



SAN FRANCISCO PLANNING DEPARTMENT

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 19125

HEARING DATE: APRIL 24, 2014

Date: April 10, 2014
Case No.: **2012.1362CEV**
Project Address: **2198 MARKET STREET**
Zoning: Upper-Market Street Neighborhood Commercial Transit District
40-X and 60/65-X Height and Bulk Districts
Block/Lot: 3542/039
Project Sponsor: Greystar GP II, LLC
c/o Victor Gonzalez
211 Main Street, Suite 1280
San Francisco, CA 94105
Staff Contact: Michael Smith – (415) 558-6322
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 155(t)(4) (NEW CURB CUT ALONG SANCHEZ STREET, AN OFFICIAL CITY BICYCLE ROUTE), 733.11 (TO DEVELOP A LOT EXCEEDING 9,999 SQ. FT.), 733.44 (TO ESTABLISH A RESTAURANT USE IN THE UPPER MARKET NCT), AND 145.4(d) (FOR AN INDIVIDUAL GROUND-FLOOR NON-RESIDENTIAL USE THAT OCCUPIES MORE THAN 75 CONTIGUOUS LINEAR FEET ALONG MARKET STREET) FOR A PROPOSAL TO CONSTRUCT A FOUR- TO SIX-STORY, 40 TO 65 FOOT TALL MIXED USE BUILDING WITH 87 DWELLING UNITS, APPROXIMATELY 5,115 SQ. FT. OF GROUND-FLOOR COMMERCIAL SPACE ALONG MARKET STREET, AND A BELOW-GRADE PARKING GARAGE CONTAINING 36 OFF-STREET PARKING SPACES ON A VACANT PROPERTY LOCATED WITHIN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND 40-X/60/65-X HEIGHT AND BULK DISTRICTS WITHIN THE MARKET AND OCTAVIA PLAN AREA, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On July 12, 2013, Victor Gonzalez of Greystar GP II, LLC (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303, 155, to locate a new curb cut along Sanchez Street,, an official City

bicycle route; 733.11, to develop a lot exceeding 9,999 square feet; , 733.44, to establish a new restaurant use in the Upper Market NCT District; and, 145.4(d), , for an individual ground floor non-residential use occupying more than 75 contiguous linear feet along the Market Street facade, for a project proposing to construct a four to six-story, 40 to 65 foot tall mixed use building with 87 dwelling units, 5,115 square feet of ground floor commercial space along Market Street, and a below-grade garage containing 36 off-street parking spaces, within the Upper Market Street Neighborhood Commercial Transit District and a 40-X/60/65-X Height and Bulk Districts, and within the Market and Octavia Plan Area.

On August 23, 2013, the Project Sponsor filed an application for variances from Planning Code Sections: 134, for rear yard; 136, for the width of five bay windows; 140, for dwelling unit exposure; and 145.1, for a ground floor non-residential ceiling height that is less than 14-feet in height.

On April 24, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1362CEV.

Pursuant to Section 21083.3 of the California Environmental Quality Act Public Resources Code Section 21000, et seq. ("CEQA") and Section 15183 of the CEQA Guidelines (14 California Code of Regulations Section 15000, et seq.), projects that are consistent with the development density set forth in a community plan for which an Environmental Impact Report (EIR) was certified are exempt from environmental review under CEQA, except as might be necessary to examine whether there are project-specific effects that are peculiar to the project or its site.

The Project is within the boundaries of the Market and Octavia Better Neighborhoods Area Plan ("Market and Octavia Plan"). The EIR for the Market and Octavia Plan (Case No. 2003.0347E; State Clearinghouse No, 2004012118) was certified on April 5, 2007.

The Planning Department has determined that the Project is consistent with the Market and Octavia Plan and the allowable development density established therein and is, therefore, eligible for a Community Plan Exemption ("CPE") under CEQA Section 21083.3 and CEQA Guidelines Section 15183.

The Planning Department prepared a Community Plan Exemption Checklist dated March 19, 2014 to evaluate the potential environmental effects of the Project and to determine whether the Project would have environmental effects that (1) are peculiar to the Project or parcel on which the Project would be located, or (2) were not analyzed as significant effects in the Market & Octavia Plan EIR, or (3) are potentially significant off-site impacts or cumulative impacts that were not discussed in the Market & Octavia Plan EIR, or (4) are more severe adverse impacts than were analyzed in the Market & Octavia Plan EIR. In a Certificate of Determination dated March 19, 2014 (the "CPE Certificate"), the Planning Department concluded that the proposed project would not result in new, peculiar environmental effects, or effects of greater severity than were already analyzed and disclosed in the FEIR. This determination does not identify new or additional information that would alter the conclusions of the FEIR. This determination also identifies mitigation measures contained in the FEIR that are applicable to the proposed project.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth measures to reduce potential environmental effects, including mitigation measures identified in the Market and Octavia Plan EIR that are applicable to the Project, as well as improvement measures developed as part of the CPE. These mitigation measures reduce all potential significant impacts to less than significant levels, and are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

MOVED, that the Commission hereby adopts the CPE and the MMRP and authorizes the Conditional Use requested in Application No. 2012.1362CEV, 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:

The above recitals are accurate and constitute findings of this Commission.

- 1. Site Description and Present Use.** The project site is located on the northeast corner of Market and Sanchez Streets; Lot 039 in Assessor's Block 3542. The project site is an irregularly-shaped lot and is currently vacant, but was formerly occupied by a gas station that was demolished in 2007. A Remedial Action Completion Certification letter was issued by the Department of Public Health in April 2012 certifying the removal of underground storage tanks and soil remediation of the project site. The parcel is located with the Market and Octavia Plan Area and was included in the fall 2007 Upper Market Community Design Plan as a potential site to be redeveloped with a mixed-use building.
- 2. Surrounding Properties and Neighborhood.** The subject property is located within the Upper Market Street Neighborhood Commercial District, which extends along Market Street from Church to Castro, and on side streets off Market, and is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. Upper Market Street is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The District controls are designed to promote moderate-scale development, and preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. Some areas of the District are noticeably low-rise, automobile oriented lots, with gas stations and single-story commercial establishments with surface parking lots. Just off Market Street there are small-scale residential streets that support the district. In general, the district is a full-service shopping area providing a variety of uses within easy walking distance.

The adjacent property to the east of the subject property is occupied by the Swedish American Hall a known historic resource pursuant to CEQA that is also eligible for the California Register. Across Market Street to the south there is a six-story, mixed-use building that is currently under construction and a two-story commercial building occupied by Walgreens and 24 Hour Fitness. The adjacent property to the north is a three-story, two-family dwelling. Across Sanchez and 15th Streets to the west is are a one-story commercial building occupied by Chase bank with a small surface parking lot and a newly constructed six-story mixed use building. The context to the north of the subject property is within the RTO Zoning District and decidedly fine grain residential that is typified by the buildings within the Duboce Triangle neighborhood.

3. **Project Description.** The Project Sponsor proposes to construct a new 40- to 65-foot-tall, four to six-story, mixed use building, containing approximately 107,409 gross square feet on a vacant, 18,626 square foot lot. The proposed building would have 87 rental dwelling units, 5,115 square feet of ground-floor commercial space along Market Street, a portion of which would be occupied by a yet to be determined restaurant use as defined in Section 790.91 of the Code, and a basement-level garage containing 36 off-street parking spaces and 89 "class 1" bicycle parking spaces. The residential portion of the project would include 36 two-bedroom units, and 51 one-bedroom units. The portion of the northern building fronting on Sanchez Street would be four stories and approximately 40-feet in height. The proposed building would provide approximately 7,165 square feet of common usable open space.
4. **CEQA Findings.** The Planning Commission has independently reviewed and considered the CPE Certificate and hereby adopts the following findings:
 - A. In reviewing the CPE Certificate, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.
 - B. The Planning Commission finds that the Project is consistent with the Market and Octavia Plan for purposes of CEQA Section 21083.3 and CEQA Guidelines Section 15183 and is therefore eligible for a CPE.
 - C. The Planning Commission finds that the Project would not result in any new significant environmental effects peculiar to the Project, any new off-site or cumulative impacts, or effects of greater severity than were already analyzed and disclosed in the Market and Octavia Plan EIR, as shown in the analysis of the Certificate of Determination for the CPE.
 - D. With respect to archaeological resources, biological resources, geology and soils and hazards and hazardous materials, the Planning Commission finds that, with the implementation of the mitigation measures set forth in the MMRP ("Exhibit C") all potential environmental effects of the Project would be reduced to less than significant levels.
 - E. The Planning Commission finds that the contents of the CPE Certificate and the FMND and the procedures through which they were prepared, issued, publicized and reviewed comply with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

- F. The Planning Commission finds that the CPE Certificate and the FMND are adequate, accurate and objective and reflects the independent analysis and judgment of the Department of City Planning and Planning Commission.
- G. The mitigation measures listed in the MMRP ("Exhibit C") were identified in the Market and Octavia Plan EIR as reducing or eliminating potential environmental impacts of the proposed project. The Planning Commission finds that, with the implementation of the mitigation measures set forth in the MMRP ("Exhibit C") all potential environmental effects of the Project would be reduced to less than significant levels. Therefore, the Planning Commission hereby adopts the MMRP, including all of the mitigation measures identified in Exhibit C.
- H. The Planning Commission finds that the proposed project could not have a significant effect on the environment, as shown in the analysis of the CPE Certificate and FMND.
5. **Public Comment.** The Department received letters of support from the Merchants of Upper Market and Castro (MUMC), and the Housing Action Coalition. The adjacent neighbor to the north at 151 – 153 Sanchez Street submitted a letter in opposition to the project citing concerns about the blockage of their light well.
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. **Restaurant Use.** Planning Code Section 733.44 requires Conditional Use Authorization to establish a restaurant use as defined in Section 790.91 of the Planning Code within the Upper Market Street NCT.
- (1) **Conditional Use Criteria.** With regard to a conditional use authorization application for a Restaurant, Limited-Restaurant and Bar uses in Neighborhood Commercial Districts or Mixed Use Districts, the Planning Commission shall consider, in addition to the criteria set forth in Subsection 303(c):
- (A) The existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

The Project Sponsor is requesting conditional use authorization to establish a yet to be determined restaurant use within an approximately 2,655 gross square-foot ground floor commercial space. Planning staff has performed a survey of the Upper Market Street NCT District within 300' of the subject property and determined that there are four eating and drinking establishments within 300' of the subject property which includes the approved restaurant use for 2175 Market Street that is not yet constructed and the bar use for 2200 Market Street that is not yet constructed. The other eating and drinking uses within 300' include the recently approved restaurant use for the Swedish American Hall and the Lucky 13

bar. The total frontage devoted to these eating and drinking uses is below the 25% threshold established by the Code. Therefore, the project will not prevent the Upper Market Street NCT District from achieving optimal diversity in the types of goods and services available in the neighborhood.

- B. Open Space.** Planning Code Section 135 requires 60 square feet of private usable open space or 80 square feet of common open space for each dwelling unit.

The project includes 87 dwelling units and is required to provide a total of 5,220 square feet of private open space, or 6,960 square feet of common open space, or some equivalent combination of private and common open space. The project proposes 7,165 square feet of common usable open space all located on the roof of the building, in compliance with the amount of usable open space required by the Planning Code.

- C. Streetscape Improvements.** Planning Code Section 138.1 requires streetscape and pedestrian improvements for new developments. One street tree is required for every 20 lineal feet of street frontage. The Section also requires additional streetscape and pedestrian elements for large projects.

The project site has approximately 188 feet of frontage on Market and 214 feet of frontage on Sanchez Street and would provide 10 street trees at the Market Street frontage and 13 street trees at the Sanchez Street frontage. The size of the project also requires additional streetscape and pedestrian elements to meet the requirements of the Better Streets Plan. To meet the objectives of the plan, the project will include a bulb out at the northeast corner of Market and Sanchez Streets, extensive landscaping, and new seating.

- D. Lot Size per Development.** Planning Code Section 733.11 permits development of lots larger than 9,999 square-feet within the District with conditional use authorization.

In addition to the criteria of Section 303(c) of this Code, the City Planning Commission shall consider the extent to which the following criteria are met:

- (1) The mass and facade of the proposed structure are compatible with the existing scale of the district.
- (2) The facade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

The Project Sponsor is seeking conditional use authorization to develop an existing vacant 18,626 square-foot lot. The project site is much larger than the average lot within the District but it is located on a prominent corner site where a larger development is more appropriate to add emphasis and frame the intersection. The façade of the project will contribute to the positive visual quality of the district, which does not possess a prevailing architectural style. The Market Street façade is articulated with four larger bay projections with the most provocative design element located at the gore corner. The tops of the bays are stepped in height, rising as they approach the corner at the west end of the site. The stepped bay projections combined with the pattern of recesses at the

roofline help to break up the building mass. The Sanchez Street frontage would have what appears to be a separate building that is much shorter at 40' than the Market Street frontage. The character of the Sanchez frontage responds to the finer grain residential buildings to the north of the site. There is a courtyard open space at the center of the site that aligns with open space on adjacent properties and gives the appearance of two separate structures even though they share the same basement podium. Overall, the building responds well to its varied context.

- E. **Floor Area Ratio.** Section 733.20 of the Planning Code restricts non-residential uses to 3.0 to 1.

55,878 square-feet of non-residential uses are permitted pursuant to this Section of the Code. The project would provide approximately 5,115 square-feet of commercial uses, well within the limit prescribed by the Code.

- F. **Rear Yard.** Section 134 of the Planning Code requires a 25% rear yard opposite the Market Street frontage.

The project sponsor is requesting a rear yard variance to develop the northern portion of the lot that could not be developed otherwise.

- G. **Exposure.** Planning Code Section 140 requires that each dwelling unit shall face a public street, a Code-compliant rear yard, or another defined open space.

The majority of the project's dwelling units would face onto Market or Sanchez Street, meeting this requirement. However, approximately 12 units facing the interior ground floor courtyard would not meet this requirement due to the irregular dimensions of the space. The dwellings on the upper floors and towards the edges of the courtyard also comply with the exposure requirements. The project sponsor is requesting a dwelling unit exposure variance for the units that do not comply with the exposure requirement.

- H. **Ground Floor Ceiling Height.** Pursuant to Section 145.1 of the Planning Code, ground floor non-residential uses shall have a minimum floor-to-floor height of 14 feet, as measured from grade.

The ground floor ceiling height for less than 15% of the Market Street frontage would be less than 14 feet in height. The Project Sponsor is seeking a variance from this Section of the Planning Code for the portion with the reduced ceiling height.

- I. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that 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 use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed.

The project would provide active uses along both street frontages including retail space, a residential lobby, and dwellings. No less than 60 percent of the street frontage at the ground level would be fenestrated with transparent windows to allow visibility to the inside of the building. The parking garage is located below grade and meets the Building Code definition of a basement.

- J. **Required Ground Floor Commercial Uses.** Section 145.4(d) of the Planning Code requires that on Market Street, for the entirety of the NCT-3, Upper Market NCD, and Upper Market NCT Districts, an individual ground floor nonresidential use may not occupy more than 75 contiguous linear feet for the first 25 feet of depth along a street-facing facade. Modifications to this requirement may be granted through the Conditional Use process.

The project proposes a corner restaurant use that would occupy approximately 125 contiguous linear feet of frontage along Market Street. The Project Sponsor is seeking conditional use authorization pursuant to this Section of the Planning Code for this retail space. This proposed use is appropriate in relation to the total length of the project's street frontage along Market Street, and the fact that this frontage will be divided into three separate retail uses areas. These spaces will provide multiple active, pedestrian-oriented commercial uses along Market Street, as contemplated by the Code,

- K. **Permitted Off-Street Parking, Residential.** Sections 151 and 733.94 of the Planning Code requires no off-street parking but principally permits up to one space for every two dwellings. Conditional use authorization is required to provide up to three spaces for every four dwellings.

The project includes 87 dwelling units and 36 off-street parking spaces for a ratio of less than one space for every two dwellings, which is less than what is principally permitted in the District.

- L. **Protected Cycling Street Frontages.** In NCT Districts, no curb cuts accessing off-street parking shall be created or utilized on street frontages identified along any official City bicycle routes or bicycle lanes, where an alternative frontage is available. Where an alternative frontage is not available, parking access along any official City bicycle routes may be allowed on streets not listed in subsection (2) above as an exception in the manner provided in Section 303 for NCT Districts in cases where it can be clearly demonstrated that the final design of the parking access minimizes negative impacts to the safety of bicyclists to the fullest extent feasible.

The project proposes to provide vehicular access to off-street parking along the Sanchez Street frontage which is designated as an official City bike route. There is no alternative frontage available because

Market Street is a protected transit preferential street. The proposed entrance is minimal in size and would only accommodate one vehicle at a time. Furthermore, the entrance is located at the northern edge of the site, where the street is wider and there is not center median which allows bicyclist to pass on the left without interfering with oncoming traffic.

- M. **Car Share.** Section 166 of the Planning Code requires one car share space for 50 – 200 dwellings.

The project would provide two car-share spaces where one is required.

- N. **Off-Street Freight Loading (Commercial).** Sections 152 and 733.23 of the Planning Code requires off-street loading be provided in the Upper Market NCT for retail uses exceeding 10,000 square feet in area.

The project contains a total of 5,115 square feet of retail space, therefore, the project is not required to provide off-street loading and provides none.

- O. **Off-Street Freight Loading (Residential).** Sections 152 of the Planning Code requires off-street loading be provided in the Upper Market NCT for residential uses exceeding 100,000 square feet in area.

The project contains a total of 79,965 gross square feet of residential space, therefore, the project is not required to provide off-street loading and provides none.

- P. **Bicycle Parking.** Section 155.2 of the Planning Code requires one Class 1 bicycle parking space for every dwelling unit.

The project is required to provide 87 Class 1 bicycle parking spaces and would exceed this requirement by providing provides 89 Class 1 bicycle parking spaces.

- Q. **Residential Density.** Section 733.91 of the Planning Code places no limit on residential density within the District.

The Project Site is 18,626 square-feet in area and provides 87 dwelling units for a ratio of one dwelling unit for each 214 square feet of lot area.

- R. **Dwelling Unit Mix.** Section 207.6 of the Planning Code requires that a minimum of 40% of the dwelling units within a Neighborhood Commercial Transit district shall contain at least two bedrooms.

The Project proposes 87 dwellings; therefore, 35 dwellings (40%) must contain two bedrooms. The project would provide 36 two bedroom dwellings, meeting this requirement.

- S. **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 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 and 415.6, the Project is meeting the Inclusionary Affordable Housing Program requirement through the On-site Affordable Housing Alternative by providing 12% of the proposed dwelling units as affordable.

The Project Sponsor has demonstrated that the project 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- or off-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 submitted the required Affidavit and Costa Hawkins Agreement on April 4, 2014. The Project would construct 87 dwelling units, resulting in the construction of 10 on-site inclusionary 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.

- T. **Market and Octavia Community Infrastructure Impact Fee.** Per Section 421 of the Code, the project requires payment per gross new square foot of residential and commercial development for the Market and Octavia Community Improvements Fund.
- U. **Market and Octavia Plan Area Affordable Housing Fee.** Per Section 416 of the Code, the project requires payment per net square foot of residential development as part of the Market and Octavia Affordable Housing Fee.
- V. **Shadow.** Section 295 of the Code prohibits any structure that exceeds 40 feet in height from casting any shade or shadow upon any property under the jurisdiction of, or designated for acquisition by, the Recreation and Parks Commission, with certain exceptions identified in the Sunlight Ordinance.

A shadow fan was developed based on the drawings submitted with the application to determine the shadow impact of the project on properties protected by the Sunlight Ordinance. The fan indicates that there is no shadow impact from the subject property on any property protected by the Ordinance.

W. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor has executed a First Source Hiring Declaration of Compliance with Administrative Code Chapter 83.

7. **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:

A. 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 project would replace an unsightly vacant lot that was formerly occupied by a gas station with a contemporary mixed-use building with 87 dwellings, the design of which is compatible with the neighborhood character. The intensity of the development is necessary and desirable for a transit corridor.

B. 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 Project will replace an underutilized vacant lot with 87 units of additional housing within an established neighborhood that is well served by public transit. A majority of the units being provided would be specifically designed to meet the unmet housing needs of the neighborhood. In addition, the project's density necessitates an inclusionary housing requirement which would be met on-site, and payment to the Market and Octavia Affordable Housing Fund.

The proposed project will also provide ground floor retail space helping to fill a gap in the district's commercial frontage. These retail spaces will be accessible by walking and transit. In combination, the proposed residential and retail uses, at the densities and scale contemplated, will enhance the existing mixed-use character of the neighborhood.

The 65 foot building height at Market Street steps down to 40 feet at the rear of the site, responding to the finer grained low-density residential uses to the north of the site. The design of the building is distinctive. While the building is relatively large, its size is appropriate for its corner location. Furthermore, the use of recesses, larger bay windows, and rhythm of ground floor storefronts give the building articulation and verticality breaking up the horizontal massing. Also, the Sanchez Street elevation will be treated architecturally like a separate building to reduce the building scale.

- 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;

With multiple lot frontages, the project site is well suited for residential mixed-use development, allowing vehicular circulation to take place on Sanchez Street strengthening the commercial street wall and pedestrian environment on Market Street. All the parking would be underground and served by a driveway on Sanchez Street. The project is well served by transit. The property's Market Street frontage provides direct access to MUNI Light Rail and the K-Owl, L-OWL, and M-OWL bus lines. The property is located within a few hundred feet of the 37 and 22 bus lines, and just one block away from the MUNI subway station at Market and Church Streets, which serves the J, K, L, M, N and T metro lines.

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

The project would consist of high quality residential units and neighborhood serving commercial space. The uses would not generate any noxious or offensive emissions, noise, glare, dust, or odors.

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

The project would include new sidewalk landscape and seating. The project would include required street trees along the Market and Sanchez Street frontages. The garage entrance is located at the Sanchez Street frontage to reduce pedestrian and vehicle conflicts and avoid conflicts with transit.

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

With the requested approvals, the project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purpose of the Upper Market Neighborhood Commercial Transit District in that the project includes residential units on the upper floors, space for neighborhood-serving commercial uses on the ground floor, which would provide compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

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

NEIGHBORHOOD COMMERCE

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 development would provide desirable goods and services to the neighborhood and would provide resident employment opportunities to those in the community. The project would replace an unsightly vacant lot with essential housing and neighborhood-serving commercial uses. The project would not result in any undesirable consequences. Further, the Project Site is located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 6:

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

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The project would strengthen the neighborhood commercial district by replacing an underutilized vacant with a new commercial space for neighborhood-serving commercial uses and much needed housing. The project would fill in a large gap in a prominent location within the commercial frontage along Upper Market Street.

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.

The project creates 87 new rental dwelling units, 10 of which would be affordable units on-site. The Project would address the community's desire for smaller, more affordable dwellings by providing 82 dwellings that are less than 1,000 square-feet. All of the dwellings are proposed to be offered as rental, which combined with their smaller sizes provide the more affordable and flexible housing option that the community desires.

OBJECTIVE 4:

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

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

The 36 proposed two bedroom units are sized to provide housing for families with children.

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 project would construct a new building on a vacant lot. No neighborhood-serving retail uses would be removed, and the project would construct an additional 5,115 square feet of such uses, fronting on Market Street, filling a large gap in the commercial street frontage. The new business occupying the space would provide future opportunities for resident employment in and ownership of a new business.

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

The Project Site is located within the Upper Market Neighborhood Commercial Transit District, a mixed-use area consisting of residential and commercial uses. The proposed residential units and new commercial space will complement and enhance the district by providing new housing and business opportunities in the neighborhood. Existing housing in the area would not be affected by the project.

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

No housing is removed for this project. The project would enhance the City's supply of affordable housing by complying with the Inclusionary Affordable Housing Program.

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

All the parking would be located underground and accessed from the rear of the property eliminating transit and pedestrian conflict on a major transit corridor. The project is also well served by transit. The Project Site is within close proximity to the MUNI subway station at Church and Market Streets.

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

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

The project is designed and would be constructed to conform to the structural and seismic safety requirements of the Building Code to protect against injury and loss of life in an earthquake.

- G. That landmarks and historic buildings be preserved.

The property does not contain any landmark or historic buildings. The neighborhood was surveyed as part of the Market and Octavia rezoning effort and it was determined to be located in the eligible Upper Market Street Commercial Historic District. Through environmental review, the project was determined not to cause a significant adverse impact to any historic resources.

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

The project would have no negative impact on existing parks and open spaces.

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 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 **ADOPTS** the CPE (Community Plan Exemption) and the Mitigation Monitoring and Reporting Program and **APPROVES Conditional Use Application No. 2012.1362CEV** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 28, 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. 19125. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 24, 2014.

Jonas P. Ionin
Commission Secretary

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

NAYS: None

ABSENT: Commissioners Hillis, Sugaya

ADOPTED: April 24, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow for the construction of a four to six-story, 40 to 65-foot-tall, 107,409 gross-square-foot, mixed-use building containing 87 rental dwelling units, 5,155 sq. ft. of ground-floor commercial space along Market Street, a portion of which would be occupied by a yet to be determined restaurant use as defined in Section 790.91 of the Code, and a below-grade parking garage, located at 2198 Market Street Lot 039 in Assessor's Block 3542 pursuant to Planning Code Section(s) 303, 733.11, 145.4(d), 155(r)(4), and 733.44, within the Upper Market Neighborhood Commercial Transit District and 40-X and 60/65-X Height and Bulk Districts; in general conformance with plans, dated March 28, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2012.1362CEV and subject to conditions of approval reviewed and approved by the Commission on April 24, 2014 under Motion No. 19125. 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

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 April 24, 2014 under Motion No. 19125.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19125 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **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.

2. **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.

3. **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

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

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

5. **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 architectural addenda. 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.

6. **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.

7. **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.

8. **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. The Project Sponsor shall complete final design of all street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda

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

9. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

- a. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
- b. On-site, in a driveway, underground;
- c. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- d. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- e. Public right-of-way, underground; and based on Better Streets Plan guidelines;
- f. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- g. On-site, in a ground floor façade (the least desirable location).

- i. Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

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

PARKING AND TRAFFIC

10. **Off-Street Parking for All Units.** All off-street parking spaces shall be made available to project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

PROVISIONS

11. **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

12. **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

13. Affordable Units

- A. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 87 units; 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.*
- B. **Unit Mix.** The Project contains 51 one-bedroom and 36 two-bedroom units; therefore, the required affordable unit mix is 6 one-bedroom and 4 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.*
- C. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.
- For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.*
- D. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than 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.*
- E. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.
- For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.*
- F. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:
- <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.
- As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

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

- 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.

MONITORING

14. **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

15. **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

16. **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/>

17. **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

18. **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

19. **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

EXHIBIT C: MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM				
	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR					
AIR QUALITY					
Project Mitigation Measure 1 – Short-term Construction Exhaust Emissions (Mitigation Measure 5.8B of the Market and Octavia FEIR)	Project sponsor/ contractor(s).	Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.	Prepare and submit a Plan.	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is complete.
<p>A. <i>Construction Emissions Minimization Plan.</i> Prior to issuance of a construction permit, the project sponsor shall submit a Construction Emissions Minimization Plan (Plan) to the Environmental Review Officer (ERO) for review and approval by an Environmental Planning Air Quality Specialist. The Plan shall detail project compliance with the following requirements:</p> <ol style="list-style-type: none"> 1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements: <ol style="list-style-type: none"> a) Where access to alternative sources of power is available, portable diesel engines shall be prohibited; b) All off-road equipment shall have: <ol style="list-style-type: none"> i. Engines that meet or exceed either USEPA or ARB Tier 2 off-road emission standards, <i>and</i> ii. Engines that are retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy (VDECS).¹ 					

¹ Equipment with engines meeting Tier 4 Interim or Tier 4 Final emission standards automatically meet this requirement, therefore a VDECS would not be required.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
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c) Exceptions:

- i. Exceptions to A(1)(a) *may* be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that an alternative source of power is limited or infeasible at the project site and that the requirements of this exception provision apply. Under this circumstance, the sponsor shall submit documentation of compliance with A(1)(b) for onsite power generation.
- ii. Exceptions to A(1)(b)(ii) *may* be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that a particular piece of off-road equipment with an ARB Level 3 VDECS is: (1) technically not feasible, (2) would not produce desired emissions reductions due to expected operating modes, (3) installing the control device would create a safety hazard or impaired visibility for the operator, or (4) there is a compelling emergency need to use off-road equipment that are not retrofitted with an ARB Level 3 VDECS and the sponsor has submitted documentation to the ERO that the requirements of this exception provision apply. If granted an exception to A(1)(b)(ii), the project sponsor must comply with the requirements of A(1)(c)(iii).
- iii. If an exception is granted pursuant to A(1)(c)(ii), the project sponsor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in Table A1 below.

**TABLE A1
OFF-ROAD EQUIPMENT COMPLIANCE STEP DOWN
SCHEDULE***

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures			Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
Compliance Alternative	Engine Emission Standard	Emissions Control					
1	Tier 2	ARB Level 2 VDECS					
2	Tier 2	ARB Level 1 VDECS					
3	Tier 2	Alternative Fuel*					

*How to use the table. If the requirements of (A)(1)(b) cannot be met, then the project sponsor would need to meet Compliance Alternative 1. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 1, then Compliance Alternative 2 would need to be met. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 2, then Compliance Alternative 3 would need to be met.

**Alternative fuels are not a VDECS

2. The project sponsor shall require the idling time for off-road and on-road equipment be limited to no more than *two* minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.

3. The project sponsor shall require that construction operators properly maintain and tune equipment in accordance with manufacturer specifications.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>4. The Plan shall include estimates of the construction timeline by phase with a description of each piece of off-road equipment required for every construction phase. Off-road equipment descriptions and information may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, reporting shall indicate the type of alternative fuel being used.</p>					
<p>5. The Plan shall be kept on-site and available for review by any persons requesting it and a legible sign shall be posted at the perimeter of the construction site indicating to the public the basic requirements of the Plan and a way to request a copy of the Plan. The project sponsor shall provide copies of Plan to members of the public as requested.</p>					
<p><i>B. Reporting.</i> Monthly reports shall be submitted to the ERO indicating the construction phase and off-road equipment information used during each phase including the information required in A(4). In addition, for off-road equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.</p>	Project sponsor/contractor(s).	Monthly.	Submit monthly reports.	Project sponsor/contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is being/was implemented.
<p>Within six months of the completion of construction activities, the project sponsor shall submit to the ERO a final report summarizing construction activities. The final report shall indicate the start and end dates and duration of each construction phase.</p>		Within six months of completion of construction activities.	Submit a final report of construction activities.		

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>For each phase, the report shall include detailed information required in A(4). In addition, for off-road equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.</p>					
<p><i>C. Certification Statement and On-site Requirements.</i> Prior to the commencement of construction activities, the project sponsor must certify (1) compliance with the Plan, and (2) all applicable requirements of the Plan have been incorporated into contract specifications. Refer to Appendix E for the Certification Statement.</p>	Project sponsor/contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Submit certification statement.	Project sponsor / contractor(s) and the ERO.	Considered complete on submittal of certification statement.
<p>GEOLOGY AND SOILS</p>					
<p>Project Mitigation Measure 2 – Construction-related Soils (Mitigation Measure 5.11A of the Market and Octavia FEIR)</p> <p>Best Management Practices (BMP) erosion control features shall be developed with the following objectives and basic strategy: protect disturbed areas through minimization and duration of exposure; control surface runoff and maintain low runoff velocities; trap sediment onsite; and minimize length and steepness of slopes.</p>	Project sponsor.	During construction.	Implement BMP erosion control features	Project sponsor/DBI.	On-site monitoring by project sponsor and DBI.