



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input checked="" type="checkbox"/> Inclusionary 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 checked="" type="checkbox"/> Other |

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Planning Commission Motion 19134

HEARING DATE: MAY 1, 2014

Date: April 24, 2014
Case No.: **2014.0103CVX**
Project Address: **1036 MISSION STREET**
Zoning: C-3-G (Downtown, General Commercial) District
120-X Height and Bulk District
Block/Lots: 3703/079 & 080
Project Sponsor: Christopher Cummings
Tenderloin Neighborhood Development Corporation
201 Eddy Street
San Francisco, CA 94102
Staff Contact: Kate Conner – (415) 575-6914
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ADOPTING FINDINGS AUTHORIZING A DETERMINATION OF COMPLIANCE PURSUANT TO PLANNING CODE SECTION 309, WITH EXCEPTIONS TO THE REQUIREMENTS FOR REAR YARD PURSUANT TO PLANNING CODE SECTION 134 AND REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS PURSUANT TO PLANNING CODE SECTION 148. THE PROPOSED PROJECT IS TO CONSTRUCT A NINE-STORY 83-UNIT 100% AFFORDABLE HOUSING PROJECT WITH APPROXIMATELY 963 GROSS SQUARE FEET (GSF) OF GROUND FLOOR RETAIL ON TWO LOTS CURRENTLY USED AS SURFACE PARKING LOTS. A SIMILAR PROJECT LARGER IN SCOPE WAS ENTITLED IN 2009 BY THE SAME PROJECT SPONSOR AND APPROVED BY THE PLANNING COMMISSION THROUGH MOTION NUMBERS 17875 AND 17876. THE PROJECT SITE IS LOCATED WITHIN THE C-3-G (DOWNTOWN GENERAL) ZONING DISTRICT AND 120-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. .

PREAMBLE

On November 5, 2008, Tenderloin Neighborhood Development Corporation (hereinafter "Applicant") filed an application (Case No. 2007.1464EKXCV) with the Planning Department (hereinafter "Department") seeking authorization for new construction of a residential building, nine to 13 stories tall and approximately 120 feet in height, containing approximately 100 dwelling units, 1,250 square feet of ground floor retail space, common community rooms and no off-street parking spaces at 1036 Mission Street, north side between Sixth and Seventh Streets, within the C-3-G (Downtown General Commercial) District and a 120-F Height and Bulk District.

On April 22, 2009, the Planning Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration (PMND) in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

As there were no appeals of the PMND filed, on May 12, 2009 the Department published a Final mitigated Negative Declaration (FMND) in compliance with CEQA, the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

On May 14, 2009, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2007.1464EKXCV and approved 2007.1464EKXCV subject to conditions stipulated in Motion Nos. 17875 and 17876.

On January 15, 2014, Christopher Cummings of Tenderloin Neighborhood Development Corporation ("Project Sponsor"), submitted a request (Case No. 2014.0103CVX) with the City and County of San Francisco Planning Department ("Department") for a Determination of Compliance pursuant to Section 309 with requested Exceptions from Planning Code ("Code") Section 134(d), Rear Yard and 148, Ground-Level Wind Currents to construct a 9-story, 100% affordable 83-unit building with approximately 963 gross square feet (gsf) of ground floor retail on a site that currently contains a surface parking lot within the C-3-G Zoning District and the 120-X Height and Bulk District (collectively, "Project"). This Project is very similar to the project (Case No. 2007.1464EKXCV) entitled in 2009 subject to conditions stipulated in Motion Nos. 17875 and 17876; however it is smaller in scope.

On April 16, 2014, the Planning Department issued a memo to file determining that the FMND completed pursuant to Case No. 2007.1464EKXCV was adequate for the scope of work proposed as part of the current application, Case No. 2014.0103CVX, and that no further environmental review is required.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2014.0103CVX at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting program (MMRP) as part of the Environmental Determination made for 2007.1464EKXCV, which remains applicable to the current application, and this material was made available to the public and this Commission for this Commission's review, consideration and action.

On May 1, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014.0103CVX.

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 approves the Determination of Compliance and Exceptions to Section 309 requested in Application No. 2014.0103CVX, subject to the conditions contained in “EXHIBIT A” of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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 vacant and located on the north side of Mission Street, Lots 079 & 080 in Assessor’s Block 3703 (hereinafter “Subject Property”). The property is in a C-3-G (Downtown General Commercial) District and a 120-X Height and Bulk District and has a lot area of approximately 15,192 square feet. The property is currently used as an 80-space surface parking lot. There are four handicapped spaces and five Zip Car spaces. The site also contains a 12-foot by 25-foot billboard attached to the adjacent building to the east. The billboard would be removed as part of the proposed project. Parking on the lot is available on a daily and monthly basis with one attendant on duty Monday through Friday.

The subject block is bonded by Sixth Street to the east, Market Street to the north, Seventh Street to the west, and Mission Street to the south. Jessie Street runs parallel to Mission Street and provides access to the rear of the site. There is 95 feet of frontage on Jessie and Mission Streets.

3. **Surrounding Properties and Neighborhood.** The Project Site is located in the South-of-Market neighborhood. To the west lie parking lots and the U.S. Courthouse (formerly the main Post Office building) at Seventh and Mission Streets. Small and mid-sized business structures line Jessie Street east of the project site and small retail businesses line Sixth Street between Market and Mission Streets nearby. Some of these buildings contain upper-floor residential hotels. The site is one block south of Market Street and about two blocks from the Civic Center Station serving BART and MUNI. The Project is well served by transit of all varieties.

The Project Site is located in the C-3-G District: Downtown General Commercial Zoning District. This District covers the western portions of downtown and is composed of a variety of uses: retail, offices, hotels, entertainment, clubs and institutions, and high-density residential. Many of these uses have a Citywide or regional function, although the intensity of development is lower here than in the downtown core area. As in the case of other downtown districts, no off-street parking is required for individual commercial buildings. In the vicinity of Market Street, the configuration of this district reflects easy accessibility by rapid transit.

4. **Project History.** In 2009, the Planning Commission approved a similar development proposal for the Project Site. Case No. 2007.1464EKXCV authorized new construction of a residential building, nine to 13 stories tall and approximately 120 feet in height, containing approximately 100 dwelling units, 1250 square feet of ground floor retail space, common community rooms and no off-street parking spaces at the Project Site. A FMND was prepared and finalized in May 2009.

The current proposal is smaller in scope and its environmental effects are the same or less than those analyzed in the FMND; therefore, a Note to File satisfies the environmental review requirements under the California Environmental Quality Act.

The previous project, 2007.1464EKXCV, was for a 100-unit 100% affordable project that was 120 feet in height and 13 stories. The FAR was 7.7 to 1.0. 12 of the units required variances for exposure requirements. The layout was similar to the current Project, with an interior courtyard and a roof deck. The current proposal is for 83 units to be located in a nine-story 90-foot high building. The change in project description was determined by the Zoning Administrator to be significant enough to warrant new entitlements.

5. **Project Description.** The Project Sponsor proposes to construct a nine-story 83-unit 100% affordable housing project with approximately 963 gsf of ground floor retail on two lots currently used as surface parking lots. A similar project larger in scope was entitled in 2009 with the same Project Sponsor and approved by the Planning Commission through Motion Numbers 17875 and 17876. The Project Site is located within the C-3-G (Downtown General) Zoning District and 120-X Height and Bulk District.

The Project consists of approximately 96,576 gsf consisting of 963 gsf of retail uses and 95,613 gsf of residential uses consisting of 100% affordable housing. The 83 affordable units range from junior one-bedroom to three-bedroom flats. The project also includes common rooms, management offices, laundry, lobby, circulation and supportive service spaces designed to serve the intended family population. The Project will also include 84 indoor bicycle storage spaces. There will be no on-site automobile parking. The Project will achieve GreenPoint status.

The Project includes exceptions pursuant to Planning Code Section 309, a Conditional Use Authorization, and three Variances. The 309 exceptions include an exception to Reduction of Ground-Level Wind Currents in C-3 Districts and a reduction in Rear Yard requirements. The Project is receiving a Conditional Use Authorization for exempting affordable units from floor area ratio ("FAR") calculations. The Variance is for residential open space, and exposure requirements. Since the original entitlement, Case No. 2007.1464EKXCV, the Project has been designed to be more Code-conforming.

The Project would be one hundred percent affordable. 100% of the 83 units will be restricted to persons and families earning no more than 50% of area median income (AMI), and 40 of the total units will be targeted for homeless persons and families or persons and families at risk of homelessness, earning no more than 30% of AMI. One of the one-bedroom units will be designated as a manager's unit.

The Project is intended to support the City of San Francisco's goal of ending chronic homelessness and increasing availability of affordable housing units specifically for families. The Project will provide affordable rental housing for families and, as a TNDC property, on-site supportive services staff would coordinate medical and health care for residents free of charge, offer employment and training services, and provide counseling regarding benefits and money management skills.

The retail space on Mission Street is intended as neighborhood serving retail and/or non-profit space. This space would likely employ up to 10 persons.

6. **Design.** The lobby entrance occurs under a steel and glass canopy, within a deep notch in the building mass which extends the full height of the building. The notch articulates the Mission Street façade into three vertically proportioned segments, each with its own fenestration pattern. The second floor façade is incorporated into a two-story order of articulated concrete columns at the base of the building and will be occupied by residential and common spaces. Above this level are seven residential floors with paired bay windows on the widest segment, commercial-grade aluminum windows, metal siding accent and metal sunshades. The cladding on these levels would be a mix of stucco and metal panels. As viewed from the west, the building would form a U-shape around a mid-block 2nd floor courtyard. The blind wall at the west property line is highly visible from Mission Street. The Project Sponsor is proposing to install public art at this location. The adjacent property is federally owned and there are no development plans proposed in the immediate future. The Project Sponsor understands that if there is public art approved at this location, it will be conditioned so that if the adjacent lot is ever developed, the art will need to be removed and installed elsewhere on the property.

There is set in glazing at the residential corridors and it is articulated in proportioned segments which will receive an accent color. The east walls will receive a similar treatment. The ground floor of the Jessie Street elevation includes utility spaces, clad in metal panels, with a larger section of storefront glazing at the residents' common room. Above the ground floor, the Jessie Street elevation would be stucco and ribbed metal siding.

A long skylight, located above a large fountain in the lobby, would allow daylight to fill in the lobby and office spaces facing it and provide a visual connection between the lobby and 2nd floor courtyard. The second level abuts an exterior courtyard and will include a laundry room, staff conference room, staff lounge, 10 residential units and an open stair which will connect the 1st and 2nd floor lobbies. Levels three to eight are residential floors which typically include 12 units. The ninth floor includes 8 units and a roof deck.

7. **Public Comment.** The Department has received six letters expressing support of this project.
8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - a. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown General Commercial District is 6.0 to 1. Section 124(f) provides that in C-3-G Districts, additional square footage above the base FAR of 6.0 to 1 may be approved by conditional use for the construction of dwelling units affordable for 20 years to households whose incomes are within 150 percent of the median income, as defined in Section 124(f).

In the C-3-G District, the maximum floor area ratio (FAR) is 6.0:1. However, under Planning Code Section 124(f), the floor area of affordable housing to be constructed on a project site in a C-3-G District can be approved with Conditional Use Authorization over and above that permitted by the base FAR limits, provided certain requirements are met. Thus, a Conditional Use Authorization is required for all of the floor area dedicated to households whose incomes are within 150 percent of the median income, regardless of the exact amount of FAR proposed. The proposed residential gsf is 95,613 on a 15,192 sf lot, thereby yielding a FAR of 6.3 to 1.0. The 963 gsf of retail on the ground floor is exempt from FAR calculations pursuant to Planning Code Section 102.9. The Project requests Conditional Use Authorization for approximately 4,461 sf of housing pursuant to Planning Code Section 124(f).

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

The Project would not meet the Planning Code's minimum rear yard requirement in that the required 25% rear yard at all residential levels is not provided. The Planning Code makes no provision for the proposed courtyard configurations as a method of complying with rear yard requirements. However, Section 134(d) allows for an exception from the strict application of these requirements through the Section 309 review process, provided that the building location and configuration assure adequate light and air to all residential units and to the usable open space areas. As such, the project is seeking an exception from the rear yard requirements of Planning Code Section 134.

- c. **Residential Open Space (Section 135).** Planning Code Section 135, requires is 36 sf per dwelling unit of residential open space requirement if the open space is private and 48 sf per dwelling unit if it is provided through common open space.

The Project includes 83 units, and therefore the Project must provide 3,984 sf of common open space. Included in the proposal are a 3,275 sf roof deck and a 1,955 sf second level mid-block courtyard. The second level courtyard does not meet the exposure requirements for open space; therefore, the Project is 709 sf deficient with regard to residential open space requirements. The roof deck satisfies residential open space requirements for 68 of the 83 residential units. As such, the Project is seeking a Variance from the open space requirements of Planning Code Section 135.

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

The project includes approximately 963 sf of ground floor retail space, which is excluded from the gross floor area of the building, pursuant to Planning Code Section 102.9(b) (13). As such, there is no public open space requirement.

- e. **Exposure (Section 140).** Planning Code Section 140 requires that all dwelling units face directly onto 25 feet of open area (a public street, alley, or side yard) or onto an inner

courtyard that is 25 feet in every horizontal dimension for the floor at which the dwelling unit in question is located and the floor immediately above it, with an increase in five feet in every horizontal dimension at each subsequent floor.

The majority of dwelling-units would comply fully with Section 140, by either facing one of the abutting streets (Jessie or Mission Streets) or by facing the outer court that measures a minimum of 25 feet. There are 12 units on levels 2-6 that do not comply with this requirement. As such, the project is seeking a Variance from the rear yard requirements of Planning Code Section 140.

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

The ground floor along Mission Street and Jessie Street have “active uses” with direct access to the sidewalk within the first 25 feet of building depth and are thus compliant with this Code Section. Along Jessie Street, the Project includes a tenant common room with a direct entry and the remaining frontage is devoted to building systems including mechanical, electrical, and plumbing features. The Zoning Administrator has determined that these features are provided in such a fashion as to not negatively impact the quality of the ground floor space. The Mission Street frontage includes the retail tenant space, residential entry, and access to the trash room. The Project meets this section of the Code in that both frontages are completely devoted to active uses, building systems, residential entry, and spaces accessory to residential uses.

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

The Project has two street frontages with Active Uses: Jessie Street and Mission Street. The Jessie Street frontage and the Mission Street frontage both measure 95 feet and meet the transparency requirement for the active uses on each frontage. The tenant common room, residential entry, and retail tenant space will meet the glazing requirements by being 100% glazed and transparent.

- h. **Shadows on Public Sidewalks (Section 146).** Planning Code Section 146(a) establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings, not located on the specific streets identified in Section 146(a), shall be shaped to reduce substantial shadow impacts on public sidewalks, if it

can be done without unduly creating an unattractive design and without unduly restricting development potential.

Section 146(a) does not apply to construction on Mission Street or Jessie Street, and therefore does not apply to the Project.

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

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

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

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

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

unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

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

The FMND associated with 2007.1464EKXCV refers to a wind study prepared in August 2008 by Donald J. Ballanti, Certified Consulting Meteorologist, for the proposed Project that tested existing, existing plus project, and cumulative conditions. The wind study found that three of the 20 sidewalk test point locations exceed the pedestrian comfort criterion of 11mph (more than 10 percent of the time) under existing conditions. The wind study concluded that the proposed Project would eliminate two of the three existing exceedances and add an additional exceedance, thereby resulting in a total of two exceedances (one at the intersection of Jessie Street and Sixth Street and one along Mission Street at the southwest corner of the Project Site). The proposed Project would not result in any net new exceedances of the 11 mph pedestrian comfort criterion; nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria at all test points; a Section 309 exception is requested.

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

The Project does not propose off-street parking.

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

The Project does not propose off-street parking and is therefore not required to provide car-share parking.

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

The Project is not providing any off-street loading spaces. With a floor area of approximately 96,576 gsf, the residential component of the Project is not required to provide off-street loading spaces. No off-street loading is required for the approximately 963-square-foot retail space.

- n. **Bicycle Parking (Section 155.5).** Planning Code Section 155.2 requires one Class 1 space for every dwelling unit and one Class 2 space per 20 units.

The Project requires a minimum of 84 indoor secure Class 1 bicycle parking spaces. The Class 1 bicycle spaces would be provided at street level and accessed from the main residential entry. The Project is providing five Class 2 spaces on the sidewalk on Mission Street. There will also be an additional 60 bicycle parking spaces that do not comply with Class 1 or Class 2 requirements that will be located in the same location as the Class 1 spaces.

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

The proposed residential density of 83 dwelling units would be within the permitted density for the C-3-G Zoning District. The Project Site is 15,192 square feet in size and would permit up to 122 dwelling units.

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

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

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

The Project would reach a height of approximately 90'-0" conforming in its entirety to the Height and Bulk District. The building includes various features, such as elevator/stair penthouses, mechanical structures, and wind screens that extend above the 90-foot proposed height; however, these features do not reach the height limit. The Project would therefore comply with the Planning Code's 120-X Height and Bulk District.

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

The Project's FMND refers to a shadow analysis performed by Department staff for the 120-foot-tall Project (Case No. 2007.1464EKXCV) which concludes that the Project would not cast new shadows on any properties under the Recreation and Park Commission's jurisdiction protected by

Section 295 (a finding of “no significance”, April 22, 2009). The shadows to be produced by the proposed Project would not exceed levels commonly expected in urban areas and would have no significant or adverse shadow effects.

Since the FMND, the Project has been reduced in size and height and would therefore have less of an effect on shadows. Department staff has determined that the Project would not shade any properties under the jurisdiction of, or designated for acquisition by, the Recreation and Park Department.

- s. **Inclusionary Affordable Housing Program (Section 415).** Planning Code Section 415 requires 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.

As currently proposed, the Project will be 100 percent affordable, with 83 dwelling units. In the event that the Project changes and some or all of the units become market-rate, the Project shall comply with the inclusionary housing requirements set forth in Section 415 of the Code. 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 the Project is exempt from the requirements of Planning Code Section 415 because it is a 100% affordable project. A 100% affordable housing project is one in which rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development. The Mayor’s Office of Housing must represent to the Planning Commission or Planning Department that the project meets this requirement. The Mayor’s Office of Housing and Community Development has supplied Planning staff with a letter stating that the Project meets the 100% affordable housing requirement.

- t. **Street Trees (Sections 138.1 and 428).** Planning Code Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties. There are additional requirements for street trees in C-Districts. Street trees must have a minimum 2 inch caliper (measured at breast height); must maintain branches a minimum of 80 inches above sidewalk grade; must be planted in a sidewalk opening at least 16 square feet, and have a minimum soil depth of 3 feet 6 inches; and include street tree basins edged with decorative treatment, such as pavers or cobbles. Edging features may be counted toward the minimum sidewalk opening per (cc) if they are permeable surfaces per Section 102.33.

The Project includes a total of approximately 190 feet of street frontage, along the Mission and Jessie Street frontages, which results in a requirement for 10 street trees are required. Conditions

of approval have to been added to require the project to plant 10 street trees as part of the Project's streetscape plan, along the Mission and Jessie Street frontages, unless DPW cannot grant approval for installation of any of the required trees on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare. In any such case, the requirements of Section 138.1 may be modified or waived by the Zoning Administrator. There is one existing tree located on Mission Street which will remain. Nine additional street trees will be planted as part of the Project.

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

The Project would comply by dedicating one percent of construction cost to works of art, as required through the Conditions of Approval. The conceptual plans for the Project include two options. The first is a light panel installation art piece by artist Jim Campbell, a resident of San Francisco. The art installation will occur at two locations at the building entrance, and include a series of LED panels projecting images of pedestrian activity around the entrance, each of which will measure 6' wide X 10' tall X 1'-2" deep. The art installation project has a budget of approximately \$254,000, representing 1% of the total hard construction costs of \$25,385,000. The public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.

The second option is utilizing the west blank wall. This was of initial concern to the Planning Department because the adjacent parcel (owned by the Federal Government) is currently vacant and could be developed in a way to effectively block the public art installation. TNDC has reached out to the General Services Administration in 2012 and it was stated that there were no plans to dispose of that property in the near future. As of this writing TNDC is still exploring both options. If the west wall is chosen, the art would have to be removed and replaced elsewhere on the property or a new art installation commissioned should the vacant parcel be developed as stated in Condition #20 of this motion.

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

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

The proposed project would not meet the Planning Code's minimum rear yard requirement in that the 25% rear yard does not span the full width of the lot. Although open space is provided in a courtyard fashion at the second level, the building volume holds the street wall on the entirety of

the Mission Street façade and the Jessie Street façade, thereby not allowing for a rear yard that spans the full width of the lot. All dwelling units face onto either this courtyard at the second level, or onto Mission, or Jessie Streets. Open space at the roof deck and the courtyard have access to light and air; therefore, ample separation for light and air is provided for the residential units within the Project, and light and air is provided to the usable open space.. Therefore, it is appropriate to grant an exception from the rear yard requirements of Planning Code Section 134.

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

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

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

Comfort Criterion

The FMND refers to a wind study prepared in August 2008 by Donald J. Ballanti, Certified Consulting Meteorologist, for the proposed Project that tested existing, existing plus project, and cumulative conditions. The wind study found that three of the 20 sidewalk test point locations exceed the pedestrian comfort criterion of 11mph (more than 10 percent of the time) under existing conditions. The wind study concluded that the proposed Project would eliminate two of the three existing exceedances, add one additional exceedance resulting in a total of two exceedances (one at the intersection of Jessie Street and Sixth Street and one along Mission Street at the southwest corner of the Project Site). The Project would not result in any net new exceedances of the 11 mph pedestrian comfort criterion; nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria at all test points; a Section 309 exception is requested.

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

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The proposed mixed-use Project responds to the need for new affordable housing by creating 83 affordable dwelling units.

OBJECTIVE 4:

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

Policy 4.5:

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

The Project would provide 100% affordable housing for low income households. All 83 of the units will be restricted to persons or families earning no more than 50% of area median income (AMI) and 40 of the total units will be targeted for homeless persons and families or persons and families at risk of homelessness, earning no more than 30% of AMI. One of the one-bedroom units will be designated as a manager's unit. The building includes a mix of unit sizes, further adding to the diversity of unit types provided at a range of income levels. There will be approximately 30 junior one-bedroom units, nine one-bedroom units, 37 two-bedroom units, and seven three-bedroom units.

OBJECTIVE 5:

INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THE CITY'S AFFORDABLE HOUSING PRODUCTION SYSTEM.

Policy 5.1

Ensure all residents of San Francisco have equal access to subsidized housing units.

Policy 5.2:

Support efforts of for-profit and non-profit organizations and other community-based groups and expand their capacity to produce and manage permanently affordable housing.

Policy 5.4

Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

The Tenderloin Neighborhood Development Corporation (TNDC), a non-profit, community-based group, will be able to expand programs and services they offer to the citizens of San Francisco with the proposed common community space located in the building. Additionally, TNDC will manage the all-affordable project. TNDC will be offering supportive housing, or housing for the formerly homeless, in addition to permanently affordable.

OBJECTIVE 6:

REDUCE HOMELESSNESS AND THE RISK OF HOMELESSNESS.

Policy 6.1:

Prioritize permanent housing solutions while pursuing both short- and long-term strategies to eliminate homelessness.

The Project would provide 100% affordable housing for low income households. All 83 of the units will be restricted to persons or families earning no more than 50% of area median income (AMI) and 40 of the total units will be targeted for homeless persons and families or persons and families at risk of homelessness, earning no more than 30% of AMI.

OBJECTIVE 11:

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

Policy 11.1:

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

Policy 11.6:

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

The Project is well designed and compatible with the scale and proportions of buildings in the area, and will be built with high quality materials. The design is compatible with design elements in the neighborhood and would add to the image and mixed-use orientation of the downtown district. The design of the building incorporates contemporary design and detailing that responds appropriately to the variety of heights,

scales, styles and periods found in the area. The design and proportions feature clean lines with appropriately scaled massing coupled with quality materials and fixtures that will add to the evolving rich and varied pedestrian experience in this neighborhood.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The Project would add approximately 963 sf of new commercial space that is intended to serve residents in the building and likely draw a wider range of new neighborhood-serving retail businesses than it does today. Retail is encouraged and principally permitted on the ground floor of buildings in the Downtown General District, and is thus consistent with activities in the commercial land use plan.

TRANSPORTATION ELEMENT

OBJECTIVE 2:

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1:

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

OBJECTIVE 11:

ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3:

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The Project is located within a neighborhood rich with public transportation and the people occupying the building are expected to rely heavily on public transit, bicycling, or walking for the majority of their daily trips. The project includes bicycle parking for 149 bicycles (84 Class 1, 5 Class 2, and 60 additional bike parking spaces). Within a few blocks of the project site, there is an abundance of local and regional transit lines, including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally such transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain.

URBAN DESIGN ELEMENT

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The height, massing, and shape of the proposed building would ensure its compatibility with the other buildings in the vicinity by transitioning appropriately with the context of the surrounding neighborhood.

OBJECTIVE 3:

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

Policy 3.1:

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.2:

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

Policy 3.5:

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

Policy 3.6:

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

The Project would be compatible with the visual relationship and transitions between new and older buildings in the neighborhood. The design and proportions of the building would be compatible with the varying sizes of the buildings in the vicinity. The design of the building incorporates contemporary design

that responds appropriately to the variety of styles and periods of this Downtown General District. Accordingly, the Project would reflect the design elements of nearby existing buildings and would avoid extreme contrasts in color, shape and other characteristics that would make it stand out in excess of its civic importance. The Project's height and bulk would be consistent with the surrounding streetscape and would be visually compatible with the surrounding buildings.

OBJECTIVE 4:

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

Policy 4.12:

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

The Project includes a well landscaped second story courtyard, a roof deck and 10 street trees.

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The Project will bring additional housing with no off-street parking and an abundance of bicycle parking into a neighborhood that is well served by public transit on the outskirts of Downtown. The Project will create substantial net benefits for the City without any undesirable consequences that cannot be mitigated.

OBJECTIVE 7:

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.1:

Promote the inclusion of housing in downtown commercial developments.

Policy 7.2:

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

The Project would construct a nine-story, 83-unit residential building, intended for use as affordable housing, thereby increasing the City's limited supply of affordable housing.

The Project also includes approximately 963 sf of ground floor commercial space, which will provide services to the immediate neighborhood. Unlike the existing undeveloped lot, this new commercial space will create pedestrian-oriented, active uses along Mission and Jessie Streets.

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.

The Project would not displace existing neighborhood-serving retail uses because no retail uses currently exist at the project site. The proposed project would enhance neighborhood-serving retail uses by providing approximately 963 square feet of neighborhood-serving retail space. The Project Sponsor anticipates that the retail space will employ up to 10 individuals and another 14 people for building maintenance and management.

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

The Project would not remove any existing housing, and would create 83 new affordable dwelling units. The Project Site is located within a dense, urban-infill neighborhood on Mission Street between 6th and 7th Streets and within a C-3-G Downtown General Commercial District. Existing properties within the vicinity of the project site include high-density residential (SOMA Grand), government buildings, hotel (intercontinental Hotel), retail, office and light industrial uses of varying intensities. The Project would enhance the character of the neighborhood by replacing a surface parking lot on the site with affordable housing. The design relates to the mass and vertical articulation of the existing warehouse building in the neighborhood, while incorporating bays, sunshades, and canopies with detailing related to the more modern structures in the area. The Project adds to the continuous ground level streetscape on Mission Street by providing active uses which will animate the street level. The height of the building extends below the 120-height limit which is compatible with the higher-density development that has been planned for the mid-market area. The Project would add to the cultural and economic diversity of the area by providing 83 new housing units, which would be affordable to a variety of income levels and household sizes.

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

There is currently no housing on the site; therefore, no affordable housing will be lost as part of this project. The Project would, however, significantly enhance the City's supply of affordable housing serving moderate income households. The Project would be an affordable housing development (with ground-floor retail space) which would provide approximately 83 affordable dwelling-units in a combination of junior one-bedrooms, one-bedroom, two-bedroom and three-bedroom units. Approximately 54% of the units provided will have two or more bedrooms, which will help advance the City's priority for family housing. Additionally, 100% of the new residential units will be made available to persons and families earning less than 50% AMI. The Project will also enhance the quality

of the City's affordable housing and minimize its impact upon the larger environment by achieving GreenPoint rating.

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

Commuter traffic would be extremely limited, consisting primarily of support staff and retail space employees. The project site, located within one block of Market Street and about two blocks from the Civic Center BART and MUNI station, is well-served by public transportation.

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

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

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

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

- G. That landmarks and historic buildings be preserved.

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

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

The Project will not have any negative impact on existing parks and open spaces. Existing public parks and open space areas in the project vicinity include the Civic Center Plaza, the United Nations Plaza, the South of Market Recreation Center and Victoria Manalo Draves Park, which are all at least .2 miles away. The project would not shade any of these parks.

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 Determination of Compliance with exceptions would promote the health, safety and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2014.0103CVX** and grants exceptions to Sections 134(d) and 148, pursuant to Section 309, subject to the following conditions attached hereto as Exhibit A which are incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. **2014.0103CVX**.

The Planning Commission hereby adopts the MMRP as prepared under 2007.1464EKXCV attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 1, 2014.

Jonas P. Ionin
Acting Commission Secretary

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

NAYS: N/A

ABSENT: N/A

ADOPTED: May 1, 2014

EXHIBIT A

AUTHORIZATION

This authorization is to grant a Planning Code Section 309 Determination of Compliance and Request for Exceptions, in connection with a proposal to construct a nine-story, 100% affordable 83-unit building with approximately 963 gross square feet (gsf) of ground floor retail on a site that currently contains a surface parking lot within the C-3-G Zoning District and the 120-X Height and Bulk District, in general conformance with plans dated April 10, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2014.0103CVX and subject to conditions of approval reviewed and approved by the Commission on May 1, 2014 under Motion No. **19134**. 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 May 1, 2014, under Motion No 19134.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19134 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 construct the project and/or commence the approved use 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. **Additional Project Authorizations.** The Project Sponsor must obtain Conditional Use Authorizations, pursuant to Planning Code Sections 124(f) and 303, to allow a Floor Area Ratio over the base permitted for the Project's affordable housing and to allow a dwelling unit density greater than one unit per 125 square feet of lot area. The Project Sponsor must obtain Variances pursuant to Planning Code Sections 305, 135, and 140 to provide less residential open space than is required by the Planning Code and provide 12 units that do not meet exposure requirements. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

4. **Mitigation Measures.** Mitigation measures described in the MMRP associated with 2007.1464EKXCV attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the Project Sponsor. The implementation of the mitigation measures is a condition of approval.

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

DESIGN – COMPLIANCE AT PLAN STAGE

5. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, ground floor, open spaces, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org
6. **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 415-575-9078, www.sf-planning.org
7. **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 architectural addendum to the permit. 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 415-575-9078, www.sf-planning.org
8. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff prior to Planning approval of the architectural addendum to the site permit. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to complement, not compete with, the existing architectural character and architectural features of the building.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, 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:
 1. 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;
 2. On-site, in a driveway, underground;

3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. 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;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

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>

10. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

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

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

12. **Street Trees.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating 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. A total of 10 trees are required: five on Mission Street and five on Jessie Street. This total is the final required amount of street trees and does not take into account existing trees. 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 415-575-9078, www.sf-planning.org

PARKING AND TRAFFIC

13. **Bicycle Parking.** The Project shall provide no fewer than 83 Class 1 bicycle parking spaces and 4 Class 2 bicycle parking spaces as required by Planning Code Sections 155.2.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
14. **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

PROVISIONS

15. **100% Affordable Project.** As currently proposed, the Project will be 100 percent affordable, with 83 dwelling units. In the event that the Project changes and some or all of the units become market-rate, the Project shall comply with the inclusionary housing requirements set forth in Section 415 of the Code. This condition of approval shall constitute the written determination and notice of the inclusionary housing requirement pursuant to the procedures set forth in Code Section 415.
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 and Community Development at 415-701-5500, <http://sfmohcd.org>.
16. **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.
17. **Art - C-3 District.** Pursuant to Planning Code Section 429, the Project shall pay the Public Art Fee in an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. Prior to issuance of first construction document, the sponsor shall elect to use 100% of Public Art Fee to provide on-site public artwork, contribute 100% of the Public Art Fee amount to the Public Artwork Trust Fund, or expend a portion of the Public Art Fee amount to on-site public artwork and the remainder to the Public Artwork Trust Fund.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

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

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

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

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

20. **Art Installation on Western Wall- C-3 District.** Pursuant to Planning Code Section 429, provided that the Project Sponsor provide the public art on-site the Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. If the art installation is to occur on the west wall (as described as option two in this motion), and the adjacent parcel to the west (Block: 3703, Lot: 084) is developed so as to limit the visibility of the art installation, the art installation will have to be removed and relocated elsewhere on the property or a new art installation would have to be designed to meet the requirements of Planning Code Section 429.

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

21. **Art - C-3 District.** Pursuant to Planning Code Section 429, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

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

MONITORING - AFTER ENTITLEMENT

22. **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
23. **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

24. **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>
25. **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>
26. **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

27. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the architectural addendum to the site permit.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org