



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Final Motion No. 17944

HEARING DATE: SEPTEMBER 3, 2009

Hearing Date: September 3, 2009
Filing Date: July 2, 2009
Case No.: **2009.0476C**
Project Address: **178 TOWNSEND STREET**
Zoning: SLI (Service, Light Industrial)
65-X Height and Bulk District
South End Historic District

Block/Lot: 3788/012
Applicant: Katie O'Brien
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ADOPTING FINDINGS RELATING TO THE CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 803.9(a) TO ALLOW CONSTRUCTION OF UP TO 94 DWELLING UNITS, UP TO 45 OFF-STREET PARKING SPACES (INCLUDING 2 ADA-ACCESSIBLE SPACES AND 1 CITY CARSHARE SPACE), 36 BICYCLE PARKING SPACES, APPROXIMATELY 1,600 SQUARE FEET OF DAYCARE SPACE, AND APPROXIMATELY 1,500 SQUARE FEET OF RETAIL SPACE IN AN APPROXIMATELY 72,700 SQUARE FOOT BUILDING IN A SIX-STORY ADDITION INSERTED WITHIN THE FOOTPRINT OF THE EXISTING BUILDING TO A HEIGHT OF 62 FEET, AND TO ADOPT FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, FOR THE SITE LOCATED WITHIN THE SLI (SERVICE, LIGHT INDUSTRIAL) ZONING DISTRICT WITH A 65-X HEIGHT AND BULK DESIGNATION, AND THE SOUTH END HISTORIC DISTRICT, AND SUBJECT TO A CERTIFICATE OF APPROPRIATENESS APPROVED WITH CONDITIONS BY THE HISTORIC PRESERVATION COMMISSION.

PREAMBLE

On May 13, 2005, Katie O'Brien on behalf of 178 Townsend Properties, LLC ("Project Sponsor") filed with the City and County of San Francisco Planning Department ("Department") Environmental Evaluation Application No. 2005.0470E for a project to rehabilitate and convert the building at 166-178 Townsend

Street from its current use as a valet parking garage to a residential use with up to 85 housing units, up to 74 off-street parking spaces, and ground floor retail use (the "178 Townsend Street Project").

On August 14, 2008, by Motion No. 17677, the Planning Commission ("Planning Commission") found the Final Environmental Impact Report for the 178 Townsend Street Project (the "2005 FEIR") to be adequate, accurate, and objective, and certified the completion of the 2005 FEIR in compliance with the California Environmental Quality Act ("CEQA"), the California Code of Regulations § 15000 *et seq.* (the "CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code.

On August 20, 2008, the Landmarks Preservation Advisory Board ("LPAB") conducted a duly noticed public hearing at a regularly scheduled meeting and recommended approval with conditions of the project proposed in Certificate of Appropriateness Application No. 2005.0470A. The Director of Planning subsequently approved with conditions the Certificate of Appropriateness on August 22, 2008.

On September 4, 2008, by Motion No. 17688, the Planning Commission granted approval for the 178 Townsend Street Project under San Francisco Planning Code ("Code") Section 303 (Conditional Uses) and Code Section 803.5(c) (Additional Provisions Governing Uses in the Mixed Use Districts).

At a public hearing on September 4, 2008, the Zoning Administrator granted approval of a variance from rear yard, dwelling unit exposure, and parking requirements of Planning Code Sections 134, 140, and 151. A Variance Decision Letter was issued on September 30, 2008.

On June 5, 2009, Katie O'Brien, on behalf of 178 Townsend Street Properties, LLC ("Project Sponsor"), filed Environmental Evaluation Application No. 2009.0476E for modifications to the 178 Townsend Street Project. With these modifications, the proposal would rehabilitate and convert the subject building into a residential use with up to 94 units, approximately 3,500 square feet of ground floor retail and daycare space, and up to 45 at- or partially-below grade parking spaces (the "Modified Project"). The Modified Project would add approximately 59,000 square feet of new residential space in a six-story structure. Lower floors of the new construction would be contained within the walls of the existing structure with the upper four floors extending above the existing roofline. Existing and new construction combined will result in an approximately 72,700 square foot structure at a height of 62-feet.

Section 15164 of the CEQA Guidelines provides for the use of an addendum to document the basis for a lead agency's decision not to require a subsequent or supplemental Environmental Impact Report ("EIR") for a project that is already adequately covered in an existing EIR.

Department staff analyzed the potential environmental impacts of the Modified Project as documented in the addendum to the 2005 FEIR dated August 12, 2009 (the "Addendum"), which was prepared and reviewed in compliance with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, and reflects the independent judgment and analysis of the Department. The Addendum analyzed the environmental effects of the Modified Project as compared to the 178 Townsend Street Project and any potential changes in circumstances since the 2005 FEIR. The Addendum concluded that the Modified Project does not require a subsequent or supplemental EIR under CEQA Guidelines Sections 15162 and 15164.

The Addendum was made available to the public and the San Francisco Planning Commission ("Commission") for this Commission's review, consideration and action.

On July 2, 2009, the Project Sponsor filed Application No. 2009.0476ACV with the Department for review pursuant to Planning Code ("Code") Sections 1006, 303, and 803.9(a).

On September 2, 2009, the San Francisco Historic Preservation Commission (hereinafter "Preservation Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Certificate of Appropriateness Application No. 2009.0476A. With a vote of 6-0, the Preservation Commission adopted Motion No. 0026 to adopt CEQA findings and to approve with conditions the Certificate of Appropriateness for the proposed project.

On September 3, 2009, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2009.0476C.

The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project including the 2005 FEIR and Addendum.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0476C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** Located at the corner of Clarence Place and Townsend Street, 178 Townsend, historically known as the California Electric Light Building Station B building, is a contributory building within the South End Historic District. The subject building was originally constructed in 1888 as a three-story rectilinear front volume (approximately 51'-0" tall) that was articulated by brick pilasters, arched window openings, a simple brick cornice, and a flat roof. In 1906, the building was severely damaged by the earthquake, which caused the partial collapse of the engine room (front volume). Although visible architectural elements from the original 1899 structure remain, the building was substantially rebuilt in 1908 using a different structural system and in an altered design. As a result of the earthquake damage, the building was reduced in height and a stepped gable parapet was constructed to cap the front volume (the former engine room). Physical evidence for this change includes the cornice along the Clarence

3. **Surrounding Properties and Neighborhood.** The Project site is located in an SLI Zoning District within the South End Article 10 Historic District and bounded by a number of adjacent zoning and special use districts including, MUO (Mixed Use-Office), M-2 (Heavy Industrial), and the MB-RA (Mission Bay Redevelopment Area). The immediate area is comprised of food establishments and businesses that serve neighborhood residents and visitors to AT&T Ballpark. Across the street is a 198-unit condominium development "170 Off Third" and at the corner of 3rd and Townsend is the 595-unit mixed-use residential project known as The Beacon. The project is in close proximity to Mission Bay Residential neighborhood, AT&T Park and the 4th&King Caltrain/MUNI terminal. While flanked by contributing buildings to the South End Historic District, the subject building is located near the edge of the district and the opposite blockface is outside the boundaries of the historic district.
4. **Proposed Project.** The proposed project is to provide up to 94 dwelling units, including 15% BMR, approximately 1,600 sq. ft. of daycare space, and approximately 1,500 sq. ft. of ground floor retail space within a new addition that will be inserted within the footprint of the existing building and will be set back approximately 40 feet from the Townsend Street façade (6th story of additional will have an additional 23-foot setback from Townsend Street and 11-foot setback from Clarence Place). The proposal would include up to 45 parking spaces as well as 36 bicycle parking spaces, and a six-story structure containing the residential and retail components and street improvements along Clarence Place. Private open space is provided for 9 units in the form of balconies. The open space for all other units shall be provided by two roof decks with a combined area of 4,070 sq. ft.; the private open space required for the daycare use per State regulations shall be provided by a 975 sq. ft. roof deck above the fifth floor. The proposed project would remain within the current 65-foot height limit, consistent with existing zoning. The ground-floor level would include a small entry courtyard accessible from the Townsend Street entrance, leading to the retail and daycare spaces. The garage would be accessed through an existing opening in the façade on Clarence Place. Access to units would be via private entrances along Clarence Place as well as two common tenant entrances along Clarence Place.
5. **Public Comment.** At the date of this report, the Department has received 13 letters or emails regarding the project. One letter, from San Francisco Architectural Heritage, is in support of the project. The other 12 letters or emails express concern about the project, or are against the project, as currently proposed. The majority of comments made acknowledge the previously approved project as preferable to that currently being proposed. The primary concerns relate to the increase in the proposed height from 50- to 62-feet, the increase in the number of proposed units, increased traffic congestion and noise on Clarence Place, negative impacts on privacy, light and air, and views of adjacent buildings, negative impacts on values of adjacent units, lack of parking, and compatibility of the addition with the historic building.

6. **Service/Light Industrial (SLI) Zoning District.** Running roughly along Harrison, Brannan, Bryant, Townsend, and King Streets between 3rd and 4th Streets in the SoMa, the SLI zoning district is to protect and facilitate the expansion of existing general commercial, manufacturing, home and business service, arts uses, light industrial activities and small design professional office firms. Existing group housing and dwelling units are protected from demolition or conversion and new group housing and low-income affordable dwelling units are permitted as a conditional use. Within the SLI, general office, hotels, movie theaters, nighttime entertainment, and adult entertainment uses are not permitted. Per Planning Code Section 803.9(a) (previously Section 803.5(c)), development of market rate housing in the SLI is permitted as a conditional use meeting certain criteria in Landmark, Significant, or Contributory Buildings.
7. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Residential Density Limit.** Within the SLI, residential density limits are one dwelling unit per 200 square feet of lot area.

The Project proposes up to 94 dwelling units, which is less than the maximum density limit of 110 units per the lot size.

- B. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 65-X height and bulk district, with a 65-foot height limit.

The addition would be approximately 62 feet in height at the rear of the structure, and thus complies with the height limit.

- C. **Bulk.** Planning Code Section 270 limits the bulk of buildings and structures, and assigns maximum plan dimensions. The proposed Project is located in a 65-X height and bulk district, with an "X" bulk control.

Planning Code Section 270 does not regulate bulk dimensions for sites with "X" controls.

- C. **Floor Area Ratio (FAR).** Planning Code Section 124(b) states that in R, NC, and Mixed Use Districts, the above floor area ratio limits shall not apply to dwellings or to other residential uses.

The FAR limits do not apply to residential uses in SLI Districts.

- D. **Open Space.** Section 135 of the Planning Code requires a minimum of 36 square feet of private open space for each residential unit or approximately 48 square feet of common open space per unit within the SLI.

The project will create a total of 2,357 square feet of private open space for 9 units and a total of 4,070 square feet of common open space for 85 units which meet the minimum required common open space.

Although they are not code-complying for open space, the project includes two courtyards that provide an additional 1,437 square feet of open space.

The project will also provide 975 square feet of private open space for the proposed daycare use as required by State regulations. This open space is proposed to be located at the roof deck above the fifth floor.

- E. **Exposure.** Planning Section 140(a)(2) of the Planning Code requires each unit to face directly an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The Project seeks a variance from this requirement of the Planning Code for 44 units because they open onto interior courtyards that do not meet the minimum dimension requirements.

- F. **Rear Yard.** Section 134 of the Planning Code states that the minimum rear yard depth shall be 25% of the total depth of the lot.

The existing building occupies the entire site and is a contributing structure to the South End Historic District. The Project seeks a variance from this requirement because compliance would result in the removal of historic fabric from the building causing a significant adverse impact and provision of the required rear yard for the new addition would require removal of historic fabric and compromise the historic character of the existing building.

- G. **Parking.** Section 151 of the Planning Code requires one off-street parking for every unit however; new legislation effective July 31, 2008 reduces the minimum dimension requirements for specified parking spaces, removes the required ratio limiting the number of compact spaces provided, and clarifies the definition of independently accessible parking spaces to include all types of spaces.

The proposal shall provide up to 45 off-street parking spaces including 2 ADA compliant spaces and 1 City Car Share space. The dimensions and parking configuration meets the requirements of the code amendments, however, the Project seeks a variance for the remainder of the required parking.

- H. **Bicycle Parking.** Section 155.5 of the Planning Code requires a residential project with 94 units to provide 36 bicycle parking spaces.

The Project will provide secured storage for thirty-six bicycles adjacent to the lower level residential garage and is Code complying.

- I. **Street Trees.** Section 143 of the Planning Code requires that a minimum of one 24-inch box tree for each 20 feet of frontage of the property along each street or alley shall be installed in the case of the construction of a new building,

New street trees will be planted, in compliance with this Code requirement. Because of the high volume of foot and automobile traffic from the Ball Park, the Department will set forth as a condition of approval that a certified arborist develop a tree planting and protection plan in order to give the new trees the best opportunity for survival.

- J. **Shadow.** Planning Code Section 295 generally does not permit new buildings over 40-feet in height to cast new shadows on a property owned and operated by the Recreation and Park Commission.

A shadow fan analysis concluded that the Project would not create any new shade on any Recreation and Park Commission properties protected under Section 295.

- K. **Residential Inclusionary Affordable Housing Program.** Planning Code Section 315 sets forth the requirements and procedures for the Residential Inclusionary Affordable Housing Program. Under Planning Code Section 315.3, these requirements would apply to projects that consist of five or more units, where the first application was applied for on or after July 18, 2006. Pursuant to Planning Code Section 315.4, the Project is required to provide 15% of the proposed dwelling units as affordable.

The Project Sponsor has submitted a Declaration of Intent to satisfy the requirements of the Residential Inclusionary Housing Ordinance by providing the affordable housing on-site. The EE application was submitted on June 5, 2009. 14 units (2 studios, 7 one-bedroom, 5 two-bedroom, and 0 three-bedroom) of the 94 units provided will be affordable units.

- L. **Dwelling Unit Mix.** Under the Eastern Neighborhoods Mixed Use Districts definitions, the term "Eastern Neighborhoods Mixed Use Districts" shall refer to all SPD, MUG, MUO, MUR, and UMU named in Section 802.1. However, Sec. 207.6 requires that for all other RTO and NCT districts, as well as DTR and Eastern Neighborhoods Mixed Use Districts, no less than 40 percent of the total number of proposed dwelling units shall contain at least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.

Under the Mixed Use Districts within the Eastern Neighborhoods rezoning effort, the SLI district is not subject to the Eastern Neighborhood Rezoning Controls.

In terms of unit mix the Project Sponsor is proposing 12 studios, 44 one-bedrooms, 37 two-bedrooms, and 1 three-bedrooms. The unit mix breakdown is 13%, 47%, 39%, and 1% respectively.

- M. **Eastern Neighborhoods Public Benefit Fund.** The Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions of proposed Planning Code Section 327 through payment of an Impact Fee to the Treasurer, the execution of a Waiver Agreement or In-Kind agreement approved as described per Planning Code Section 327 prior to the issuance by Department of Building Inspection of the first site or building permit for the development project.

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

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

The project site is located at the corner of Townsend Street and Clarence Place between 3rd and 2nd Streets. Across the street is a 198-unit condominium development "170 Off Third" and at the corner of 3rd and Townsend is the 595-unit mixed-use residential project known as The Beacon. The project is in close proximity to Mission Bay Residential neighborhood, AT&T Park and the 4th&King Caltrain/MUNI terminal. Accordingly, the project site is compatible with the surrounding community for development into a small-scale, high-density residential project. The proposed conversion of the existing valet parking garage will provide a development that is desirable for the immediate neighborhood as it will rehabilitate a historic building and add new, permanent residents on a block that has already seen incremental infill housing over the past decade. The project will provide a development that is desirable for the greater City as it will provide both below market rate (BMR) and market-rate housing in a location well-served by transit and neighborhood-serving uses.

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

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

The project site consists of an existing historic building which is a designated contributor to the South End Historic District. The proposed project would preserve the existing building envelope and the new construction would be inserted within the footprint of the existing building. The new construction would be set-back from the building's Townsend Street façade 37 feet (with the 6th story setback an additional 23-feet from Townsend Street and 11-feet from Clarence Place) and would remain within the 65-foot height limit. The new addition will be differentiated from the historic masonry building by both design and materials, and would be only partially visible from primary public vantage points. The existing original masonry structure will be retained. This height is in character with the predominate surrounding building heights within the district. For all of the above reasons, the proposed size, shape and arrangement of the project would be consistent with the general area and will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity.

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

The project provides up to 45 off-street parking spaces (including 2 ADA-accessible spaces and 1 City Car Share space) and 36 bicycle spaces. The project site is well served by a broad range of publicly accessible transit services, being located just one block from the 4th & King Caltrain/MUNI multi-modal station and several MUNI bus lines. In addition the project is located within close proximity to Downtown San Francisco and the UCSF Mission Bay Campus, major commercial mixed-use job centers. As a result of the readily accessible public transit and close proximity to commercial areas and job centers, future residents are not expected to make frequent daily use of private automobiles.

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

The structure will be occupied by up to 94 dwelling units and a limited amount of ground floor retail and day-care. These uses, due to their residential nature, do not create unusual noise, glare, dust or odor. The project will comply with all regulations regarding noise, glare, dust and odor. The structure will utilize non-reflective glass. Additionally, the project will comply with conventional environmental mitigation measures during construction to prevent noxious and offensive emissions during construction, such as noise and dust during construction.

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

The existing building covers the entire project site and due to its historic designation, the project sponsor is constrained by the amount of landscaping and parking area it can provide. However the proposed project does provide a landscaped rooftop garden and courtyards that will provide common usable open space. In addition the project would provide code compliant private usable open space in the form of outdoor balconies for 9 of the dwelling units. The applicant plans to make street improvements and "greening" on Townsend Street and Clarence Place, such as planting trees and creating a sidewalk, contingent on further consultation and approval from the Planning Department and DPW. An existing vehicular door opening on Clarence Place would be rehabilitated and would provide access to the parking with space for approximately 45 vehicles and 36 bicycle spaces. Due to the mostly residential use of the building and small amount of retail space, approximately 3,000 sq. ft., there are no loading spaces required or provided.

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

With the exception of the rear yard, dwelling unit exposure and off-street parking requirements, the project will comply with all existing Planning Code provisions. The sole reason the project does not comply with the rear yard, dwelling unit exposure, and parking requirements is the project sponsor's desire to preserve the existing historic building, which the General Plan supports.

9. **Planning Code Section 803.9(a)** establishes criteria for the Planning Commission to consider when evaluating a Conditional Use Authorization to construct market rate housing within the SLI zoning district:

178 Townsend is a designated contributory building of the South End Historic District as defined in Appendix I of Article 10 of the Planning Code and located within the boundaries of the South End Historic District Map.

- A. The provisions of Sections 316 through 318 of this Code must be met;

See above discussion.

- B. In addition to the conditional use criteria set out in Sections 303(c)(6) and 316 through 316.8, it must be determined that allowing the use will enhance the feasibility of preserving the landmark, significant or contributory building;

The Historic Preservation Commission ("HPC") approved a Certificate of Appropriateness, with conditions, at its duly noticed September 2, 2009 hearing.

- C. The landmark, significant or contributory building will be made to conform with the San Francisco Building Code standards for seismic loads and forces which are in effect at the time of the application for conversion of use.

The building is currently an unreinforced masonry building (UMB) and in order to avoid damage from any future seismic activity, it will be seismically upgraded and braced. The proposed project provides the economic impetus to perform the seismic upgrade which includes structural upgrades and reinforcement for seismic loads that would bring it up to San Francisco Building Code standards. The proposed project construction and structural upgrades would preserve the building so it could remain a contributory building to the South End Historic District.

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

HOUSING

Objectives and Policies – 2004 Housing Element

Housing Supply

OBJECTIVE 1:

PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

Policy 1.3: Identify opportunities for housing and mixed use districts near downtown and former industrial portions of the City.

Policy 1.4: Locate in-fill housing on appropriate sites in established residential neighborhoods.

The Project would develop 94 dwelling units on a parcel containing an existing building currently used as a valet parking garage within the South of Market Area neighborhood. There are a number of residential and commercial/light industrial uses surrounding the project site; however in general the area is transitioning toward having more residential uses.

Housing Choice

OBJECTIVE 8:

ENSURE EQUAL ACCESS TO HOUSING OPPORTUNITIES.

Policy 8.9: Encourage the provision of new home ownership opportunities through new construction so that increased owner occupancy does not diminish the supply of rental housing.

The Project would develop 94 dwelling units, with 15% BMR units, in place of a former commercial/industrial building currently used as a valet parking garage.

Housing Density, Design and Quality of Life

Policy 11.2: Ensure housing is provided with adequate public improvements, services and amenities.

Policy 11.3: Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

The Proposed Project will site 94 dwelling units within an established mixed-use neighborhood that is well served by mass transit, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations. No affordable housing would be displaced by the project.

Regional and State Housing Needs

OBJECTIVE 12:

STRENGTHEN CITYWIDE AFFORDABLE HOUSING PROGRAMS THROUGH COORDINATED REGIONAL AND STATE EFFORTS.

Policy 12.2: Support the production of well-planned housing region-wide that addresses regional housing needs and improve the overall quality of life in the Bay Area.

The Proposed Project will site 94 dwelling units on an in-fill site within an established mixed-use neighborhood that is well served by mass transit, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations.

RESIDENCE ELEMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 4: Locate infill housing on appropriate sites.

The proposed project would result in the construction of up to 94 new residential units, potentially a third of which would be two-bedroom units and thus suitable for housing families.

The project site is located within 1 mile of Downtown San Francisco and adjacent to the Mission Bay Residential mixed use area. The proposed project is located on a block that in the past has had a mixture of commercial and industrial uses. Over the last several years there have been new residential developments on the same block and in the surrounding vicinity. The proposed project creates a higher residential density for the area by providing up to 94 residential units, up to 15% of which would be affordable, where none currently exist. The proposed project would provide high density residential in a burgeoning residential area which is consistent with this Objective and Policy.

OBJECTIVE 2:

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 2: Encourage higher residential density in areas adjacent to downtown and in neighborhood commercial districts where higher density will not have harmful effects.

The project creates additional dwelling units within an existing development pattern of mixed uses.

OBJECTIVE 12:

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1: Assure housing is provided with adequate public improvements, services and amenities.

Policy 4: Promote construction of well-designed housing that conserves existing neighborhood character.

Policy 6: Relate land use controls to the appropriate scale for new and existing residential areas.

The proposal includes adequate open space. The design of the project maintains the integrity of the existing neighborhood context. The character of the block is mixed; however, the in-fill is an appropriately-designed residential structure and is consistent with the neighborhood character and the South End Historic District.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5: Require private usable outdoor open space in new residential development.

The Project will create private and common outdoor open space in new residential development. With two courtyards and roof deck, the Project will create usable outdoor space directly accessible to dwelling units. The Project will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4 – Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5: Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

Policy 2.6: Respect the character of older development nearby in the design of new buildings.

Policy 2.7: Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

The Historic Preservation Commission approved a Certificate of Appropriateness, with conditions, at its duly noticed September 2, 2009 hearing.

The proposal preserves the historic character of the subject building and the district. The proposed project will be up to six-stories in height and will therefore remain within the six-story range compatible with the other surrounding buildings, as described in Appendix I to Article 10 of the Planning Code. The Department believes that the addition has been sculpted in a manner to minimize the loss of historic fabric and to minimize its visual impact on the historic character of the property. The proposed addition has the potential to change how one perceives the subject building; however, it does not diminish those qualities that make the building a contributor to the South End District.

The building is currently an unreinforced masonry building (UMB) and in order to avoid damage from any future seismic activity, it will be seismically upgraded and braced. The proposed project provides the economic impetus to perform the seismic upgrade which includes structural upgrades and reinforcement for seismic loads that would bring it up to San Francisco Building Code standards. The proposed project construction and structural upgrades would preserve the building so it could remain a contributory building to the South End Historic District.

OBJECTIVE 3:

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

Policy 3.2: Avoid extreme contrast 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 proposed Project will promote harmony in visually relating to, and serving as a transition between, older and newer buildings in the neighborhood. The Project's height, dimensions, and character have been designed to be respectful to the buildings surrounding the project site. The design concept of the project balances preservation of the existing masonry building and the proposed addition. All new construction would be contained within the footprint of the existing structure and would rise above the existing roofline to a maximum of 62 feet, consistent with the existing zoning. The materials for the new addition would be light and transparent, reflecting the materials used in other new buildings on Townsend Street and in the adjacent Mission Bay residential buildings. For the above reasons, the new construction will keep with the existing character of the site and the neighborhood.

The proposed project will be consistent with the character, height and bulk of existing buildings in the neighborhood because it would preserve the existing historic warehouse. The proposed project will be built within the footprint of the existing building and the 65-foot height limit consistent with the adjacent buildings. The addition would be set back 37 feet from the Townsend Street façade, rising above the

existing structure's existing 23- to 42-foot tall roofline to a maximum height of 62 feet. This height is in character with the predominate surrounding building heights within the district.

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 proposed project will provide 4,070 sq. ft. of landscaped common useable open space in the form of two roof decks. Balconies would provide additional private open space for 9 of the up to 94 proposed units. In addition, two inner courtyards provide approximately 1,430 sq. ft. of open space. In the public realm, the project sponsor has proposed street improvements to Clarence Place that would potentially include a new sidewalk and street trees, conditioned on approval by the Planning Department and DPW.

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5 - Require private usable outdoor open space in new residential development.

The proposed project will satisfy this Policy by providing approximately 2,357 sq. ft. of private balcony open space for 9 units and 4,070 sq. ft. of common roof deck space. Although not compliant with the dimensional requirements of Section 135, the project provides an additional 1,437 sq. ft. of courtyard open space. The project will also provide 993 sq. ft. of open space on the roof deck for the private use of the proposed daycare.

TRANSPORTATION ELEMENT

Objectives and Policies

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.

This project is an excellent example of an urban infill residential project adjacent to a transit node. Because the project site is situated in close proximity to the 4th and King CalTrain and MUNI station stop, the 41 Union and 34 Stockton bus lines, we expect many project residents to use public transit as their primary mode of transportation. For these reasons the proposed project meets this Objective and serves the City's "Transit First" policy.

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Along the Clarence Place frontage the project sponsor proposes to provide pedestrian level street trees, a new sidewalk and other street improvements. Currently there are no sidewalks or trees along Clarence Place. This street improvement plan will be developed with the Planning Department and DPW and will require their approval.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1: Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

The project will provide space to accommodate up to 45 cars, in addition to 36 bicycle storage spaces. The project site is well served by the 4th and Kin CalTrain and MUNI stations, the 41 Union and 34 Stockton bus lines. As a result, future residents are not expected to make frequent use of private automobiles.

AIR QUALITY ELEMENT

Objectives and Policies

OBJECTIVE 3:

DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS.

Policy 3.2: Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development. The project is located adjacent to a number of public transportation options, including multiple MUNI bus lines and the 4th and King Rail station, thereby reducing the need for vehicle trips.

The proposed building combines residential and retail space and will be within walking distance of mixed-use retail, residential areas and workplaces such the Mission Bay area.

ENVIRONMENTAL PROTECTION ELEMENT

Objectives and Policies

OBJECTIVE 15:

INCREASE THE ENERGY EFFICIENCY OF TRANSPORTATION AND ENCOURAGE LAND USE PATTERNS AND METHODS OF TRANSPORTATION WHICH USE LESS ENERGY.

Policy 15.3: Encourage an urban design pattern that will minimize travel requirements among working, shopping, recreation, school and childcare areas.

The proposed project will serve this Objective and Policy because the project site is extremely well-served by public transit, including MUNI buses and the 4th and King rail station and includes new retail and daycare spaces. In addition, the project is located one block from the mixed-use residential neighborhood of Mission Bay and within 1 mile of Downtown San Francisco.

EAST SOMA (SOUTH OF MARKET) AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.2:

MAXIMIZE HOUSING DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

Policy 1.1.1: In the formerly industrial “SLI” area of East SoMa, generally along 3rd and 4th Streets, emphasize a mix of uses, allowing mixed-income housing, small retail, small office, and small to medium sized research and development uses, while protecting against wholesale displacement of PDR uses.

Policy 1.2.1: Encourage development of new housing throughout East SoMa.

Policy 1.2.2: Ensure that in-fill housing development is compatible with its surroundings.

Policy 1.2.3: For new construction, and as part of major expansion of existing buildings, encourage housing development over commercial.

The Project proposes a high-density residential building with ground floor retail use. The proposed project would provide up to 94 dwelling units, with 15% BMR, and approximately 1,500 square feet of new retail space to the surrounding community as well as up to 1,600 square feet of daycare use. In addition, project sponsor proposes to make street improvements and “greening” on Clarence Place, such as creating a sidewalk and planting trees, contingent on further consultation and approval from Planning Department and DPW.

Housing

OBJECTIVE 2.3:

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

Policy 2.3.3: Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments unless all Below Market Rate Units are two or more bedrooms.

OBJECTIVE 2.4:

LOWER THE COST OF THE PRODUCTION OF HOUSING.

Policy 2.4.1: Require developers to separate the cost of parking from the cost of housing in both for sale and rental developments.

OBJECTIVE 2.5:

PROMOTE HEALTH THROUGH RESIDENTIAL DEVELOPMENT DESIGN AND LOCATION.

The proposed project will add up to 94 units of new housing, 15% of which would be Below Market Rate affordable housing. The project will provide 37 two-bedroom units. The new addition would be built within the footprint of the existing building, within the current 65-foot height limit and will be setback 37-feet from the Townsend Street façade. In addition, the existing brick structure will retain the character-defining features of the building. For all of the above reasons the proposed project is consistent with this Objective and Policy.

Built Form

OBJECTIVE 3.1:

PROMOTE AN URBAN FORM THAT REINFORCES EAST SOMA'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 3.1.6: New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.

Policy 3.1.9: Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

The proposed project will be compatible with the character of the surrounding South of Market buildings and will preserve those architectural features of the existing building that contribute to the South End Historic District. The existing structure will remain intact and character-defining features of the building will be rehabilitated. The new addition will be built within the existing building footprint and the materials used are compatible with the surrounding buildings in the South of Market area and comply with Article 10 Appendix I of the Planning Code.

Streets and Open Space

OBJECTIVE 5.2:

ENSURE THAT NEW DEVELOPMENT INCLUDES HIGH QUALITY PRIVATE OPEN SPACE.

Policy 5.2.1: Require new residential and mixed-use residential development to provide on-site private open space designed to meet the needs of residents.

Policy 5.2.5: New development should respect existing patterns of rear yard open space. Where an existing pattern of rear yard open space does not exist, new development on mixed-use-zoned parcels should have flexibility as to where open space can be located.

The proposed Project includes outdoor leisure areas and private open spaces to meet the needs of building residents.

Historic Preservation

OBJECTIVE 8.2:

PROTECT, PRESERVE, AND REUSE HISTORIC RESOURCES WITHIN THE EAST SOMA AREA PLAN.

Policy 8.2.1: Protect individually significant historic and cultural resources and historic districts in the East SoMa area plan from demolition or adverse alteration.

Policy 8.2.2: Apply the Secretary of the Interior's Standards for the Treatment of Historic Properties in conjunction with the East SoMa area plan and objectives for all projects involving historic or cultural resources.

The proposed project will be compatible with the character of the surrounding South of Market buildings and will preserve those architectural features of the existing building that contribute to the South End Historic District. The existing structure will remain intact and character-defining features of the building will be rehabilitated. The new addition will be built within the existing building footprint and the materials used are compatible with the surrounding buildings in the South of Market area and comply with Article 10 Appendix I of the Planning Code. The Project has been determined to be in conformance with the Secretary of Interior's Standards for the Treatment of Historic Properties and the requirements of Article 10.

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.

There are no neighborhood-serving retail uses in the existing building. The proposed project would create an opportunity for approximately 1,500 sq. ft. in retail uses for resident employment and ownership. In addition it would convert a building currently used for parking into up to 94 dwelling units providing housing and employment opportunities to the neighborhood.

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

There is no existing housing on the project site. The project would provide up to 94 dwelling units that would otherwise not exist. The project is a Contributory Building to the South End Historic District. According to the Historical Resource Evaluation Response, the proposed project meets the Secretary of Interior's Standards and would rehabilitate and restore the character-defining features that make this project a historic resource. For these reasons, the proposed project would protect and

preserve the cultural, economic and architectural diversity of this newly emerging Mission Bay/SOMA neighborhood.

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

There is currently no housing on the project site. The proposed project would provide up to 15% of the up to 94 units as permanently affordable housing units. Accordingly, the project will enhance the City's supply of affordable housing.

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

The existing building covers the entire project site and due to its historic designation the building envelope can not be altered. For these reasons the project sponsor is constrained by the amount of parking it can provide. Project sponsor maximized the amount of potential parking in the existing building by utilizing mechanical parking lifts and would provide up to 45 parking spaces for use by the future residents. In addition the project would provide 36 bicycle storage spaces. This residential use would not impede MUNI transit service and the project sponsor anticipates that future residents will use alternatives to private vehicles for the majority of their trips. As a result, the proposed project will not adversely affect transit service or traffic flow.

- 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.

There are no industrial services located in the building. Thus, the proposed conversion to residential use would not displace industrial service sector businesses. Furthermore, the project would convert an under-utilized building into dwelling units, thereby increasing the diversity of the City's housing supply, a top priority for maintaining the City's economic diversity and competitiveness.

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

The project provides the economic impetus for the proposed seismic work and will bring the existing structure into compliance with current San Francisco Building Code for seismic loads.

- G. That landmarks and historic buildings be preserved.

Built in 1888, the former California Electric Light Company Station B building was assigned a California Historical Resource Status Code of '3D' by the Office of Historic Preservation, due to its status as a contributor to the locally-listed South End Historic District. A Historic Resources Report prepared on August 10, 2007 concluded that the proposed project preserves those character-defining features that make it a contributor to the Historic District. The Planning Department believes that the proposed project meets the Secretary of Interior's Standards and is compatible with the scale and proportion of the surrounding South End Historic District. The applicant will work with the Planning

Department's Preservation Unit and a qualified preservation architect to ensure that the proposed alterations preserve those character-defining features. The proposed uses would be housed in a 62-foot building that would be constructed within the footprint of the existing building that will be set-back from the building's Townsend Street façade 37-feet. The new addition will be differentiated from the historic masonry building by both design and materials, and would be only partially visible from primary public vantage points.

The Historic Preservation Commission approved a Certificate of Appropriateness, with conditions, at its duly noticed September 2, 2009 hearing.

For these reasons, the proposed conversion to residential use would preserve the building's historic character.

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

The Project does not have an impact on existing open spaces.

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Project has completed the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator as they apply to permits for residential development (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.
14. Findings under the California Environmental Quality Act (CEQA).
- A. After considering the 2005 FEIR and the Addendum, the Commission hereby makes the following findings:
- a) The Commission has independently reviewed and analyzed the 2005 FEIR and Addendum and the other information in the record and has considered the information contained therein and finds that the Addendum is the appropriate document under CEQA to consider the revisions made to the 178 Townsend Street Project and hereby finds that no supplemental or subsequent EIR is required for the Modified Project for the following reasons:
- (1) The changes to the 178 Townsend Street Project reflected in the Modified Project do not constitute substantial changes which require major revisions in the 2000 FEIR due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified effects;

(2) Substantial changes have not occurred with respect to the circumstances under which the Modified Project will be undertaken which require major revisions to the 2005 FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2005 FEIR was certified, which shows (a) that the Modified Project will have one or more significant effects not discussed in the 2005 FEIR; (b) that significant effects previously examined will be substantially more severe than shown in the 2005 FEIR; or (c) that mitigation measures or alternatives previously found to be feasible would in fact be feasible and would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Based on the foregoing, the Commission finds that none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent or supplemental EIR have occurred and that therefore, the Addendum rather than a subsequent or supplemental EIR is appropriate and that the Addendum is hereby approved.

- B. **Mitigation Monitoring and Reporting Program.** The Mitigation Monitoring and Reporting Program for the 178 Townsend Street Project, adopted as Exhibit C to Commission Motion No. 17688, continue to apply to the Modified Project.
 - C. **Significant Unavoidable Environmental Impacts.** As set forth in the 2005 FEIR and Commission Motion No. 17677 (adopting findings related to the certification of the 2005 FEIR), the 178 Townsend Street Project would result in significant unavoidable environmental impacts. The Commission, by Commission Motion No. 17677, found that these significant unavoidable impacts are acceptable due to specific overriding economic, legal, social and other considerations. As set forth in the Addendum, the Modified Project would not result in any new significant environmental impacts. The Statement of Overriding Considerations set forth in Commission Motion No. 17677 continues to apply to this approval.
15. The Commission hereby finds that approval of the Conditional Use Authorization would promote the health, safety and welfare of the City.

DECISION

The Commission, after carefully balancing the competing public and private interests, and based upon the Recitals and Findings set forth above, in accordance with the standards specified in the Code, hereby approves the Project authorizing a Conditional Use under Planning Code Sections 303 and 803.9(a) to allow the construction of six-story addition containing up to 94 dwelling units, approximately 1,500 square feet of ground floor retail space, approximately 1,600 square feet of daycare space, and up to 45 off-street parking spaces in the South End Historic District and SLI zoning district with a 65-X Height and Bulk Designation subject to the conditions of approval attached hereto as **Exhibit A**.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17944. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on **September 3, 2009**.

Linda Avery
Commission Secretary

AYES: Commissioners Lee, Miguel, Moore, Olague

NAYS: None

ABSENT: Commissioners Antonini (recused), Borden, and Sugaya (recused)

ADOPTED: September 3, 2009

Exhibit A

Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

General Conditions

1. This approval is for authorization under Planning Code Sections 303 and 803.9(a) on the property at 178 Townsend Street, Lot 012 in Assessor's Block 3788 (hereinafter "Property") to allow up to 94 dwelling units, with 15% BMR, and ground-floor retail space, up to 45 off-street parking spaces, and 36 bicycle parking spaces within the footprint of the existing building in the SLI (Service, Light, Industrial) Zoning District, a 65-X height and bulk district, and the South End Historic District.
2. The Project approved by this Motion is in general conformity with the plans dated August 26, 2009, on file with the Department in the docket for Case No. **2009.0476C** (labeled EXHIBIT B), reviewed and approved by the Commission on September 3, 2009.

Design

3. The final plans shall meet the standards of the Planning Code and all conditions of approval and any granted applicable variances from the Planning Code and shall be in general conformity with the plans approved by the Commission on September 3, 2009 as Exhibit B found in the Case docket, and shall comply with conditions of the Certificate of Appropriateness approved by the Historic Preservation Commission on September 2, 2009 pursuant to Motion No. 0026.
4. The project sponsor shall continue to work with Planning Department staff on the details of the design of the project. In particular, the project sponsor will continue to work with Planning Department staff on the details and design of the Clarence Place façade.
5. Space for the collection and storage of garbage shall be provided within enclosed areas on the property. Garbage containers shall be kept inside buildings, and placed outside only when being serviced by the disposal company. Space for the collection and storage of recyclable 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.
6. The Project Sponsor shall continue to work on developing a code-complying landscape plan subject to Planning Department review and approval. The Planning Department must deem the landscape plan code-complying and acceptable prior to the approval of the architectural addendum.

Housing

7. Covenants, conditions and restrictions approved by the Planning Department shall be imposed upon the project units to restrict use to occupancy for permanent residents and to preclude time-share ownership or occupancy. No residential units shall be used as hotel units, as defined in Section 203.8 of the San Francisco Housing Code.

8. The Project Sponsor shall ensure that initial sales of more than two dwelling units to any one entity if not for owner occupancy, will be for residential rental purposes for rental periods of not less than one month.

Below Market Rate Units (BMR Units)

9. **Number of Required Units.** Pursuant to Planning Code Section 315.4, the Project is required to provide 15% of the proposed dwelling units as affordable to qualifying households ("BMR Units"). The Project contains 94 units; therefore, 14 BMR units are required. The Project Sponsor will fulfill this requirement by providing the 14 BMR units on-site.
10. **Unit Mix.** The Project contains 12 studios, 44 one-bedroom, 37 two-bedroom, and 1 three-bedroom units; therefore, the required BMR unit mix is 2 studios, 7 one-bedroom, 5 two-bedroom, and 0 three-bedroom units. If the market-rate unit mix changes, the BMR unit mix will be modified accordingly.
11. **Duration.** Under Planning Code Section 315.7, all units constructed pursuant to Sections 315.4 must remain affordable to qualifying households for the life of the project.
12. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Residential Inclusionary Affordable Housing Monitoring and Procedures Manual (hereinafter "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 315 (collectively the "Inclusionary Housing Ordinance"). Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing 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://www.sfgov.org/site/uploadedfiles/planning/inclusionaryhousingproceduresmanual6_28_07.pdf.
As provided in the Inclusionary Housing Ordinance, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.
 - a. The BMR unit(s) shall be designated on the building plans prior to the issuance of the first site or building permit by the Department of Building Inspection (DBI). The BMR unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project.
 - b. If the units in the building are offered for sale, the BMR unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the City and County of San Francisco as defined in the Inclusionary Housing Ordinance, Section 315.1. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) marketing; (ii) renting; (iii) recouping

- capital improvements and (iv) procedures for inheritance apply and are set forth in the Inclusionary Housing Ordinance and the Procedures Manual.
- c. If the units in the building are offered for rent, the BMR unit(s) shall be rented to a household of low income, as defined in the Inclusionary Housing Ordinance and as further defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed sixty (60) percent of the median income for the City and County of San Francisco as defined in the Inclusionary Housing Ordinance, Section 315.1. The qualifying household income limits and maximum monthly rent for BMR units shall be calculated by Mayor's Office of Housing (MOH.)
 - d. The Applicant is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. The Mayor's Office of Housing shall be responsible for overseeing and monitoring the marketing of affordable units.
 - e. Required parking spaces shall be made available to initial buyers or renters of BMR units according to the Procedures Manual.
 - f. Prior to the issuance of the first site or building 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 BMR 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 the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).
 - g. If project applicant fails to comply with the Inclusionary Housing requirement, the Director of Building Inspection 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 applicant's failure to comply with the requirements of Planning Code Sections 315 to 315.9 shall constitute cause for the City to record a lien against the development project.

Parking

13. 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 units. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space.
14. The parking spaces must be marketed and sold or leased as an addition to, not a subtraction from, the base purchase or rental price of a dwelling unit, and units may not be marketed or offered as a bundled package that includes parking without clear accompanying language that the parking is available only at additional cost. 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.

15. Renters or buyers of on-site inclusionary affordable units provided pursuant to Section 315 shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units, subject to procedures adopted by the Planning Commission notwithstanding any other provision of Section 315 et seq.
16. No less than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its car share service subscribers pursuant to Planning Code Section 166.
17. The project will provide not less than 36 bicycle parking spaces, pursuant to Planning Code Section 155.5.

Eastern Neighborhoods Public Benefit Fund

18. The Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions of proposed Planning Code Section 327 through payment of an Impact Fee to the Treasurer, or the execution of a Waiver Agreement or an In-Kind agreement approved as described per proposed Planning Code Section 327 prior to the issuance by Department of Building Inspection of the first site or building permit for the development project.

Performance

19. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties at all times during Project construction. Prior to the commencement of Project construction, the Project Sponsor shall give the Zoning Administrator and the owners of properties within 300 feet of the Project site boundaries written notice of the name, business address and telephone number of the community liaison.
20. Prior to the issuance of any new building or site permit for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor or the successor thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
21. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended for up to two years at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

Monitoring and Violation

22. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Code Section 176.
23. Should monitoring of the Conditions of Approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
24. Failure to comply with these Conditions of Approval shall be grounds for revocation of the authorization. Should the Project result in complaints from neighbors that are not resolved by

the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the specific Conditions of Approval contained in this Exhibit A of this motion, the Zoning Administrator shall report such complaints to the Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures in Planning Code Section 174, 306.3 and 306.4 to consider revocation of this Conditional Use Authorization.

Mitigation and Improvement Measures

25. **Conditions Related to Construction Monitoring and Mitigation.** The Project Sponsor shall implement the mitigation and improvement measures set forth in and otherwise comply with, the Mitigation Monitoring and Reporting Program attached to this Motion as Exhibit C and incorporated herein by this reference.