



# SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

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|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413)  | <input type="checkbox"/> Child Care Requirement (Sec. 414)            |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)             | <input type="checkbox"/> Other  |

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## Planning Commission Motion No. 19103

*Date:* March 13, 2014  
*Case No.:* **2013.1177CV**  
*Project Address:* **2601 VAN NESS AVENUE**  
*Zoning:* RC-3 (Residential-Commercial, Medium Density) Zoning District  
65-A Height and Bulk District  
*Block/Lot:* 0522/002A  
*Project Sponsor:* Van Ness Terraces, LLC  
888 Brannan Street, Suite #153-155  
San Francisco, CA 94103  
P.O. Box 424001  
San Francisco, CA 94142  
*Project Architect:* Warner Schmalz  
Forum Design  
1014 Howard Street  
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**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 209.8, 253, 271 AND 303 OF THE PLANNING CODE TO ALLOW A BUSINESS/PROFESSIONAL SERVICES USE ABOVE THE GROUND FLOOR, BULK EXCEPTIONS FROM THE "A" BULK DISTRICT AND CONSTRUCTION OF A BUILDING OVER 50 FEET IN HEIGHT IN THE RC-3 (RESIDENTIAL, COMMERCIAL, MEDIUM DENSITY) ZONING DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On August 28, 2013, the project sponsor made application for Conditional Use Authorization, Case No. 2013.1177C, on the property at 2601 Van Ness Avenue, Lot 002A in Assessor's Block 0522 to construct a 27-unit, 6-story mixed-use building within the RC-3 Zoning District and the 65-A Height and Bulk District.

On January 7, 2014, the project sponsor submitted a variance application, Case No. 2013.1177V, requesting variances from the rear yard, permitted obstruction and dwelling unit exposure requirements of the Planning Code.

On March 13, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.1177C.

On March 4, 2014, the project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 32 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this project, Case No. 2013.1177E.

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014.1177C, 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 site is currently vacant, having formerly served as an automobile service station. The subject lot, Lot 002A in Assessor's Block 0522, is a corner lot approximately 100 feet (along Van Ness Avenue) by 110 feet deep (along Filbert Street) containing an area of 11,000 square feet.
3. **Surrounding Properties and Neighborhood.** The project site is a corner lot located at the northwest corner of the intersection of Van Ness Avenue and Filbert Street. The adjacent property to the west is a 15-unit, four-story residential building on Filbert Street. The adjacent property to the north is a 12-unit, four-story residential building on Van Ness Avenue. The project is located in the RC-3 (Residential, Commercial, Medium Density) Zoning District. The RC districts are the highest intensity R districts in the City. The RC-3 District is intended to be similar to the RM-District, predominantly devoted to apartment buildings with many buildings exceeding 40 feet in height. In some cases, additional buildings over that height may be accommodated without disruption of the neighborhood character with supporting commercial spaces. Rear yards need not be at ground level and front setbacks are not required.
4. **Past Actions and Project Description.** On October 23, 2003, the Planning Commission approved the following project for the subject property per Motion No. 16681, Case No. 2002.1203C: construction of a 61,400 square foot, 27-unit, 6-story mixed use building with ground floor commercial space and 33 off-street parking spaces located within a basement level. A rear yard

variance, Case No. 2002.1203V, was granted by the Zoning Administrator for the project, but the approved project was not constructed.

5. **Proposal.** The project proposes to construct a 70,900 square foot, 27-unit, 6-story mixed use building with ground floor commercial spaces, a business/professional services use at the second floor and 35 off-street parking spaces within two basement levels. The first two floors of the project propose full lot coverage. Floors three through six, which would be occupied by residential units, are configured as an L-shaped building to create a continuous building wall along the blockfaces of Van Ness Avenue and Filbert Street. Three commercial spaces, each less than 2,500 square feet in area, are proposed at the ground floor facing onto Van Ness Avenue. An approximately 1,000 square foot commercial office space is proposed at the second floor. The residential unit mix would include one one-bedroom unit, eighteen two-bedroom units and eight three-bedroom units.
6. **Public Comment.** The Department received one letter in support of the project from the San Francisco Bay Area Association of Renters. Four letters/emails, including one email from Aquatic Park Neighbors, were received by the Department expressing concerns regarding the project. The correspondence received by the Department is filed with the docket file for Case No. 2013.1177C. Several individuals spoke during the public comment period for the Conditional Use hearing to express concerns regarding the project's height and the proposed penthouse structures as related to the loss of light and air access and views.
7. **Planning Code Compliance:** The Commission finds that the project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Rear Yard Requirement in the RC-3 District.** Planning Code Section 134 states that at the first residential level the minimum rear yard depth shall be equal to 25 percent of the total depth of a lot in which it is situated, but in no case less than 15 feet.

*The project proposes a rear yard area at the first residential level; however the project sponsor is seeking a rear yard variance to allow construction of an L-shaped building to maintain a continuous building street frontage along Van Ness Avenue and Filbert Street. Providing a Code-complying rear yard would result in a building gap along Van Ness Avenue or Filbert Street.*

- B. **Open Space.** Planning Code Section 135 requires 60 square feet of private open space per unit or 79.8 square feet of common open space per unit.

*The project complies with the open space requirements. Four units at the sixth floor are proposed with private roof decks, each with at least 460 square feet of area. The remaining 23 units require 1,835 square feet of common open space, and have access to a 2,170 square foot rear yard area and a 985 square foot common roof deck. Additionally, all of the proposed dwelling units have access to private decks; however some of the proposed decks do not meet the specific provisions per Section 135 to qualify as private open space per the strict reading of the Code.*

- C. **Dwelling Unit Exposure.** Planning Code Section 140 requires each dwelling unit to face onto a street or onto a Code-complying rear yard.

*As the project is an L-shaped building and requests a variance from the rear yard requirements, six dwelling units that face onto the proposed rear yard would not meet the dwelling unit exposure requirements. The project sponsor is seeking a dwelling unit exposure variance for the six dwelling units that face onto the modified rear yard.*

- D. **Dwelling Unit Density.** Planning Code Section 209.1 allows 1 dwelling unit per 400 square feet of lot area in the RC-3 District.

*The dwelling unit density for the subject lot is 27 units, and the project proposes the maximum unit density allowed.*

- E. **Business/Professional Services Use above the Ground Floor.** Planning Code Section 209.8 states that a Conditional Use Authorization is required for a Business/Professional Services Use above the ground floor.

*The project sponsor requests Conditional Use Authorization to allow a commercial office use above the ground floor.*

- F. **Height.** Per Planning Code Section 260, the height limit for the project site is 65 feet.

*The project height is proposed at 65 feet as measured from Van Ness Avenue.*

- G. **Bulk.** Per Planning Code Section 270, the project is within the "A" Bulk District. The A Bulk District sets maximum building dimensions of a 110-foot length and a 125-foot diagonal dimension for portions of the building over 40 feet in height.

*While the project meets the maximum dimension for building length, with the longest portion of the proposed building measuring 109 feet along Filbert Street, the project's diagonal dimension measures 145 feet and exceeds the maximum diagonal dimension of the A Bulk District. As such, a bulk exception is requested as part of the Conditional Use Authorization pursuant to Planning Code 271.*

- H. **Parking.** Planning Section 151 of the Planning Code requires at least one parking space for each dwelling unit and off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*At least 27 parking spaces are required for the 27 proposed dwelling units, and the project proposes 35 parking spaces. Two of the 35 spaces are proposed to be car share spaces, although no car share spaces are required by the Planning Code. As the commercial spaces are each proposed with an area of 2,500 square feet or less, commercial parking is not required for the project; however the project sponsor has identified four of the 35 spaces for the proposed commercial uses.*

- I. **Bike Parking.** Planning Code Section 155 requires 26 Class 1 bike parking spaces and 7 Class 2 bike parking spaces. Section 155.1 prescribes the locations of such parking spaces – Class 1 parking requires access to bike parking without the use of stairs and in close proximity to a lobby/entry area, while Class 2 parking may be located within the public right-of-way.

*The project proposes bike parking in excess of the required amount. The project proposes 33 Class 1 bike parking spaces at the ground floor within close proximity to the main residential lobby and 12 Class 2 parking spaces on the sidewalks along both street frontages.*

- J. **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, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee (“Fee”). This Fee is made payable to the Department of Building Inspection (“DBI”) for use by the Mayor’s Office of Housing for the purpose of increasing affordable housing citywide.

*The project sponsor has submitted an ‘Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,’ to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor’s Office of Housing at a rate equivalent to an off-site requirement of 20%. The project sponsor has not selected an alternative to payment of the Fee.*

8. **Planning Code Section 271** permits exceptions to the bulk limits in districts other than the C-3 District, subject to the Conditional Use requirements of Section 303 (below). Section 271 requires that the Commission consider certain criteria in granting any exception to the Bulk limits in addition to those criteria required in Section 303. The additional criteria are:

- A. The appearance of bulk in the building, structure or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
- i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass;
  - ii. Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements;
  - iii. Differences in materials, colors or scales of the facades that produce separate major elements;
  - iv. Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted; and
  - v. In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures or towers.

*The project complies with the maximum length dimension of 110 feet as the longest portion of the proposed building is approximately 109 feet. The project exceeds the maximum diagonal dimension of 125 feet by 20 feet with a proposed diagonal dimension of 145 feet. The maximum diagonal dimension of 145 feet is proposed at the fifth floor. At each subsequent floor, the diagonal dimension is reduced due to side setbacks and shaping, with the diagonal dimension at the upper floor at 134 feet.*

*The appearance of the proposed bulk is reduced by employing various design techniques, particularly on the street-facing facades. A hierarchy of bay windows that vary in width and height create major variations in the planes of the front facades. The use of balconies creates further depth in the building façade. Along the edges of the project, where the project abuts adjacent residential structures, the massing of the project has been designed to transition to the building scale of the adjacent residential structures. In addition to the massing of the project, the placement and use of various exterior materials, including the glazing proportions at the balconies and windows, further reduce the apparent bulk of the project.*

- B. In every case the building, structure or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:
- i. A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
  - ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;
  - iii. Use of materials, colors and scales either similar to or harmonizing with those of nearby development; and
  - iv. Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

*The project's bulk would be in keeping with the building scale and massing of other residential buildings on corner lots found on Van Ness Avenue. In general, large corner lots on Van Ness Avenue are occupied by tall, massive buildings (commercial and residential) that match the wide scale of the Avenue and define the street intersections. The L-shaped massing of the proposed building creates continuous building walls along Van Ness Avenue and Filbert Street, which is consistent with the blockface pattern found on each street. In an effort to address the lower-scaled residential development along Filbert Street, the project proposes setbacks at the upper floor, a smaller-scaled bay that is held to the property line and finer window proportions at the southwest corner of the project. The use of exterior materials to create a defined base and a distinct upper body of the building is also similar in character to existing residential buildings on both Van Ness Avenue and Filbert Street.*

- C. While the above factors must be present to a considerable degree for any bulk limit to be exceeded, these factors must be present to a greater degree where both the maximum length and the maximum diagonal dimension are to be exceeded than where only one maximum dimension is to be exceeded.

*The project's design addresses several criteria listed above; however only the diagonal bulk dimension is exceeded.*

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

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

*The number and mix of residential units and the four proposed commercial spaces are necessary and desirable in addition more dwelling units to the City's housing stock and allowing several opportunities for the diversification of neighborhood-serving commercial uses. The size (height and bulk) of the proposed residential use is in keeping with the intent of the RC-3 District to create dense residential buildings. The project proposes the maximum unit density allowed (27 units) and a mix of one-, two- and three-bedroom units. The dense residential use and the large-scaled building are in keeping with the scale of other residential buildings that are traditionally associated with the Van Ness Avenue corridor. The three proposed commercial uses at the ground floor and the business/professional services use on the second floor is also consistent with the mixed commercial-residential uses found on Van Ness Avenue, in the neighborhood vicinity and, in general, within the RC Districts.*

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

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

*The height and bulk of the proposed building is compatible with the immediate neighborhood. The project has also been designed to address the immediately adjacent residential buildings. Matching side setbacks, which open up to the project's rear yard area, have been provided to correspond to both adjacent lightwells. Portions of the project have been shaped and detailed to address the adjacent existing residential structures.*

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

*The Planning Code requires one parking space per unit and allows up to 150 percent of the required amount as-of-right. With 27 dwelling units and 35 parking spaces, the proposed project is adequately parked. The project proposes bike parking for residents of and visitors to the project in excess of the required amount, providing an alternative to driving. The project proposes a garage door along Filbert Street to minimize vehicular conflicts as compared to placing a garage entry on Van Ness Avenue, which serves as a wide transit corridor and U.S. Highway 101.*

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

*The proposed uses are consistent with the RC-3 District. Commercial uses allowed in the RC-3 District are similar to those permitted in the NC-3 District, which is a neighborhood commercial district and typically contains neighborhood-serving uses. The nature of the proposed residential and commercial uses is not associated with noxious or offensive emissions.*

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

*Eleven street trees are proposed along Van Ness Avenue and Filbert Streets. Parking areas are contained within the interior of the proposed building and screened from view by a garage door.*

- F. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The project complies with all relevant requirements and standards of the Planning Code, except for those for which variances have been requested. The project is consistent with objectives and policies of the General Plan as detailed below.*

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

**HOUSING ELEMENT – ISSUE 1: ADEQUATE SITES**

**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.

*The project proposes a mix of one-, two- and three-bedroom family sized units. The requirements of the Inclusionary Affordable Housing Program are proposed to be met through payment of a fee at a rate equivalent to an off-site requirement of 20%.*

**HOUSING ELEMENT – ISSUE 6: REMOVE CONSTRAINTS TO THE CONSTRUCTION AND REHABILITATION OF HOUSING**

**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 11.3 Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.
- Policy 11.6 Foster a sense of community through architectural design, using features that promote community interaction.

*The project design is of a contemporary style, but in keeping with the building patterns, scale and massing of the existing neighborhood character. The project design does replicate previous traditional building styles, but the project relies on the use of bays, window proportions, variation of facade planes and select exterior materials to produce a building that is harmonious with its surroundings. The residential density is comparable to other large apartment/condominium buildings found along Van Ness Avenue. A sense of community is fostered by the project in terms of the location of the residential entry at Filbert Street, the active commercial uses that front onto Van Ness Avenue, the provision of residential balconies and the use of residential-scaled exterior materials.*

**VAN NESS AVENUE AREA PLAN – LAND USE, SUBAREA 2: BROADWAY TO BAY STREET**

**OBJECTIVE 2: MAINTAIN THE SCALE, CHARACTER AND DENSITY OF THIS PREDOMINATELY RESIDENTIAL NEIGHBORHOOD.**

- Policy 2.1: Infill with carefully designed, medium density new housing.

*The project is proposed at the maximum dwelling unit density for the RC-3 Zoning District and within a building that is designed to complement the proportions of Van Ness Avenue, while transitioning to the residential uses along Filbert Street.*

**VAN NESS AVENUE AREA PLAN – URBAN DESIGN**

**OBJECTIVE 5: ENCOURAGE DEVELOPMENT WHICH REINFORCES TOPOGRAPHY AND URBAN PATTERN, AND DEFINES AND GIVES VARIETY TO THE AVENUE.**

- Policy 5.2: Encourage a regular street wall and harmonious building forms along the Avenue.
- Policy 5.3: Continue the street wall heights as defined by existing significant buildings and promote an adequate enclosure of the Avenue.

Policy 5.5: Encourage full lot development resulting in a maximum number of dwelling units.

*The L-shaped building create continuous building walls along Van Ness Avenue and Filbert Street, which is in keeping with the existing blockface pattern found at each street. The height of the project is compatible with other large corner buildings found along the Avenue, which also allows for a mix of family-sized units at the maximum dwelling unit density allowed at the site.*

**VAN NESS AVENUE AREA PLAN – RESIDENTIAL LIVABILITY**

**OBJECTIVE 7: PROVIDE SAFE AND ATTRACTIVE ENVIRONMENTS WITHIN EACH MIXED USE DEVELOPMENT.**

Policy 1: Ensure safety, security and privacy within new residential developments while encouraging efficient use of common open space areas.

Policy 3: Generally maintain existing open space requirements for residential use. Allow common open space requirements to be met by a variety of recreation and open space features.

Policy 4: Design mixed use developments to create a quiet residential environment with a variety of intimate, personal spaces well insulated from the intrusion of noise from street of commercial activities.

*The project is appropriately designed to hold the building street walls along Van Ness Avenue and Filbert Street. The proposed 65-foot tall building is in keeping with the existing building patterns and desired massing and scale along Van Ness Avenue. The L shape of the building allows for an intimate open space area located at the rear of the building that is shielded from the street and commercial activities. In contrast, individual private decks at each dwelling unit as well as common and private roof decks provide residents of the project some variety to open space available for their use.*

**COMMERCE AND INDUSTRY ELEMENT**

**OBJECTIVE 1: MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.**

Policy 1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The project would add 27 units to the City's housing stock in a zoning district that encourages the development of medium-density housing and commercial uses at the lower levels of the building. The number of units and the building size and shape are proposed to create a design that is beneficial to residents and users of the project and also to the urban landscape and existing development patterns.*

**OBJECTIVE 2: MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.**

Policy 2.1: Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

*The project proposes three ground floor commercial spaces and one business/professional service use at the second floor. The size and number of commercial spaces would promote a variety of uses that would be complimentary to the existing commercial uses in the immediate vicinity.*

11. **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.

*As the project site is a vacant lot, existing neighborhood commercial uses would not be removed by the project. The four new commercial spaces provided at the ground floor and second floor of the project are consistent with this policy in promoting resident employment and business ownership.*

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

*Existing housing and neighborhood character is conserved and protected by the configuration of the project, as the proposed building is designed to complement adjacent residential buildings and the nearby development patterns. The residential uses that abut the rear yard area of the project will not be affected by increased noise, trash, dust, odors and other noxious emissions associated with trash and loading areas, as such uses are contained within the interior of the building. The proposed ground floor commercial spaces are seen as an opportunity to enhance the economic diversity of the immediate neighborhood.*

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

*No affordable housing is removed for this project. An in-lieu fee will be paid to meet the affordable housing requirement for the project.*

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

*Per Case No. 2013.1177E, the Class 32 Categorical Exemption prepared for the project indicates that the proposed traffic generated by the project and the proposed parking would not create hazardous conditions or significant delays affecting traffic, transit, bicycles or pedestrians.*

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

*The project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

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

*The project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not affect the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the project site.*

- 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. The project does not have an effect on open spaces.*

12. 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.
13. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.1177C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 13, 2014, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19103. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

**Protest of Fee or Exaction:** You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on March 13, 2014.

Jonas P. Ionin  
Commission Secretary

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

NAYS: N/A

ABSENT: N/A

ADOPTED: March 13, 2014

## **EXHIBIT A**

### **AUTHORIZATION**

1. This authorization is for a conditional use to allow a building over 50 feet in an RC District, bulk exceptions exceeding the required maximum diagonal dimension of 125 feet and business/professional services use at above the ground floor of a project proposing to construct a 70,900 square foot, 27-unit, 6-story mixed use building with a commercial ground floor and two basement levels containing 35 off-street parking spaces located at 2601 Van Ness Avenue, Lot 002A in Assessor's Block 0522 pursuant to Planning Code Section(s) 209.8, 253, 271 and 303 within the RC-3 (Residential Commercial, Medium Density) District and a 65-A Height and Bulk District; in general conformance with plans, dated February 24, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2013.1177C and subject to conditions of approval reviewed and approved by the Commission on March 13, 2014 under Motion No. 19103. 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 March 13, 2014 under Motion No. 19103.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

3. The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19103 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

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 Conditional Use authorization.

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

### PERFORMANCE

6. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

7. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

8. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

9. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

10. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

### DESIGN

11. **Final Materials and Design.** The Project Sponsor shall continue to work with Planning Department on the building design. The deck railings for the private and common roof decks located on the main roof shall be set back from the plane of the exterior building facades. Final materials, glazing, color,

texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

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

13. **Stair Penthouse Structures.** On the main building roof, the stair penthouses that access the private roof decks for Unit Nos. 61, 63 and 74, as shown on plans dated February 24, 2014 and stamped "EXHIBIT B", shall be removed from the project. Private roof decks may be proposed provided that the deck railings are set back from the plane of the building façade and that access to the private roof deck is via a roof hatch no taller than 4 feet from the roof surface or via the proposed common stairs/elevator to the roof.

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

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

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

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

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

## AFFORDABLE UNITS

16. **Requirement.** Pursuant to Planning Code 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%).

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

17. **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 the terms of the 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 Mayor's Office of Housing ("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 or rent.

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

- a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOH prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Inclusionary Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
- b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy 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.
- c. If project applicant 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 Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

## **PARKING AND TRAFFIC**

18. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 34 bicycle parking spaces (27 Class 1 spaces for the residential portion of the Project and 7 Class 1 or 2 spaces for the commercial portion of the Project).

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

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

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

## **MONITORING**

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

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

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

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

## **OPERATION**

22. **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/>*

23. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide

the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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