorization.** The Project Sponsor must obtain a Conditional Use Authorization under Section 303 to allow residential density in excess of the principally permitted amount (Sec. 215) and to exempt the floor area of any on-site affordable units and Student Housing units per Sec. 124(f) and (k); and must obtain Variances from Sections 136, 140, and 145.1, to allow bay windows, architectural projections, and cornices that exceed the maximum dimensions allowed for projections over the sidewalk, to allow 30 units to face onto an inner court that does not comply with the dwelling-unit exposure requirements, and to allow ground floor common space facing Washburn Street without direct access to the street and with less fenestration transparency than required, and satisfy all the conditions thereof. The conditions set forth herein 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.

12. **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.

DESIGN – COMPLIANCE AT PLAN STAGE

13. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, 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.

14. **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

15. **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.

16. **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

17. **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

18. **Open Space Provision - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the public open space so that the open space generally meets the standards of the Downtown Open Space Guidelines in the Downtown Plan of the General Plan.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

19. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on Mission and Washburn Streets and shall indicate that the open space is accessible to the public. Design of

the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

20. **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 ten (10) street trees, and sidewalk landscaping along Ninth, Mission, and Washburn Streets to satisfy the requirement for the remaining four required street trees, pursuant to Planning Code Section 138.1(c)(1)(iii)(B)(bb). 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

PARKING AND TRAFFIC

21. **Bicycle Parking.** Although the Project proposes 240 Class 1 bicycle parking spaces, no fewer than 53 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

PROVISIONS

Affordable Units

22. **Number of Required Units.** Pursuant to San Francisco Charter Section 16.110(g), the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 160 units, 80 of which are subject to Section 415 (the other 80 units are dedicated as Student Housing); therefore, 10 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 10 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 or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

23. **Unit Mix.** The Project contains 60 studios and 20 two-bedroom units subject to the affordable housing requirements; therefore, the required affordable unit mix is 8 studios and 2 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 or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

24. **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 or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

25. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

26. **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 or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

27. **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 or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the

same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) 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 and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415 to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior to issuance of the first construction document or must revert payment of the Affordable Housing Fee.
- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or

certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.
28. **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
29. **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
30. **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
31. **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

32. **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

MONITORING - AFTER ENTITLEMENT

33. **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

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

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

OPERATION

35. **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>

36. **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>

37. **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

38. **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