



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Motion No. 19582

HEARING DATE: MARCH 3, 2016

Case No.: **2012.1445CV**
 Project Address: **824 Hyde Street**
 Zoning: **RC-4 (Residential-Commercial, High Density) District**
80-A Height and Bulk District
 Block/Lot: **0280/017**
 Project Sponsor: **Ilene Dick**
Farella Braun + Martel, LLP
235 Montgomery Street
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 253 and 303 OF THE PLANNING CODE TO PERMIT A BUILDING WITH THE CHAMFERED BAY ALTERNATIVE DESIGN WITH 14 DWELLING UNITS EXCEEDING 50 FEET WITHIN THE RC-4 (RESIDENTIAL-COMMERCIAL, HIGH DENSITY) USE DISTRICT AND A 80-A HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On November 17, 2012, Brett Gladstone from Hanson Bridgett, LLP, the agent on behalf of Owen D. Conley and Thomas J. Conley (“Previous Project Sponsor”), submitted an application with the Planning Department (hereinafter “Department”) for a Preliminary Project Assessment (“PPA”) with Case No. 2012.1445U. The PPA letter was issued on January 28, 2013.

On May 8, 2013, the Previous Project Sponsor filed an application with the Department for Conditional Use Authorization pursuant to Section 303 to construct a 5-story over basement, residential building with 14 dwelling units, located in an RC-4 Zoning District. The Previous Project Sponsor also filed a Variance application, pursuant to Planning Code Section 145.1 to allow relief from the Code regarding required active street frontages for residential developments.

On August 1, 2013, the Previous Project Sponsor submitted an Environmental Evaluation Application. The application packet was accepted on August 8, 2013 and assigned Case Number 2012.1445E.

On December 24, 2013, the Department issued a Notification of Project Receiving Environmental Review to owners and occupants of properties within a 300 foot radius of the project site, and other interested parties. The notification period was open through January 7, 2014; however, public comments were accepted throughout the environmental review process.

On April 30, 2015, the Project was issued a Categorical Exemption, Class 32 (California Environmental Quality Act (CEQA) Guidelines Section 15322). Approval of the Conditional Use Authorization by the Planning Commission is the Approval Action for the project. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco *Administrative Code*.

On September 2, 2015, Ilene Dick from Farella Braun + Martel, LLP, the agent on behalf of 824 Hyde Street Investments, LLC (hereinafter "Project Sponsor") filed an updated application with the Department for Conditional Use Authorization under Planning Code Section(s) 253 and 303 to permit a building exceeding 50 feet within a RC-4 (Residential-Commercial, High Density) Use District and 80-A Height and Bulk District. The Project Sponsor also filed an updated Variance application, pursuant to Planning Code Sections 136 and 145.1 to allow for permitted obstructions (bay windows) and relief from the Code regarding required active street frontages for residential developments.

On January 14, 2016, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1445CV.

On January 14, 2016, after closing public comment and holding a hearing on the item, the Commission voted 6-0 to continue the item to the March 3, 2016 Commission hearing date. The Commission instructed the Project Sponsor to refine the overall design of the primary building façade to allow the new building to better integrate within the existing, historic context of the subject site. In addition, the Commission asked the Project Sponsor to work with Planning Staff to determine the status of the property line windows and light wells on the abutting property to the north of the subject property (830 Hyde Street). Since the continuance, the Project Sponsor made modifications to the Project in response to the Commission's requests.

On March 3, 2016, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1445CV.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2012.1445CV, 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 approximately 2,815-square-foot project site (Assessors Block 0280, Lot 017) is located on the block bounded by Hyde Street to the west, Leavenworth Street to the east, Bush Street to the north, and Sutter Street to the south in the Downtown/Civic Center neighborhood and within the Lower Nob Hill Apartment-Hotel Historic District. The subject lot has 25 feet of street frontage along Hyde Street and a depth of 112'-6". The project site was previously occupied by a four (4) story, eight (8) unit residential building that was designated a historic resource by the City and the CRHR, and in 1991 was listed in the National Register of Historic Places as a contributing resource to the Lower Nob Hill Apartment Hotel National Register Historic District (the "Lower Nob Hill Apartment Historic District" or "District"). The building, named "Chatom Apartments", was constructed in 1915. The building was destroyed by a fire in 2010 and the remnants of the damaged structure were removed in accordance with demolition Permit No. 201011084503 issued on November 8, 2010. The resulting vacant lot is considered a non-contributory property within the District.
3. **Surrounding Properties and Neighborhood.** The Project site is within the Downtown/Civic Center neighborhood, near the southern boundary of the Nob Hill neighborhood. The Project site is also located within the Lower Nob Hill Apartment Hotel Historic District. The District is comprised of 570 acres containing 295 contributing buildings and one contributing structure. The District consists of almost entirely of 3- to 8-story multi-unit residential buildings which fill their entire front lot lines and share a single stylistic orientation. The vast majority of the buildings were constructed between 1906 and 1925. Land uses in the surrounding area include a diverse mixture of residential, hotel, and ground-floor retail uses including shopping, grocery stores, bars and restaurants. St. Francis Medical Center is located one block to the north of the site at the corner of Hyde and Bush Streets.
4. **Project Description.** The proposed project would involve the construction of an approximately 52'-8" foot-tall (up to 66 feet tall with the staircase and elevator penthouses), five-story-over-basement, 12,390 gross square foot (gsf) residential building on a partially down-sloping vacant lot. The proposed building would provide: seven (7) studio units; one (1) junior one-bedroom unit; five (5) one-bedroom units; and one (1) two-bedroom unit for a total of fourteen (14) dwelling units. Excavation, to a maximum depth of approximately nine (9) feet below grade, is proposed in order to accommodate the basement level. No off-street parking would be provided as part of this project.
5. **Public Comment.** To date, the Department has received 2 inquiries about the Project, and 2 letters of opposition to the Project.
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. **Rear Yard.** Planning Code Section 134 states that the minimum rear yard depth shall be equal to 25 percent of the total depth of the lot on which the building is situated, but in no case less than 15 feet. Rear yards shall be provided at the lowest story containing a dwelling unit, and at each succeeding level or story of the building.

The project provides the required 25 percent rear yard (28'-1/8"), beginning at the ground floor, as measured from the Hyde Street frontage.

- B. **Useable Open Space.** Planning Code Section 135 states 36 square feet of Usable Open Space is required per unit if such space is private, and each square foot of private open space may be substituted with 1.33 square foot of common open space. Planning Code Section 135(f)(2)(B) requires that the open space must face a street, face or be within a rear yard, or face some over space which meets the minimum dimension and area requirements of Planning Code Section 135(f)(1), or six feet in every horizontal direction and at least 36 feet in area on a deck.

The Project provides 1,115 sf of common useable open space, which, is more than the required amount of common useable open space (719 sf). The project provides 405 sf of common useable open space in the rear yard (at grade), and 710 sf of common useable open space on the roof deck atop the 5th floor.

- C. **Exposure.** Planning Code Section 140 requires that at least one room of each dwelling unit must face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

All of the proposed dwelling units appear to face onto Hyde Street or the Code-complying rear yard. The project is consistent with the dwelling unit exposure requirements of the Code.

- D. **Parking.** Planning Code Section 151.1 does not require off-street parking for projects located within RC Districts.

Off-street parking would not be provided for the proposed project.

- E. **Bicycle Parking.** Planning Code Section 155.2 requires bicycle parking for residential development projects in the following amounts: one class I space for every dwelling unit, and one Class II space per 20 dwelling units.

The Project will provide fourteen (14) Class I bicycle parking spaces within the new building, and two (2) Class II bicycle parking spaces along the Hyde Street frontage, consistent with the City's Transit First Policies.

- F. **Street Frontages in Residential-Commercial Districts.** Planning Code Section 145.1 exists to preserve, enhance, and promote attractive, clearly defined street frontages that are pedestrian-oriented, fine-grained, and which are appropriate and compatible with the buildings and uses in certain commercial districts.

The Project includes a request for Variances pursuant to Planning Code Sections 145.1(b)(2). Section 145.1(b)(2) of the Planning Code requires active street frontages for development lots, including residential uses. Residential uses are considered active uses only if more than 50 percent of the linear residential street frontage at the ground level features walk-up dwelling units that provide direct, individual pedestrian access to a public sidewalk. The subject lot is only 25' wide, and the project proposes residential uses on the ground floor that do not provide direct, individual pedestrian access to a public sidewalk; therefore, a variance is required.

- G. **Dwelling Unit Density.** Planning Code Section 209.3 allows a residential density of one dwelling unit per 200 square feet of lot area within the RC-4 district. With approximately 2,815 square of lot area, 14 dwelling units could be developed on the lot. Furthermore, Code Section 209.3(8) allows a dwelling unit in the RC-4 District containing no more than 500 square feet of net floor area and consisting of not more than one habitable room in addition to a kitchen and a bathroom to be counted as equal to $\frac{3}{4}$ of a dwelling unit.

The project would contain a total of fourteen (14) dwelling units. Eight (8) of the dwelling units contain no more than 500 square feet of net floor area, which, would be counted as $\frac{3}{4}$ of a dwelling unit. Therefore, eight (8) of the units would calculate to six (6) dwelling units per Code Section 209.3(8). With a total of fourteen (14) dwelling units (as defined by the Code), the project would be consistent with the dwelling unit density provisions of the Code.

- H. **Height.** Planning Code Section 253 requires that wherever a height limit of more than 40 feet in a RH District, or more than 50 feet in a RM or RC District, is prescribed by the height and bulk district in which the property is located, any building or structure exceeding 40 feet in height in a RH District, or 50 feet in height in a RM or RC District, shall be permitted only upon approval by the Planning Commission according to the procedures for conditional use approval in Section 303 of the Code.

The Project would exceed a height of 50 feet in the RC Zoning District, therefore requires Conditional Use Authorization. Even though the underlying Bulk and Height District (80-A) would allow for a taller structure, the Code requires approval by the Planning Commission according to the procedures for conditional use approval in Section 303 of this Code. In addition, the Project proposes several rooftop features (elevator, stairs, mechanical penthouses, and windscreens) that are all exempt from Section 260 since the total proposed height of the exempt features is 16'-0", as allowed by the Code.

- I. **Shadows.** Planning Code Section 295 requires a shadow analysis for projects over 40 feet in height to ensure that new buildings do not cast new shadows on properties that are under the jurisdiction of the San Francisco Recreation and Park Department.

A shadow analysis was completed that examined the project as it is currently proposed. The analysis revealed that no net shadow would be added to any Recreation and Park Department properties and thus the project complies with Planning Code Section 295.

- J. **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, where the first application (EE or BPA) was applied for on or after July 18, 2006. 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 Project Sponsor has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development at a rate equivalent to an off-site requirement of 20%. The project sponsor has not selected an alternative to payment of the Fee. The EE application was submitted on August 1, 2013.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project will construct fourteen (14) new dwelling units on a vacant lot. The Project's development of in-fill housing and compliance with the affordable housing requirements under the Planning Code is consistent with the City's policies and goals toward the creation of market rate and affordable housing. The Project will be consistent with the surrounding neighborhood, which is primarily comprised of multi-story, high-density, residential buildings. Both of the immediately adjoining buildings are six stories tall; however, this building is proposed to be five stories tall. An eight-story residential building is located across the street on the corner of Hyde and Sutter Streets. Saint Francis Memorial Hospital is located three buildings to the north of the property. The units are designed for efficiency with adequate storage and have large windows for light. The new residents will support the nearby neighborhood serving retail uses and create pedestrian-oriented activity.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project is consistent with the surrounding neighborhood, which is primarily multi-story, high-density residential buildings. The Project will fill-in a vacant lot creating a unified street wall. The Project's five-story height is consistent with the surrounding buildings, which range in height from four to eight stories. The Project has been designed to fit in with the character of the surrounding buildings by incorporating double bay windows, deep ground floor openings, and a projecting cornice. The Project meets the open space and rear yard requirements of the current

Planning Code. The rear yard and open space will be accessible to all residents. The new residents will serve the surrounding neighborhood retail stores and create pedestrian activity.

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

The Project will not provide off-street parking, as allowed by Code Section 151.1. The high-density development and neighborhood-serving commercial uses that characterize the neighborhood will encourage residents to find alternatives to the use of private automobile, such as bicycles, public transportation, and taxi cabs. The Project will generate less demand for private automobile use because the property is situated within a transit-rich area and does not provide parking, which sometimes discourages occupants to own cars. The property is located within a two-block radius of eight MUNI bus lines, within three blocks of the Van Ness Avenue line and eight blocks of the Market Street lines.

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

The Project proposes residential use without parking and therefore will not produce noxious or offensive emissions, noise, glare, dust or odors. There is no commercial space, which could generate the same.

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

The Project will provide one (1) street tree and comply with all streetscape requirements. Parking is not proposed and therefore, the ground floor will consist of residential use that will contribute to the neighborhood character. Two residential units will be located on the ground floor, including one facing the street that otherwise would be occupied by a parking garage. The Project will provide common open space within the rear yard as well as on the roof. The open space and rear yard will be in compliance with the Planning Code's requirements. The rear yard will be landscaped. The Project also will provide appropriate lighting for safety on the street side of the façade. The Project does not contain signage other than an identification sign for the address.

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

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan.

- 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.

The Project's vacant site must be made available for development if the City's housing needs are to be met. The Project will lead to the supply of affordable housing in that the Project will comply with the City's inclusionary housing policy.

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 will create new housing within a transit-rich area and encourage public transportation use by not providing a parking garage. The Project contains small-sized units ranging in size from 445 square feet to 610 square feet. The unit mix consists of seven (7) studio units; one (1) junior one-bedroom unit; five (5) one-bedroom units; and one (1) two-bedroom unit. Even though the units are small, they have been efficiently designed with adequate storage and have large windows for light. These units are more affordable than larger units because of their small size and location within a transit-rich area, which does not require the residents to own a car.

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.

The Project is designed to fit within the neighborhood characterized by high-density, residential buildings within the Lower Nob Hill National Register District. The Project contains fourteen (14) units that are efficiently designed with adequate storage and have large windows for light. The building will reflect the design of the surrounding buildings because it contains double bay windows, deep ground floor openings, and a projecting cornice. The project sponsor modified the façade to respond to comments made by the Department's historic preservation technical specialist. These changes ensure the Project will be consistent with the façade element patterns of other buildings in the Lower Nob Hill National Register District.

Policy 11.6:

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

The Project is designed with units on the ground floor creating a close relationship between the residents and the community. The Project does not contain parking, which would interrupt the relationship between

the residents and the neighborhood by requiring the building to be broken up with a curb cut and entrance to the parking garage.

OBJECTIVE 12:

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

Policy 12.1:

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

The Project would create new housing within a transit-rich area without the parking that might discourage environmentally sustainable patterns of movement, and instead encourages public transit use.

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 1.3:

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.

The Project creates new housing within a transit-rich area and within close proximity to the downtown where jobs are concentrated. By not including parking, the Project encourages use of public transit as an alternative to automobiles.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 3:

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

Policy 3.2:

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

Policy 3.5:

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

Policy 3.6:

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

The Project site is located within the Lower Nob Hill Apartment Hotel Historic District (District). The surrounding area has a defined architectural character with the vast majority of the buildings having been constructed between 1906 and 1925. The District consists of almost entirely of 3- to 8-story multi-unit residential buildings which fill their entire front lot lines and share a single stylistic orientation. The Project site is located in an 80-A Height and Bulk District. The proposed new building is designed in a contemporary architectural style, including generous, modern glazing treatments, an organized fenestration pattern, and high-quality exterior finishes. The building would be approximately 52'-8" feet in height with an elevator penthouse extending above the roof slab an additional 16 feet (totaling approximately 66 feet in height). These features are exempt per Planning Code Section 260(b). Therefore, the Project's proposed height is consistent with the requirements of the 80' Height District and with similar sized buildings in the area, and meets the "A" Bulk Limits.

OBJECTIVE 4:

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

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The Project will include streetscape improvements along its Hyde Street frontages, including the installation of one (1) new street tree, and a new, publically-accessible bicycle rack along Hyde Street. The building's base has been detailed to provide an appropriate scale for pedestrians, and the Project would add an important aspect of activity by virtue of infilling a vacant lot. These improvements will provide much needed streetscape improvements thorough the well-designed ground-floor treatments that will help to improve pedestrian safety without the need for a curb cut for off-street parking.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

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

The existing neighborhood-serving retail will be preserved and enhanced through the construction of new residential units. The residents will likely patronize the existing businesses in the community.

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

The property is a vacant lot. The property contained an eight-unit residential building that was destroyed by a fire in October 2010. The Project would construct a new building containing fourteen

(14) units that would fit within the surrounding neighborhood character by relating the height and bulk to be at or below that of the adjacent buildings and including design elements such as double bay windows, deep ground floor openings, and a projecting cornice.

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

The project sponsor will comply with all current affordable housing requirements. The Project will not remove existing housing because the property is vacant. Further, the Project will contain small-sized units which are by design more affordable than larger units.

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

The Project will not cause an undue burden on the surrounding street parking and will maintain a close connection to public transit ways. The Project will not provide parking because the Project is well-served by public transportation and is located within close proximity to downtown where jobs are concentrated. Residents will have many alternative forms of transportation, including public transit, bicycling and walking.

- 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 does not eliminate any industrial or service sectors. The new residents will use nearby businesses and thereby promote business and economic development in the area.

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

The new building will comply with present day seismic and life-safety codes for achievement of the greatest possible preparedness to protect against injury and loss of life in the event of an earthquake.

- G. That landmarks and historic buildings be preserved.

The property is located within the Lower Nob Hill Apartment Hotel Historic District (District). The new building is designed to fit within the District's context, including elements such as double bay windows, deep ground floor openings and a projecting cornice

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

The Project will have no negative impact on existing parks and open space. No existing park is observed within 300' radius of the property. The Project's height of only 52'-8" feet (up to 66 feet tall with the staircase and elevator penthouses), will not have an impact on the surrounding parks and open space's access to sunlight and vistas. The height of the proposed structure is compatible with the established neighborhood development.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

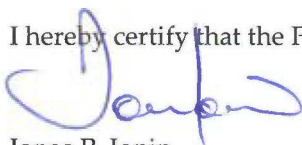
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2012.1445CV** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 22, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19582. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or 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 March 3, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards

NAYS: None

ABSENT: Wu

ADOPTED: March 3, 2016

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a new, five-story, approximately 55-foot tall, 12,460 gross square foot residential building 14 dwelling units located at 824 Hyde Street, Lot 017 in Assessor's Block 0280, to exceed 50 feet in a RC Zoning District, pursuant to Planning Code Section(s) 253 and 303 within the RC-4 District and a 80-A Height and Bulk District; in general conformance with plans, dated February 22, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2012.1445CV and subject to conditions of approval reviewed and approved by the Commission on March 3, 2016 under Motion No. 19582. 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 March 3, 2016 under Motion No. 19582.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19582 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. 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 this Authorization was approved.

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. **Additional Project Authorization.** The Project Sponsor must seek a Variance from the Planning Code under Section 145.1. Section 145.1 of the Code requires active street frontages for development lots, including residential uses. Residential uses are considered active uses only if more than 50 percent of the linear residential street frontage at the ground level features walk-up dwelling units

that provide direct, individual pedestrian access to a public sidewalk. The subject lot is only 20' wide, and the project proposes residential uses on the ground floor that do not provide direct, individual pedestrian access to a public sidewalk; therefore, a variance is required. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

DESIGN – COMPLIANCE AT PLAN STAGE

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

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

8. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

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

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

10. **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

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

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

12. **Landscaping.** Pursuant to Planning Code Section 132, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that 50% of the front setback areas shall be surfaced in permeable materials and further, that 20% of the front setback areas shall be landscaped with approved plant species. The size and specie of plant materials and the nature of the permeable surface shall be as approved by the Department of Public Works.

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

13. **Landscaping, Permeability.** Pursuant to Planning Code Section 156, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that 20% of the parking lot shall be surfaced with permeable materials and further indicating that parking lot landscaping, at a ratio of one tree, of a size comparable to that required for a street tree and of an approved species, for every 5 parking stalls, shall be provided. Permeable surfaces shall be graded with less than a 5% slope. The size and specie of plant materials and the nature of the permeable surface shall be as approved by the Department of Public Works.

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

PARKING AND TRAFFIC

14. **Bicycle Parking.** The Project shall provide no fewer than 14 Class 1 bicycle parking spaces and 2 Class II bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

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

15. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning

Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

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

PROVISIONS

16. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

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

17. **Child Care Fee - Residential.** The project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

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

Affordable Units

18. **Requirement.** Pursuant to Planning Code 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%).

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.

19. **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.

MONITORING - AFTER ENTITLEMENT

20. **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

21. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

OPERATION

22. **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>

23. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

24. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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