



SAN FRANCISCO PLANNING DEPARTMENT

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Planning Commission Motion No. 19943

HEARING DATE: JUNE 15, 2017

Case No.: **2009.0159EGPAMAPDNXCUA VARK**

Project Address: 1540 Market Street (aka One Oak)

Zoning: C-3-G (Downtown General)
120/400-R-2, 120-R-2 Height and Bulk Districts
Van Ness & Market Downtown Residential Special Use District

Block/Lot: Block 0836; Lots 001, 002, 003, 004 and 005

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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR LOT COVERAGE PER PLANNING CODE SECTION 249.33(b)(5) AND REDUCTION OF GROUND-LEVEL WIND CURRENTS PER PLANNING CODE SECTION 148 TO DEMOLISH AN EXISTING THREE-STORY, 2,750 SQUARE-FOOT COMMERCIAL BUILDING, A FOUR-STORY, 48,225 SQUARE FOOT COMMERCIAL BUILDING, AND REMOVAL OF A SURFACE PARKING LOT TO CONSTRUCT A 40-STORY, 400-FOOT-TALL RESIDENTIAL BUILDING WITH 304 DWELLING UNITS, APPROXIMATELY 4,110 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 11,056 SQUARE FEET OF PRIVATE COMMON OPEN SPACE AND PUBLIC OPEN SPACE, 366 BICYCLE PARKING SPACES (304 CLASS 1, 62 CLASS 2), AND UP TO 136 VEHICULAR PARKING SPACES WITHIN THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT, DOWNTOWN-GENERAL (C-3-G) ZONING DISTRICT AND 120/400-R-2 AND 120-R-2 HEIGHT AND BULK DISTRICTS AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On February 26, 2009, Stephen Miller of Reuben & Junius, LLP filed an Environmental Evaluation application on behalf of CMR Capital, LLC, the previous property owner for a previous iteration of the project that occupied the property at Assessor's Block 0836, Lots 002, 003, 004, and 005 but did not include the easternmost lot on the block (Lot 001) within the project site, and on August 27, 2012, John Kevlin of Reuben & Junius, LLP filed a revision to the Environmental Evaluation application on behalf of CMR Capital, LLC. The current project sponsor, One Oak Owner, LLC, submitted updated project information to the Planning Department to add Lot 001 and to address changes in the project under the same Planning Department Case Number (Case No. 2009.0159E) after acquiring the site in 2014.

On November 18, 2015 and December 9, 2016 Steve Kuklin of Build, Inc., on behalf of One Oak Owner, LLC ("Project Sponsor") filed applications that added Block 0836 Lot 001 into the project area, and requested approval of a.) a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code; b.) a Zoning Map Amendment; c.) a General Plan Amendment to change 668 square feet of the eastern 15 feet of Assessor's Block 0836, Lot 001 from 120/400-R-2 to 120-R-2, and an equivalent 668 square feet, 4'-7.5" wide area located 28'-3" from the western edge of Assessor's Block 0836, Lot 005 from 120-R-2 to 120/ 400-R-2; d.) a Conditional Use Authorization for on-site parking in excess of the amount principally permitted pursuant to Planning Code Section 303; e.) Variances for Dwelling Unit Exposure and Maximum Parking/Loading Entrance Width pursuant to Planning Code Sections 140 and 145.1(c)(2); f.) an Exemption for Elevator Penthouse Height, pursuant to 260(b)(1)(B); and h.) an In-Kind Fee Waiver Agreement for public realm improvements pursuant to Planning Code Sections 421.3(d) and 424.3(c). These approvals are necessary to facilitate the construction of a mixed-use project located at 1540 Market Street, Assessor Block 0836, Lots 001, 002, 003, 004 and 005, (hereinafter "Project"). The Project proposes to build an approximately 400-foot tall building containing approximately 304 dwelling units with a directed in-lieu contribution to facilitate the development of approximately 72 Below Market Rate dwellings units (the "Octavia BMR Project") within 0.3 miles of the project site, amounting to 24 percent of the 304-unit Project, subject to a letter and the conditions set forth therein from the Mayor's Office of Housing and Community Development, including the requirement for an independent environmental review of the Octavia BMR Project under CEQA.

On November 1, 2016, in accordance with the Entertainment Commission's guidelines for review of residential development proposals under Administrative Code Chapter 116, a hearing was held for the Project, and the Entertainment Commission made a motion to recommend the standard "Recommended Noise Attenuation Conditions for Chapter 116 Projects." The Entertainment Commission recommended that the Planning Department and/or Department of Building Inspection adopt these standard recommendations into the development permit(s) for this Project.

On January 5, 2017, the Commission held a duly advertised public hearing on the DEIR, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the EIR ended on January 10, 2017. The Department prepared responses to comments on environmental issues received during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR.

On February 23, 2017, the Planning Commission adopted Resolution No.'s 19860 and 19861 to initiate legislation entitled, (1) "Ordinance amending the General Plan by revising the height designation for the One Oak Street Project, at the Van Ness / Oak Street / Market Street intersection, Assessor's Block 0836 Lots 001 and 005 on Map 3 of the Market and Octavia Area Plan and on Map 5 of the Downtown Area Plan; adopting findings under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1;" and (2) Ordinance amending the Planning Code to change the height and bulk district classification of Block 0836, portions of Lots 001 and 005 for the One Oak Project, at the Van Ness / Oak Street / Market Street Intersection, as follows: rezoning the eastern portion of the property, along Van Ness Avenue, located at Assessor's Block 0836, Lot 001 (1500 Market Street) from 120/400-R-2 to 120-R-2; and rezoning the central portion of the property, located at Assessor's Block 0836, Lot 005 (1540 Market Street) from 120-R-2 to 120/400-R-2; affirming the Planning Commission's determination under the California Environmental Quality Act; and making findings, including findings of public necessity, convenience and welfare under Planning Code Section 302, and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1," respectively.

On June 1, 2017, the Planning Department published a Responses to Comments document. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the Responses to Comments document all as required by law.

On June 15, 2017, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on June 15, 2017 by adoption of its Motion No. 19938.

At the same Hearing and in conjunction with this motion, the Commission made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") by its Motion No. 19939. The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings. The Commission hereby incorporates by reference the CEQA findings set forth in Motion No. 19939.

On June 15, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding (1) the General Plan Amendment amending Map 3 of the Market and Octavia Area Plan and on Map 5 of the Downtown Area Plan; and (2) the ordinance amending the Zoning Map HT07 to rezone portions of Lots 001 and 005 on Assessor's Block 0836. At that meeting the Commission Adopted (1) Resolution No. 19941 recommending that the Board of Supervisors approve the requested General Plan Amendment; and (2) Resolution No. 19942 recommending that the Board of Supervisors approve the requested Planning Code Map Amendments.

On June 15, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the Downtown Project Authorization application, Conditional Use application, and Variance and Elevator Exemption application 2009.0159EGPAMAPDNXCUIAVARK. At the same hearing the Commission determined that the shadow cast by the Project would not have any adverse effect on Parks within the jurisdiction of the Recreation and Parks Department. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

The Planning Department, Commission Secretary, is the custodian of records; all pertinent documents are located in the File for Case No. 2009.0159EGPAMAPDNXCUIAVARK, at 1650 Mission Street, Fourth Floor, San Francisco, California.

MOVED, that the Commission hereby approves the Downtown Project Authorization requested in Application No. 2009.0159EGPAMAPDNXCUIAVARK, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is located at 1500-1540 Market Street at the northwest corner of the intersection of Market Street, Oak Street, and Van Ness Avenue in the southwestern portion of San Francisco's Downtown/Civic Center neighborhood, within the Market and Octavia Plan Area.

The Project's building site is made up of five contiguous privately owned lots within Assessor's Block 0836, Lots 001, 002, 003, 004, and 005, an 18,219-square-foot (sf) trapezoid, bounded by Oak Street to the north, Van Ness Avenue to the east, Market Street to the south, and the interior property line shared with the neighboring property to the west at 1546-1564 Market Street. The building site measures about 177 feet along its Oak Street frontage, 39 feet along Van Ness Avenue, 218 feet along Market Street, and 167 feet along its western interior property line. The existing street address of the project parcels is referred to as 1500-1540 Market Street. The easternmost portion of the building site, 1500 Market Street (Lot 001), is currently occupied by an existing three-story, 2,750 square foot commercial building, built in 1980. This building is partially occupied by a limited-restaurant retail use doing business as "All Star Café" on the ground floor and also contains an elevator entrance to the Muni Van Ness station that opens onto Van Ness Avenue. Immediately west of the 1500 Market Street building is an existing 47-car surface commercial parking lot, on Lots 002, 003, and 004. The parking lot is fenced along its Market Street and Oak Street frontages and is entered from Oak Street. The westernmost portion

of the building site at 1540 Market Street, Lot 005, is occupied by a four-story, 48,225 square foot commercial office building, built in 1920. As of June 2017, this building is partially occupied.

In addition to the building site, the Project site also includes surrounding areas within the adjacent public rights-of-way in which streetscape improvements including the public plaza would be constructed as part of the proposed Project.

- 3. Surrounding Properties and Neighborhood.** The Project site occupies a central and prominent position at the intersection of Market Street and Van Ness Avenue, two of the City's widest and most recognizable thoroughfares. The Project Site is located at an important transit node: rail service is provided underground at the Van Ness Muni Metro Station as well as via historic streetcars that travel along Market Street. Bus and electric trolley service is provided on Van Ness Avenue and Market Street. The Project is located in an urban, mixed-use area that includes a diverse range of residential, commercial, institutional, office, and light industrial uses. Offices are located along Market Street and Van Ness Avenue, while most government and public uses are located to the north in the Civic Center.

The Project is located within the southwestern edge of downtown in the C-3-G (Downtown Commercial, General) District, characterized by a variety of retail, office, hotel, entertainment, and institutional uses, and high-density residential. West of Franklin Street, a block from the Project Site, is an NC-3 Moderate-Scale Neighborhood Commercial District that comprises a diverse mix of residential, commercial, and institutional uses. South of Market Street, and west of 12th Street, are the WSOMA Mixed Use, General and Production, Distribution and Repair (PDR) Districts.

The adjacent building immediately to the west of the Project Site along Market Street is 1546 Market Street, a three-story office over a ground-floor retail building built in 1912. Further west along Market Street is 1554 Market Street, a one-story retail building built in 1907. 55 Oak Street, a one-story automotive repair building built in 1929, is at the rear of the same lot. These three buildings were recently demolished and are currently being developed as a 120-foot, 12-story building, 110 dwelling unit building with ground floor retail. The southwestern corner of the Project block is occupied by a six-story apartment building over ground-floor retail at 1582 Market Street, built in 1917. The northwestern corner of the project block is occupied by a surface parking lot. However, a Preliminary Project Assessment application and associated letter has been issued for a proposed 31-story, 320-foot tall mixed-use project containing Institutional and Residential uses. At the western edge of the Project block, 22 Franklin Street, located mid-block between Oak and Market Streets, another new residential project is currently under construction.

To the northwest of the project site along the north side of Oak Street is the Conservatory of Music at 50 Oak Street, a five-story Neoclassical building built in 1914. Immediately to the west of that building is a modern addition to 50 Oak Street. The Conservatory building houses studio, classroom, office, and performance space. Immediately to the north of the project site is 25 Van Ness Avenue, an eight-story Renaissance Revival building built in 1910. The building currently has ground-floor research and development space and offices on the upper floors. The building also houses the San Francisco New Conservatory Theater. Further north along the west side of

Van Ness Avenue is 77 Van Ness Avenue, an eight-story residential building with ground-floor retail, built in 2008.

Immediately to the east of the Project Site is Van Ness Avenue, the major north-south arterial in the central section of San Francisco that runs between North Point and Market Streets. Between Market and Cesar Chavez Streets, Van Ness Avenue continues as South Van Ness Avenue. Van Ness Avenue is part of U.S. 101 between Lombard Street and the Central Freeway (via South Van Ness Avenue). In the vicinity of the Project, Van Ness Avenue has three travel lanes in each direction separated by a center median, and parking on both sides of the street. However, most of the center medians have been removed as part of the Van Ness Bus Rapid Transit (BRT) project and Van Ness Avenue will be reduced to two travel lanes in each direction. Along the east side of Van Ness Avenue, across from the Project Site to the northeast, is 30 Van Ness Avenue (also known as 1484-1496 Market Street), a five-story office over ground-floor retail building. The building was originally built in 1908, but its façade was extensively remodeled around 1960.

Market Street, a roadway that includes two travel lanes and a bicycle lane in each direction, serves as the Project's southern boundary. Historic streetcars use the center-running tracks and transit stops within the Market Street roadway. On the south side of Market Street at the southeast corner of Market Street and 11th Street (due east of the Project Site) is 1455 Market Street, a 22-story office building over ground-floor commercial, built in 1979. This building terminates eastward views along Oak Street. At the southeast corner of Market Street and Van Ness Avenue, diagonally across the intersection of Market Street and Van Ness Avenue, is One South Van Ness Avenue, an eight-story office building over ground-floor commercial (Bank of America), built in 1959. At the southwest corner of Market Street, across Market Street from the project site, is 10 South Van Ness Avenue, a one-story car dealership. The Property Owners of the 10 South Van Ness Avenue site have submitted development applications proposing the construction of a mixed-use project containing two 400-foot residential towers and ground floor retail space.

- 4. Project Description.** The proposed One Oak Street Project would demolish all existing structures on the Project Site at 1500-1540 Market Street including 47 existing valet-operated on-site parking spaces and construct a new 304-unit, 40-story residential tower (400 feet tall, plus a 20-foot-tall parapet, and a 26-foot-tall elevator penthouse measured from roof level) with approximately 4,110 square feet ground-floor commercial space, one off-street loading space, two off-street service vehicle spaces, and a subsurface valet-operated parking garage containing 136 spaces for residents. Bicycle parking accommodating 304 Class 1 and 62 Class 2 spaces would be provided for residents on the second-floor mezzanine and for visitors in bicycle racks on adjacent sidewalks. The Project would also include the following: construction of a public plaza and shared public way within the Oak Street right-of-way (Oak Plaza); construction of several wind canopies within the proposed plaza and one wind canopy within the sidewalk at the northeast corner of Market Street and Polk Street to reduce pedestrian-level winds. In addition, the existing on-site Muni elevator will remain in its current location, and a new weather protective enclosure will be constructed around it. Some of the streetscape improvements for Oak Plaza are included within the Project being approved pursuant to Motion No.'s 19940, 19943, and 19944. At a later date, the Project Sponsor will additionally seek approval of an In-Kind Fee Waiver

Agreement pursuant to Planning Code Sections 421.3(d) and 424.3(c), to provide certain additional public realm improvements within Oak Plaza. Additional improvements subject to the In-Kind Fee Waiver Agreement include: (a) improvements within the existing Oak Street sidewalk along the northern side, including retail kiosks, above ground planters, street lighting, movable seating, waterproofing at the 25 Van Ness basement, and new sidewalk paving; (b) pavers and improvements within the Oak Street roadway; and (c) specialty electrical connections and fixtures for the theatrical lighting, audio/visual, and power for the performance area and the public wireless services in the Plaza. These additional public realm improvements are subject to the Planning Commission's separate and future approval of the Project Sponsor's In-Kind Fee Waiver Agreement.

The Project would necessitate approval of Planning Code Map amendment to shift the existing Height and Bulk District 120/400-R-2 designation at the eastern end of the Project Site (a portion of Assessor Block 0836/001) to the western portion of the Project Site (a portion of Assessor Block 0836/005), which would not result in any increased development potential.

5. **Community Outreach and Public Comment.** To date, the Department has received 21 letters of support for the Project from organizations and individuals. The San Francisco Housing Action Coalition, ArtSpan, New Conservatory Theatre Center, San Francisco Opera, San Francisco Symphony, San Francisco Unified School District Arts Center, Bo's Flowers, trustee for property at 110 Franklin Street, project sponsor for the property at 22-24 Franklin Street, project sponsor for the property at 10 South Van Ness, project sponsor for the property at 45 Franklin Street, project sponsor for the property at 1554 Market Street, and property owners for the commercial and residential portions of Fox Plaza have submitted letters expressing support for the Project and associated improvements. The Civic Center Community Benefit District, the Department of Real Estate, Walk SF, and SF Parks Alliance expressed support specifically for the proposed public realm improvements proposed via an In-Kind Agreement with the Project Sponsor. Comments received as part of the environmental review process will be incorporated into the Environmental Impact Report.

According to the Project Sponsor, extensive and lengthy community engagement has been conducted for the Project and the associated Oak Plaza public improvements. The Project Sponsor team has held over 76 meetings and outreach discussions, including roughly 328 participants, between January 2015 and May 2017. Given the important civic location of the Project, which includes transforming the southern end of Oak Street into a new public plaza and shared public way, outreach activities have included a wide range of institutional, arts and cultural stakeholders, in addition to neighborhood groups, neighboring property owners and businesses.

General Community Engagement: The Project team has solicited public input through a series of meetings including a public pre-application meeting, small group meetings, and individual meetings with various residents, property owners and business owners. In addition to design presentations, the Project Sponsor team distributed Project Fact Sheets outlining the Project's program, circulation, residential unit counts, parking ratio, public realm improvements, Zoning Map revisions, and affordable housing commitments, etc. The design and program evolved over

time based on specific stakeholder feedback over the course of the project sponsor's extensive community outreach.

In response to early feedback from the Hayes Valley Neighborhood Association (HVNA), the Project Sponsor proposed to develop 72 units of 100% affordable housing at Parcels R, S & U, including 16 very low-income, service-supported, Transitional Aged Youth ("TAY") housing units on one of the sites, all within 1/3 mile of the proposed Project (collectively, the "Octavia BMR Project") through a nonprofit affiliate of the Project Sponsor or as a turn-key residential development for an affordable housing developer with the Project Sponsor retaining ownership of the ground floor commercial space.

After extensive negotiations, the Mayor's Office of Housing and Community Development (MOHCD) requested that both the residential and commercial components of the Octavia BMR Project be retained by the affordable housing owner/operator to maintain the project's financial feasibility and procurement of the developer of MOHCD's Parcel U be handled through its traditional non-profit developer RFP process. To facilitate this arrangement, the Project Sponsor voluntarily terminated its exclusive negotiating rights to Parcels R & S, and offered MOHCD its preliminary designs, so that MOHCD could prepare an RFP for circulation in 2017. In exchange, MOHCD agreed to "direct" the Project's Section 415 affordable housing in-lieu fee toward the development of the Octavia BMR Project, subject to the satisfaction of certain conditions, including compliance with CEQA and certain future discretionary approvals for both the One Oak Project and the Octavia BMR Project. The Octavia BMR Project RFP is expected to be released by MOHCD on June 15, 2017. MOHCD estimates that a non-profit developer will be selected by early 2018, and that the Octavia BMR Project could commence construction as early as mid to late 2019, which means that the Octavia BMR units could be delivered during the same period that One Oak's market rate units are occupied by new residents.

Additionally, the Project Sponsor recently revised their project description to eliminate the use of the existing Market Street freight loading area as part of the Project, based on concerns voiced by the SFBC and other cycling advocates. In addition, the Project Sponsor has agreed to implement new improvement measures included in the attached MMRP that would actively discourage use of the existing loading zone. The Project Sponsor has also reduced the proposed parking from 155 spaces to 136 spaces, in response to public comments. In addition, if the 136 spaces are approved and constructed, the Project Sponsor will nearly double the TDM measures required by law by achieving 100 percent of the target points, rather than the currently required 50 percent. The Project Sponsor's outreach often included detailed discussions regarding the long-term stewardship of the proposed plaza, daytime activation, nighttime public safety, public market kiosks, and physical changes proposed for streets, Muni access, public parking and loading spaces in the area, as well as the voluntary formation of a Community Facilities District (CFD), into which the owners at One Oak will contribute approximately \$300,000 annually dedicated to operations and maintenance of the Plaza for 100 years, conditioned upon final approval of an In-Kind Agreement fee waiver.

Arts and Culture Stakeholder Engagement: In addition to outreach to the general community, the Project team has been working with numerous arts, cultural, and educational institutions of

the neighborhood with the intent to activate the proposed public plaza & shared public way with small and large performing arts events. The design intent is for Oak Plaza to serve as a public "front porch" for both Hayes Valley and the Civic Center/performing arts district, inviting and exposing residents, daytime workers, students, and visitors to the district's cultural richness through public performances and potential ticket sales at a box office kiosk. Through one-on-one meetings and a brain-storming workshop, Build Public, an independent, non-profit organization focused on creating and maintaining new public spaces, has been working closely with representatives of these institutions to design the plaza in such a way that caters to their specific needs for public performing space. Feedback from this engagement addressed potential stage and seating capacity and configuration, sound amplification, adjacent traffic noise mitigation, lighting, audio and electrical hookup locations, permitting of events, and parking and loading.

A partial list of the outreach conducted between January 26, 2015 and May 15, 2017 is provided as an enclosure to this case report.

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

A. **Floor Area Ratio.** Pursuant to Section 123, 249.33 and 424 of the Planning Code, Projects in the C-3-G Zoning District and the Van Ness and Market Residential Special Use District have a base floor area ratio (FAR) of 6.0:1 and may reach an FAR of 9.0:1 with payment into the Van Ness and Market Affordable Housing Fund as set forth in Sections 249.33 and 424. To exceed a floor area ratio of 9.0:1, all such projects must contribute to the Van Ness and Market Neighborhood Infrastructure Fund.

The Project Site has a lot area of approximately 18,219 square feet. As shown in the conceptual plans, the Project includes 499,539 square feet of development, of which 432,746 square feet would count towards FAR. Since the Project exceeds a FAR of 9.0:1, the Project would make a payment pursuant to Section 249.33 to the Van Ness and Market Affordable Housing Fund for the Floor Area exceeding the base FAR ratio of 6.0:1 up to a ratio of 9.0:1 and to the Van Ness and Market Neighborhood Infrastructure Fund pursuant to Section 424 for any Floor Area exceeding an FAR of 9.0:1.

B. **Rear Yard Requirement.** Within the Van Ness and Market Downtown Residential Special Use District pursuant to Planning Code Section 249.33(b)(5), Rear Yard requirements do not apply. Rather, lot coverage is limited to 80 percent at all residential levels.

The Project proposes a lot coverage of 84.9 percent on the first residential floor up through level 12 and lot coverage of 53 percent above the landscaped podium on tower levels 14 through 41 (there is no level 13), for an average of 61 percent lot coverage. Accordingly, the Project does not comply with the Code's lot coverage requirements on the first residential floor up through level 12, and as such, requires an exception under Planning Code Section 309. A 309 exception may be granted so long as the "building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided." While lot coverage requirements are technically not met, the Project meets the intent of the lot coverage requirement of providing light and air to all units as well as open space toward the rear of the building, which would also contribute to the

new mid-block open space currently under construction as part of the 1554 Market Street project immediately to the west of the Project Site. See Section 7, below, for 309 findings.

- C. **Residential Open Space.** Planning Code Section 135 requires that private usable open space be provided at a ratio of 36 square feet per dwelling unit or that 48 square feet of common usable open space be provided per dwelling unit. However, common usable open space for mixed-use, residential and non-residential projects may be used to count against requirements contained in both Section 135 and 138. Further, projects within the Van Ness and Market Downtown Residential Special Use District may elect to meet up to 40 percent of the open space requirements off-site if the space is within the Special Use District or within 900 feet of the project site and meets standards described in Section 249.33 indicated below.

The Project complies with the requirements of Section 135 and 249.33. The Project includes 304 dwelling units and provides at least 36 square feet of private open space for 74 units through private balconies. Therefore approximately 11,012 square feet of common open space is required for the remaining 230 units (230 units x 47.88 = 11,012). In all, the Project provides approximately 11,056 square feet of common open space of which 3,058 square feet is located off-site within the public right-of-way, and is incorporated into the proposed Oak Plaza. The remaining 7,998 square feet of common open space is located within the sponsor's private property, within the front ground-level setback, within a solarium at the third level, and a terrace at the 14th level.

As permitted by Section 249.33(4)(C)(v), the Project is electing to meet a portion (approximately 22 percent) of its open space requirement off-site as part of the proposed Oak Plaza and in the form of streetscape improvements with landscaping and pedestrian amenities that result in additional space beyond the pre-existing sidewalk width and conform to the Market and Octavia Area Plan. The Plaza would additionally be characterized as an unenclosed plaza at street grade, with seating areas and landscaping and no more than 10 percent of the floor area devoted to food or beverage service. The portions qualified to meet the Project's open space requirement consist of two sidewalk bulb-out areas on the north and south sides of Oak Street. These areas will be integrated into a larger, contiguous Plaza that also includes improvements to the pre-existing sidewalks on both sides of Oak Street and Van Ness Avenue, plus the Oak Street roadway, and the sponsor's private property, subject to review and approval of an In-Kind Fee Waiver Agreement for those improvements that exceed the required Project improvements pursuant to the Planning Code. The qualified off-site open space areas must meet the following standards:

Be within the SUD or within 900 feet of the project site;

As noted above, the proposed off-site open space will be located within the shared public way within the Oak Street right-of-way fronting the project site. Thus, the proposed off-site open space will be within the SUD and within 900 feet of the Project Site.

Be in such locations and provide such ingress and egress as will make the area convenient, safe, secure and easily accessible to the general public;

The proposed open space includes a sidewalk widening along the north and south sides of Oak Street, resulting in additional space beyond the pre-existing sidewalk width and immediately adjacent to the Project Site, where security would be present. Accordingly, the open space would provide a convenient, safe, secure and easily accessible public area for the enjoyment of the general public.

Be appropriately landscaped;

Underground utilities render street trees and other underground plantings infeasible on the south side of Oak Street. However, the open space would be landscaped appropriately for its intended use and, to the degree feasible, with above-ground planters on the south side of Oak Street, and in-ground street trees within a continuous planter along the north side of Oak Street.

Be protected from uncomfortable winds;

The Plaza features wind canopies that would protect pedestrians from hazardous wind conditions in the open space, and would reduce hazardous wind conditions near the site compared to existing conditions.

Incorporate ample seating and, if appropriate, access to limited amounts of food and beverage service, which will enhance public use of the area;

The open space would include movable tables and chairs as well as fixed seating collocated with planters on the south side of Oak Street, and within the open space area on the north side of Oak Street. In addition, four "micro-retail" kiosks would be located on the northern sidewalk to activate the Plaza with neighborhood-serving retail uses, potentially serving limited food and beverages.

Be well signed and accessible to the public during daylight hours;

The privately owned, publicly accessible open space will have signage indicating that the space is publicly accessible during the day. The streetscape improvements that will satisfy Planning Code requirements as permitted by Section 249.33(4)(C)(v) within the public right-of-way will be open to members of the public 24 hours a day.

Be well lighted if the area is of the type requiring artificial illumination;

The open space will be within the public right of way and well-lit with regularly spaced street lights on the north side of Oak Street. In addition, project lighting on the canopy supports, and foot lighting under planters would be provided within the privately-owned portions of the public open space and in the public right-of-way.

Be designed to enhance user safety and security;

The proposed ground-floor restaurant / café and micro-kiosks located on the north side of Oak Street would provide essential "eyes" on the proposed Plaza from early morning to late evening. In addition, 24-hour security and valet staff associated with building operations would collectively help ensure user safety and security with the open space and Plaza.

Be of sufficient size to be attractive and practical for its intended use; and

The Project would add approximately 3,058 square feet of open space within the existing right-of-way, and would improve the existing sidewalks, and street envisioned to become a shared public way. In total, the Plaza would consist of publicly accessible open space of approximately 16,050 square feet, of which 13,932 square feet would be in the public right-of-way, and approximately 2,118 square feet would be on the sponsor's private property. The public realm would be improved with quality paving materials, landscaping and other pedestrian amenities including seating, lighting, bicycle parking,

kinetic wind-based artwork, and micro-retail kiosks (subject to partial In-Kind fee waivers for improvements that exceed required Project improvements pursuant to the Planning Code).

Have access to drinking water and toilets if feasible.

The open space would be adjacent to retail space envisioned to become a restaurant / café. Patrons of the restaurant / café would have access to toilets and water. SFMTA also operates two public toilets which are located at the concourse level of the MUNI/Van Ness station, which is directly adjacent to the public plaza.

- D. **Public Open Space.** New buildings in the C-3-G Zoning District must provide public open space at a ratio of one square foot per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building pursuant to Planning Code Section 138. 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.

Ground floor retail space in the C-3 Districts that is less than 5,000 sq. ft. is excluded from gross floor area and is therefore not required to provide the associated publicly accessible open space. The Project includes approximately 4,110 square feet of ground floor retail space, and thus the provision of public open space is not required. However, the Project proposes to provide approximately 1,438 square feet of privately owned public open space within the front setback, and furthermore intends to provide approximately 3,058 square feet (or 22 percent of its open space requirements), off-site within the Oak Street public right-of-way as described under item C., "Residential Open Space" above.

- E. **Streetscape Improvements.** Planning Code Section 138.1 requires that when a new building is constructed in the C-3 District and is on a lot that is greater than half an acre in area and contains 250 feet of total lot frontage pedestrian elements in conformance with the Better Streets Plan shall be required.

The Project is located on an assemblage of five lots that measure 18,219 square feet, approximately 0.42 acres and contains approximately 434.33 linear feet of frontage. Due to planned improvements within the Van Ness Avenue and Market Street rights-of-way, physical widenings along these two frontages are not possible. However, the Project proposes streetscape improvements that include sidewalk widenings, landscaping and seating elements along both the northern and southern portions of Oak Street. Therefore, the Project complies with Planning Code Section 138.1.

- F. **Exposure.** Planning Code Section 140 requires all dwelling units in all use districts to face onto a public street at least 20 feet in width, side yard at least 25 feet in width or open area 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 proposed Special Use District caps the horizontal dimension to which the open space must expand at each subsequent floor to 65 feet.

Eighteen of the 304 dwelling units do not meet exposure requirements per Section 140. Therefore, a variance from dwelling unit exposure is required and being sought as part of the Project for a total of 18 units that do not comply with the exposure requirements of the Code.

- G. Active Frontages – Loading and Driveway Width.** Section 145.1(c)(2) limits the width of parking and loading entrances to no more than one-third the width of the street frontage of a structure, or 20 feet, whichever is less.

The Project includes a single entrance for both parking and off-street loading. Vehicular access is not provided along the Project's Van Ness Avenue or Market Street frontages. Rather all vehicular parking and loading is directed to Oak Street where a combined off-street parking and loading entrance of 24-feet is provided. The project sponsor's traffic engineer and valet consultant have indicated that an entrance narrower than 24' would likely lead to automobile queuing outside of the drop-off area, potentially contributing to automobile, bicycle and pedestrian conflicts on the proposed sidewalk and shared public way/plaza. Since this dimension exceeds the 20-feet permitted by the Planning Code, a variance is required.

- H. Street Frontage in Commercial Districts: Active Uses.** Planning Code Section 145.1(c)(3) requires that within Downtown Commercial Districts, space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor.

The ground floor space along the Van Ness Avenue, Market Street, and Oak Street have active uses with direct access to the sidewalk within the first 25 feet of building depth, except for space allowed for parking and loading access, building egress, and access to mechanical systems, which are specifically exempt from the active use requirement. Therefore, the Project complies with Section 145.1(c)(3).

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

The Project complies with the Ground Floor Transparency requirements of the Planning Code. Approximately 78.0 percent of the Project's frontage on Market Street, and 84.1 percent of the Project's frontage along Oak Street are fenestrated with transparent windows and doorways. Therefore, the Project complies with Section 145.1(c)(6). Note that due to the curvature of the façade, the Van Ness Avenue frontage is incorporated within the Market Street and Oak Street transparency calculations because there is no definitive building frontage on Van Ness Avenue.

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

The shadow analysis determined that the Project would not cast shadow on any public plazas or other publicly accessible open spaces other than those protected under Section 295. Therefore, the requirements of Section 147 do not apply to the Project.

- K. **Ground Level Wind.** Planning Code Section 148 requires that new construction in Downtown Commercial Districts will not cause ground-level wind currents to exceed pedestrian comfort levels. This standard requires that wind speeds not exceed 11 miles per hour in areas of substantial pedestrian use for more than 10 percent of the time year-round, between 7:00 AM and 6:00 PM. The requirements of this Section apply either when preexisting ambient wind speeds at a site exceed the comfort level and are not being eliminated as a result of the project, or when the project may result in wind conditions exceeding the comfort criterion.

Fifty-seven (57) test points were selected by Planning Department staff to measure wind speeds around the Project Site. Under existing conditions (without the Project) 37 of the 57 test points exceed the Planning Code's comfort criterion at grade level more than 10 percent of the time, with average wind speeds at approximately 12.6 miles per hour (mph). With the Project, the comfort criterion would be exceeded at 45 of 57 points more than 10 percent of the time (representing a net increase of 8 test points), with average wind speeds increasing slightly to 13.9 mph from 12.6 mph, a 1.3 mph increase compared to existing conditions.

Exceptions from the comfort criterion may be granted through the 309 process, but no exception may be granted where a project would cause wind speed to reach or exceed the hazard level of 26 mph for a single hour of the year. Under existing conditions, 7 of the 57 test points exceed the hazard level. These seven locations collectively exceed the hazard criterion for a duration of 83 hours annually. With the proposed Project, there is no increase in the total number of locations where the hazard criterion is exceeded. However, the Project would decrease the total duration of hazardous wind conditions from 83 hours under existing conditions to 80 hours, or three fewer hours of hazardous wind conditions compared to existing conditions.

The Project Sponsor requests a Section 309 exception because the Project would not eliminate the existing locations meeting or exceeding the Planning Code's comfort criterion. Exceptions from the comfort criterion may be granted pursuant to Section 309. Taken as a whole, the Project does not substantially change wind conditions. The proposed tower was re-designed through a lengthy process of iterative wind testing. After nearly two years of wind sculpting, the Planning Department and the Project Sponsor concluded that the 400-foot-tall tower cannot be sculpted in a manner that would eliminate all 37 existing comfort exceedances or the 8 new comfort exceedances caused by the Project without unduly restricting the site's high-rise development potential or causing new hazardous conditions. On the other hand, the Project's redesign would reduce three wind hazard hours compared to existing conditions. The Project will include wind canopies in the public right of way at the proposed Oak plaza and the corner of Market and Polk Streets to lessen the wind conditions in the vicinity. (See Section 7, below, for 309 findings.)

- L. **Parking.** Planning Section 151.1 principally permits up to one car for each four dwelling units (0.25 ratio) and up to one car for each two dwelling units (0.5 ratio) as a Conditional Use in

the Van Ness & Market Downtown Residential Special Use District. Parking for the proposed retail use shall not exceed 7% of gross floor area for that use.

The Project contains 304 dwelling units. Thus, a total of 76 spaces are principally permitted ($304 \times 0.25 = 76$) for the dwelling units and a maximum of 152 spaces ($304 \times 0.5 = 152$) may be permitted with Conditional Use Authorization. The Project proposes 136 parking spaces for the residential use, requiring a Conditional Use Authorization for the 60 ($136 - 76 = 60$) spaces in excess of the principally permitted 76 parking spaces. An additional space would be principally permitted for the 4,110 square foot retail space, but the Project proposes no parking for this commercial use.

- M. **Off-Street Freight Loading.** Planning Code Section 152.1 requires that projects in the C-3 District that include between 200,001 and 500,000 square feet of residential development must provide two off-street freight loading spaces. Pursuant to Section 153, two service vehicles may be substituted for each off-street freight loading space provided that a minimum of 50 percent of the required number of spaces are provided for freight loading.

The Project includes 499,539 square feet of development (432,746 square feet that counts towards Floor Area Ratio), requiring two off-street loading spaces. One off-street freight loading space is provided and the second required loading space is substituted with two service vehicle spaces as permitted by Section 153 of the Planning Code. Accordingly, the Project complies with Section 152.1 of the Planning Code. Access to all freight loading spaces is from Oak Street.

- N. **Bicycle Parking.** For buildings with more than 100 dwelling units, Planning Code Section 155.2 requires 100 Class 1 spaces plus one Class 1 space for every four dwelling units over 100, and one Class 2 space per 20 units. For Eating and Drinking uses, 1 Class 1 space is required for every 7,500 square feet of Occupied Floor Area and one Class 2 space is required for every 750 square feet of Occupied Floor Area.

The Planning Code would require the Project to provide 151 Class 1 ($100 \text{ units} \times 1 \text{ stall} = 100 + 204 \times 1 \text{ stall} / 4 \text{ units} = 151 \text{ stalls for Residential Uses, and } 1 \text{ stall} / 7,500 \text{ square feet of Occupied Floor Area} = 0 \text{ spaces for Retail Uses}$). In addition, the Project would require 20 Class 2 spaces ($304 \text{ units} \times 1 \text{ stall} / 20 \text{ units} = 15 \text{ stalls for Residential Uses, plus } 4,110 \text{ square feet} \times 1 \text{ stall} / 750 \text{ square feet} = 5 \text{ stalls for Retail Eating and Drinking Uses}$). The Project complies with Section 155.2 because it provides 304 Class 1 and 62 Class 2 bicycle parking spaces, significantly exceeding the Code requirements. All Class 1 spaces would be located at the second level, accessible from a dedicated bike elevator, and the Class 2 spaces would be located on sidewalks adjacent to the Project, and on the north side of Oak Street.

- O. **Car Share.** Planning Code Section 166 requires two car share parking spaces for residential projects with 201 dwelling units plus an additional parking space for every 200 dwelling units over 200. The required car share parking spaces may be provided on the building site or on another off-street site within 800 feet of the building site.

The Project requires a total of two car share spaces, which are to be provided off-site at the 110 Franklin Street parking lot within 180 feet of the Project. Should the 110 Franklin Street property be developed, the Project Sponsor shall be responsible for relocating the car share spaces on-site or off-site

within 800 feet of the Project Site without disrupting continuity of the available of the car share spaces. Therefore, the Project complies with Planning Code Section 166.

- P. **Transportation Demand Management (TDM) Plan.** Pursuant to Planning Code Section 169 and the TDM Program Standards, any development project resulting in 10 or more dwelling units, or 10,000 occupied square feet or more of any use other than residential shall be required to comply with the City's TDM Program, and shall be required to finalize a TDM Plan prior to Planning Department approval of the first Building Permit or Site Permit. Development projects with a development application filed or an environmental application deemed complete on or before September 1, 2016 shall be subject to 50% of the applicable target, as defined in the TDM Program Standards.

The Project would include 304 residential units with total of 136 vehicle parking spaces (0.45 spaces per unit), and 4,110 gross square feet of ground-floor retail/restaurant use. Because less than 10,000 gross square feet of retail/restaurant uses are proposed, the retail/restaurant use is not subject to the TDM Program. Therefore, the 136 residential parking spaces are used to calculate the TDM Program target points. The target points take into account the proposed parking rate compared to the neighborhood parking rate, and are calculated as follows: base target of 13 points, plus an additional 12 points for each additional 10 parking spaces over 20 parking spaces (thus, 136 minus 20 = 116 spaces, divided by 10 = 12 points), for a total of 25 points. Because the proposed Project's development and environmental applications were completed before September 4, 2016, it is only required to meet 50 percent of its applicable target, or 13 points. The project sponsor has preliminarily identified the following TDM measures from TDM Program Standards: Appendix A to meet the 13 target points.

- **Parking-1: Unbundled Parking, Location D – 4 points** (residential neighborhood parking rate less than or equal to 0.65, and all spaces leased or sold separately from the retail or purchase fee).
- **Parking-4: Parking Supply, Option D – 4 points** (residential parking less than or equal to 70 percent, and greater than 60 percent of the neighborhood parking rate).
- **Active-1: Improve Walking Conditions, Option A – 1 point** (streetscape improvements consistent with Better Streets Plan).
- **Active-2: Bicycle Parking, Option B – 2 points** (exceeding Planning Code required Class 1 and Class 2 bicycle parking).

Active 5A: Bicycle Repair Station – 1 point (bicycle repair station within a designated, secure area within the building, where bicycle maintenance tools and supplies are readily available on a permanent basis).

- **Delivery-1: Delivery Supportive Services – 1 point** (provide staffed reception area for receipt of deliveries and temporary parcel storage, including clothes lockers and refrigerated storage).

In addition to the TDM measures identified above, the Project Sponsor has voluntarily offered to provide an additional 12 points of TDM measures, for a total of 25 points, if the Conditional Use authorization for 136 parking spaces is granted and the Project Sponsor elects to build the Project as a for-sale condominium with the additional 60 spaces in excess of the 76 principally permitted spaces.

- **Active-4: Bike Share Membership – 2 points** (offer bike share membership to each unit and/or employee, at least once annually, for the life of the Project or a shorter period should a bike sharing program cease to exist. 2 points are achieved since the project is located within 1,000 feet of a bike share station.).
- **Active-5B: Bicycle Maintenance Services – 1 point** (provide bicycle maintenance services to each unit and/or employee, at least once annually, for 40 years).
- **CShare-1C: Car-Share Parking, Option C – 3 points** (provide car-share memberships to each unit, and provide car-share parking as required by the Planning Code).
- **Family-1: Family TDM Amenities – 1 point** (provide amenities that address particular challenges that families face in making trips without a private vehicle).
- **Info-1: Multimodal Wayfinding Signage – 1 point** (provide multimodal wayfinding signage in key location to support access to transportation services and infrastructure).
- **Info-2: Real Time Transportation Display – 1 point** (provide real time transportation information screen in a prominent location on-site).
- **Info-3C: Tailored Transportation Services, Option C – 3 points** (provide individualized, tailored marketing and communication campaigns to encourage alternative transportation modes).

The Project Sponsor could choose to revise the selected TDM measures to exceed the target points prior to issuance of a Site Permit, or to further reduce the parking supply to meet or exceed the target point requirement, but would not be required to do so.

- Q. **Height and Bulk.** The Project falls within the 120/400-R-2, 120-R-2 Height and Bulk Districts. In such Districts, no bulk limitations exist below 120 feet in height, with maximum height of 400 feet in height for any tower in the 120/400-R-2 Height and Bulk District. However, portions of buildings above 120 feet and between 351 and 550 feet in height may not exceed a plan length of 115 feet and a diagonal dimension of 145 feet. Additionally, floors may not exceed a maximum average floor area of 10,000 square feet.

The Project proposes a tower of 400 feet in height, with various features such as mechanical structures, and parapets extending above the 400-foot height limit in accordance with the height exemptions allowed through Planning Code Section 260(b). The tower would also include a 26-foot elevator penthouse which would be required to meet state or federal laws and regulations, and which would require an elevator penthouse height exemption from the Zoning Administrator per Planning Code Section 260(b)(1)(B). The Project would necessitate approval of legislative map amendments to shift the existing Height and Bulk District 120/400-R-2 designation at the eastern end of the project site (a portion of Assessor Block 0836/001) to the western portion of the Project Site (a portion of Assessor Block 0836/005), which would not result in any increased development potential. However, the Height and Bulk Districts within which the Project exists remains the same. The maximum diagonal dimension for the project is 144 feet whereas the maximum plan length is 90 feet, 4 inches. The average floor area of the tower is 9,637 square feet, therefore the Project complies Sections 260 and 270 of the Planning Code.

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

Section 146(a) does not apply to construction on Oak Street, Van Ness Avenue, or the north side of Market Street, and therefore does not apply to the Project. With respect to Section 146(c), the Project would replace a surface commercial parking lot and underutilized commercial buildings with a 40-story residential structure. Although the Project would create new shadows on sidewalks and pedestrian areas adjacent to the site, the Project's shadows would be limited in scope and would not increase the total amount of shading above levels that are commonly accepted in urban areas. The Project is proposed at a height that is consistent with the zoned height for the property and could not be further shaped to reduce substantial shadow effects on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project complies with Section 146.

- S. **Shadows on Parks (Section 295).** 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 would result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department or designated for acquisition by the Recreation and Park Commission.

A technical memorandum was prepared by Prevision Design dated April 19, 2017, analyzing the potential shadow impacts of the project to properties under the jurisdiction of the Recreation and Parks Department.

Patricia's Green

A shadow analysis was conducted and determined that the Project would cast an additional 0.22% of shadow on Patricia's Green per year. On days of maximum shading, new shadows would be present for approximately 35 minutes between 8:00 am and be gone prior to 8:45 am. The shadow analysis found that new shading from the Project would fall on various portions of Patricia's Green, affecting areas containing grass, fixed benches, picnic tables with fixed seating, play areas, and a pedestrian plaza. To eliminate all new shading on Patricia's Green, the proposed residential tower would need to be reduced in height by approximately 150 feet, resulting in the elimination of approximately 116 residential units. At a duly noticed, regularly scheduled meeting on June 15, 2017, the Recreation and Park Commission, in consultation with their General Manager, recommended that the Planning Commission find that the shadows cast by the Project on Patricia's Green will not be adverse to the use of that park.

Page and Laguna Mini Park

It is anticipated that the Project would cast an additional 0.04% of shadow on the Page and Laguna Mini Park. The days of maximum shading due to the proposed Project would occur on June 21st, when new shadows would be present for approximately 22 minutes and be gone prior to 7:15am. Shading would occur on the northern and southern ends of the Park. To eliminate all new shading on Page and Laguna Mini Park, the proposed residential tower would need to be reduced in height by approximately 85 feet, resulting in the elimination of approximately 62 residential units. At a duly noticed, regularly scheduled meeting on June 15, 2017, the Recreation and Park Commission, in consultation with their General Manager, recommended that the Planning Commission find that the shadows cast by the Project on Page and Laguna Mini Park will not be adverse to the use of that park.

Proposed Park at 11th and Natoma Street

The new shadow on the proposed park at 11th and Natoma Street that is designated for acquisition by the Recreation and Park Commission generated by the Project would be present only in the early evening between June 9 and July 5, and cast an additional 0.004% of shadow on the proposed park. Project-generated new shadows would fall in a narrow band in the southwest portion of the Park, with new shadow occurring around 7:15 pm with an average duration of approximately 18 minutes. Since the park at 11th and Natoma Streets has not yet been developed and no future programming information has been developed or approved, the possible features affected and qualitative impacts of project-generated shadow on such features are undetermined. To eliminate all shading on the proposed park at 11th and Natoma, a 12-foot reduction of the width of the tower (reducing bulk along the southwestern corner) would be required, resulting in the elimination of approximately 50 to 70 dwelling units. At a duly noticed, regularly scheduled meeting on June 15, 2017, the Recreation and Park Commission, in consultation with their General Manager, recommended that the Planning Commission find that the shadows cast by the Project on the proposed park at 11th Street and Natoma Street will not be adverse to the use of that park.

- T. **Anti-Discriminatory Housing Policy (Administrative Code Section 1.61).** Projects proposing ten dwelling units or more must complete an Anti-Discriminatory Housing Affidavit indicating that the Project Sponsor will adhere to anti-discriminatory practices.

The Project Sponsor has completed and submitted an Anti-Discriminatory Housing Policy affidavit confirming compliance with anti-discriminatory practices.

- U. **Inclusionary Affordable Housing Program (Section 415).** **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing and Community Development for the purpose of increasing affordable housing citywide. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was first submitted on February 26, 2009 and subsequently revised on August 27, 2012; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to an off-site

requirement of 20%. This requirement is subject to change under pending legislation to modify Planning Code Section 415 which is currently under review by the Board of Supervisors (Board File Nos. 161351 and 170208). The proposed changes to Section 415, which may include but are not limited to modifications to the amount of inclusionary housing required onsite or offsite, the methodology of fee calculation, and dwelling unit mix requirements, will become effective after approval by the Board of Supervisors.

The Project Sponsor has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on February 26, 2009 and subsequently revised on August 27, 2012; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to an off-site requirement of 20%.

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

The Project would comply with this Section by dedicating one percent of the Project's construction cost to a kinetic wind sculpture located in the proposed plaza that is being developed by two NASA-based scientists in close coordination with the San Francisco Arts Commission. The sculpture is designed to respond to the fluidity and power of the Project site's wind conditions while simultaneously defusing its energy to enhance pedestrian-level comfort in the surrounding public realm.

- W. **Signage (Section 607).** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department pursuant to the provisions of Article 6 of the Planning Code.

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 to the entire Project as further described below:

- a. **Section 249.33: Lot Coverage.** Within the Van Ness and Market Downtown Residential Special Use District, Rear Yard requirements do not apply pursuant to Planning Code Section 249.33. Rather, lot coverage is limited to 80 percent at all residential levels. However, exceptions pursuant to Section 309 may be permitted. The criteria for granting a rear yard exception in the C-3 districts is set forth in Section 134(d): "C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration

assure adequate light and air to windows within the residential units and to the usable open space provided.”

The Project proposes a lot coverage of 84.9 percent on the first residential floor up through level 12 and lot coverage of 53 percent above the podium on tower levels 14 through 41 (there is no level 13), for an average of 61 percent lot coverage. The Project meets the intent of the lot coverage requirement of providing light and air to all units as well as open space toward the rear of the building, which would also contribute to a new mid-block open space being constructed by the 1554 Market Street project immediately to the west of the Project Site. Despite the overall lot coverage exceedance, the Project provides adequate exposure, air and light to all units and open space. Units fronting Market Street, Van Ness Avenue and Oak Street all possess substantial frontage overlooking City Streets, particularly along Van Ness and Market Street -- two of the widest streets in the entire City. Furthermore, units oriented toward Van Ness Avenue are set back an additional 28 feet or more from the public right-of-way. Units also benefit from the curved building shape and projecting bay windows that allow the majority of units to have exposures in multiple directions with views along the street frontage, rather than harshly perpendicular to the opposing buildings. Similarly, ground floor and podium rooftop open spaces benefit significantly from the curved façade of the tower which reduces shadow on streets, sidewalks and open space throughout the day as the sun moves around the building. Several units located along the western property line will face a mid-block landscaped courtyard at the adjacent 1554 Market Street project. While these units do not technically meet the requirements of Section 140 for Unit Exposure, the adjacent courtyard provides a nicely landscaped view with opposing exposures in excess of 70 feet between building faces (slightly more than the public-right-of-way exposure on Oak Street). The courtyard exposure provides light and air to these units and the solarium below.

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

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

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

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site by working with Department staff to select 57 test points throughout public areas in the general vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by BMT Fluid Mechanics, was conducted using a scale model of the Project Site and its immediate vicinity. The study concluded that the Project would not result in any substantial change to the wind conditions of the area.

Comfort Criterion

Under existing conditions, 37 of the 57 locations tested currently exceed the pedestrian comfort level of 11 mph at grade level more than 10% of the time. Average wind speeds measured close to 11.8 mph.

With the Project, 45 of 57 locations tested exceeded the pedestrian comfort level of 11 mph more than 10% of the time. Average wind speeds, increased by 1.3 mph to approximately 13.9 mph from 12.6 mph. Under the Cumulative scenario, which takes into account other planned projects in the vicinity, average wind speeds increase to 14.4 mph, with 46 of 57 points that exceed comfort criterion.

In conclusion, the Project does not result in substantial change to the wind conditions. However, since comfort exceedances are not entirely eliminated by the Project, an exception is required under Planning Code Section 309. The tower has been substantially reshaped through a rigorous and iterative series of wind tests and wind canopies have been added to further diffuse pedestrian-level winds in the surrounding area. The Project could not be designed in a manner that could eliminate all 37 of the existing comfort exceedances or the 8 comfort exceedances caused by the Project, without unduly restricting the site's development potential, resulting in an ungainly building form or creating new hazard exceedances.

Hazard Criterion

The Wind Study indicated that the project does not cause any net new hazardous conditions. Therefore, the Project would comply with the hazard criterion of Section 148. Overall, the Project would decrease the total duration of existing hazardous wind conditions from 83 hours to 80 hours with the Project, an improvement of three fewer hours of hazardous wind conditions.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.8

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

The Project supports this Policy. The proposed Project would construct a significant amount of new housing units within an existing urban environment that is in need of more access to housing. The Project would replace the existing 47 space surface public parking lot and underdeveloped commercial structures on the site with a [304] unit residential high-rise tower with ground floor retail that is more consistent and compatible with the intended uses of the zoning district, the Market and Octavia Plan and the Van Ness and Market Residential Special Use District. This new development will greatly enhance the character of the existing neighborhood. By developing and maintaining space dedicated to retail use within the building, the Project will continue the pattern of active ground floor retail along the Market and Van Ness frontages. The Project will also include substantial public realm improvements via a public plaza (Oak Plaza), further activating the ground floor and greatly enhancing the pedestrian environment at the Project site and its surrounding neighborhood.

The Property is an ideal site for new housing due to its central, Downtown/Civic Center location, and proximity to public transportation. Additionally, the Project is subject to the City's Inclusionary Affordable Housing Program (Planning Code Section 415), the Market-Octavia Affordable Housing Fee (Planning Code Section 416) and the Van Ness & Market Special Use District Affordable Housing Fee (Planning Code Section 249.33), and thus will be providing substantial funds towards the development of permanently affordable housing within the City. Working together with the MOHCD, the Project Sponsor voluntarily relinquished valuable development rights at Parcels R and S on Octavia Boulevard and assigned them, along with preliminary designs and entitlement applications, to MOHCD to allow the future production of 100% below market rate (BMR) housing, including approximately 16 BMR units of transitional aged youth ("TAY") housing, within a 1/3 mile of the Project. In exchange, MOHCD agreed to "direct" the Project's Section 415 in-lieu fee toward the production of housing on three Octavia Boulevard Parcels (R, S & U) (collectively, "the Octavia BMR Project"), subject to the satisfaction of certain conditions, including compliance with CEQA and certain future discretionary approvals for both the One Oak Project and the Octavia BMR Project. Accordingly, although the Octavia BMR Project is a separate project requiring further approvals, including independent environmental review under CEQA, its proximity to the project site and the conveyance of the development rights to MOHCD for use as affordable housing sites represents a significant contribution to the development of affordable housing in the Project's immediate neighborhood. In addition to the Planning Code Section 415 affordable housing fees "directed" to the Octavia BMR Project, the Project will also pay Market-Octavia Affordable Housing Fees and Van Ness & Market SUD Affordable Housing Fees. These additional affordable housing fees, in turn, will fund additional BMR housing.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Project supports this Policy. It is anticipated that because of the central location of the Project, most residents would either walk, bike, or use public transportation for daily travel. The Project has frontage on

Market Street and Van Ness Avenue directly on top of the Van Ness MUNI metro station and adjacent to the Van Ness Bus Rapid Transit Stop. The Project is less than half a mile from the Civic Center BART Station, allowing connections to neighborhoods throughout the City, the East Bay, and the Peninsula. Additionally, the Project provides 366 bicycle parking spaces (304 Class 1, 62 Class 2) with a convenient, safe bike storage room on the second level [with both independent and valet access via a dedicated bike elevator], encouraging bicycles as a mode of transportation. As discussed above, the Project will be providing a significant amount of new market rate housing, and funding the construction of permanently affordable housing within 1/3 mile of the Project site via a directed in lieu fee subject to a letter and the conditions set forth therein from the Mayor's Office of Housing and Community Development, including the requirement for an independent environmental review of the Octavia BMR Project under the CEQA. Because the proposed Project is located at one of the most transit-rich intersections in San Francisco, providing connections to all areas of the City and to the larger regional transportation network (MUNI, BART, Golden Gate Transit and SamTrans), is adjacent to the Market Street bikeway, and within a short walking distance of the Central Market, SOMA and Downtown employment centers, a substantial majority of trips generated by the proposed project should be by transit, bicycle or foot, reducing the impact of automobile traffic on MUNI transit service. In addition, a wide range of neighborhood services are located within a short walking distance of the Project site, further reducing the need for private automobile trips. Additionally, the Project's parking will only be accessible by valet via two car elevators, further discouraging daily use.

OBJECTIVE 5:

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4

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

The Project supports this Policy. The Project would create 304 dwelling units, of which 54 (18%) are studios, 96 (32%) are one bedrooms, 135 (44%) are two bedrooms, 16 (5%) are three bedrooms and 3 (1%) are four-bedroom units.

OBJECTIVE 7:

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

In compliance with this policy, the Project would secure funding for permanently affordable housing by paying a "directed" in-lieu fee under the City's Affordable Inclusionary Housing Ordinance, pursuant to a letter with MOHCD, which, subject to the satisfaction of certain conditions, including independent environmental review of the "Octavia BMR Project", will be used to fund the future production of approximately 72 100% below market rate (BMR) housing units, including approximately 16 BMR units of TAY housing, within a 1/3 mile of the Project. This represents approximately 24% of the total market-rate units at the proposed Project. In addition to the Planning Code Section 415 affordable housing fees "directed" to the Octavia BMR Project, the Project will also pay project would pay approximately an additional \$6.1 million in Market-Octavia Affordable Housing Fees and Van Ness & Market Affordable

Housing Fees. These additional affordable housing fees, in turn, will fund the construction of new, permanently affordable BMR housing elsewhere in the City.

OBJECTIVE 11:

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

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

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

The Project supports these policies. The Project would create 304 dwelling units in the immediate vicinity of existing residential and office buildings. The Project's design upholds the Planning Department's storefront transparency guidelines by ensuring that at least 60 percent of the non-residential active frontages are transparent (meeting Planning Code requirements), better activating Van Ness Avenue, Market Street and Oak Street. Additionally, the Project provides publicly accessible open space in the form of improved streetscape improvements beyond the existing sidewalk and within the private property line directly adjacent to the proposed Project, which will be activated with the 304 residential units, ground-floor retail space, and kiosks within the Plaza (subject to the approval of an In-Kind Fee Waiver Agreement). The Project would also visually enhance the immediate neighborhood and the surrounding Downtown area by removing the existing surface parking lot and underutilized commercial buildings and replacing them with a beautifully designed residential building. In addition, the replacement of a surface public parking lot with below grade private accessory parking spaces will bring the site into greater conformity with current Planning Code and urban design principles.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.3

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

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 meets the aforementioned objectives and policies by employing design that both relates to existing development in the neighborhood while also emphasizing a pattern that gives its neighborhoods an image and means of orientation. The Project Site is located in a neighborhood of mid- to high-rise, mixed-use buildings both residential and commercial in nature. A cohesive design or pattern does not exist; however, the Project is located at the heart of the Hub, which harkens back to a well-known neighborhood near the intersections of Market Street with Valencia, Haight and Gough Streets. This Project is consistent with the design and land use goals of those proposed in the Hub Area Plan as well as those articulated in the Market and Octavia Area Plan.

The building's form is characterized by a 120-foot podium and tower portion above that rises to 400-feet tall, excluding the parapet and elevator shaft. The tower form has been shaped by wind mitigation efforts in addition to zoning requirements and a desire for an iconic sculptural, yet simple curved form. The focus of the tower is on the diagonal "cuts" at the base, amenity, and parapet levels. These cuts are designed to expose the residential character of the tower both in scale and materiality. The façades provide an elegant "tapestry" with recessed windows, subtle faceting, materiality, and scale reminiscent of older residential towers and the historic white masonry buildings of the Civic Center district, particularly the adjacent 25 Van Ness building (a historic former Masonic Temple). The size and location of the openings vary in relation to site factors (wind, sun, and views) and the interior layout to reflect the natural rhythms of a residential neighborhood.

The Plaza, created by pulling the tower away from Van Ness Avenue, will be both an important public space along the Market St. corridor, and a neighborhood and building amenity. It is conceived as an outdoor living room with formal and informal events, cafe dining, and retail kiosks (subject to the approval of an In-Kind Fee Waiver Agreement). The raised planters and seating elements create cues for pedestrian circulation and programmatic zoning. The plantings draw from California's rich flora with a few, non-native additions proven to thrive in urban conditions. Led by artists Dan Goods and David Delgado, the overhead wind mitigating element has evolved into a kinetic art sculpture that celebrates the "Invisible River" of wind flowing around the tower and through the plaza.

The scale of the building is consistent with heights permitted by the zoning district in which the Project is located and with other buildings proposed in the vicinity, including the project at 1500 Mission Street, which will include a residential tower that also rises to 400- feet tall.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

Policy 1.2

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

Policy 1.3

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

The Project Supports these Objectives and Policies. The Project would add up to 4,110 square feet of new commercial space intended to serve residents in the building and surrounding neighborhood, and would also include retail kiosks (subject to the approval of an In-Kind Fee Waiver Agreement) within the proposed Oak plaza. Retail is encouraged and principally permitted on the ground floor of buildings in the Downtown –General District, and is thus consistent with activities in the commercial land use plan.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT, AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.2:

Ensure the safety and comfort of pedestrians throughout the city.

A primary objective of the proposed Project is to create a pedestrian-oriented environment at the Project Site that greatly enhances the pedestrian experience and encourages walking as a principal means of transportation. Proposed improvements to the sidewalks would improve pedestrian safety, including the construction of a public plaza, generous sidewalks and other traffic calming measures to reduce vehicular

speed. In addition to the creation of a public plaza, the Project would redesign the streetscapes throughout the site in an aesthetically pleasing, unified manner, featuring the placement of public amenities such as seating for comfort, bicycle racks, light fixtures and street trees to enhance the pedestrian experience. The Project tower is set back approximately 17'-8" and the ground floor is set back approximately 28'-0" from the Van Ness property line, providing a generous 43'-10" wide open space. Wind canopies will be placed around the base of the building tower, providing protection to pedestrians against the neighborhood's windy conditions. A wind canopy will also be constructed in Fox Plaza to protect pedestrians against ground level wind conditions. A Traffic Impact Study projected that at peak hours, up to approximately 1,200 pedestrians would pass through the intersection of Van Ness and Market Street. The proposed open space provided by the Project directly across the Van Ness Bus Rapid Transit boarding island will help create a pedestrian-friendly environment for the significant increase in pedestrians, particularly during peak hours.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs particularly those of commuters.

Policy 1. 6:

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

The Project would promote Objective 1 and its associated policies by providing for an amount of parking which is sufficient to meet the needs of the future residents so as to not overburden the surrounding neighborhood parking. However, the parking that is being provided will not generate substantial traffic that would adversely impact pedestrian, transit, or bicycle movement. Because the proposed Project is located at one of the most transit-rich intersections in San Francisco, providing connections to all areas of the City and to the larger regional transportation network, is adjacent to the Market Street bikeway, and within a short walking distance of the Central Market, SOMA and Downtown employment centers, a substantial majority of trips generated by the proposed project should be by transit, bicycle or foot, reducing the impact of automobile traffic on MUNI transit service. In addition, a wide range of neighborhood services are located within a short walking distance of the Project site, further reducing the need for private automobile trips. Additionally, the Project's parking will only be accessible by valet via two car elevators, further discouraging daily use. Thus, the Project would provide a merely sufficient rather than excessive amount of parking in order to accommodate the parking needs of the future residents of the Project and the neighborhood, while still supporting and encouraging walking, bicycle travel and public transit use.

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.

Policy 2.2:

Reduce pollution, noise and energy consumption.

The Project would promote Objective 2 and its associated policies by constructing a residential building with ground floor retail in the Downtown Core, which is among the most transit rich areas of the City. The Project would provide 0.45 parking spaces per dwelling, a lower ratio than the maximum amount conditionally permitted under the Code, and will not provide any parking for the proposed retail uses, and all of these parking spaces would be located underground, with the exception of one van-accessible space for persons with disabilities, and thus would be less intrusive from an urban design standpoint.

OBJECTIVE 11:

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

Policy 11.3:

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

The Project is located within a neighborhood rich with public transportation and the people occupying the building are expected to rely heavily on public transit, bicycling, or walking for the majority of their daily trips. The project includes bicycle parking for 366 bicycles (304 Class 1, 62 Class 2). Within a few blocks of the Project Site, there is an abundance of local and regional transit lines, including MUNI bus lines, MUNI Metro rail lines and BART, Golden Gate Transit and SamTrans. Additionally, such transit lines provide access to AC Transit (Transbay Terminal) and CalTrain.

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

The Project would bring additional housing into a neighborhood that is well served by public transit in a central Downtown/Civic Center location. The Project would not displace any housing because the existing uses at the Project Site are a surface public parking lot and two commercial buildings. The Project would improve the existing character of the neighborhood by removing the existing surface public parking lot and provide substantial public realm benefits with the development of a public plaza and related streetscape improvements that would enhance the pedestrian experience both at the Project site and the surrounding neighborhood. The proposed retail space is consistent and compatible with the existing retail uses in the neighborhood and is also consistent with the pedestrian-friendly uses in the immediate neighborhood and the downtown core. Additionally, the Project would create a more pedestrian-friendly environment in the

immediate neighborhood by providing publicly accessible open space improvements directly fronting the Van Ness Bus Rapid Transit boarding platform. The Project therefore creates substantial net benefits for the City with minimal undesirable consequences.

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 demolish a surface parking lot and two commercial buildings and construct a 304-unit residential building within a transit rich neighborhood and easy commuting distance of downtown jobs. The Project would also include approximately 4,110 square feet of ground floor retail space as well as retail kiosks (subject to the approval of an In-Kind Fee Waiver Agreement) within the proposed plaza, which would provide services to the immediate neighborhood, and would create pedestrian-oriented, active uses on Market and Van Ness Streets. The Project would further greatly enhance the public realm by including a public plaza and significant streetscape improvements.

OBJECTIVE 16:

CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 16.4

Use designs and materials and include amenities at the ground floor to create pedestrian interest.

The Project would promote Objective 16 by including a ground floor retail use and a public plaza which would promote pedestrian traffic in the vicinity. The retail space and the public plaza would increase the usefulness of the vicinity surrounding the Project Site to pedestrians and serve to calm the speed of traffic on the street. The Project would provide floor-to-ceiling, transparent windows in the proposed retail space, along with outdoor seating associated with the retail, inviting pedestrians. The sidewalk area surrounding the Project Site would be improved with bicycle racks, landscaping, seating, high quality materials and protective wind canopies that will be artfully sculpted. In general, the Project would increase the usefulness of the area surrounding the Project Site to pedestrians and bicyclists by creating an area of respite for those waiting for transit and / or are passing through.

OBJECTIVE 18:

ENSURE THAT THE NUMBER OF AUTO TRIPS TO AND FROM DOWNTOWN WILL NOT BE DETRIMENTAL TO THE GROWTH OR AMENITY OF DOWNTOWN

Policy 18.3:

Discourage new long-term commuter parking spaces in and around downtown. Limit long-term parking spaces serving downtown to the number that already exists.

Policy 18.5:

Discourage proliferation of surface parking as an interim use; particularly where sound residential, commercial, or industrial buildings would be demolished.

The Project would not conflict with Objective 18 of the Downtown Plan, because it does not propose any new long-term commuter parking, or any new long-term parking. Instead, the Project would serve the needs of future residents at the Project. In addition, the Project will bring the site into greater conformity with the Downtown Plan by removing surface parking lot and replacing it with a high rise residential building with ground floor retail and a public plaza.

MARKET AND OCTAVIA PLAN

Objectives and Policies

OBJECTIVE 1.1:

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED- USE URBAN NEIGHBORHOOD

Policy 1.1.2:

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

Policy 1.1.5:

Reinforce the importance of Market Street as the city's cultural and ceremonial spine.

The Project will reinforce the importance of Market Street as the City's cultural and ceremonial spine, as well as its position as the front porch to the Civic Center Performing and Cultural Arts District, by including approximately 4,110 square feet of active ground floor retail uses, and creating approximately 16,050 square feet of enhanced public realm improvements, including a publicly accessible pedestrian plaza that would activate the public realm along Market Street and Van Ness Avenue. The proposed streetscape improvements would include a shared-public-way along Oak Street, and new widened sidewalks on both sides of Oak Street, with new bike racks, public seating, planters and street trees, public art, and performance areas. *Additionally, subject to the approval of an In-Kind Fee Waiver Agreement, the proposed streetscape improvements would also include several retail kiosks on the north side of Oak Street, as well as movable seating and sidewalk replacement along Van Ness Avenue.* Thus, the Project will provide ground-floor activities that are public in nature and contribute to the life of the street.

OBJECTIVE 1.2:

ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 1.2.2:

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

Policy 1.2.5:

Mark the intersection of Van Ness Avenue and Market Street as a visual landmark.

The Project is located within an existing high - density urban context and would transform underutilized retail/ office buildings and parking lot into high- density housing and ground-floor retail that has a multitude of transportation options. The Project includes a mix of one-, two-, three- and four- bedroom units, and approximately 4,110 square feet of ground floor retail.

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.

The proposed Project includes 304 dwelling units and approximately 4,110 square feet of ground floor retail that wraps around the ground floor along Market Street, Van Ness Avenue and Oak Street. The Project includes a mix the following dwelling unit mix: 54 studio units (18%), 96 one-bedroom units (32%); 135 two-bedroom units (44%); 16 three-bedroom units (5%) and 3 four-bedroom units (1%), which helps maintain the diversity of the City's housing stock. The Project would demolish a surface parking lot and two underutilized commercial buildings and construct a beautifully designed 304-unit residential building at the intersection of Market and Van Ness Streets within a transit rich neighborhood and easy commuting distance of downtown jobs. The Project would also include approximately 4,110 sq. ft. of ground floor retail space, which would provide services to the immediate neighborhood, and would create pedestrian-oriented, active uses on Market and Van Ness Streets. By adding a high-quality public plaza and streetscape improvements in accordance with the Market and Octavia Area Plan Design Standards, the proposed Project would build on the positive traits of the Hayes Valley neighborhood, extending its walkable scale outward toward the Van Ness and Market intersection.

OBJECTIVE 2.3:

PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.

The Project would not conflict with Objective 2.3 because no housing currently exists at the Project site; therefore, development of the Project will not displace any existing housing.

OBJECTIVE 4.1:

PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS OF WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Policy 4.1.1:

Widen sidewalks and shorten pedestrian crossings with corner plazas and boldly marked crosswalks where possible without affecting traffic lanes. Where such improvements may reduce lanes, the improvements should first be studied.

The One Oak Project has proposed pro-active measures to calm traffic, improve walkability and pedestrian safety in the neighborhood, consistent with and in support of the City's Vision Zero policy. The Project includes slow street improvements, a raised table crosswalk at the Van Ness Avenue entrance to Oak Street, widened sidewalks on both the south and north sides of Oak Street, enhanced shared-public-way surface treatments to identify the street as part of the pedestrian realm, additional plaza and street lighting, 62 public Class-2 bike parking spaces, widening the crosswalk from the new BRT Platform to the site, and a new Muni elevator enclosure. The proposed Project has earned conditional GreenTRIP Platinum Certification from TransForm – a California 501(c)(3) public interest organization (www.transformca.org) – for the Project's safety improvements and transportation amenities. The proposed Project will be the first condominium project in San Francisco to meet GreenTRIP Platinum requirements.

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.

Market Street and Van Ness Avenue are considered transit-preferential streets. Accordingly, all off-street parking and loading access is being directed to Oak Street. All parking will be located below grade, with the exception of one van-accessible space for persons with disabilities, improving the Project's urban design by minimizing street frontages devoted to vehicular uses and also bringing the site into greater conformity with the Market and Octavia Plan by removing the surface parking lot. The street-level design of the Project provides mostly active uses including 4,110 square feet of retail along Market Street, Van Ness Avenue and Oak Street.

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 complies with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project supports this policy. The proposed 304 residential units will house approximately 550 to 700 new residents that will patronize new and existing neighborhood-serving retail uses. In addition, the proposed project would add approximately 3,210-sf of net new retail/restaurant space, replacing the existing 900-sf donut shop with a 4,110-sf restaurant/retail space, increasing future opportunities for resident employment in the service sector. The Project would further enhance neighborhood-serving retail by adding an approximately 16,050 square foot public pedestrian plaza which could strengthen nearby neighborhood retail uses by attracting pedestrians and passersby and broadening the consumer base and demand for existing neighborhood-serving retail services.

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

The Project would improve the existing character of the neighborhood by providing more pedestrian-friendly uses, including publicly accessible open space immediately adjacent to the site and across from the Van Ness Bus Rapid Transit platform. No housing would be displaced because the existing structures contain offices and retail uses. The proposed retail space presents an opportunity for small business owners, helping to preserve the cultural and economic diversity of our neighborhoods. The Market and Van Ness intersection is generally characterized as an area lacking positive neighborhood character, whereas the nearby Hayes Valley neighborhood is generally recognized as a desirable neighborhood, characterized by a mix of residential, cultural, and retail uses. By adding new housing, neighborhood-serving retail space, and a high-quality public plaza in accordance with the Market and Octavia Area Plan Design Standards, the proposed project would build on the positive traits of the Hayes Valley neighborhood, extending its walkable scale outward toward the Van Ness and Market intersection. The Project would further improve the existing character of the neighborhood by removing the surface public parking lot.

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

There is currently no housing on the site, therefore, no affordable housing would be lost as part of this Project. The Project enhances the City's supply of affordable housing by contributing to the Inclusionary Housing Fund and directing the contribution to the development of 72 permanently Below Market Rate units on Octavia Boulevard Parcels "R", "S" and "U", subject to a letter agreement and the conditions set forth therein from the MOH. This represents approximately 24% of

the total market-rate units at the proposed Project. Accordingly, although the Octavia BMR Project is a separate project requiring further approvals, including independent environmental review, its proximity to the project site and the conveyance of the development rights to MOHCD for use as affordable housing sites represents a significant contribution to the development of affordable housing in the Project's immediate neighborhood. In addition to the Planning Code Section 415 affordable housing fees "directed" to the Octavia BMR Project, the Project will also pay project would pay an additional approximately \$6.1 million in Market-Octavia Affordable Housing Fees and Van Ness & Market SUD Affordable Housing Fees. These additional affordable housing fees, in turn, will fund the construction of new, permanently affordable BMR housing elsewhere in the City.

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

The Project would not impede MUNI transit service or overburden local streets or parking. The Project is located along a major transit corridor that would promote rather than impede the use of MUNI transit service. Future residents and employees of the Project could access both the existing MUNI rail and bus services as well as the BART system. The Project also provides a sufficient amount off-street parking for future residents so that neighborhood parking will not be overburdened by the addition of new residents and building users. The project would also eliminate an existing 47-space surface commercial parking lot, reducing a potential source of vehicle trips to and from the site. The entrance to the proposed automobile and bicycle drop-off area would be located on Oak Street where no transit lines exist. The proposed project would also provide enhanced pedestrian access to the MUNI Metro Van Ness Station and the new Van Ness BRT Station to be located at the intersection of Van Ness and Market by constructing a high quality pedestrian plaza and a new weather protected enclosure for the MUNI Metro Station elevator.

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

The Project would not displace any industrial or service sectors and does not include commercial office development. Further, the proposed ground-floor retail space provides future opportunities for resident employment and ownership.

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

The Project will be consistent with the City's goal to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake. The building will be constructed in compliance with all current building codes to ensure a high level of seismic safety. In addition, the proposed Project would replace two older buildings, built in 1920 and 1980, that do not comply with current seismic safety standards.

- G. That landmarks and historic buildings be preserved.

There are no landmarks or historic buildings on-site.

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

The Project would cast approximately 23 minutes of shadow onto Patricia's Green during the dates of maximum shading, particularly during morning hours. It was observed that the park is most intensely

used during lunch hours. Accordingly, the additional shading on Patricia's Green was determined not to create a significant and unavoidable impact, nor adversely impact the use of the park. The Project would cast approximately 22 minutes of shadow onto Page and Laguna Mini Park during the dates of maximum shading, particularly during morning hours. It was observed that the intensity of the park usage was very low. Accordingly, the additional shading on Page and Laguna Mini Park was determined not to create a significant and unavoidable impact, nor adversely impact the use of the Park.

In addition, the proposed project will create a new publicly accessible open space on Oak Street and on a portion of the project site, substantially enhancing public open space. The requested shift of designated height zones due to the shift of the tower to the west is to allow greater open space and access to sunlight at this important civic intersection fronting Van Ness Avenue and Market Street.

10. The Commission made and adopted environmental findings by its Motion No. 19939, which are incorporated by reference as though fully set forth herein, regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting the CEQA findings.
11. 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.
12. The Commission hereby finds that approval of the Downtown Project Authorization and Request for Exceptions would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Downtown Project Authorization Application No. 2014-000362ENVGAMAPDNXCUIAVARK** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated May 15, 2017 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.


The Planning Commission has reviewed and considered the FEIR and the record as a whole and incorporates by reference herein the CEQA Findings contained in Motion No. 19939 and MMRP, included as Attachment B. All required mitigation and improvement measures identified in Attachment B of Motion No. 19939 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 this Motion if not appealed 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, Room 304, San Francisco, CA 94103, or call (415) 575-6880.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 15, 2017.


Jonas P. Ionin
Commission Secretary

AYES: Commissioners Hillis, Johnson, Melgar, Moore, Richards

NAYS: Commissioner Koppel

Motion No. 19943
Hearing Date: June 15, 2017

CASE NO. 2009.0159EGPAMAPDNXCUAVARK
1540 Market Street

ABSENT: Commissioner Fong

ADOPTED: June 15, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a **Downtown Project Authorization and Request for Exceptions** relating to a Project that would demolish an existing four-story office building at 1540 Market Street, a three-story retail building at 1500 Market Street (d.b.a. All Star Cafe) and an approximately 47-space commercial surface parking lot to construct a 40-story, 400-foot tall, 304-unit residential building containing approximately 4,110 square feet of ground floor retail pursuant to Planning Code Sections **309, 134, 249.33(b)(5), and 148**, on Assessor's Block 0836, Lots 001, 002, 003, 004, and 005 within the C-3-G, Downtown-General Zoning District and the proposed 120-R-2 and 120/400-R-2 Height and Bulk Districts; in general conformance with plans dated May 15, 2017, and stamped "EXHIBIT B" included in the docket for Case no. **2009-0159EGPAMAPDNXCUIAVARK** and subject to conditions of approval reviewed and approved by the Commission on **June 15, 2017** under Motion No. 19943. The proposed Project includes a proposed Zoning Map amendment to allow for a height swap between parcels 001 and 005, and a General Plan Amendment amending Map 3 of the Market and Octavia Area Plan and Map 5 of the Downtown Area Plan to ensure consistency with the proposed Zoning Map amendment. 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 **June 15, 2017** under Motion No. 19943.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19943 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 the Downtown Project 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 Downtown Project Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

- 1. Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) become effective. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 2. Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 3. Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) became effective.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 4. Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
6. **Floor Area Ratio.** Pursuant to the Floor Area Ratio limits (FAR) per Sections 123, 249.33(b)(6)(B), and 424, the Project is required to make a payment to the Van Ness and Market Residential Special Use District Affordable Housing Fund for floor area that exceeds the base FAR of 6.0:1 and up to a maximum FAR of 9.0:1. For portions of the Project that exceed an FAR of 9.0:1, the Project must contribute to the Van Ness and Market Neighborhood Infrastructure Fee; provided, however, that the Project Sponsor may elect to directly provide community improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver from the payment of the Van Ness and Market Neighborhood Infrastructure Fee from the Planning Commission, subject to the rules and requirements set forth in Section 424.3.
For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org
7. **Market Octavia Community Improvements Fund.** The Project is subject to the Market and Octavia Community Improvements Fee, as applicable, pursuant to Planning Code Section 421. The Project Sponsor has requested an In-Kind Fee Waiver for a portion of these fees to off-set certain improvements within the Plaza.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
8. **Market Octavia Affordable Housing Fee.** The Project is subject to the Market and Octavia Affordable Housing Fee, as applicable, pursuant to Planning Code Section 416.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
9. **Market and Octavia – Van Ness & Market Street Affordable Housing and Neighborhood Infrastructure Fee.** The Project is subject to the Market and Octavia – Van Ness & Market Affordable Housing Fee and Neighborhood Infrastructure Fee, as applicable, pursuant to Planning Code Section 424.3. The Project Sponsor has requested an In-Kind Fee Waiver for a portion of the Neighborhood Infrastructure fees to off-set certain improvements within the Plaza.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
10. **Improvement and Mitigation Measures.** Improvement and Mitigation measures described in the MMRP attached as **Attachment B** of the CEQA Findings contained in Motion No. 19939 associated with the Subject Project are necessary to avoid potential significant impacts and further reduce less-than-significant impacts of the Project and have been agreed to by the Project Sponsor. Implementation of the Improvement and Mitigation measures is a condition of Project approval.

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

ENTERTAINMENT COMMISSION – NOISE ATTENUATION CONDITIONS

Chapter 116 Residential Projects. The Project Sponsor shall comply with the “Recommended Noise Attenuation Conditions for Chapter 116 Residential Projects,” which were recommended by the Entertainment Commission at a hearing held for the project on November 1, 2016. These conditions state:

11. **Community Outreach.** Project Sponsor shall include in its community outreach process any businesses located within 300 feet of the proposed project that operate between the hours of 9PM and 5AM. Notice shall be made in person, written or electronic form.
12. **Sound Study.** Project sponsor shall conduct an acoustical sound study, which shall include sound readings taken when performances are taking place at the proximate Places of Entertainment, as well as when patrons arrive and leave these locations at closing time. Readings should be taken at locations that most accurately capture sound from the Place of Entertainment to best of their ability. Any recommendation(s) in the sound study regarding window glaze ratings and soundproofing materials including but not limited to walls, doors, roofing, etc. shall be given highest consideration by the project sponsor when designing and building the project.
13. **Design Considerations.**
 - a. During design phase, project sponsor shall consider the entrance and egress location and paths of travel at the Place(s) of Entertainment in designing the location of (a) any entrance/egress for the residential building and (b) any parking garage in the building.
 - b. In designing doors, windows, and other openings for the residential building, project sponsor should consider the POE’s operations and noise during all hours of the day and night.
14. **Construction Impacts.** Project sponsor shall communicate with adjacent or nearby Place(s) of Entertainment as to the construction schedule, daytime and nighttime, and consider how this schedule and any storage of construction materials may impact the POE operations.
15. **Communication.** Project Sponsor shall make a cell phone number available to Place(s) of Entertainment management during all phases of development through construction. In addition, a line of communication should be created to ongoing building management throughout the occupation phase and beyond.

DESIGN – COMPLIANCE AT PLAN STAGE

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378,

17. **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 Site Permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

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

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

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

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

20. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. 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 415-558-6378, www.sf-planning.org

21. **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 415-558-6378, www.sf-planning.org

22. **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 **Market, Van Ness Avenue and Oak** Streets and shall indicate that the open space is accessible to the public. 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 415-558-6378, www.sf-planning.org

23. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. 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 415-558-6378, www.sf-planning.org

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

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

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

25. **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

26. **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

27. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

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

28. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

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

PARKING AND TRAFFIC

29. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than a ratio of 0.25 parking spaces per dwelling unit, as principally permitted parking. With 304 dwelling units, a maximum of 76 spaces is principally permitted per Planning Code Section 151. An additional 76 parking spaces (for a total of up to 152 parking spaces) may be permitted with a Conditional Use Authorization. The Project Sponsor may provide up to 136 off-street parking spaces, which was authorized under Motion No. 19944. However, if the Project changes from an ownership project to a rental project, the Project shall reduce the accessory parking amount to no more than the 0.25 ratio to dwelling units that is principally permitted. The Project must also comply with Building Department requirements with respect to parking spaces for persons with disabilities.

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

30. **Off-street Loading.** Pursuant to Planning Code Section 152.1, the Project shall provide 1 off-street loading space, and spaces for two service vehicles, which may be used to substitute an off-street loading space.

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

31. **Car Share.** Pursuant to Planning Code Section 166, no less 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. The car share spaces will be located off-site on a surface parking lot at 110 Franklin Street. Should the property at 110 Franklin Street no longer be available for such use, the Project Sponsor shall relocate the car share spaces on-site or at an off-site location within 800 feet of the Project Site without disrupting continuity of service, pursuant to Planning Code Section 166.

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

32. **Bicycle Parking (Mixed-Use: New Commercial/Major Renovation and Residential).** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 151 Class 1 spaces (151 stalls for Residential Use, 0 stalls for Retail Use) and 20 Class 2 spaces (15 stalls for Residential Use, 5 stalls for Retail Use).

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

33. **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

34. **Transportation Demand Management (TDM).** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

Prior to the issuance of the first Building Permit or Site Permit, 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 to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

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

PROVISIONS

35. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

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

36. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring

Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

37. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

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

38. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A. Portions of the Market Octavia and Van Ness Market Community Improvements Funds allocated to Child Care paid by the Project would be credited toward payment of the Child Care Fee.

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

Affordable Units. The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document. This requirement is subject to change under pending legislation to modify Planning Code Section 415 which is currently under review by the Board of Supervisors (Board File Nos.161351 and 170208). The proposed changes to Section 415, which may include but are not limited to modifications to the amount of inclusionary housing required onsite or offsite, the methodology of fee calculation, and dwelling unit mix requirements, will become effective after approval by the Board of Supervisors.

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

40. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the

Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.
- b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

OPERATION

41. **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>

42. **Sidewalk & Streetscape Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property, and the shared street that will be provided as part of the Project, 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>

43. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

44. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

45. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

46. **Lighting.** All Project lighting shall be directed onto the Project site, including the proposed Oak Plaza, and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

47. **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 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

MONITORING - AFTER ENTITLEMENT

48. **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

49. **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

50. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

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