SAN FRANCISCO
PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- ☑ Inclusionary Housing (Sec. 415)
- ☐ Jobs Housing Linkage Program (Sec. 413)
- ☐ Downtown Park Fee (Sec. 412)
- ☑ First Source Hiring (Admin. Code)
- ☐ Child Care Requirement (Sec. 414)
- ☑ Other

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Planning Commission Draft Motion

HEARING DATE: AUGUST 2, 2012

Date:	July 23, 2012
Case No.:	**2012.0032EXV**
Project Address:	**100 VAN NESS AVENUE**
Zoning:	C-3-G (Downtown, General Commercial) District Van Ness & Market Downtown Residential Special Use District 200-R2 Height and Bulk District
Block/Lot:	0814/020
Project Sponsor:	Marc Babsin of Emerald Fund, Inc. for 100 Van Ness Associates LLC 532 Folsom Street, Suite 400 San Francisco, CA 94105
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ADOPTING FINDINGS AUTHORIZING A DETERMINATION OF COMPLIANCE AND THE GRANTING OF EXCEPTIONS (FROM THE REQUIREMENTS SET FORTH IN THE PLANNING CODE FOR "LOT COVERAGE IN THE VAN NESS & MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT" AND "LIMITATION ON RESIDENTIAL ACCESSORY PARKING") PURSUANT TO SECTION 309 OF THE PLANNING CODE, FOR A PROPOSED PROJECT TO CONVERT THE SUBJECT BUILDING FROM OFFICE TO RESIDENTIAL, RENOVATE THE INTERIOR OF THE BUILDING TO CREATE UP TO 399 RESIDENTIAL UNITS AND APPROXIMATELY 6,884 SQUARE FEET OF GROUND-FLOOR RETAIL, AND RE-SKIN THE EXTERIOR OF THE BUILDING. THE BUILDING HEIGHT AND BULK WOULD NOT INCREASE. THE PROPOSED PROJECT RETAINS THE OFF-STREET PARKING GARAGE AND LOADING SPACE AND WOULD MOVE THE PARKING ENTRANCE FROM VAN NESS AVENUE TO HAYES STREET WITHIN THE C-3-G ZONING DISTRICT AND THE 200-R2 HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On May 16, 2012, Marc Babsin of Emerald Fund, Inc. for 100 Van Ness Associates LLC ("Project Sponsor"), submitted a request (Case No. 2012.0032EXV) 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 249.33(b)(5), Lot Coverage in the Van Ness & Market Downtown Residential Special Use District, and Section 151.1(e), Limitation on Residential Accessory Parking, to change the use of the building from office to residential, renovate the interior of the building to create up to 399 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street, located at 100 Van Ness Avenue ("Project Site"), within the C-3-G Zoning District, the Van Ness & Market Downtown Residential Special Use District ("SUD") and the 200-R2 Height and Bulk District (collectively, "Project").

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Market and Octavia Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on April 5, 2007, by Motion No. 17406, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA"). The certification of the EIR was upheld on appeal to the Board of Supervisors at a public hearing on June 19, 2007. The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Market and Octavia Area Plan, the Commission adopted CEQA Findings in its Motion No. 17406 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project–specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off–site and cumulative impacts which were not discussed in the underlying EIR, and (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (CEQA), on July 19, 2012, the Planning Department of the City and County of San Francisco determined that the proposed application was exempt from further environmental review

per Section 15183 of the CEQA Guidelines and California Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Market and Octavia Area Plan and was encompassed within the analysis contained in the Final EIR. Since the Final EIR was finalized, there have been no substantial changes to the Market and Octavia Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Market and Octavia Area Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

On, May 16, 2012, the Project Sponsor filed a request for the granting of Variances, Case No. 2012.0032EXV, of the standards for usable open space (Code Section 135), vertical projections over a public right-of-way (Code Section 136) and dwelling-unit exposure (Code Section 140).

On August 2, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0032EXV.

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. 2012.0032EXV, 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. **Project Description.** The Project would change the use of the subject building from office to residential, renovate the interior of the building to create up to 399 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage with 112 off-street parking spaces, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street. Six new off-street parking spaces for the residential units would be added by the Project within the existing parking area. No physical expansion of the building is proposed or would be required to accommodate the Project. The dwelling units would be offered as rental units and the inclusionary affordable housing would be provided on-site.

3. **Site Description and Present Use.** The project site is located at the northeast intersection of Van Ness Avenue and Fell Street on Assessor's Block 0814, Lot 020. The approximate 15,500 square-

foot project site is currently developed with a 29-story, 400-foot tall office building that was constructed in 1973 and occupies the entire site area. Existing uses in the building include approximately 421,005 gross square feet of office use, 5,122 gross square feet of ground-floor retail, 112 off-street parking spaces accessed from Van Ness Avenue and two loading spaces accessed from Fell Street.

4. **Surrounding Properties and Neighborhood.** The project is located in Market & Octavia Plan Area and the Civic Center neighborhood of San Francisco. The Beaux Arts core of the Civic Center, which includes City Hall and the War Memorial building group, is approximately one block north of the project site. The Civic Center area largely serves as a home to a clustering of local, state and federal offices, as well as a regional center for arts, entertainment, cultural and institutional uses such as the San Francisco Symphony, Opera, Ballet, the Asian Art Museum and the Bill Graham Civic Auditorium.

   The scale of development varies greatly in the vicinity of the project site, with the current height limits in the area ranging from 50 to 400 feet. Permitted heights and the prevailing scale of development in the immediately surrounding area are diverse. A stronger residential presence is starting to develop in the area with the completion of projects at 77 Van Ness Avenue and One Polk, both of which are less than one block from the project. Several other residential projects are planned or under construction in the general vicinity of the project inclusive of the 250-unit Fox Plaza expansion at 1390 Market Street, the 754-unit 10th/Market Development, the 162-unit 101 Polk Street project and the 180-unit 1540 Market Street project.

5. **Public Comment**. The Department has received letters of support from the Hayes Valley Neighborhood Association ("HVNA"), the Civic Center Community Benefit District and the San Francisco Housing Coalition regarding the Project. In its letter, the HVNA suggested adding a higher number of car-share spaces within the proposed 118 parking spaces, and further suggested looking at a parking option that would reduce the total amount of off-street parking spaces to 100 residential parking spaces.

   SPUR has also reviewed and commented on the project, but has not offered a formal recommendation.

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the Planning Code in the following manner:

   A. **Use & Density.** In C-3-G Zoning District, residential dwelling units are principally permitted. In the Van Ness and Market Residential Special Use District**,** there is no density limit for residential uses by lot area, but by the applicable requirements and limitations elsewhere in this Code, including but not limited to height, bulk, setbacks, open space, and exposure, as well as by the Market & Octavia Area Plan Fundamental Principals for Design, other applicable design guidelines, applicable elements and area plans of the General Plan, and design review by the Planning Department.

For newly-constructed buildings or additions which exceed 20 percent or more of an existing structure's gross floor area, non-residential uses are not permitted above the 4th story, and at least two occupied square feet of residential use shall be provided for each occupied square foot of non-residential use.
The Project has been found to comply with the use and density provisions of the C-3-G and Van Ness & Market Downtown Residential Special Use District The Project proposes to convert approximately 421,005 gross square feet of existing commercial office use into approximately 399 residential dwelling units and common space for the residential units. The existing building footprint and dimensions would be able to adequately contain the proposed dwelling unit density. After conversion, no commercial uses would be located above the ground floor. Additionally, residential uses would be provided in excess of two occupied square feet per one square foot of non-residential uses.

B. **Height and Bulk.** The subject property is located within a 200-R2 Height and Bulk District. Any new construction at the project site may not extend beyond the existing building dimensions as the subject building is considered legal non-complying in terms of height of bulk.

No horizontal or vertical expansion of the existing building found at the Project Site would occur under the Project. The Project would not exasperate areas of non-compliance as they relate to height and bulk.

C. **Floor Area Ratio.** In the C-3-G district, a base Floor Area Ratio ("FAR") of 6:1 and a maximum FAR of 9:1 is allowable, subject to height and building bulk limitations. A FAR of greater than 9:1 is may be granted by the Planning Commission in exchange for public improvements or for an in-lieu contribution to the Van Ness and Market Neighborhood Infrastructure Fund.

The existing and proposed FAR of the Project is 26:1. Since the Project will not add area attributable to FAR, but rather subtract area attributable to FAR, the Project will not be required to pay into the Van Ness and Market Neighborhood Infrastructure Fund.

D. **Useable Open Space.** Per Section 135, a minimum of 36 square feet of private open space must be provided per dwelling unit, or 48 square feet of common open space must be provided per dwelling unit within C-3 Districts. Both private and common open space must meet standards for location, dimensions, usability, and access to sunlight.

According to the submitted plans, all Project open space will be in the form of common open space. 19,152 square feet of common useable open space needs to be provided for the Project dwelling units to meet Code requirements of Section 135. The proposed roof deck would provide 11,990 square feet of common usable open space, which is enough area to accommodate the useable open space requirement for 250 dwelling units.

Open space will also be provided in the form of a solarium and terrace for the residential dwelling units at the second level of the building. The solarium portion of the second floor open space is appropriately sized and has more than 30% of exterior walls devoted to operable glazing, but does not

contain 30% overhead glazing as required by Planning Code Section 135(g)(3) in order for a solarium to count as useable open space. Open space provided at the ground floor does not meet the criteria of Planning Code Section 135(g) to be counted as useable common open space for dwelling units. The project sponsor has elected to seek and justify a Variance to address the common useable open deficiency for 149 of the 399 proposed dwelling units.

E. **Public Open Space.** Pursuant to Planning Code Section 138, within the C-3-G District, one square foot of publicly-accessible open space must be provided for each 50 square feet of the retail uses on-site. This public open space must be located on the same site as the building or within 900 feet of it within a C-3 district. Furthermore, in the Van Ness & Market Residential Special Use District, up to 40 percent of usable open space required by Section 138 may be provided off-site if it is within the SUD or within 900 feet of the project site. Code Section 249.33(b)(4) further establishes standards for the publicly accessible open space such as location and maintenance of the space. Streetscape improvements with landscaping and pedestrian amenities that result in additional space beyond the pre-existing sidewalk width and conform to the Market & Octavia Area Plan, such as sidewalk widening or building setbacks satisfy the publically accessible useable open space standards of Code Section 249.33(b)(4).

The ground-floor area will be set-back from the front of the building, thus creating a publically-accessible open space that will meet the requirements of Planning Code Sections 138 and 249.33(b)(4).

F. **Permitted Obstructions over Streets and Alleys.** Section 136(c) of the Code allows various decorative or architectural features to extend over a street or alley, but does not include provisions for wind baffling installations to extend over a street or alley.

The proposed wind baffling feature that will project over the Van Ness Avenue public rights-of-way by approximately 11.5 feet is not a feature listed in Planning Code 136(c). The project sponsor has elected to seek and justify a Variance for the proposed wind baffling feature.

G. **Streetscape Improvements.** Section 138.1 requires that when dwelling units or additional parking is added, street trees must be provided. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

The Project would comply with this requirement by including appropriate streetscape improvements. A corner bulb-out will also be provided at the northeast corner of the Van Ness Avenue/Fell Street intersection.

H. **Dwelling Unit Exposure.** Section 140 of the Code requires that one room of each dwelling unit must look out onto the street, onto a Code-complying rear yard, a side yard at least 25 feet in width or onto a courtyard generally of minimum dimensions of at least 25 feet in each direction, which space must increase in both its horizontal dimensions as it rises from its

lowest level. The space must be unobstructed, except for certain specified permitted obstructions.

All of the proposed dwelling units facing Van Ness Avenue and Fell Street will comply with the standards for dwelling unit exposure. The proposed dwelling units that have their only exposure on the northerly and easterly elevations of the Project do not meet dwelling unit exposure standards as set forth in Code Section 140. The Project Sponsor has elected to seek and justify a Variance for the dwelling unit exposure deficiencies.

I. **Street Frontages.** Section 145.1 requires active uses to be located at the ground-floor of the Project, with the exception of space allow for parking, building egress, and access to mechanical systems. Active uses may include commercial uses with transparency along the sidewalk, walk-up residential units, and spaces accessory to residential uses.

Both street frontages are occupied by several active spaces, including retail uses and lobby area. The presences of these active uses with enliven the streetscape and contribute to a desirable pedestrian realm. The project complies with Section 145.1.

J. **Shadows on Public Sidewalks (Section 146).** Section 146(a) establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings, not located on the specific streets identified in Section 146(a), shall be shaped to reduce substantial shadow impacts on public sidewalks, if it can be done without unduly creating an unattractive design and without unduly restricting development potential.

Section 146(a) does not apply to construction on Van Ness Avenue or Fell Street, and therefore does not apply to the Project. The Project is anticipated to decrease the amount of shadow on nearby sidewalks as portions of walls at the highest existing floor would be removed and a trellis would be formed at the existing building roof.

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

Section 147 does apply to the Project as the Project does not propose new vertical or horizontal expansion of the existing building. The Project is anticipated to decrease the amount of shadow in the project area as portions of walls at the highest existing floor would be removed and a trellis would be formed at the existing building roof.

L. **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.

Although the Project has been found not to be subject to the requirements of Planning Code Section 148 as it does not represent a new building or an addition to an existing building, the wind test for the Project revealed the following:

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site. A wind tunnel analysis was conducted using a scale model of the Project Site and its immediate vicinity. Measurements were taken at 30 test points.

Comfort Criterion

Without the Project, 21 of the 30 test points currently exceed the pedestrian comfort level of 11 mph. The average wind speed was approximately 14.6 mph, and winds exceeded the comfort criterion roughly 22 percent of the time. Wind speeds ranged from eight to 25 mph.

With the Project, wind conditions would change minimally. The average wind speed would decrease to 14.4 mph, and winds would exceed the comfort criterion approximately 21 percent of the time. In total, 20 test points would exceed the pedestrian criterion, a decrease of one below existing conditions.

Hazard Criterion

The wind hazard criterion of Planning Code Section 148 is currently exceeded at five of the 30 test locations. The annual duration of these five existing wind hazards totals 406 hours. Adding the

project would not increase the number or change the location of existing wind hazards, but would decrease the annual duration of all existing hazards by 156 hours.

M. **Freight Loading.** Planning Code 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 between 200,001 and 500,000 gross square feet are required to provide two off-street loading spaces. Retail uses below 10,000 gross square feet are not required to provide off-street loading.

With approximately 407,235 gross square feet of residential use and retail uses totaling less than 10,000 gross square feet, the Project is required to maintain two off-street loading spaces. The Project Site already contains two existing loading spaces, which are accessed from the Fell Street frontage in compliance with the requirements of Section 152.1.

N. **Off-Street Parking Access (Planning Code Section 155).** Van Ness Avenue (from Hayes Street to Mission Street) has been identified as a Protected Pedestrian, Cycling, and Transit-Oriented street frontage as identified in Code Section 155(r). This Code Section does not allow garage entries, driveways or other vehicular access to off-street parking or loading. Pursuant to Planning Code Section 155(r)(5) pre-existing access to off-street parking and loading on development lots that violate the restrictions of this Section 155(r) may not be maintained.

The existing off-street parking area located on the Project Site is currently accessed from Van Ness Avenue. The Project will relocate the off-street parking access from Van Ness Avenue to Hayes Street to satisfy this requirement. Condition of Approval No. 21 memorializes the required timing of the off-street parking relocation to Hayes Street.

O. **Bicycle Parking.** Pursuant to Section 155.5, residential uses containing four or more dwelling units are required to provide bicycle parking at no cost or fee to the building occupants or tenants. For projects containing 50 or more dwelling units, the requirement is as follows: 25 Class 1 spaces plus 1 space for every four dwelling units over 50, with a maximum requirement of 400 spaces. If more than 100 spaces is required, up to one-third of the spaces may require the bicycle to be parked in a vertical position.

With 399 dwelling units, the Project is required to provide 113 bicycle spaces and will exceed the requirement by providing 121 spaces.

P. **Car Sharing.** In newly constructed buildings containing residential uses or existing buildings being converted to residential uses, if parking is provided, car-share parking spaces shall be provided per Planning Code Section 166. The Project will be required to maintain two car-share spaces in the off-street parking area of the Project.

The project will comply with Planning Code Section 166 by providing three car-share spaces in the off-street parking area of the Project.

Q. **Shadows on Parks.** 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.

Net new shadow would not be added to properties under the jurisdiction (or designated for acquisition) of the Recreation and Park Department by the Project as no physical expansion of the existing building dimensions is proposed under the Project. The Project is anticipated to decrease the amount of shadow in the project area as portions of walls at the highest existing floor would be removed and a trellis would be formed at the existing building roof.

R. **Public Art.** In the case of construction of a new building or addition of floor area in excess of 25,000 square feet 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 public art requirement does not apply to the Project as it does propose a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District.

A. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. 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 15% of the proposed dwelling units as affordable.

S. *The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- 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), and entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The*

Project Sponsor submitted such Affidavit on July 19, 2012. The EE application was submitted on March 20, 2012. 60 units of the 399 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable. The Project must execute the Costa Hawkins agreement within 60 days of Planning Commission approval or must revert to payment of the Affordable Housing Fee

The Project Sponsor 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 on-site inclusionary housing.

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

   A. **Section 151.1: Limitation on Residential Accessory Parking in C-3 Districts.** Pursuant to Section 151.1, residential uses in C-3 Districts are not required to provide off-street parking, but up to one space for every four dwelling units can be provided as of right. Pursuant to Section 309, residential parking that exceeds one space for every four units (up to .75 space per unit) and one space for every dwelling unit with at least two bedrooms and at least 1,000 square feet of occupied floor area, can be provided with the granting of an exception.

   The existing three-level subterranean parking structure contains 112 off-street parking spaces. The Project could obtain a maximum of 317 parking spaces for the residential uses with a Section 309 exception; however, the Project Sponsor is requesting an additional six off-street parking spaces within the existing parking area of the building under the requested exception for a total of 118 off-street parking spaces, three of which would be dedicated to car-share spaces.

   Pursuant to 151.1(f), in C-3 Districts, any request for residential parking in excess of what is permitted by right in table 151.1 shall be reviewed on a case-by-case basis by the Commission subject to the procedures set forth in Section 309. In granting approval for residential parking above that permitted by right in Table 151.1, the Commission shall make the following affirmative findings:

   1. For projects with 50 units or more, all residential accessory parking in excess of 0.5 parking spaces for each dwelling unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that allows more space above-ground for housing, maximizes space efficiency and discourages use of vehicles for commuting or daily errands.

      This criterion is inapplicable as the Project proposes a parking ratio of 0.29:1 for all residential units.

   2. For any project with residential accessory parking in excess of 0.375 parking spaces for each dwelling unit, the project complies with the housing requirements of Sections 415

through 415.9 of this Code except as follows: the inclusionary housing requirements that apply to projects seeking conditional use authorization as designated in Section 415.3(a)(2) shall apply to the project.

This criterion is inapplicable as the Project proposes a parking ratio of 0.29:1 for all residential units.

3. The findings of Section 151.1(e)(1)(B), (e)(1)(C) and (e)(1)(E) are satisfied.

Section 151.1(e)(1)(B). Vehicle movement on or around the project site associated with the excess accessory parking does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district.

The proposed parking is not expected to adversely impact traffic congestion. The Project is located within an existing high-density urban context. The project area has a multitude of transportation options, and the Project Site is within walking distance of the Market Street transit spine, and thus would make good use of the existing transit services available in this area and would assist in maintaining the desirable urban characteristics and services of the area. The Project proposes limited off-street parking, encouraging residents of the building to seek transportation options other than private automobile use. Furthermore, the off-street parking access will be moved from Van Ness Avenue to Hayes Street to minimize impacts to pedestrians, transit service, bicycle movement and overall traffic movement on Van Ness Avenue.

Section 151.1(e)(1)(C). Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal.

All parking is below grade, such that the parking entrance does not degrade the overall urban design of the Project. The garage opening on Van Ness Avenue will be closed off and replaced by a retail space, thus improving the pedestrian experience, as well as the street-level design of the Project.

Section 151.1(e)(1)(E). Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

The garage opening on Van Ness Avenue will be closed off such that additional parking will not diminish the quality and viability of any additional streetscape improvements for Van Ness Avenue as part of the Van Ness BRT project.

4. All parking meets the active use and architectural screening requirements in Sections 155(s)(1)(B) and 155(s)(1)(C) and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code.

Section 155(s)(1)(B). Parking located at or above ground level shall conform to the street frontage requirements of Section 145.1(c), and shall be lined with active uses, as defined by Section 145.4(e), to a depth of at least 25 feet along all ground-level street frontages,

except for space allowed for parking and loading access, building egress, and access to mechanical systems.

The off-street parking will remain below-grade. The existing garage opening on the Van Ness frontage will be replaced by an active use, a commercial retail space.

Section 155(s)(1)(C). Parking allowed above the ground-level in accordance with an exception under Section 309 or a conditional use in accordance with Section 303 as authorized by subsections 155(s)(2) or 155(s)(3) shall be entirely screened from public rights-of-way in a manner that accentuates ground floor retail and other uses, minimizes louvers and other mechanical features and is in keeping with the overall massing and architectural vocabulary of the building's lower floors. So as not to preclude conversion of parking space to other uses in the future, parking allowed above the ground-level shall not be sloped and shall have a minimum clear ceiling height of nine feet.

The provisions of Section 155(s)(1)(C) are not applicable because the Project will not provide parking above the ground level.

B. **Section 249.33(b)(5): Lot Coverage in the Van Ness & Market Residential Special Use District.** Per Section 249.33(b)(5), within the Van Ness & Market Downtown Residential Special Use District, lot coverage is limited to 80 percent at all residential levels except on levels in which all residential units face onto a public right-of-way. Exceptions to the 20 percent open area may be granted pursuant to the procedures of Section 309 for conversions of existing non-residential uses where it is determined that provision of 20 percent open area would require partial demolition of the existing non-residential structure, such is the case with the subject proposal.

The existing non-residential structure covers 100 percent of the lot, such that a partial demolition of the building would be required to reduce lot coverage to 80% on all residential levels. Accordingly, an exception is authorized and warranted to permit the existing building to retain 100% lot coverage following its conversion to residential units.

8. **General Plan Conformity.** The Project would affirmatively promote the following objectives and policies of the General Plan:

HOUSING ELEMENT:

Objectives and Policies

OBJECTIVE 1

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

Policy 1.1:

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

Policy 1.2
Focus housing growth and infrastructure-necessary to support growth according to community plans.

Policy 1.10:
Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

OBJECTIVE 4

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

Policy 4.4:
Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

OBJECTIVE 12

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

Policy 12.1:
Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

The Project will add residential units to an area that is well-served by transit, services, and shopping opportunities. The site is suited for dense, mixed-use development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located within walking distance of the employment cluster of the Civic Center, and is in an area with abundant transit options routes that travel to the South of Market and Financial District areas. The Project includes a mix of studio, one-bedroom, and two-bedroom units in a range of sizes, to provide housing opportunities for various household types and socioeconomic groups within the neighborhood that would be offered as rental housing units. The required inclusionary affordable housing units would be provided on-site and would number 60 units based on the proposed 399 dwelling units.

TRANSPORTATION ELEMENT
Objectives and Policies

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.

The Project is located within an existing high-density urban context. The project area has a multitude of transportation options, and the Project Site is within walking distance of the Market Street transit spine, and thus would make good use of the existing transit services available in this area and would assist in maintaining the desirable urban characteristics and services of the area. The Project proposes little off-street parking, encouraging users of the building to seek transportation options other than private automobile use.

URBAN DESIGN ELEMENT
Objectives and Policies

OBJECTIVE 3:

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

Policy 3.1:
Promote harmony in the visual relationships and transitions between new and older buildings.

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 not dominate or otherwise overwhelm the area, as the project would not expand the dimensions of the existing building under the Project. The Project's contemporary design would allow the building to express a modern residential expression. A condition of approval (No. 4 in Exhibit 'B') has been crafted that will require the Project Sponsor to further refine the building design so greater façade texture and depth is expressed. The condition of approval will also require the Project Sponsor to refine the building glass to a lighter hue so it may more closely match the lighter colors that are typical of the nearby Beaux Arts core of the Civic Center area, as well as visually prominent high-rise buildings in San Francisco.

DOWNTOWN AREA PLAN
Objectives and Policies

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 convert a commercial office building that is currently 96% into a high-density residential development consisting of 399 residential dwelling units as part of a mixed-use project with ground-floor commercial retail.

MARKET AND OCTAVIA PLAN
Objectives and Policies

Policy 1.1.2:
Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

Policy 1.2.2:
Maximize housing opportunities and encourage high-quality commercial spaces on the ground floor.

The Project is located within an existing high-density urban context and would convert an underutilized commercial office building into high-density housing in an area that has a multitude of transportation options. The ground floor of the building would be re-fashioned to create a welcoming, gracious ground floor with active commercial uses on both the Van Ness Avenue and Fell Street frontages.

OBJECTIVE 2.2

ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.2:
Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4:
Encourage new housing above ground-floor commercial uses in new development and in expansion of existing commercial buildings.

Policy 2.2.5:
Encourage additional units in existing buildings.

The Project is a mixed-use development that includes a variety of dwelling unit types that will be proposed within the existing dimensions of an existing commercial office building. The residential uses will be located above ground-floor retail spaces, providing convenient access to goods and services for residents of the proposed project and the surrounding neighborhood.

OBJECTIVE 5.1:

IMPROVE PUBLIC TRANSIT TO MAKE IT MORE RELIABLE, ATTRACTIVE, CONVENIENT, AND RESPONSIVE TO INCREASING DEMAND.

Policy 5.1.2:
Restrict curb cuts on transit-preferential streets.

OBJECTIVE 5.2:

DEVELOP AND IMPLEMENT PARKING POLICIES FOR AREAS WELL SERVED BY PUBLIC TRANSIT THAT ENCOURAGE TRAVEL BY PUBLIC TRANSIT AND ALTERNATIVE TRANSPORTATION MODES AND REDUCE TRAFFIC CONGESTION.

Policy 5.2.3:
Minimize the negative impacts of parking on neighborhood quality.

OBJECTIVE 5.3:

ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.
Policy 5.3.1:
Encourage the fronts of buildings to be lined with active uses and, where parking is provided, require that it be setback and screened from the street.

Van Ness Avenue from Hayes Street to Mission Street has been identified as a transit-preferential street. As such, the off-street parking access will be moved from Van Ness Avenue to Hayes Street to minimize impacts to pedestrians, transit service, bicycle movement and overall traffic movement on Van Ness Avenue and the future Van Ness BRT. All parking will continue to remain below grade, such that the parking entrance does not degrade the overall urban design of the Project. The garage opening on Van Ness Avenue will be closed off and replaced by a retail space, thus improving the pedestrian experience, as well as the street-level design of the Project by providing an active use.

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 new residents in the Project will patronize area businesses, bolstering the viability of surrounding commercial establishments. In addition, the Project would include retail spaces to provide goods and services to residents in the area, contribute to the economic vitality of the area, and will define and activate the streetscape.

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 will not diminish existing housing stock, and will add dwelling units in a manner that enhances the vitality of the neighborhood.

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

No housing is removed for this Project. 60 affordable dwelling units will be provided on-site.

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

A wide variety of goods and services are available within walking distance of the Project Site without reliance on private automobile use. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network.

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

The Project will not displace any service or industry establishment, and does not propose any office development. The Project would replace a commercial office use that is currently 96% vacant with 399 residential units. The Project will include retail spaces that will provide employment opportunities for area residents.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code.

G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The Project will not cast net new shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public 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

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. 2012.0032EXV** and grants exceptions to Sections 151.1 and 249.33(b)(5) 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. 2012.0032EXV.

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

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of 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 August 2, 2012

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: August 2, 2012

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 create up to 399 residential units and approximately 6,884 square feet of ground-floor retail, and re-skin the exterior of the building, retain the off-street parking garage, including loading space, and move the parking garage entrance from Van Ness Avenue to Hayes Street, located at 100 Van Ness Avenue (Assessor's Block 0814, Lot 020,), within the C-3-G (General, Downtown Commercial) District, the Van Ness & Market Residential Special Use District and the 200-R2 Height and Bulk District,

in general conformance with plans dated July 13, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2012.0032EXV and subject to conditions of approval reviewed and approved by the Commission on August 2, 2012 under Motion No. **XXXXX**. 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 August 2, 2012 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX 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. **Mitigation Measures.** Mitigation measures described in the MMRP for the Market and Octavia Area Plan EIR (Case No. 2003.0347C) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.
   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. Additionally, the Project Sponsor shall continue to further refine the building design so greater façade texture and depth is expressed on the building facades to reflect the new residential nature of the building. The Project Sponsor shall continue to work with the Planning Department to refine the building glass to a lighter hue so it may more closely match the lighter colors that are typical of the nearby Beaux Arts core of the Civic Center area, as well as visually prominent high-rise buildings in San Francisco. 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

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 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

6. **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 415-575-9078, 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 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 415-575-9078, www.sf-planning.org

8. **Downtown Streetscape Plan – C3 Districts.** Pursuant to Planning Code Section 138.1 and the Downtown Streetscape Plan, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The streetscape improvement plan shall include details regarding the bulb-out at the intersection of Van Ness Avenue and Fell Street. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

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

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

10. **Food Service in Open Spaces - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall make food service available during the hours that the open space is accessible to the public. In the event that the Project Sponsor is unable to lease a retail space to a food service, food service shall be provided by a kiosk, or a cart or similar portable device at the ground-floor plaza.
    For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

11. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on **XXXXXX** Street and shall indicate that the open space is accessible to the public via the elevators in the lobby. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.
    For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

12. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. 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 compliment, 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

13. **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

14. **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

15. **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

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

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

PARKING AND TRAFFIC

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

market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

18. **Car Share.** Pursuant to Planning Code Section 166, no fewer than two car share spaces shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

19. **Bicycle Parking.** The Project shall provide no fewer than 113 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

20. **Parking Maximum.** Pursuant to Planning Code Section 151.1, and as indicated on Exhibit B, the Project shall provide no more than 118 independently accessible off-street parking spaces, excluding car share spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

21. **Relocation of Off-Street Parking Access.** Pursuant to Planning Code Section 155(r), and as indicated on Exhibit B, the off-street parking access/curb cut on Van Ness Avenue must be re-located to 155 Hayes Street. The curb cut/Van Ness access entrance will be allowed to be temporarily maintained until the first of three events occurs: 1) the completion of planned construction at 155 Hayes Street, 2) the five year anniversary of the Project entitlement (August 2, 2017), or 3) the commencement of BRT operations on Van Ness Avenue.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

22. **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

23. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.
    For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

24. **Affordable Units. Requirement**. Pursuant to Planning Code Section 415.6, the Project is required to provide 15% of the proposed dwelling units as affordable to qualifying households. The Project contains 399 units; therefore, 60 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 60 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 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

21. **Unit Mix**. The Project contains 46 studios, 202 one-bedroom, and 151 two-bedroom units; therefore, the required affordable unit mix is seven studios, 30 one-bedroom, and 23 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 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

22. **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 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

23. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than fifteen percent (15%) 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 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

24. **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 415-575-9078, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

25. **Other Affordable Housing 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 415-575-9078, 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 provided by the City provided herein The Project must execute the Costa Hawkins agreement within 60 days of Planning Commission approval or must revert to payment of the Affordable Housing Fee.

g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

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.

26. **Market Octavia Affordable Housing Fee.** Pursuant to Planning Code Section 416 (formerly 315.4), the Project Sponsor shall comply with the Market Octavia Affordable Housing requirements through payment of the Market Octavia Affordable Housing Fee in full to the Treasurer, prior to the issuance by Department of Building Inspection of the first certificate of occupancy for the development project.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

22. **Market Octavia Community Improvements Fund.** Pursuant to Planning Code Section 421 (formerly 326), the Project Sponsor shall comply with the Market Octavia Community

Improvements Fund provisions through payment of an Impact Fee in full to the Treasurer, or the execution of a Waiver Agreement, or an In-Kind agreement approved as described per Planning Code Section 421 (formerly 326) prior to the issuance by Department of Building Inspection of the construction document for the development project.
For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

23. **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

24. **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

25. **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

26. **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

27. **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*