

File No. 131000

Committee Item No. 8

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date November 25, 2013

Board of Supervisors Meeting Date _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date November 21, 2013

Completed by: _____ Date _____

1 [Street Acceptance for Lee Avenue (North of Ocean); Approval of a Sidewalk Easement for
2 Brighton Avenue (North of Ocean)]

3 **Ordinance accepting an irrevocable offer for a public sidewalk easement on the**
4 **Brighton Avenue extension, north of Ocean Avenue, and accepting an easement for**
5 **these purposes; accepting an irrevocable offer for improvements and real property**
6 **related to Lee Avenue, north of Ocean Avenue, and accepting a grant deed for these**
7 **purposes; conditionally accepting an irrevocable offer for sidewalk improvements for**
8 **Ocean Avenue, east of Lee Avenue; declaring such areas to be open public right-of-**
9 **way and dedicating them for right-of-way and roadway purposes; accepting**
10 **maintenance and liability for these areas subject to certain limitations; establishing**
11 **public right-of-way width and sidewalk width for the Lee Avenue and Ocean Avenue**
12 **sidewalks; approving an interdepartmental transfer of property for a portion of Lee**
13 **Avenue and for a portion of Ocean Avenue; approving and making findings, including**
14 **environmental findings, General Plan findings, and the eight priority policies of**
15 **Planning Code, Section 101.1; and authorizing official acts in connection with this**
16 **Ordinance.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:

25 Section 1. **Findings.**

(a) On November 18, 2013, Avalon Ocean Avenue LP ("Avalon") made an irrevocable offer of improvements and real property for right-of-way purposes at Lee Avenue north of

1 Ocean Avenue ("Lee Avenue Offer"), which includes the form of a grant deed for the transfer
2 of such street improvements and real property ("Grant Deed"). On November 18, 2013,
3 Avalon also made an irrevocable offer of a public sidewalk easement over its property for the
4 Brighton Avenue extension north of Ocean Avenue ("Brighton Avenue Offer"), which includes
5 the form of a public sidewalk easement agreement ("Sidewalk Easement Agreement").
6 Copies of said Offers are on file with the Clerk of the Board of Supervisors in File No. 131000
7 and are incorporated herein by reference.

8 (b) In connection with the Lee Avenue Offer, the Department of Public Works ("DPW")
9 has prepared a A-17-168 public right-of-way map and a sidewalk width change map Q-20-
10 697, and DPW Order No. 181894, dated November 20, 2013. The Director of DPW
11 determined and City Engineer certified that the improvements have been constructed in
12 accordance with all City codes, regulations, and standards, and that they are ready for their
13 intended use. Consequently, the Director of DPW recommends that the Board: (1) accept the
14 Lee Avenue Offer, including the Grant Deed; (2) declare this area as open public right-of-way;
15 (3) dedicate this area for right-of-way and roadway purposes; and (4) accept maintenance and
16 liability responsibility for the improvements, subject to certain limitations. The DPW Order
17 also addresses other related elements of public infrastructure in this area as further described
18 in Subsections (c) and (d) below. Copies of the DPW Order, public right-of-way map, and the
19 Lee Avenue sidewalk width change map are on file with the Clerk of the Board of Supervisors
20 File No. 131000 and are incorporated herein by reference.

21 (c) As part of the Phelan Loop relocation project and the creation of Lee Avenue north
22 of Ocean Avenue, the San Francisco Municipal Transportation Agency ("SFMTA") has agreed
23 to an interdepartmental transfer of certain SFMTA property to DPW, as further described in a
24 letter from the SFMTA Director of Transportation to the Director of DPW, dated October 24,
25 2013 ("SFMTA Transfer Letter"). The subject property north of Ocean Avenue, which is part

1 of Lee Avenue, is shown in a diagram that is attached to the above referenced DPW Order.
2 The SFMTA Transfer Letter also is included as an attachment to the DPW Order. The land
3 transfer diagram and the SFMTA Transfer Letter are incorporated herein by reference.

4 (d) As part of the Phelan Loop relocation project, the development of a Mayor's Office
5 of Housing sponsored affordable housing project ("Housing Project") by 1100 Ocean Avenue
6 Limited Partnership, a California limited partnership ("Housing Developer") on the property
7 commonly known as 1100 Ocean Avenue, and the creation of a public sidewalk on the
8 northern portion of Ocean Avenue east of Lee Avenue, SFMTA has agreed to an
9 interdepartmental transfer of certain SFMTA property to DPW for sidewalk purposes, as
10 described in the SFMTA Transfer Letter. The subject property ("Future Ocean Avenue
11 Sidewalk") is on the northern portion of Ocean Avenue, east of Lee Avenue, and is shown on
12 map Q-20-697 as described above.

13 (e) The actions contemplated in this Ordinance were addressed in the Environmental
14 Impact Report for the Balboa Park Station Area Plan (State Clearinghouse No. 2006072114)
15 ("EIR"), which was affirmed by the Board of Supervisors in its actions related to Balboa Park
16 Station Area Plan in Ordinance Nos. 58-09, 59-09, 60-09, and 61-09, copies of which are on
17 file with the Clerk of the Board of Supervisors File Nos. 90179, 90178, 90180, and 90181,
18 respectively, and are incorporated herein by reference. The subject EIR was a programmatic
19 analysis of the Balboa Park Station Area Plan and related General Plan and zoning legislation
20 and a project specific analysis of the Avalon Bay development project at 1150 Ocean Avenue
21 adjacent to the new Lee Avenue and running westward along Ocean Avenue. As part of the
22 Board of Supervisors action on the Balboa Park Station Area Plan, it adopted, in Ordinance
23 No. 60-09, environmental findings and a mitigation monitoring and reporting program as
24 required by the California Environmental Quality Act ("CEQA", Public Resources Code
25 Section 21000 et seq.). These findings, which include a rejection of alternatives and a

1 statement of overriding benefits, and the mitigation program are on file with the Clerk of the
2 Board of Supervisors in File No. 90180 and are incorporated herein by reference. The Board
3 of Supervisors, in Ordinance No. 49-11, took various actions related to the Housing Project,
4 including adoption of CEQA findings. A copy of this Ordinance and supporting documents,
5 including the CEQA findings, are on file with the Clerk of the Board of Supervisors in File No.
6 110115 and are incorporated herein by reference. In connection with approval of the Housing
7 Project, the Planning Commission, on July 22, 2010, approved a Conditional Use Application
8 No. 2009-1117C and adopted certain CEQA mitigation measures for the Project in its Motion
9 No. 18153. The Board of Supervisors, in Resolution No. 301-13, approved a ground lease for
10 this Housing Project and made CEQA findings as part of those actions. Copies of the
11 Planning Commission Motion, Board Resolution, and supporting documents, including the
12 CEQA findings, are file with the Clerk of the Board of Supervisors in File No. 130745 and are
13 incorporated herein by reference.

14 (f) The Board of Supervisors has reviewed and considered the EIR, the environmental
15 findings, and all other environmental documents on file with the Clerk and referred to above.
16 Based on this review, the Board of Supervisors finds that no substantial changes have
17 occurred in relation to the actions proposed for approval under this Ordinance (the "Project")
18 that will require revisions in the EIR due to the involvement of new significant environmental
19 effects or a substantial increase in the severity of previously identified significant effects. The
20 Board of Supervisors also finds that no substantial changes have occurred with respect to the
21 circumstances under which the Project is undertaken which will require major revisions to the
22 EIR due to the involvement of new environmental effects or a substantial increase in the
23 severity of effects identified in the EIR and no new information of substantial importance to the
24 actions as proposed for approval in the Ordinance has become available which indicates that
25 (1) the Project will have significant effects not discussed in the EIR, (2) significant

1 environmental effects will be substantially more severe, (3) mitigation measure or alternatives
2 found not feasible which would reduce one or more significant effects have become feasible
3 or (4) mitigation measures or alternatives which are considerably different from those in the
4 EIR would substantially reduce one or more significant effects on the environment.

5 **Section 2. Adoptions and Approvals.**

6 (a) The Board of Supervisors has reviewed and approves DPW Order No. 181894,
7 dated November 20, 2013, which includes the City Engineer's certification and Director's
8 recommendation concerning the acceptance of the Offers dated November 18, 2013;
9 acceptance of the Brighton Avenue extension public sidewalk easement; acceptance of
10 improvements and real property for the Lee Avenue public right-of-way for street and roadway
11 purposes and for City maintenance and liability responsibilities; and other related actions.

12 (b) On May 21, 2009, the Planning Commission in Motion No. 17885, found that the
13 Avalon Bay development project on Ocean Avenue and related infrastructure, including Lee
14 Avenue and the Brighton Street extension, were, on balance, consistent with the General Plan
15 and the eight priority policies on Planning Code Section 101.1. On July 22, 2010, the
16 Planning Commission, in the abovementioned Motion No. 18153, found that the Housing
17 Project and its related infrastructure, including the future Ocean Avenue sidewalk fronting this
18 development, were, on balance, consistent with the General Plan and the eight priority
19 policies of Planning Code Section 101.1. Said Motions are on file with the Clerk with the Clerk
20 of the Board of Supervisors in File No. 131000, and are incorporated herein by reference. For
21 purposes of the actions contemplated in this Ordinance, the Board adopts the Planning
22 Commission findings as its own for the reasons set forth in the Commission Motions.

23 **Section 3. Acceptance of Improvements and Real Property and Assumption of**
24 **Maintenance Responsibilities for Lee Avenue, Including Establishment of Grade and**
25 **Street Width; Acceptance of Brighton Avenue Extension Public Sidewalk Easement.**

1 (a) The Board of Supervisors accepts the Lee Avenue Offer for improvements and real
2 property for street and roadway purposes, including the acceptance of the Grant Deed. The
3 Board of Supervisors also accepts the Brighton Avenue Offer for a public sidewalk easement,
4 including the Sidewalk Easement Agreement. The Board of Supervisors hereby delegates
5 authority to the Director of Property to accept the Grant Deed for a portion of Lee Avenue and
6 to execute the Sidewalk Easement Agreement, and to enter into any amendments or
7 modifications to the Sidewalk Easement Agreement (including without limitation, the exhibits)
8 that the Director of Property determines, in consultation with the City Attorney and the Director
9 of DPW, are in the best interest of the City, do not materially increase the obligations or
10 liabilities of the City, are necessary or advisable to effectuate the purposes of the Sidewalk
11 Easement Agreement or this Ordinance, and are in compliance with all applicable laws,
12 including City's Charter.

13 (b) Pursuant to California Streets and Highways Code Section 1806 and San
14 Francisco Administrative Code Sections 1.51 et seq., the Board of Supervisors hereby
15 dedicates the improvements described in the Lee Avenue Offer to public use; names this
16 public right-of-way "Lee Avenue"; designates such improvements for street and roadway
17 purposes; and accepts such improvements for City maintenance and liability purposes,
18 subject to the conditions listed in subsection (d).

19 (c) Notwithstanding California Streets and Highways Code Sections 8000 et seq. and
20 San Francisco Administrative Code Sections 1.51 et seq., the Board of Supervisors hereby
21 establishes the street grade for Lee Avenue as shown on Public Improvement Permit 091E-
22 0693, dated May 26, 2011, a copy of which is on file with the Department of Public Works and
23 incorporated herein by reference. The Board also approves Map A-17-168 for purposes of
24 establishing the width of the Lee Avenue public right-of-way.

1 (d) The Lee Avenue improvements accepted by the Board pursuant to Subsections (a)
2 - (b) are subject to the following: (1) the portions of Lee Avenue being accepted for right-of-
3 way and roadway purposes are constructed from back of sidewalk to back of sidewalk, unless
4 specified otherwise, (2) acceptance of the improvements for City maintenance and liability
5 purposes is from back of curb to back of curb, unless specified otherwise, (3) encroachments
6 that are permitted, not permitted, or both are excluded from acceptance, and (4) the
7 acceptance of the street does not obviate, amend, alter, or in any way affect existing
8 maintenance agreements between the City and parties to such agreements.

9 Section 4. **Establishing Sidewalk Width Change on a Portion of Lee Avenue and a**
10 **Portion of Ocean Avenue.**

11 (a) Lee Avenue Sidewalk and Future Ocean Avenue Sidewalk. In accordance with
12 DPW's Order No. 181894, Board of Supervisors Ordinance No. 1061, entitled "Regulating the
13 Width of Sidewalks," a copy of which is in the Clerk of the Board of Supervisors Book of
14 General Ordinances, in effect May 11, 1910, is hereby amended by adding thereto a new
15 section to read as follows:

16 Section 1600 . The official sidewalk width on portions of Ocean Avenue and Lee Avenue north
17 of Ocean Avenue shall be as shown on Department of Public Works drawing O-20-697 , a copy of
18 which is on file with the Clerk of the Board of Supervisors in File No.131000.

19 (b) Because the Housing Developer will construct the Future Ocean Avenue Sidewalk
20 as part of its development of the Housing Project, the Board of Supervisors hereby delegates
21 to the Director of DPW the authority to accept an offer for the improvements when the Future
22 Ocean Avenue Sidewalk is constructed in accordance with DPW Order No. 181894, a copy of
23 which is on file with the Clerk of the Board of Supervisors File No. 131000 and is incorporated
24 herein by reference, and all City codes, regulations, and standards, and is ready for its
25 intended purposes as certified by the City Engineer. In accordance with the City lease

1 associated with the Housing Project as approved in Board Resolution No. 301-13, the
2 Housing Developer will be responsible to maintain the subject sidewalk in accordance with the
3 requirements of the Public Works Code.

4 **Section 5. Interdepartmental Transfer of Property for a Portion of Lee Avenue.**

5 Notwithstanding the provisions of Administrative Code Chapter 23, the Board of
6 Supervisors hereby authorizes the interdepartmental transfer of property from SFMTA to DPW
7 for a portion of the new Lee Avenue right-of-way and, at the time the Director of DPW accepts
8 an offer for the sidewalk improvements, for a sidewalk on the Future Ocean Avenue Sidewalk.

9 **Section 6. Authorization for Implementation.**

10 All actions heretofore taken by the officers of the City with respect to such Ordinance
11 are hereby approved, confirmed and ratified, and the Mayor, Clerk of the Board, Director of
12 Property and Director of Public Works are hereby authorized and directed to take any and all
13 actions which they or the City Attorney may deem necessary or advisable in order to
14 effectuate the purpose and intent of this Ordinance, including, but not limited to, recordation of
15 the Grant Deed and Sidewalk Easement Agreement and inclusion of this Ordinance and the
16 accompanying Q-20 and A-17 Maps in the Official Records of the City and County of San
17 Francisco for the width of public right-of-way and sidewalks.

18 **Section 7. Effective Date.** This Ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the Ordinance, the Mayor returns the
20 Ordinance unsigned or does not sign the Ordinance within ten days of receiving it, or the
21 Board of Supervisors overrides the Mayor's veto of the Ordinance.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
John D. Malamut
Deputy City Attorney

n:\landas2013\9690063\00878119.doc

City and County of San Francisco



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Department of Public Works

Deputy Director for Design & Construction
1 Dr. Carlton B. Goodlett Place, City Hall, Room 348
San Francisco, CA 94102
(415) 554-6940 ■ www.sfdpw.org



Fuad Sweiss, Deputy Director and City Engineer

Avalon Bay Communities, Inc.
455 Market Street, Suite 1650
San Francisco, CA 94105
Avalon Bay Communities, Inc.
455 Market Street, Suite 1650
San Francisco, CA 94105
Attn: Vince Anderson

February 5, 2013

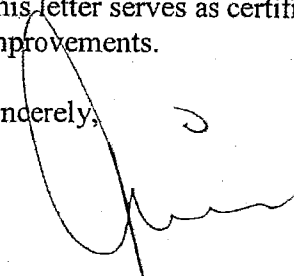
Subject: 1150 Ocean Ave – Lee Avenue Extension

Dear Mr. Anderson:

The Department of Public Works has received correspondence from the Public Utility Commission stating that their facilities constructed within the future Lee Avenue Extension conforms to City Standards. Further, the roadway improvements authorized under Street Improvement permit 09IE-0693 was constructed, inspected, and sign-off on 8/30/2012.

This letter serves as certification by the City Engineer of the completion of said infrastructure improvements.

Sincerely,


Fuad S. Sweiss, PE, PLS, LEED AP
Deputy Director for Engineering and
City Engineer
City and County of San Francisco





SFMTA
Municipal
Transportation
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*

Malcolm Heinicke, *Director*

Joél Ramos, *Director*

Edward D. Reiskin, *Director of Transportation*

Cheryl Brinkman, *Vice-Chairman*

Jerry Lee, *Director*

Cristina Rubke, *Director*

October 24, 2013

**John Updike, Director of Property
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102**

**Mohammed Nuru, Director
Department of Public Works
1 Dr. Carlton B. Goodlett Place, Room 348
San Francisco, CA 94102**

Re: Phelan Loop Jurisdictional Transfers for Public Right of Way

Dear Sirs:

The San Francisco Municipal Transportation Agency (SFMTA) took several actions to further certain City's Balboa Park Station Area Plan goals. First, SFMTA agreed to sell a portion of its Phelan bus loop property near the intersection of Ocean and Lee avenues (Housing Parcel) to the San Francisco Redevelopment Agency for the development of affordable housing. That sale occurred in 2009, and the Housing Parcel is now held by the City's Mayor's Office of Housing (MOH).

Second, SFMTA granted AvalonBay Communities, Inc. (Avalon) a temporary license to install street improvements on a portion of SFMTA's property adjacent to, and west of, the Housing Parcel (Extension Parcel) for the future extension of Lee Avenue. Avalon was to install those street improvements in compliance with Street Improvement Permit 09IE-0693 and DPW Order No. 179,281, both issued by the San Francisco Department of Public Works (DPW). Avalon was also installing these street improvements on a portion of its property adjacent to, and west of, the Extension Parcel.

SFMTA completed its bus loop relocation on May 6, 2013 and MOH's Housing Parcel tenant recently started building an affordable housing development on the Housing Parcel. In addition, City Engineer Fuad Sweiss issued Avalon the enclosed certification of the completion of the Lee Avenue extension street improvements on February 3, 2013, and SFMTA understands that DPW submitted legislation to the San Francisco Board of Supervisors to accept the Lee Avenue street improvements and property as part of the public right of way.

As previously discussed by SFMTA and DPW staff at the time of the Housing Parcel sale, SFMTA retained a strip of property between the Housing Parcel and Ocean Avenue (Ocean Sidewalk Parcel) so it could be transferred to DPW once the Housing Parcel developer installed approved

sidewalk improvements through DPW-issued permits. SFMTA understands that the Lee Avenue extension legislation submitted to the Board of Supervisors would allow DPW to accept the Ocean Sidewalk Parcel and those sidewalk improvements once completed.

This letter confirms SFMTA's agreement to transfer jurisdiction of the Extension Parcel and the Ocean Sidewalk Parcel to DPW as part of the public right of way. If the Board of Supervisors approve the submitted public right of way legislation, please let me know. If you need any more information regarding the Extension Parcel, the Ocean Sidewalk Parcel, or this letter, please do not hesitate to contact me.

Sincerely,



Edward D. Reiskin
Director of Transportation

Enclosure: DPW Certificate of Completion

cc: Sonali Bose, SFMTA
Kerstin Magary, SFMTA
Jason Gallegos, SFMTA
Carol R. Wong, Deputy City Attorney

PROJECTION OF WEST R/W
PHELAN AVENUE

BLOCK 3180, LOT 3
(1150 OCEAN AVENUE)

806.90' (LINE TO NEAREST STREET)

EXISTING CURB
TO REMAIN

74.80'

OCEAN AVENUE

BRIGHTON AVENUE



PROPOSED OFFICIAL NEW CURB LINE
EXISTING OFFICIAL CURB LINE TO BE REMOVED
EXISTING OFFICIAL CURB LINE TO REMAIN
EXISTING PROPERTY LINE
DENOTES RECORD DATA PER Q-20-532
(XX.XX)

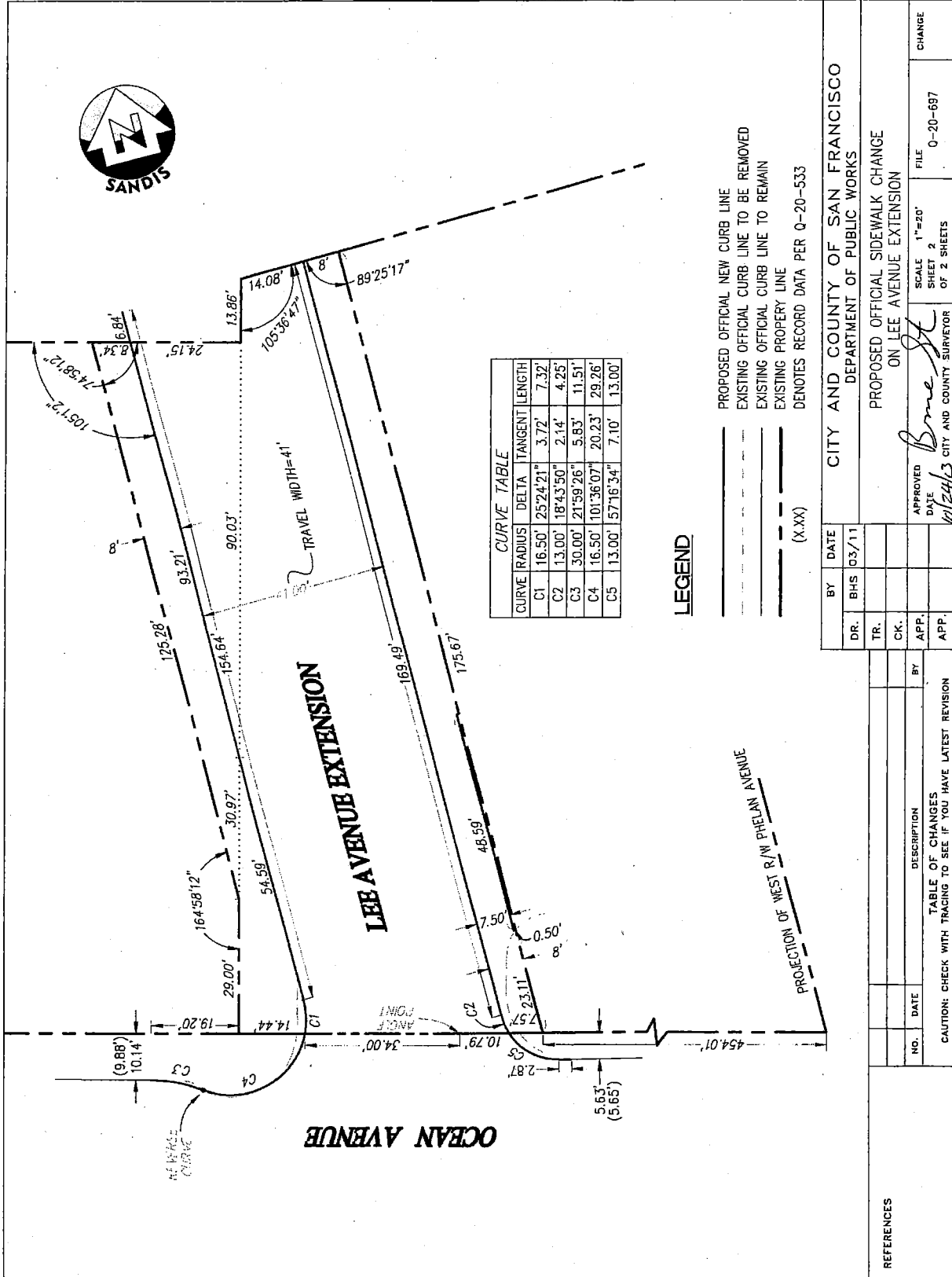
LEGEND

CURVE	LENGTH	RADIUS	DELTA	TANGENT
C1	6.44	10.00	36°52'12"	3.33
C2	6.44	10.00	36°52'12"	3.33
C6	5.75	10.00	36°56'33"	2.96
C7	5.75	10.00	36°56'33"	2.96
C8	11.28	14.00	46°09'54"	5.97

BY	DATE	CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF PUBLIC WORKS	
DR.	BHS	3/11	
TR.			
CK.			
APP.			
APP.			
APPROVED		SCALE	FILE
DATE		1"=20'	Q-20-697
10/24/13		SHEET 1	CHANGE
CITY AND COUNTY SURVEYOR		OF 2 SHEETS	

REFERENCES

NO.	DATE	DESCRIPTION	BY
TABLE OF CHANGES			
CAUTION: CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION			



BY		DATE	CITY AND COUNTY OF SAN FRANCISCO	
DR.	BHS	03/11	DEPARTMENT OF PUBLIC WORKS	
TR.			PROPOSED OFFICIAL SIDEWALK CHANGE	
CK.			ON LEE AVENUE EXTENSION	
APP.			APPROVED	
APP.			DATE	
			10/24/13	
			CITY AND COUNTY SURVEYOR	
			SCALE	FILE
			1"=20'	Q-20-697
			SHEET 2	CHANGE
			OF 2 SHEETS	

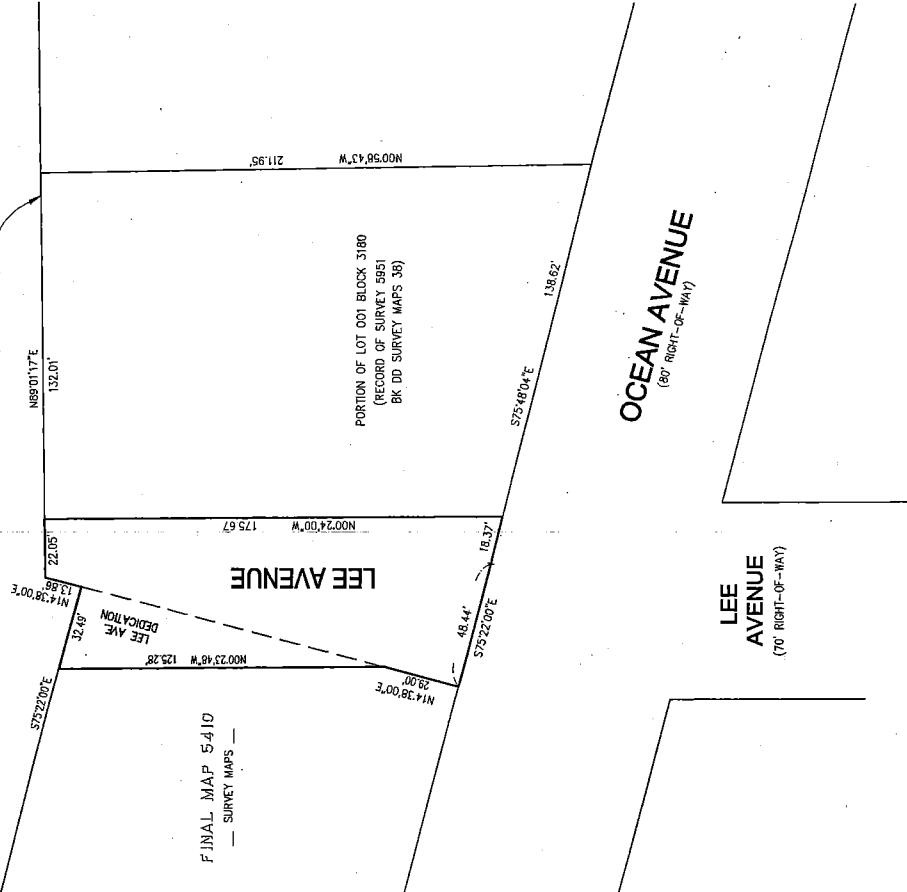
REFERENCES

NO.	DATE	DESCRIPTION	BY
TABLE OF CHANGES			
CAUTION: CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION			



BLOCK 3180 LOT 1
 LANDS OF SAN FRANCISCO COMMUNITY COLLEGE DISTRICT
 (RECORD OF SURVEY 5951
 BK DD SURVEY MAPS 38)

PIPELINE EASEMENT (734 OR. 746)



RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____ 20____ AT _____
 IN BOOK _____ OF SURVEY MAPS AT PAGE(S) _____
 AT THE REQUEST OF THE CITY AND COUNTY SURVEYOR OF THE CITY AND
 COUNTY OF SAN FRANCISCO

SIGNED _____
 COUNTY RECORDER

APPROVED AS TO FORM

BY: _____
 CITY AND COUNTY SURVEYOR

APPROVED THIS _____ DAY OF _____ 20____

BY ORDER NO. _____
 DIRECTOR OF PUBLIC WORKS

RIGHT OF WAY DEDICATION TO THE CITY AND COUNTY OF SAN
 FRANCISCO BY _____ AND PAGE _____
 IN BOOK _____

THIS MAP COMPRISING OF ONE SHEET IS APPROVED AND MADE OFFICIAL
 AND THE PARCELS SHOWN HEREON ARE DECLARED TO BE AN OPEN PUBLIC
 STREET, DEDICATED TO PUBLIC USE TO BE KNOWN BY THE NAME AS SHOWN
 ON THIS MAP BY RESOLUTION NO. _____ OF THE BOARD OF
 SUPERVISORS ADOPTED THE _____ DAY OF _____ 20____

MAP SHOWING THE EXTENSION AND
 DEDICATION OF LEE AVENUE

CITY AND COUNTY OF SAN FRANCISCO
 DEPARTMENT OF PUBLIC WORKS
 BUREAU OF STREET USE AND MAPPING

SCALE: 1"=30'

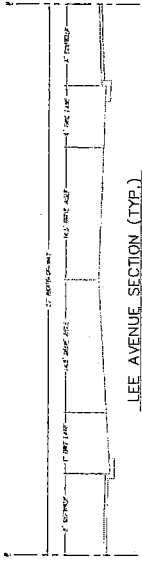
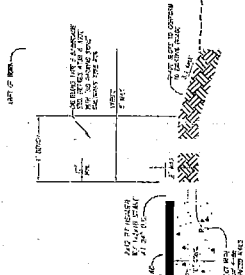
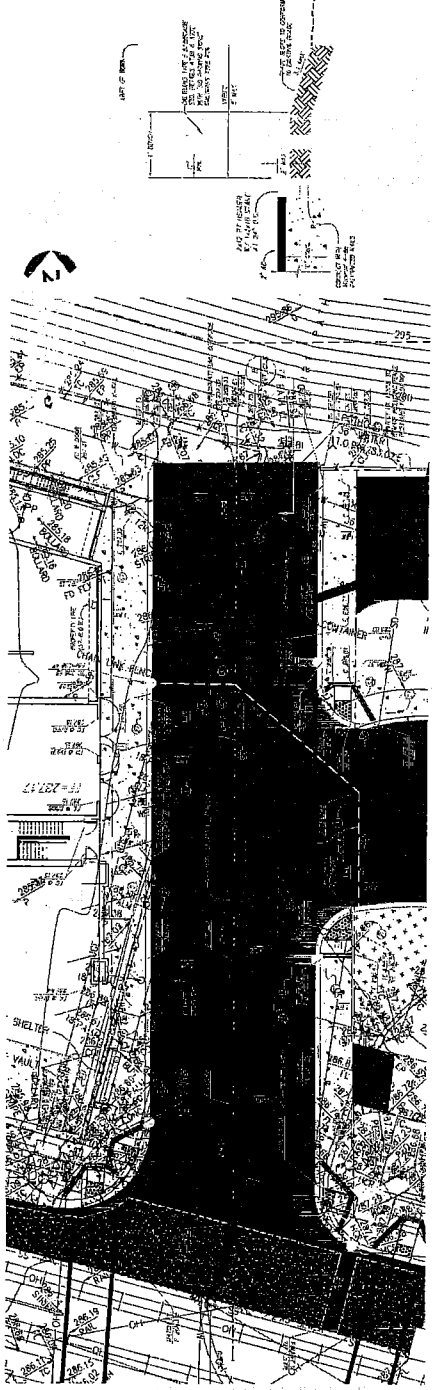
REFERENCES:

(1) RECORD OF SURVEY NO. 5951 RECORDED JUNE, 2, 2010 BOOK DD SURVEY MAPS 38

SHEET 1 OF 1

A-17-168

DPW Public Improvement Permit 091E-0693



Stationing	Notes	Notes
0+00	START OF PROJECT	
0+10	10' WIDE SIDEWALK	
0+20	20' WIDE SIDEWALK	
0+30	30' WIDE SIDEWALK	
0+40	40' WIDE SIDEWALK	
0+50	50' WIDE SIDEWALK	
0+60	60' WIDE SIDEWALK	
0+70	70' WIDE SIDEWALK	
0+80	80' WIDE SIDEWALK	
0+90	90' WIDE SIDEWALK	
1+00	100' WIDE SIDEWALK	
1+10	110' WIDE SIDEWALK	
1+20	120' WIDE SIDEWALK	
1+30	130' WIDE SIDEWALK	
1+40	140' WIDE SIDEWALK	
1+50	150' WIDE SIDEWALK	
1+60	160' WIDE SIDEWALK	
1+70	170' WIDE SIDEWALK	
1+80	180' WIDE SIDEWALK	
1+90	190' WIDE SIDEWALK	
2+00	200' WIDE SIDEWALK	
2+10	210' WIDE SIDEWALK	
2+20	220' WIDE SIDEWALK	
2+30	230' WIDE SIDEWALK	
2+40	240' WIDE SIDEWALK	
2+50	250' WIDE SIDEWALK	
2+60	260' WIDE SIDEWALK	
2+70	270' WIDE SIDEWALK	
2+80	280' WIDE SIDEWALK	
2+90	290' WIDE SIDEWALK	
3+00	300' WIDE SIDEWALK	
3+10	310' WIDE SIDEWALK	
3+20	320' WIDE SIDEWALK	
3+30	330' WIDE SIDEWALK	
3+40	340' WIDE SIDEWALK	
3+50	350' WIDE SIDEWALK	
3+60	360' WIDE SIDEWALK	
3+70	370' WIDE SIDEWALK	
3+80	380' WIDE SIDEWALK	
3+90	390' WIDE SIDEWALK	
4+00	400' WIDE SIDEWALK	
4+10	410' WIDE SIDEWALK	
4+20	420' WIDE SIDEWALK	
4+30	430' WIDE SIDEWALK	
4+40	440' WIDE SIDEWALK	
4+50	450' WIDE SIDEWALK	
4+60	460' WIDE SIDEWALK	
4+70	470' WIDE SIDEWALK	
4+80	480' WIDE SIDEWALK	
4+90	490' WIDE SIDEWALK	
5+00	500' WIDE SIDEWALK	
5+10	510' WIDE SIDEWALK	
5+20	520' WIDE SIDEWALK	
5+30	530' WIDE SIDEWALK	
5+40	540' WIDE SIDEWALK	
5+50	550' WIDE SIDEWALK	
5+60	560' WIDE SIDEWALK	
5+70	570' WIDE SIDEWALK	
5+80	580' WIDE SIDEWALK	
5+90	590' WIDE SIDEWALK	
6+00	600' WIDE SIDEWALK	
6+10	610' WIDE SIDEWALK	
6+20	620' WIDE SIDEWALK	
6+30	630' WIDE SIDEWALK	
6+40	640' WIDE SIDEWALK	
6+50	650' WIDE SIDEWALK	
6+60	660' WIDE SIDEWALK	
6+70	670' WIDE SIDEWALK	
6+80	680' WIDE SIDEWALK	
6+90	690' WIDE SIDEWALK	
7+00	700' WIDE SIDEWALK	
7+10	710' WIDE SIDEWALK	
7+20	720' WIDE SIDEWALK	
7+30	730' WIDE SIDEWALK	
7+40	740' WIDE SIDEWALK	
7+50	750' WIDE SIDEWALK	
7+60	760' WIDE SIDEWALK	
7+70	770' WIDE SIDEWALK	
7+80	780' WIDE SIDEWALK	
7+90	790' WIDE SIDEWALK	
8+00	800' WIDE SIDEWALK	
8+10	810' WIDE SIDEWALK	
8+20	820' WIDE SIDEWALK	
8+30	830' WIDE SIDEWALK	
8+40	840' WIDE SIDEWALK	
8+50	850' WIDE SIDEWALK	
8+60	860' WIDE SIDEWALK	
8+70	870' WIDE SIDEWALK	
8+80	880' WIDE SIDEWALK	
8+90	890' WIDE SIDEWALK	
9+00	900' WIDE SIDEWALK	
9+10	910' WIDE SIDEWALK	
9+20	920' WIDE SIDEWALK	
9+30	930' WIDE SIDEWALK	
9+40	940' WIDE SIDEWALK	
9+50	950' WIDE SIDEWALK	
9+60	960' WIDE SIDEWALK	
9+70	970' WIDE SIDEWALK	
9+80	980' WIDE SIDEWALK	
9+90	990' WIDE SIDEWALK	
10+00	1000' WIDE SIDEWALK	

1150 OCEAN AVENUE
San Francisco, CA

Asin By Computers, Inc.
1150 Ocean Avenue, Suite 200
San Francisco, CA 94115

Job No. 001
Rev. 001
Date 11/15/10
Scale AS SHOWN
Project GREENING PLAN AND PROFILE - LEE AVENUE
Client DPW
City SAN FRANCISCO
State CA

OFF_C1.2

File: J:\Drawings\PROJECTS\DPW - 091E-0693 - Green Line Avenue\DPW Plan Approval\1150 Ocean Ave. 091E-0693.dwg

City and County of San Francisco



Edwin M. Lee, Mayor
Mohammed Nuru, Director

San Francisco Department of Public Works

Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5827 ■ www.sfdpw.org



Bruce R. Storrs, City and County Surveyor

DPW Order No: 181894

RE: Recommendation for formal acceptance of an irrevocable offer for a public access easement on the Brighton Avenue Extension at Ocean Avenue and accepting an easement for these purposes; accepting an irrevocable offer for improvements and real property related to Lee Avenue at Ocean Avenue and accepting a grant deed for these purposes; conditionally accepting an irrevocable offer for sidewalk improvements for Ocean Avenue east of Lee Avenue; declaring such areas to be open public right-of-way and dedicating them for right-of-way and roadway purposes; accepting maintenance and liability for these areas subject to certain limitations; establishing public right-of-way width and sidewalk width for Lee Avenue and the Ocean Avenue sidewalk; approving an interdepartmental transfer of property for a portion of Lee Avenue and for a portion of Ocean Avenue.

WHEREAS, On November 18, 2013 Avalon Ocean Avenue LP ("Avalon") made an irrevocable offer of improvements and real property for right-of-way purposes at Lee Avenue north of Ocean Avenue, which includes the form of grant deed for the transfer of such street improvements and real property.

WHEREAS, On November 18, 2013 Avalon also made an irrevocable offer of a public access easement over its property for the Brighton Avenue extension north of Ocean Avenue, which includes the form of public sidewalk easement agreement for such easement.

WHEREAS, As part of the Phelan Loop relocation project and the creation of Lee Avenue north of Ocean Avenue, the San Francisco Municipal Transportation Agency ("SFMTA") has agreed to an interdepartmental transfer of certain SFMTA property to DPW as described in a letter from the SFMTA Director of Transportation to the Director of DPW dated October 24, 2013.

WHEREAS, On February 5, 2013 the City Engineer certified that the improvements along Lee Avenue have been constructed in accordance with all City codes, regulations, and standards, and that they are ready for their intended use.

WHEREAS, On July 22, 2010 the City Planning Department determined that the improvements and real property for right-of-way purposes are on balance, and in conformity with the General Plan and Planning Code Section 101.1, and with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq. Case No. 2009-1117C



San Francisco Department of Public Works
Making San Francisco a beautiful, livable, vibrant, and sustainable city.

NOW THEREFORE BE IT ORDERED THAT,

1. I hereby recommend the Board of Supervisors, as part of the Phelan Loop relocation project and the creation of Lee Avenue North of Ocean Avenue; authorize the interdepartmental transfer of property from the San Francisco Transportation Agency to the Department of Public Works for the portion of the new Lee Avenue right-of-way.
2. I further recommend that the Board of Supervisors accept the irrevocable offer, from Avalon, of improvements and real property and Assumption of Maintenance of Lee Avenue north of Ocean Avenue, as shown on map A-17-168, subject to the offer shall be effective only upon Closing. The improvements within Lee Avenue have been inspected and certified as complete in accordance with the Project plans and specifications and all City codes, regulations, standards governing the Project and that such improvements are ready for their intended use.
3. I further recommend that the Board of Supervisors in accordance with San Francisco Administrative Code Sections 1.51 et seq., approve Map A-17-168 titled "Map Showing the Extension and Dedication of Lee Avenue" attached hereto which establishes the official right-of-way width and dedicates the newly developed portion of the Lee Avenue as an open public right-of-way for public use to be accepted for City maintenance and liability purposes.
4. I further recommend notwithstanding the California Streets and Highways Code Sections 8000 et seq., the Board of Supervisors, in accordance with San Francisco Administrative Code Sections 1.51 et seq., follow its own procedures for the establishment of street grades and accept and designate the street grades for Lee Avenue as shown on the Department of Public Works, Public Improvement Permit 091E-0693, dated May 26, 2011.
5. I further recommend that the Board of Supervisors amend Board of Supervisors Ordinance No. 1061, entitled "Regulating the Width of Sidewalks," by adding section 1600, approving the official sidewalk changes along Lee Avenue and along Ocean Avenue as shown on DPW drawing Q-20-697 attached hereto, with the condition that the Director of DPW have the authority to accept an offer of the improvements when the Future Ocean Avenue Sidewalk is constructed as shown in the drawing.
6. I further recommend that the Board of Supervisors accept the irrevocable offer of a public access easement over the Brighton Avenue extension north of Ocean Avenue, which includes the form of public sidewalk easement agreement for such easement as shown on Map 5410 recorded on November 16, 2011 in Book DD of Survey Maps, at pages 164-169. Provided, however, that such area shall not be accepted for City maintenance or liability purposes.
7. I further recommend that the Board of Supervisors declare this area as open public right-of-way for right-of-way and roadway purposes and dedicate it for right-of-way and roadway purposes.



11/20/2013

11/20/2013

X Bruce R. Storrs

Storrs, Bruce
City & County Surveyor

11/20/2013

X *F. Sweiss*

Sweiss, Fuad
Deputy Director & City Engineer

X Mohammed Nuru

Nuru, Mohammed
Director



Recording requested by and
when recorded mail to:

DIRECTORY OF PROPERTY
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

This instrument exempt from Documentary Transfer Tax
(CA Revenue & Taxation Code § 11922 and SF
Business and Tax Regulations Code § 1105)

Free Recording Requested Pursuant to
to Government Code § 2738

APN: 3180-010
Address: 1150 Ocean Avenue

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

OFFER OF DEDICATION
(Fee Title to Lee Avenue Extension)

AVALON OCEAN AVENUE, L.P., a Delaware limited partnership (“Avalon”), being the fee title owner of record of the Property (defined as follows), does hereby irrevocably offer to dedicate, in fee title, to the City and County of San Francisco, a municipal corporation (the “City”), and its successors and assigns, for public street and roadway purposes, the improved real property (the “Property”) situated in the City and County of San Francisco, State of California and described in Exhibit A and shown on Exhibit A-1 (plat map) attached hereto.

WHEREAS, it is understood and agreed that the City, and its successors and assigns, shall incur no liability or obligation whatsoever with respect to such offer of dedication, and, except as may be provided by separate instrument, shall not assume any responsibility for the Property or any improvements thereon or therein, unless and until this offer has been accepted by appropriate action of the City’s Board of Supervisors and a deed transferring the Property from Avalon to the City is recorded in the Official Records of San Francisco County; and,

WHEREAS, Avalon does also hereby irrevocably offer to the City, and its successors and assigns, all of the right-of-way improvements and underground public utility facilities (the “Street Improvements”) constructed or installed by or on behalf of Avalon on the Property and adjacent property owned by the City and County of San Francisco shown on Exhibit B hereto, pursuant to Street Improvement Permit No. 09IE-0693 dated May 26, 2011, and DPW Order 179,281 dated April 28, 2011, for the extension of Lee Avenue, and the improvement plans and specifications described therein, but excepting therefrom those portions of the facilities which are identified as PG&E service conduits and vaults on the “as-built” drawings delivered to and on file with the City; and,

WHEREAS, it is further understood and agreed that: (i) upon acceptance of this offer and recordation of the Deed in the Official Records of San Francisco County, the City shall own and

be responsible for maintenance of the Property and the Street Improvements, and (ii) the City and its successors and assigns shall incur no liability or obligation whatsoever hereunder with respect to this offer, and, except as may be provided by separate instrument, shall not assume any responsibility for the Property or the Street Improvements unless and until such offer has been accepted by appropriate action of the City's Board of Supervisors and the Deed is recorded in the Official Records of San Francisco County; and,

WHEREAS, the provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the undersigned and the City.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18th day of November, 2013.

AVALON OCEAN AVENUE, L.P.,
a Delaware limited partnership

By: California Multiple Financing, Inc.,
a Maryland corporation,
its General Partner

By: Nathan Hong

Name: Nathan Hong

Title: SP. VP

State of California)

County of Santa Clara)

On 11/18/13, before me, Stacey M Estrada Notary Public
personally appeared Nathan Hong, who proved to me on
the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



EXHIBIT A

Legal Description of Property

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 5, AS SHOWN ON THE FINAL MAP NO. 5410, AS FILED FOR RECORD ON NOVEMBER 16, 2011, IN BOOK "DD" OF SURVEY MAPS AT PAGES 164-169, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

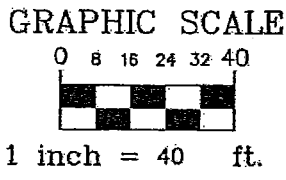
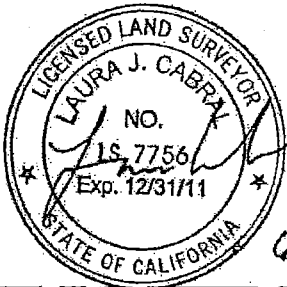
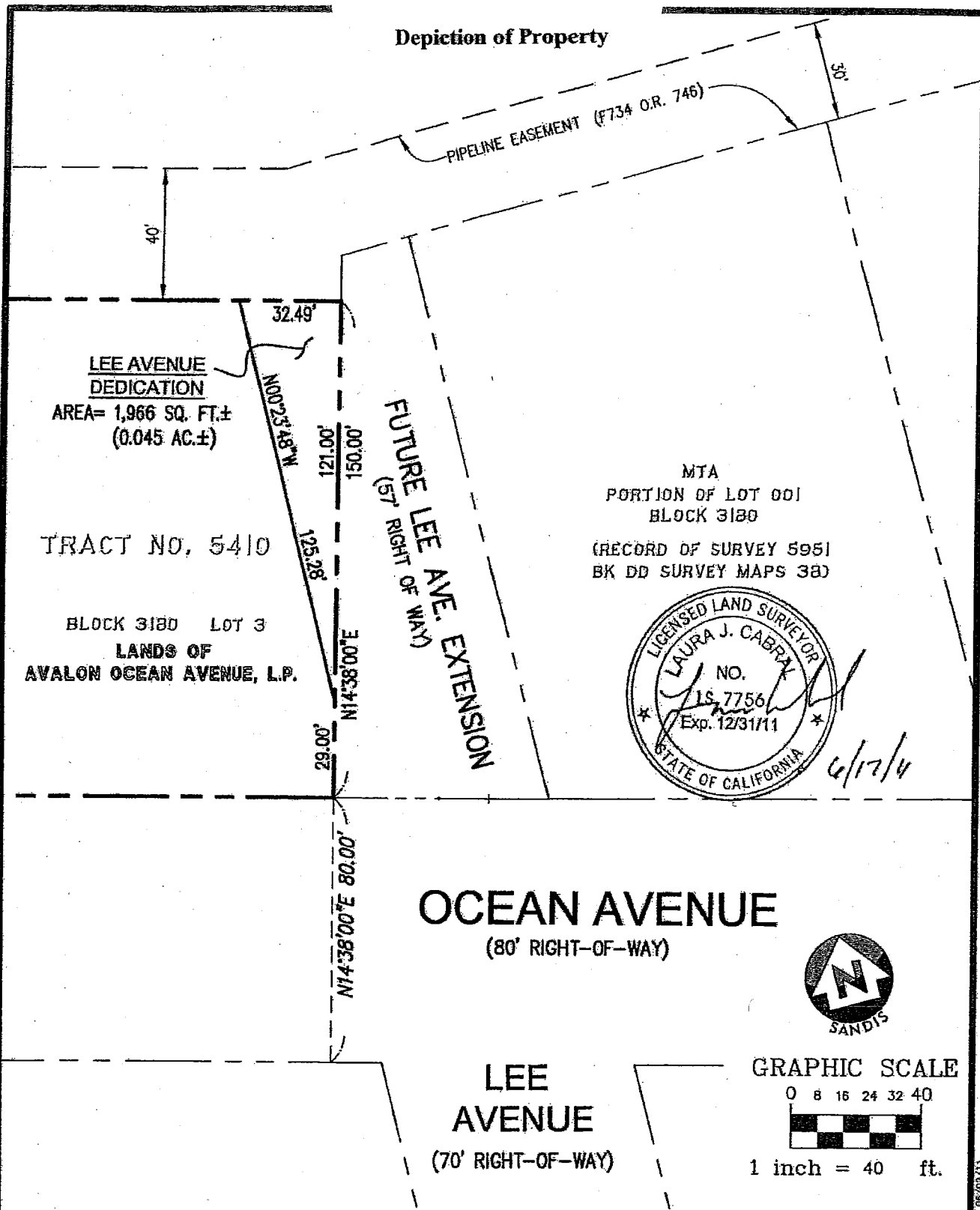


[Handwritten signature]

9-24-13

EXHIBIT A-1

Depiction of Property



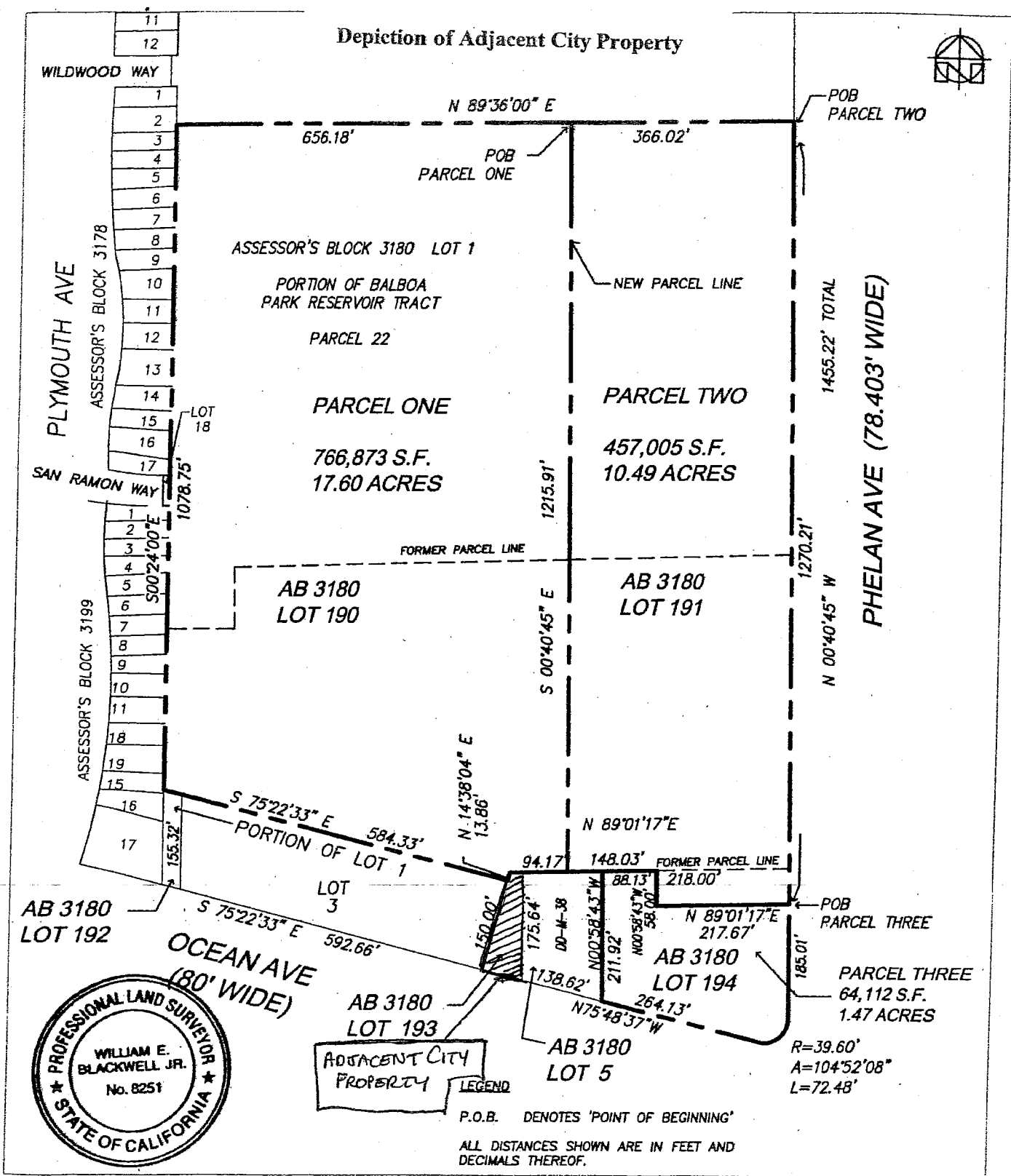
PLAT TO ACCOMPANY LEGAL DESCRIPTION

<p>SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS</p> <p>936 E. Duane Ave. Sunnyvale, CA 94085 P: 408.636.0500 F: 408.636.0999 www.sandis.net</p> <p>SUNNYVALE ROSEVILLE OAKLAND</p>	<p>DATE: 06/02/11</p> <p>SCALE: 1"=20'</p> <p>DRAWN BY: BHS</p> <p>APPROVED BY: LJC</p> <p>DRAWING NO: 606136</p>	<p>PLAT OF STREET DEDICATION</p> <p>LANDS OF AVALON OCEAN AVENUE, LP</p> <p>1150 OCEAN AVENUE</p> <p>SAN FRANCISCO CA</p>	<p>SHEET</p> <p>1</p> <p>OF 1 SHEETS</p>
	<p>PLAT TO ACCOMPANY LEGAL DESCRIPTION</p>		

PLAT_LEE_DEDICATION.DWG 06/02/11

EXHIBIT B

Depiction of Adjacent City Property



BY wb jr CHKD. _____ DATE 01/18/2012 SCALE 1" = 200' SHEET 1 of 1 JOB NO. 2012-03

CITY AND COUNTY OF SAN FRANCISCO
 DEPARTMENT OF PUBLIC WORKS
 BUREAU OF STREET USE AND MAPPING
 875 STEVENSON STREET Rm 410
 SAN FRANCISCO, CA. 94103

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this instrument to be
exempt from Recording Fees (CA Govt. Code § 27383)
and Documentary Transfer Tax (CA Rev. & Tax Code
§ 11922 and S.F. Bus. & Tax Reg. Code § 1105)

(Space above this line reserved for Recorder's use only)

GRANT DEED

(Lot No. 10, Block No. 3180)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, AVALON OCEAN AVENUE, L.P., a Delaware limited partnership ("Grantor"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property"), together with any and all rights, privileges and easements incidental or appurtenant to the Property, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Property, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Property, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the land and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

Executed as of November 18, 2013.

AVALON OCEAN AVENUE, L.P.,
a Delaware limited partnership

By: California Multiple Financing, Inc.,
a Maryland corporation, its General Partner


By: Nathan Hong
Name: Nathan Hong
Its: Sr. VP

State of California)
County of San Francisco)

On 11/18/13, before me, Stacey M. Estrada, a notary public in and for said State, personally appeared Nathan Hong, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike
Director of Property

EXHIBIT A

Legal Description of Property

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 5, AS SHOWN ON THE FINAL MAP NO. 5410, AS FILED FOR RECORD ON NOVEMBER 16, 2011, IN BOOK "DD" OF SURVEY MAPS AT PAGES 164-169, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.



[Handwritten Signature]
9-24-13

Recording requested by and
when recorded mail to:

DIRECTORY OF PROPERTY
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

This instrument exempt from Documentary Transfer
Tax (CA Revenue & Taxation Code § 11922 and SF
Business and Tax Regulations Code § 1105)

Free Recording Requested Pursuant to
to Government Code § 2738

APN: 3180-009
Address: 1150 Ocean Avenue

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

OFFER OF DEDICATION
(Public Sidewalk Easement For Brighton Avenue)

AVALON OCEAN AVENUE, L.P., a Delaware limited partnership, being the fee title owner of record of certain real property situated in the City and County of San Francisco, State of California and further described and shown on the attached Exhibit A hereto ("Easement Area"), does hereby irrevocably offer to dedicate to the City and County of San Francisco, a municipal corporation, and its successors and assigns, a non-exclusive irrevocable easement over the Easement Area on the terms and conditions in the Easement Agreement attached as Exhibit B ("Easement Agreement").

WHEREAS, it is understood and agreed that the City and County of San Francisco, and its successors or assigns, shall incur no liability or obligation whatsoever with respect to such offer of dedication, and, except as may be provided by separate instrument, shall not assume any responsibility for the Easement Area or any improvements thereon or therein, unless and until such offer has been accepted by appropriate action of the Board of Supervisors and the Easement Agreement is recorded in the Official Records of San Francisco County; and

WHEREAS, the provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, assigns and personal representatives of the undersigned.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18th day of November, 2013.

AVALON OCEAN AVENUE, L.P.,
a Delaware limited partnership

By: California Multiple Financing, Inc.,
a Maryland corporation,
its General Partner

By: Nathan Hoag
Name: Nathan Hoag
Title: SP-VP

State of California

County of Santa Clara }

On 11/18/13, before me, Stacey M Estrada Notary Public
personally appeared Nathan Hong, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



EXHIBIT A

Easement Area

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF OCEAN AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN GRANT DEED TO AVALON OCEAN AVENUE, L.P. RECORDED JUNE 22, 2010 IN REEL K169, IMAGE 0068 OF OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO;

RUNNING THENCE ALONG THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE BEING ALSO THE SOUTHWESTERLY LINE OF SAID GRANT DEED, SOUTH 75°22'00" EAST, A DISTANCE OF 193.23 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID LINE, NORTH 14°38'00" EAST, A DISTANCE OF 150.00 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 75°22'00" EAST, A DISTANCE OF 10.00 FEET;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 14°38'00" WEST, A DISTANCE OF 150.00 FEET TO THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE AND THE SOUTHWESTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID LINE, NORTH 75°22'00" WEST, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING;

DESCRIBED PARCEL CONTAINING AN AREA OF 1,500 SQUARE FEET, MORE OR LESS.



6/2/11

PARCEL TWO:

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF OCEAN AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN GRANT DEED TO AVALON OCEAN AVENUE, L.P. RECORDED JUNE 22, 2010 IN REEL K169, IMAGE 0068 OF OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO;

RUNNING THENCE ALONG THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE BEING ALSO THE SOUTHWESTERLY LINE OF SAID GRANT DEED, SOUTH 75°22'00" EAST, A DISTANCE OF 223.08 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID LINE, NORTH 14°38'00" EAST, A DISTANCE OF 104.80 FEET;

THENCE SOUTH 75°22'00" EAST, A DISTANCE OF 19.91 FEET;

THENCE NORTH 14°38'00" EAST, A DISTANCE OF 45.20 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 75°22'00" EAST, A DISTANCE OF 10.00 FEET;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 14°38'00" WEST, A DISTANCE OF 73.57 FEET;

THENCE NORTH 75°22'00" WEST, A DISTANCE OF 18.15 FEET;

THENCE SOUTH 14°38'00" WEST, A DISTANCE OF 76.43 FEET TO THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE AND THE SOUTHWESTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID LINE, NORTH 75°22'00" WEST, A DISTANCE OF 11.75 FEET TO THE POINT OF BEGINNING;

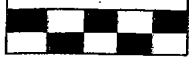
DESCRIBED PARCEL CONTAINING AN AREA OF 2,199 SQUARE FEET, MORE OR LESS.

THE BASIS OF BEARINGS OF DESCRIBED PARCELS 1 AND 2 IS THE MONUMENT LINE OF OCEAN AVENUE SHOWN AS NORTH 75°22'00" WEST ON THE MAP OF WESTWOOD PARK FILED IN BOOK H OF MAPS, AT PAGES 65 THROUGH 71, SAN FRANCISCO COUNTY RECORDS;

THE PARCELS DESCRIBED HEREON ARE SHOWN ON THE ATTACHED PLAT, AND BY REFERENCE, MADE A PART HEREOF.

GRAPHIC SCALE

0 8 16 24 32 40

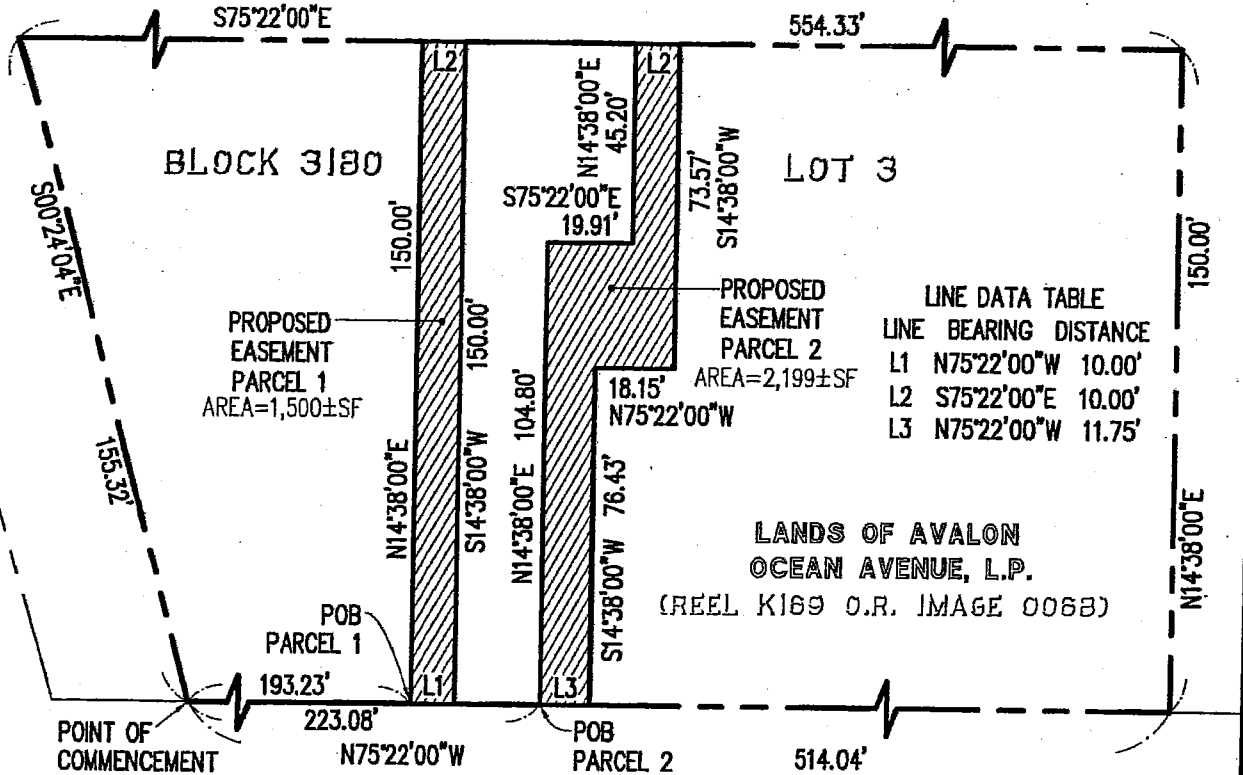


1 INCH = 40 FT.

BLOCK 3180 LOT 1
LANDS OF SAN FRANCISCO
COLLEGE DISTRICT
 (RECORD OF SURVEY 5951
 BK DD SURVEY MAPS 38)

BASIS OF BEARINGS:

THE BEARING N75°22'00"W OF
 THE MONUMENT LINE OF OCEAN
 AVENUE PER MAP OF WESTWOOD
 PARK, BK. H OF MAPS, PG. 65-71
 SAN FRANCISCO COUNTY RECORDS



LINE DATA TABLE

LINE	BEARING	DISTANCE
L1	N75°22'00"W	10.00'
L2	S75°22'00"E	10.00'
L3	N75°22'00"W	11.75'

PROPOSED EASEMENT PARCEL 2
 AREA=2,199±SF

LANDS OF AVALON
 OCEAN AVENUE, L.P.
 (REEL K169 O.R. IMAGE 0068)

OCEAN AVENUE
 (80' RIGHT-OF-WAY)

NOTES AND LEGEND

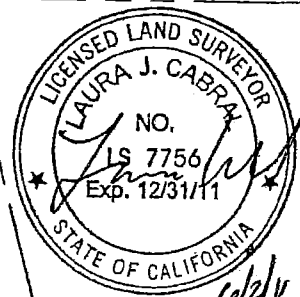
ALL DISTANCES AND DIMENSIONS
 ARE IN FEET AND DECIMALS THEREOF.

 BOUNDARY, BLOCK 3180 LOT 3

 OTHER PROPERTY LINE

POB POINT OF BEGINNING

BRIGHTON AVENUE



PLAT TO ACCOMPANY LEGAL DESCRIPTION



SANDIS CIVIL ENGINEERS
 SURVEYORS
 PLANNERS

936 E. Duane Ave. | Sunnyvale, CA 94085 | P. 408.636.0900 | F. 408.636.0999 | www.sandis.net

SUNNYVALE ROSEVILLE OAKLAND

DATE: 06/02/11
 SCALE: 1"=40'
 DRAWN BY: MHG
 APPROVED BY: LJC
 DRAWING NO.: 606136

PUBLIC SIDEWALK EASEMENT
 LANDS OF AVALON OCEAN AVENUE, LP
 1150 OCEAN AVENUE
 SAN FRANCISCO CA

SHEET

1

OF 1 SHEETS

606136

SW-PLAT.DWG

EXHIBIT B

Easement Agreement

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City and County of San Francisco
Director of Property
25 Van Ness Avenue, Suite 400
San Francisco CA 94108

This instrument exempt from Documentary Transfer
Tax (CA Revenue & Taxation Code § 11922 and
SF Business and Tax Regulations Code § 1105)

Free Recording Requested Pursuant to
to Government Code § 2738

**EASEMENT AGREEMENT
(Public Sidewalk Easement)**

This Easement Agreement ("**Agreement**") is made by and between the City and County of San Francisco, a municipal corporation ("**City**"), and Avalon Ocean Avenue, L.P., a Delaware limited partnership ("**Grantor**"), with reference to the following facts:

A. Grantor is the owner of that certain real property situated in the City and County of San Francisco, State of California, described in **Exhibit A** attached hereto ("**Burdened Property**").

B. City desires an easement for pedestrian access, ingress and egress for public sidewalk purposes over those portions of the Burdened Property generally depicted as "Proposed Easement" on the Plat to Accompany Legal Description ("**Plat**") attached as **Exhibit B** to this Agreement and more particularly described in **Exhibit C** attached to this Agreement.

C. Grantor made an irrevocable offer of dedication of an easement to the City for public sidewalk purposes, subject to the terms set forth in this Agreement, and City accepted said offer of dedication subject to improvements and subject to the covenants and restrictions set forth herein.

D. This Agreement is entered into by Grantor and City in order to provide the terms and conditions of the Public Sidewalk Easement (defined below).

NOW, THEREFORE, for valuable consideration, the receipt of which each of the parties hereto does hereby acknowledge, the parties hereto do hereby agree as follows:

1. Grant of Public Sidewalk Easement. Subject to the provisions of this Agreement, Grantor hereby grants to City a nonexclusive, irrevocable easement for the benefit of the public solely for pedestrian access and passage for public sidewalk purposes ("**Public Sidewalk Easement**"), over those portions of the Burdened Property described more particularly on the Plat and more particularly described in **Exhibit C** attached to this Agreement (collectively, the "**Easement Area**"). The Easement Area and the sidewalk and improvements thereon shall be

subject to the provisions of San Francisco Public Works Code Section 706, or any successor ordinance concerning sidewalk maintenance.

2. Limitation on Use. City acknowledges that the easement granted herein is nonexclusive. Grantor, its successors, assigns, grantees, and licensees shall have the right to use the Easement Area in a manner that will not unreasonably interfere with the use of the Easement Area for the Public Sidewalk Easement. Grantor, its successors, assigns, grantees, and licensees shall maintain the Easement Area in a manner that provides an unobstructed path of travel that is free from any temporary or permanent physical obstructions (including without limitation, street furniture, such as benches, planters, tables and chairs, merchandise displays, signboards, and information kiosks), except for (i) temporary or permanent obstructions pursuant to City-issued permits under San Francisco Public Works Code Section 723.1 or any successor ordinance concerning sidewalk barriers, (ii) non-permanent obstructions reasonably required in connection with the installation, maintenance, repair or replacement of structural elements of or utility facilities serving the Burdened Property pursuant to City-issued permits or (iii) as needed for such activities not requiring City-issued permits, such as window-washing, which may require a limited use of the sidewalk for a temporary and reasonable period. City further acknowledges that Grantor may secure the Burdened Property, including the Easement Area and area Reserved for Future Use (as defined below), against unlawful activities, including vandalism, graffiti and loitering, pursuant to San Francisco Police Code Article 25 or any successor ordinance concerning private protection and security services and may utilize its own employees or private protection and security services to do so.

3. Term of Easement. The term of the Public Sidewalk Easement described in Section 1 of this Agreement shall be perpetual. City, may, however, terminate the Public Sidewalk Easement at any time as to all or any portion of the Easement Area by written notice to the Grantor.

4. Condition of Burdened Property and Easement Area.

(a) As-Is. Grantor makes no representations or warranties whatsoever, under this Agreement with respect to the current physical condition of the Burdened Property and Grantor shall have no responsibility under this Agreement with respect thereto (except as otherwise specifically set forth herein), and the use of the Public Sidewalk Easement granted herein shall be with the Burdened Property in its "as is" physical condition, except as otherwise specifically provided herein. City hereby waives any and all claims against Grantor arising from, out of or in connection with the suitability of the physical conditions of the Burdened Property for the uses permitted under Section 2 above. However, Grantor shall not take any action that would unreasonably impair the ability of the public to use the Public Sidewalk Easement granted herein except as otherwise provided in Section 2 above.

(b) Maintenance. Grantor agrees to maintain the Easement Area, including, without limitation, the sidewalk and improvements thereon, in a good and safe condition in accordance with San Francisco Public Works Code Section 706, or any successor ordinance concerning sidewalk maintenance. Grantor shall perform such repair and maintenance at Grantor's expense and to the reasonable satisfaction of City.

(c) Initial Improvements. As part of the improvements to be constructed on the Burdened Property, Grantor, at Grantor's cost, constructed a sidewalk in accordance with San Francisco Public Works Code Section 703 on the Easement Area.

5. No Liability; Indemnity.

(a) No Liability. City, by acceptance of the Public Sidewalk Easement, shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Easement Area or the Burdened Property, for any injury or damage to the Burdened Property, or to any property of any tenant or occupant, or to any property of any other person, entity or association on or about the Burdened Property, except to the extent arising from the willful misconduct or gross negligence of the City.

(b) Indemnification. Grantor, and each successor and assign to Grantor holding an interest in the Burdened Property, shall defend, hold harmless and indemnify the City and its respective commissioners, officers, agents and employees, of and from all claims, losses, damages, injuries, actions, causes of action and liabilities of every kind, nature and description directly or indirectly arising from the Public Sidewalk Easement or the use or condition of the Easement Area; provided, however that this Section 5(b) shall not be deemed or construed to and shall not impose an obligation to indemnify and save harmless City or any of its commissioners, officers, agents or employees from any claim, loss, damage, liability or expense, of any nature whatsoever, to the extent arising from any willful misconduct or gross negligence of the person or entity seeking such indemnity.

6. Enforcement. City, but not the general public, shall have all rights and remedies at law and in equity in order to enforce the Public Sidewalk Easement and the terms of this Agreement (including, but not limited to, remedies for violation of a building permit or San Francisco Public Works Code Section 706, or any successor ordinance concerning sidewalk maintenance). All rights and remedies available to City under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other available right or remedy. In the event of any breach of this Agreement, the City shall be entitled to recover all attorneys' fees and costs reasonably incurred in connection with City's enforcement activities and actions.

7. Litigation Expenses.

(a) General. If either party hereto brings an action or proceeding (including any cross-complaint, counterclaim, or third-party claim) against the other party by reason of a default, or otherwise arising out of this Agreement, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Party" within the meaning of this Section 7 shall include without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

(b) Appeal. Attorneys' fees under this Section 7 shall include attorneys' fees on any appeal, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

(c) Fee Award for City Attorneys. For purposes of this Agreement, reasonable fees of attorneys of the City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of hours of professional experience in the subject matter area of the law for which City's services were rendered who practice in the City and County of San Francisco, State of California, in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

8. Time. Time is of the essence of this Agreement and each and every part hereof.

9. Amendment. This Agreement may be amended or otherwise modified only in writing signed and acknowledged by Grantor and City, or the respective successors and assigns of each.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be entitled to be the original and all of which shall constitute one and the same agreement.

12. References; Titles. Wherever in this Agreement the context requires, reference to the singular shall be deemed to include the plural. Titles of sections and paragraphs are for convenience only and neither limit nor amplify the provisions of this Agreement.

13. Notice. Any notice given under this Agreement shall be in writing and given by delivering the notice in person, by commercial overnight courier that guarantees next day delivery and provides a receipt, or by sending it by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the mailing address listed below or any other address notice of which is given.

City: Director of Department of Public Works
Department of Public Works
City and County of San Francisco
Room 348, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102

with copies to: City Attorney, City of San Francisco
Room 234, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Attention: John Malamut, Esq.

and to: Director of Property
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, California 94108

Grantor: Avalon Ocean Avenue, L.P.
c/o AvalonBay Communities, Inc.
185 Berry Street, Suite 3500
San Francisco, California 94107
Attention: Joe Kirchofer

with copies to: Farella Braun + Martel LLP
235 Montgomery Street
San Francisco, California 94104
Attention: Ilene Dick, Esq.

Any mailing address number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

14. Exclusive Benefit of Parties. The provisions of this Agreement are for the exclusive benefit of Grantor and City and their successors and assigns, subject to the provisions hereof, and not for the benefit of nor give rise to any claim or cause of action by any other person; and this Agreement shall not be deemed to have conferred any rights upon any person except Grantor and City. Nothing herein shall be deemed a dedication of any portion of the Burdened Property to or for the benefit of the general public.

15. Severability. If any provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement (or the application of such provisions to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each provision of this Agreement, unless specifically conditioned upon such invalid or unenforceable provision, shall be valid and enforceable to the fullest extent permitted by law.

16. Entire Agreement. This Agreement, together with any attachments hereto or inclusions by reference, constitute the entire agreement between the parties on the subject matter hereof, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto with respect to the easement which is the subject matter of this Agreement.

17. Compliance With Laws. Grantor, at Grantor's expense, shall comply with all laws, statutes, ordinances, rules and regulations of federal, state and local authorities (including, without limitation, City itself) having jurisdiction over the Easement Area, now in force or hereafter adopted, with respect to the use by the public of the Easement Area under the authority of the easement herein granted.

18. Default. The failure to perform any covenant or obligation of a party hereunder and to cure such non-performance within thirty (30) days of written notice by the party to whom performance is owed shall constitute a default hereunder, provided that if more than thirty (30) days are reasonably required for such cure, no event of default shall occur if the defaulting party commences such cure within such period and diligently prosecutes such cure to completion. Upon such default, the non-defaulting party shall be entitled to all remedies and means to cure or correct such default, both legal and equitable, allowed by operation of law except termination of the easement herein granted.

19. Burden on Land. The Public Sidewalk Easement created by this Agreement shall be a burden on the Burdened Property, which burden shall run with the land and shall be binding on any future owners and encumbrances of the Burdened Property or any part thereof and their successors and assigns.

20. Survival. All representations, warranties, and waivers given or made hereunder shall survive termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of November 18, 2013.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
John Updike
Director of Property

APPROVED AS TO FORM:

DENNIS HERRERA,
City Attorney

By: _____
John Malamut
Deputy City Attorney

GRANTOR:

AVALON OCEAN AVENUE, L.P.,
a Delaware limited partnership

By: California Multiple Financing, Inc.,
a Maryland corporation,
its General Partner

By: Nashley Hory
Name: Nashley Hory
Title: Sr. VP

~~APPROVED AS TO FORM:~~

~~FARELLA BRAUN & MARTEL, LLP~~

By: _____
~~Heene Dick~~

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGEMENT


State of California

County of Santa Clara

On 11/18/13, before me, Stacey M Estrada Notary Public,
personally appeared Nathan Hong, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this deed dated _____, from the grantor to the City and County of San Francisco, a charter city and county, is hereby accepted by order of its Board of Supervisors' Ordinance No. _____, adopted on _____, 2010, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO

By: _____
John Updike
Director of Property

EXHIBIT A

Legal Description of Burdened Property

PARCELS 1, 2, 3 AND 4, AS SHOWN ON THE FINAL MAP NO. 5410, AS FILED FOR RECORD ON NOVEMBER 16, 2011, IN BOOK "DD" OF SURVEY MAPS AT PAGES 164-169, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

EXHIBIT B

Depiction of Easement Area

GRAPHIC SCALE

0 8 16 24 32 40

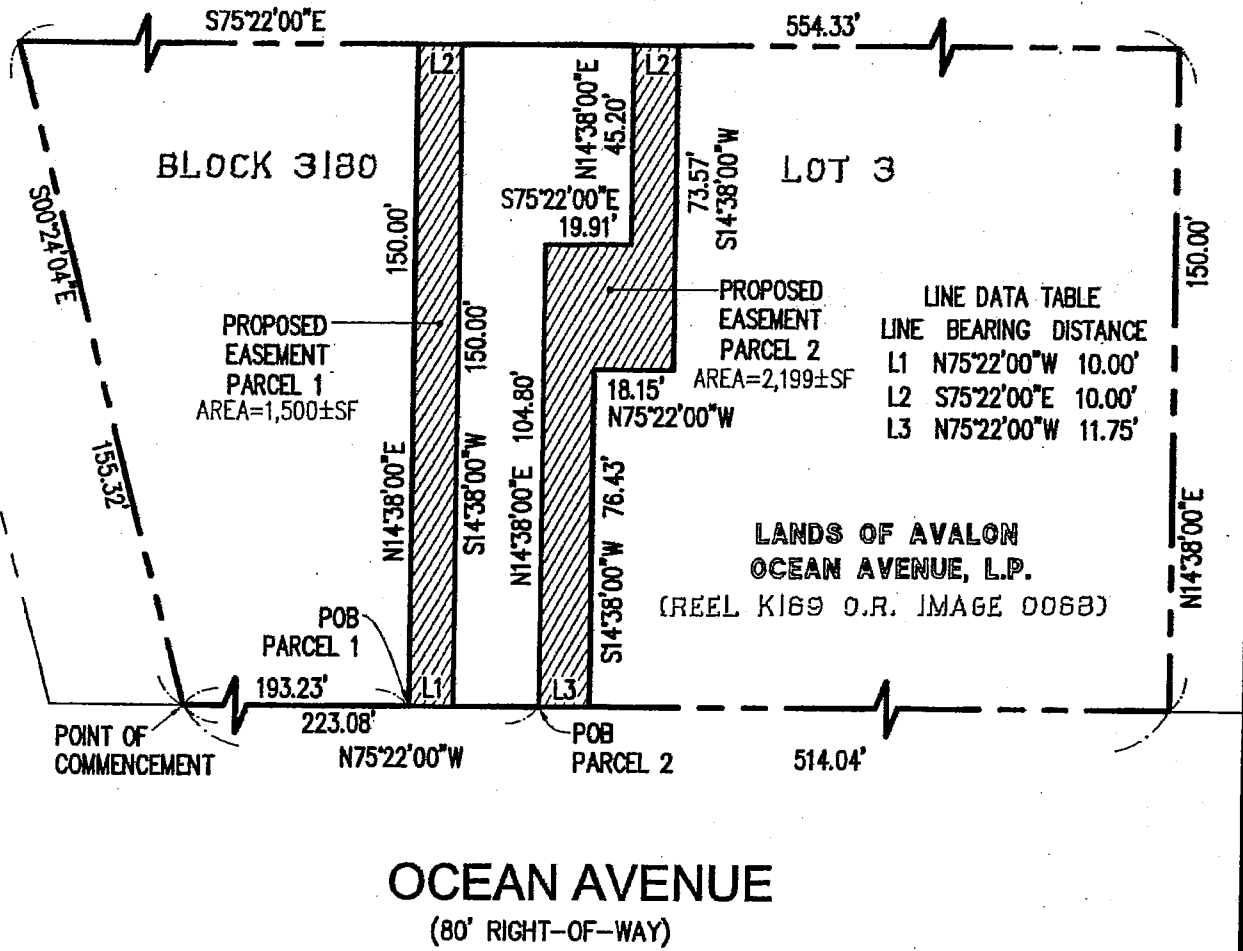


1 INCH = 40 FT.

(RECORD OF SURVEY 5951
BK DD SURVEY MAPS 38)

BASIS OF BEARINGS:

THE BEARING N75°22'00"W OF
THE MONUMENT LINE OF OCEAN
AVENUE PER MAP OF WESTWOOD
PARK, BK. H OF MAPS, PG. 65-71
SAN FRANCISCO COUNTY RECORDS



LINE DATA TABLE

LINE	BEARING	DISTANCE
L1	N75°22'00"W	10.00'
L2	S75°22'00"E	10.00'
L3	N75°22'00"W	11.75'

**LANDS OF AVALON
OCEAN AVENUE, L.P.**
(REEL K169 O.R. IMAGE 0068)

OCEAN AVENUE
(80' RIGHT-OF-WAY)

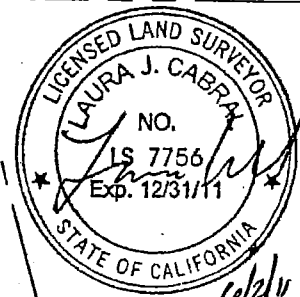
NOTES AND LEGEND
ALL DISTANCES AND DIMENSIONS
ARE IN FEET AND DECIMALS THEREOF.

BOUNDARY, BLOCK 3180 LOT 3

OTHER PROPERTY LINE

POB POINT OF BEGINNING

**BRIGHTON
AVENUE**



PLAT TO ACCOMPANY LEGAL DESCRIPTION



SANDIS CIVIL ENGINEERS
SURVEYORS
PLANNERS

936 E. Duane Ave. | Sunnyvale, CA 94085 | P. 408.636.0900 | F. 408.636.0999 | www.sandis.net

SUNNYVALE ROSEVILLE OAKLAND

DATE: 06/02/11
SCALE: 1"=40'
DRAWN BY: MHG
APPROVED BY: LJC
DRAWING NO.: 606136

PUBLIC SIDEWALK EASEMENT
LANDS OF AVALON OCEAN AVENUE, LP
1150 OCEAN AVENUE
SAN FRANCISCO CA

SHEET
1
OF 1 SHEETS

EXHIBIT C

Legal Description of Easement Area

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL ONE:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF OCEAN AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN GRANT DEED TO AVALON OCEAN AVENUE, L.P. RECORDED JUNE 22, 2010 IN REEL K169, IMAGE 0068 OF OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO;

RUNNING THENCE ALONG THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE BEING ALSO THE SOUTHWESTERLY LINE OF SAID GRANT DEED, SOUTH 75°22'00" EAST, A DISTANCE OF 193.23 FEET TO THE POINT OF BEGINNING;

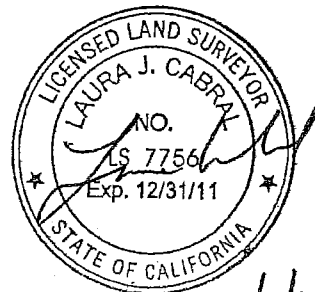
THENCE LEAVING SAID LINE, NORTH 14°38'00" EAST, A DISTANCE OF 150.00 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 75°22'00" EAST, A DISTANCE OF 10.00 FEET;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 14°38'00" WEST, A DISTANCE OF 150.00 FEET TO THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE AND THE SOUTHWESTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID LINE, NORTH 75°22'00" WEST, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING;

DESCRIBED PARCEL CONTAINING AN AREA OF 1,500 SQUARE FEET, MORE OR LESS.



PARCEL TWO:

ALL THAT CERTAIN REAL PROPERTY IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF OCEAN AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN GRANT DEED TO AVALON OCEAN AVENUE, L.P. RECORDED JUNE 22, 2010 IN REEL K169, IMAGE 0068 OF OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO;

RUNNING THENCE ALONG THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE BEING ALSO THE SOUTHWESTERLY LINE OF SAID GRANT DEED, SOUTH 75°22'00" EAST, A DISTANCE OF 223.08 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID LINE, NORTH 14°38'00" EAST, A DISTANCE OF 104.80 FEET;

THENCE SOUTH 75°22'00" EAST, A DISTANCE OF 19.91 FEET;

THENCE NORTH 14°38'00" EAST, A DISTANCE OF 45.20 FEET TO THE NORTHEASTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 75°22'00" EAST, A DISTANCE OF 10.00 FEET;

THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 14°38'00" WEST, A DISTANCE OF 73.57 FEET;

THENCE NORTH 75°22'00" WEST, A DISTANCE OF 18.15 FEET;

THENCE SOUTH 14°38'00" WEST, A DISTANCE OF 76.43 FEET TO THE SAID NORTHEASTERLY LINE OF OCEAN AVENUE AND THE SOUTHWESTERLY LINE OF SAID GRANT DEED;

THENCE ALONG SAID LINE, NORTH 75°22'00" WEST, A DISTANCE OF 11.75 FEET TO THE POINT OF BEGINNING;

DESCRIBED PARCEL CONTAINING AN AREA OF 2,199 SQUARE FEET, MORE OR LESS.

THE BASIS OF BEARINGS OF DESCRIBED PARCELS 1 AND 2 IS THE MONUMENT LINE OF OCEAN AVENUE SHOWN AS NORTH 75°22'00" WEST ON THE MAP OF WESTWOOD PARK FILED IN BOOK H OF MAPS, AT PAGES 65 THROUGH 71, SAN FRANCISCO COUNTY RECORDS;

THE PARCELS DESCRIBED HEREON ARE SHOWN ON THE ATTACHED PLAT, AND BY REFERENCE, MADE A PART HEREOF.



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Inclusionary Housing (Sec. 315) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 17885

HEARING DATE: MAY 21, 2009

Date: May 7, 2008
Case No.: 2006.0884CEU
Project Address: 1150 OCEAN AVENUE
Zoning: Ocean Avenue NC-T (Neighborhood Commercial, Transit)
55-X Height and Bulk District
Block/Lot: 3180/003
Project Sponsor: Meg Spriggs
AvalonBay Communities, Inc.
185 Berry Street, Suite 3500
San Francisco, CA 94107
Staff Contact: Michael Smith – (415) 558.6322
michael.e.smith@sfgov.org

ADOPTING CEQA FINDINGS AND FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 737.11, 737.21, 703.4, AND 737.22, OF THE PLANNING CODE FOR DEVELOPMENT OF A LOT LARGER THAN 9,999 SQUARE FEET, FOR DEVELOPMENT OF A NON-RESIDENTIAL USE LARGER THAN 3,999 SQUARE FEET, FOR A FORMULA RETAIL GROCERY STORE, INCLUDING OFF-SALE LIQUOR, BEER AND WINE SALES, FOR UP TO 1 PARKING SPACE PER 250 SQUARE FEET OF GROCERY STORE SPACE IN EXCESS OF 20,000 SQUARE FEET, AND TO ALLOW A PLANNED UNIT DEVELOPMENT PER PLANNING CODE SECTION 304, WITH SPECIAL EXCEPTIONS FROM PLANNING CODE SECTIONS 134 (REAR YARD); 135 (OPEN SPACE DIMENSIONS); 136 AND 136.1 (PERMITTED OBSTRUCTIONS WITHIN REQUIRED OPEN AREAS); AND 145.4(d)(3) (FOR A NONRESIDENTIAL USE TO OCCUPY MORE THAN 75 CONTIGUOUS LINEAR FEET ALONG OCEAN AVENUE) FOR A PROPERTY WITHIN THE OCEAN AVENUE NC-T (NEIGHBORHOOD COMMERCIAL TRANSIT) DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT. INCLUDED IN THE PROPOSAL IS THE DEMOLITION OF A COMMERCIAL BUILDING AND SURFACE PARKING LOT, AND THE CONSTRUCTION OF TWO NEW MIXED-USE, 55-FOOT-TALL BUILDINGS (ONE FIVE-STORY AND ONE FOUR-STORY) TOTALING APPROXIMATELY 318,300 GROSS SQUARE FEET (GSF) OVER A 237-SPACE SUBTERRANEAN AND AT-GRADE PARKING STRUCTURE; AND ADOPTING FINDINGS AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE

PROJECT WOULD CONTAIN APPROXIMATELY 173 DWELLING UNITS, APPROXIMATELY 29,500 GSF OF GROUND FLOOR RETAIL INCLUDING AN UP TO APPROXIMATELY 27,500 GSF GROUND-FLOOR, FORMULA RETAIL GROCERY STORE.

PREAMBLE

On June 26, 2008, Meg Spriggs of AvalonBay Communities, Inc. (Project Sponsor) filed an application with the San Francisco Planning Department (hereinafter the "Department") for Conditional Use Authorization pursuant to Sections 737.11, 737.21, 703.4, 737.22 of the Planning Code to allow a for Planned Unit Development per Planning Code Section 304, with special exceptions from Planning Code Sections 134 (rear yard); 135 (open space dimensions); 136 (permitted obstructions within required open space); and 145.4(d)(3) (for a nonresidential use to occupy more than 75 contiguous linear feet along Ocean Avenue), for a property located within the Ocean Avenue NC-T (Neighborhood Commercial Transit) District and a 55-X Height and Bulk District.

Pursuant to CEQA Guidelines Section 15168, the Planning Department conducted a program-level EIR for the *Balboa Park Station Area Plan*. The area plan EIR was also a project-level EIR that analyzed the Project at 1150 Ocean Avenue (the "Kragen Auto Parts Site"). The analysis was performed at a project-specific level specifically to address the environmental effects associated with the proposed Project at 1150 Ocean Avenue. Pursuant to CEQA Guidelines Section 15090, the Planning Commission certified the Final EIR on December 4, 2008, in its Motion No. 17774. The Commission found significant unavoidable environmental impacts for the Balboa Park Station Area Plan and related approvals that could not be mitigated to a level of non-significance, and pursuant to CEQA Guidelines Section 15093, adopted a statement of overriding considerations for approving the Plan on December 4, 2008, in its Motion No. 17776. The Board of Supervisors made the same findings in Ordinance Nos. 58-09, 59-09, 60-09, and 61-09. Said motion and Ordinances are incorporated herein by reference. The EIR determined that the 1150 Ocean Avenue project will make a consideration contribution to one unavoidable cumulative significant traffic impact associated with the Area Plan that could not be mitigated to a level of non-significance, and pursuant to CEQA Guidelines Section 15093, the Commission is adopting additional CEQA findings specific to this development project.

The Planning Commission approved the now adopted new zoning controls, including the impact fee for the Balboa Park Station Area Plan on December 4, 2008. The Board of Supervisors approved the zoning controls on April 7, 2009, and the Mayor signed the related ordinances on April 17, 2009. These acts constituted final approval of the Balboa Park Station Area Plan.

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 adopts CEQA findings, attached hereto and including a Statement of Overriding Benefits and a Mitigation and Monitoring Program, and authorizes the Conditional Use requested in Application No. 2006.0884CU, 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 (Assessor's Block 3180, Lot 003) is located on the north side of Ocean Avenue, between Phelan and Plymouth Avenues. The lot measures approximately 80,150 square feet with approximately 514-feet of frontage on Ocean Avenue and a depth of 150-feet. The project site is located just west of Highway 280 and San Francisco City College. The property abuts the PUC water reservoir at the rear. The property is on the border of the Westwood Park and Ingleside neighborhoods. The Project Site is within the boundaries of the Balboa Park Station Area Plan and was recently rezoned from NC-2 (Small-Scale, Neighborhood Commercial) Zoning District to the Ocean Avenue NC-T (Neighborhood Commercial Transit) Zoning District and the height limit for the property was changed in the process from a 65-A Height and Bulk District to a 55-X Height and Bulk District.

There is an existing, single-story, commercial building on the site that is approximately 14,900 square-feet. The building is occupied by a retail auto parts store (D.B.A. "Kragen") and an automotive service station (D.B.A. "Wheel Works"). The remainder of the lot is a surface parking lot.

3. **Surrounding Properties and Neighborhood.** The new Ingleside Branch Library is adjacent to the site to the west. To the north, the property abuts an empty PUC water reservoir that is currently used by City College of San Francisco for parking. To the east the site abuts the existing MTA Phelan Loop site which serves as a bus stop and a place for buses to layover that includes driver restroom facilities. Within the Phelan Loop is a small City operated parking lot. Across Ocean Avenue, to the south of the site, is a vacant corner lot, a McDonald's restaurant, and a modern, four-story mixed-use building as well as two smaller scale mixed use buildings. The MUNI K-Ingleside line travels down the center of Ocean Avenue with east and west bound MUNI stops in front of the site. The MUNI stops continue the length of the block and consist of raised platforms with barriers, ADA accessible boarding ramps, and covered bus shelters. City College of San Francisco's main campus is located to the east of the site, as is a City Fire Station. The single-family neighborhoods of Westwood Park and Ingleside flank Ocean Avenue to the north and south respectively.

The existing Phelan Loop is scheduled to be relocated to circle the fire station at which point the existing Phelan Loop will be developed by the City with a mixed-use building that contains ground floor retail and approximately 70 affordable housing units. The project requires an easement on the existing Phelan Loop property, behind the future affordable housing development, to allow a truck turnaround for larger delivery trucks to access the loading space from Lee Avenue.

4. **Project Description.** The proposal is to demolish the existing commercial building and surface parking lot and to construct two new mixed-use, 55-foot-tall buildings totaling approximately 318,300 gross square feet (gsf) over a 237-space subterranean and on-grade parking structure. The project would include approximately 173 dwelling units, approximately 29,500 gsf of ground-floor commercial uses that include up to approximately 27,500 square-foot commercial space for a formula retail grocery store (tenant not yet determined). The Project includes extending Brighton Avenue through the site creating public sidewalks at this location and extending Lee Avenue at the east edge of the site creating a public street.

The west building will have four levels of residential occupancy above ground-floor retail and the east building will have three levels of residential occupancy above the ground-floor (approximately 188,040 sf of residential space), with (86) dwelling-units in the west building and (87) within the east building, consisting of approximately (13) studio units, (85) one-bedroom units, and (75) two-bedroom units.

The Project includes a below-grade and at-grade parking garage with access from Brighton Avenue, divided into two separated parking areas: one beneath and on the first floor of the west building dedicated to (149) residential parking spaces and one beneath the east building dedicated to (88) nonresidential spaces, for a total of (237) proposed off-street parking spaces. The off-street parking provided does not exceed the maximum off-street parking permitted within the Ocean Avenue NC-T District. (56) Class-1 bicycle parking spaces are located at the rear of Brighton Avenue at the ground floor of the west building. The Project includes approximately 23,281 square-feet of residential open space comprised of 9,258 square-feet of private open space, 8,323 square-feet of common open space within two courtyards at the podium level and 5,700 square feet of publicly accessible open space in the Brighton Avenue Extension.

The Project requires Conditional Use Authorization pursuant to Planning Code Sections: 737.11, for development of a lot that is greater than 9,999 square-feet; 737.21, for development of a non-residential use size that is greater than 3,999 square-feet; 703.4, for a formula retail grocery store with off-sale liquor sales; 737.22, for parking at a ratio of 1:250 square-feet for a retail grocery store larger than 20,000 square feet; and Planning Code Section 304 to allow a Planned Unit Development, with a request for exceptions from Planning Code Sections: 134 (rear yard); 135 (open space dimensions); 136 (permitted obstructions within required open space); and 145.4(d)(3) (for a nonresidential use to occupy more than 75 contiguous linear feet along Ocean Avenue).

5. **Public Comment.** The Department has received no correspondence from the public regarding this project.
6. **Balboa Park Station Area Plan.** As part of the Better Neighborhoods Program, the Balboa Park Station Area Plan has been identified as one of the areas studied. The "plan area" for the Balboa Park Station Area Plan is in south central San Francisco. The area comprises approximately 210 acres and includes the Ocean Avenue Campus of City College of San Francisco (CCSF), the Ocean Avenue Neighborhood Commercial District, Balboa Park, and the Balboa Park BART station. More specifically, the plan area consists primarily of those parcels fronting on Ocean,

Geneva and San Jose Avenues. The area provides a diverse range of uses including; institutional, recreational, retail, housing, and transportation. Seven neighborhoods surround the Plan Area: Westwood Park, Ingleside, Ingleside Terraces, Miraloma Heights, Sunnyside, Oceanview, and Balboa Terraces. The plan area is best characterized by four distinct areas; the Transit Station Neighborhood, City College of San Francisco, the Reservoir, and the Ocean Avenue Commercial District. The Plan's objectives and policies are informed by three key principles;

- a. Improve the area's public realm,
- b. Make the transit experience safer and more enjoyable,
- c. And improve the economic vitality of the Ocean Avenue Neighborhood Commercial District.

7. **Ocean Avenue NC-T (Neighborhood Commercial Transit).** The Ocean Avenue Neighborhood Commercial Transit District is located on Ocean Avenue from Phelan to Manor Avenues. Ocean Avenue is a multi-purpose transit-oriented small-scale commercial district that is modeled on the NC-T-2 District. Ocean Avenue was developed as a streetcar-oriented commercial district in the 1920s and continues to serve this function, with the K-line streetcar on Ocean Avenue. Numerous other bus lines serve the area, especially the eastern end, where the Phelan Loop serves as a major bus terminus. The eastern end of the district is anchored by the main City College campus at Phelan and direct linkages to the Balboa Park BART/MUNI rail station a couple blocks to the east, which serves as the southernmost San Francisco station for BART and the terminus of the J, K, and M streetcar lines. Because of the immediate proximity of the BART/MUNI station the district has quick and easy transit access to downtown.

The Ocean Avenue NC-T District is mixed use, transitioning from a predominantly one- and two-story retail district to include neighborhood-serving commercial uses on lower floors and housing above. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Access (i.e. driveways, garage entries) to off-street parking and loading is generally prohibited on Ocean Avenue to preserve and enhance the pedestrian-oriented character and transit function of the street. Residential and commercial parking are not required.

The Ocean Avenue NC-T District is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices. Buildings may range in height, with height limits generally allowing up to four or five stories. Lots are generally small to medium in size and lot consolidation is prohibited to preserve the fine grain character of the district, unless the consolidation creates a corner parcel that enables off-street parking to be accessed from a side street.

Rear yard requirements above the ground story and at residential levels preserve open space corridors of interior blocks.

Commercial uses are required at the ground level and permitted at the second story. Large Fast Food uses are not permitted.

Housing development in new buildings is encouraged above the ground story. Existing residential units are protected by limitations on demolition and upper-story conversions.

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

A. **Open Space.**

Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. Either 100 square feet of private usable open space per dwelling unit or 133 square feet of common usable open space per dwelling unit or any combination thereof must be provided for the project.

The Project has an open space requirement of approximately 20,730 square feet of private and common spaces. The Project proposes a total of approximately 22,060 square feet of open space which includes the raised plaza and sidewalks at Brighton Avenue.

B. **Density.**

Planning Code Section 737.91 places no limits on residential density in the District. Density is only restricted by physical building envelope.

The project would provide 173 dwellings which is ratio of one dwelling per 463 square-feet of lot area.

C. **Street Trees.**

Planning Code Section 143 requires the owner or developer of a new building in a NC District to install one street tree for every 20-feet of lot frontage.

The project meets the requirement by providing 32 new street trees at the Ocean, Brighton, and Lee Avenue frontages.

D. **Permitted Parking (Residential).**

Planning Code Section 737.94 permits up to one parking space for each dwelling unit. Parking above a ratio of 1:1 is not permitted.

The project would provide 149 residential parking spaces which is .86 parking space for each dwelling unit.

E. **Permitted Parking (Commercial).**

Planning Code Section 737.22 permits up to one space per 1,500 square-feet of occupied floor area, not permitted above. For retail grocery stores larger than 20,000 square-feet parking is permitted at a ratio of 1:500 square-feet. For retail grocery stores larger than 20,000 square-feet parking is conditionally permitted at a ratio of 1:250 square-feet, subject to the requirements of Section 151.1(f).

The project proposes nonresidential parking at a ratio of 1:313 square-feet, therefore, conditional use authorization is required pursuant to Section 151.1(f).

Pursuant to Section 151.1(f) of the Planning Code, any request for accessory parking in excess of what is principally permitted in Table 151.1 within NC-T Districts shall be reviewed on a case-by-case basis by the Planning Commission as a Conditional Use. In granting such Conditional Use for parking in excess of that principally permitted in Table 151.1, the Planning Commission shall make the following affirmative findings according to the uses to which the proposed parking is accessory:

(1) Parking for all uses.

- (A) Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;
- (B) Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;
- (C) All above-grade parking is architecturally screened and lined with active uses according to the standards of Section 145.1(c), and the project sponsor is not requesting any exceptions or variances requiring such treatment elsewhere in this Code; and
- (D) Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

All parking for the project is provided below grade which reduces its impact on the pedestrian spaces, transit service, bicycle movement, and overall traffic movement on Ocean Avenue. Brighton Avenue provides access to all parking. Though the Brighton Avenue extension is designed as a pedestrian realm with wide sidewalks and raised patios it is also designed to slow vehicle movement through the street with different street pavers and narrow travel lanes. Parking access from Brighton Avenue also serves to eliminate the need for additional curb cuts along Ocean Avenue which is consistent with the Balboa Park Station Area Plan guidelines.

(2) Parking for Non-Residential Uses.

- A) Projects that provide more than 10 spaces for non-residential uses must dedicate 5% of these spaces, rounded down to the nearest whole number, to short-term, transient use by vehicles from certified car sharing organizations per Section 166, vanpool, rideshare, taxis, or other co-operative auto programs. These spaces shall not be used for long-term storage nor satisfy the requirement of Section 166, but rather to park them during trips to commercial uses. These spaces may be used by shuttle or delivery vehicles used to satisfy subsection (B).

(B) Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or

shuttle service. This is encouraged, but not required, for retail uses less than 20,000 square feet.

(C) Parking shall be limited to short-term use only.

(D) Parking shall be available to the general public at times when such parking is not needed to serve the use or uses to which it is accessory.

The project would provide five car share spaces which is 5.7% of the total nonresidential parking spaces. Section 166 of the Code requires only 1 car share space for the non-residential uses. In addition, included in the conditions of approval is a requirement that if the Project includes a retail use larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, then the Project shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service.

F. Off-Street Loading.

Planning Code Section 152 requires one off-street loading space for retail uses between 10,001 and 30,000 square feet.

A total of one off-street loading space is required for the Project, and two are proposed. Both spaces are accessed from the Lee Avenue extension. For larger delivery vehicles, access to the loading space requires an easement on the adjacent property.

G. Inclusionary Housing.

Planning Code Section 315 requires that a minimum of 15 percent of the total dwelling units constructed be affordable to and occupied by qualifying persons and families as defined in the Code.

The Project proposes 15 percent of the total units to be affordable, for a total of 26 units. All inclusionary dwelling units will be located on-site. The Sponsor has submitted the "Declaration of Intent" to memorialize his intent. The size, distribution and type of units to be dedicated under Section 315 are comparable to the size, distribution and type of market rate units in the Project and are as follows: (2) studios, (13) one-bedrooms, and (11) two-bedrooms.

H. Lot Size per Development.

Planning Code Section 737.11 permits development of lots larger than 9,999 square-feet within the Ocean Avenue NC-T with conditional use authorization.

The subject lot is 80,150 square-feet and thus requires conditional use authorization to develop.

I. Use Size Limitations.

Planning Code Section 737.21 permits the creation of nonresidential uses larger than 3,999 square-feet with conditional use authorization.

The project proposes a grocery tenant commercial space that is 27,230 square-feet. Therefore, conditional use authorization is required to develop the space.

J. Formula Retail Use.

Planning Code Section 703.4 requires conditional use authorization for all formula retail uses in Neighborhood Commercial Districts.

The project requires conditional use authorization for a formula retail grocery store tenant, D.B.A. to be determined, to locate within the ground floor commercial space of the east building. Any other formula retail use shall require separate conditional use authorization.

K. Dwelling Unit Mix.

Section 207.6 of the Planning Code requires that a minimum of 40 percent of all dwelling units in NC-T-Districts have at least two-bedrooms or more to ensure an adequate supply of family-sized units.

The project proposes 75- two-bedroom units, or 43 percent of the total number of units.

L. Bicycle Parking.

Section 155.4 requires that new commercial buildings provide three bicycle parking spaces for retail uses that are between 25,000 and 49,999 square-feet.

The project would provide 10 Class 2 bicycle parking spaces for the public and 10 Class 1 bicycle parking spaces for employees. Section 155.5 of the Planning Code requires 56 Class 1 bicycle parking spaces for the residential uses. The project would provide 56 Class 1 bicycle parking spaces to meet this requirement.

M. Car Share.

Section 166 of the Planning Code requires two car share spaces within the project.

The project would exceed this requirement by providing five car share spaces.

N. Floor Area Ratio.

Section 737.21 of the Planning Code restricts non-residential uses to 2.5 to 1.

200,375 square-feet of non-residential uses is permitted pursuant to this Section of the Code. The project would provide approximately 29,500 square-feet of commercial uses, well within the limit prescribed by the Code.

O. **Balboa Park Community Improvements Fund.**

Pursuant to Section 330 of Ordinance Number 61 - 09, the project requires payment of \$8.00 per net occupied square foot of residential development and \$1.50 per square-foot of net additional commercial square-footage for the Balboa Park Community Improvement Fund, prior to issuance of site permit.

Per the Balboa Park Community Improvements Fund the project requires a payment of approximately \$1,579,703. As an alternative to payment of the Fee, the Ordinance provides that the City may wholly or partially reduce the Fee obligation at that time if the project sponsor agrees to provide specified community improvements identified in the Plan. These improvements include a public sidewalk easement that will provide a future public pedestrian connection between Ocean Avenue and the Balboa Park reservoir and features adequate landscaping, lighting, and seating (see Exhibit B of the In-Kind Agreement). The sidewalk will not be gated or contain any features that might block or discourage public use at any time. The Brighton Avenue extension and its associated 'public sidewalk' is included in the project's proposed design. The Project Sponsor also proposes constructing a northern extension of Lee Avenue that will connect Ocean Avenue to the southern border of the City College campus. The extension will include sidewalks, vehicle and bike lanes, adequate landscaping and lighting. In order for the project sponsor to satisfy the project's Fee obligation by providing such in-kind improvements, the Ordinance requires the City and the Project Sponsor to enter into an "In-Kind Agreement". The Project Sponsor has entered into an "In-Kind" Agreement with the City, to the satisfaction of the Planning Department and City Attorney, to construct, and dedicate a permanent public easement on, a mid-block pedestrian pathway (known as the "Brighton Avenue Public Sidewalk Easement") and the construction of a street (known as the "Lee Avenue Extension"), in order to reduce its Fee obligation per the terms of the ordinance.

9. **Planning Code Exceptions:** Planning Code Section 304 allows exceptions from the Code for larger development sites. The Commission finds that the following exceptions are being requested for the project.

A. **Rear Yard.**

Section 134 of the Planning Code requires a 25 percent rear yard at the second story and at all residential levels.

The proposed project would not provide any open space in the rear of the site, but instead will provide open space in the form of central courtyards and the Brighton Avenue Extension, which provided more usable and accessible open space for residents of the project than would a single rear yard.

B. **Open Space.**

Section 135 of the Planning Code requires at least 100 sf of private open space, 133 sf of common open space, or some equivalent combination of both, per dwelling unit. Furthermore, the Code section requires that open space meet certain minimum dimensions.

The Project, with 173 dwelling units, is required to provide approximately 17,300 sf of private, or 23,009 sf of common open space, or an equivalent combination of private and common open space. The Project provides approximately 8,040 sf of private deck areas, areas ranging in size from 49 to 210 sf, for 69 of the 173 residential units, thereby partially meeting the private open space requirement for those units. The Project provides 8,323 sf of common open space at the podium within the courtyards that are accessible to all units. Another 5,700 square-feet of common usable open space is located at and the raised plaza and sidewalks at Brighton Avenue. The Project is not deficient in total required amount of open space but the private open space provided does not meet minimum dimensions or area required by Code.

C. Street Frontage.

Section 145.4 of the Planning Code restricts ground floor tenants from occupying more than 75 linear feet of street frontage.

The proposed grocery store tenant space would occupy approximately 260 linear feet of frontage on Ocean Avenue.

D. Permitted Obstructions.

Sections 136 and 136.1 of the Planning Code requires maximum dimensions for each bay window or balcony and each awning or canopy that extends over streets and alleys.

Due to the scale of the grocery store use and the amount of street frontage, the project would include several bay windows and canopies that are larger than permitted by Code. The larger bay windows are appropriate because they articulate the building's façade and add more visual interest to a large street wall. The larger awnings are necessary to reduce glare on the ground floor windows and provide a pedestrian scale at the base of the building.

10. **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 proposed project is necessary and desirable for the community because it fills multiple needs in the City of San Francisco. The currently proposed project will augment the City's supply of housing by approximately 173 units, which would include approximately 13 studio units, approximately 85 one-bedroom units and approximately 75 two-bedroom units. The project would provide 43% family-sized housing units. In addition, the project's density enables the project to add 26 affordable units to the City's housing supply through its inclusionary housing contribution, which the project sponsor has elected to provide on-site.

The proposed project will also provide approximately 29,500 square feet of retail space. Including an approximately 27,500 sf commercial space designed for a grocery store potentially bringing an anchor grocery store to a neighborhood that is underserved by such uses. The project includes a second smaller commercial space in the west building that is suitable for neighborhood-serving retail uses. These retail spaces will be accessible by walking, MUNI and car. In combination, the proposed residential and retail uses, at the densities and scale contemplated, will enhance the existing mixed-use character of the neighborhood and create needed amenities in this area.

As found in the Area Plan, this project is compatible with the neighborhood at the proposed size and intensity at this location. The project is located at the intersection of Ocean Avenue and Lee Avenue, to the southwest of the City College main campus. Ocean Avenue is a major transit and vehicular corridor, providing direct access to Highway 280 from this part of the City.

The elevations of the two structures vary within the proposed 55 foot height limit for this site. On the West Block's Ocean Avenue frontage, the building is at 55 feet to maximize its architectural presence and create the high-ceiling, pedestrian oriented, retail spaces sought by the Area Plan. On its Brighton Avenue elevation, the West Block is 50.5 feet high. Along its northern edge, which abuts the San Francisco PUC reservoir, the West Block steps back at each succeeding floor from 54.6 feet to 50.5 feet high. Lastly, along its western elevation, the building is 50.5 feet with its 5th floor setback to 57 feet. At its northwest corner, the West Block steps down from 54.5 feet at the 5th floor to 46.5 feet at the 4th floor to 36.5 feet at the 3rd floor. This stepped-down design at this edge enables the West Block building to be sensitive to the surrounding single-family residential neighborhoods in Westwood Park by substantially reducing the visible mass at higher elevations.

The East Block's Ocean Avenue frontage similarly reaches 55 feet high to maximize its architectural presence and create the high-ceiling, pedestrian oriented, retail spaces sought by the Area Plan. Along its western elevation on Brighton Avenue, the East Block is 53 feet high to minimize the loss of sunlight on this publicly accessible open space. On its north, similar to the West Block, the East Block steps back at each succeeding floor from 53 feet to 51 feet. On its eastern elevation at Lee Avenue, the East Block is 51 feet.

The Brighton Avenue extension provides an approximately 5,700 square foot open space area that creates the 2 separate blocks. This feature breaks up the site's mass and scale, making it more compatible with the fabric and block patterns of the existing Ocean Avenue retail corridor and surrounding residential neighborhoods. The project's, density and multiple uses makes it compatible with this immediate neighborhood and the larger mixed use neighborhood in which it is located.

The building design would complement the surrounding buildings and be consistent with those existing in the Ocean Avenue corridor and as proposed by the Area Plan's urban design guidelines. The buildings are articulated both vertically and horizontally. Windows predominate along the ground floor retail spaces and each space is designated by an overhanging canopy. These features provide the vibrant and attractive visual interest sought by the Area Plan's emphasis on this site's mixed use character.

The design of the project also takes into account the nature and scale of the residential component of the neighborhood. On their northern and western elevations, the buildings' massing and scale is

reduced. The articulated vertical and horizontal proportions along the Ocean Avenue frontage are provided by tall (e.g., 15-foot high) transparent windows at the retail stores' frontage below canopies. This helps break up the building mass, reflecting the more refined fabric of the smaller retail uses west of Plymouth Avenue along Ocean Avenue. The East Block's massing reflects the higher scale development to the east with an articulated rhythm of vertical bays.¹ The West Block's massing and scale is reduced via a horizontal articulation which helps it relate to the horizontal proportions of the nearby Ingleside Library and the small scale neighborhood fabric to the west. The top floor of the West Block is consistently set back from the front of the building to help reinforce the horizontal character and smaller scale of a four-story building. Lighting will be designed with concern for neighborhood safety, privacy, and aesthetics.

The project will improve the public streetscape by enhancing the sidewalk area of the Brighton Avenue roadway. Parallel to the Brighton Avenue roadway, there will be 4,500 square feet of publicly accessible improvements, including 10' wide sidewalks on each side of the 20' wide roadway that will serve as open space. On the east side of Brighton Avenue, there will be a 20' wide terrace raised 1 foot above the sidewalk. The raised terrace will be improved with street furniture and planters with flowers and trees to provide passive open space for residents, pedestrians and customers of the retail spaces.

In an effort to reduce the project's retail traffic impact on the neighborhood residents, the retail vehicular ingress for the project will be on Brighton. Vehicular egress will be from Lee Avenue. Both the entrance and exit for the residential vehicular trips will be from Brighton Avenue. This will reduce the queuing along Ocean Avenue, thereby reducing delays for residents and customers to their homes and the stores, respectively.

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

The project site is much larger than the average lot within the Ocean Avenue NC-T. The extension of Brighton and Lee Avenues through the site reduce the overall scale of the development. Furthermore, the site is located at the edge of the District near an institutional use that is comprised of large buildings. The project is a transitional property from the larger buildings of CCSF to the finer grained buildings of the Ocean Avenue NC-T.

The project will not be detrimental to the neighborhood with regard to the nature of the site or the structures. The project site is on Ocean Avenue, a major transit and commercial corridor, with a mid-rise height limit of 55 feet under the Area Plan's proposed rezoning. With respect to size and shape, the project's proposed maximum height of 55 feet on Ocean Avenue and 50.5 feet facing the residential uses to its north and west sides is within the envelope allowed by the proposed 55-

¹ The future affordable housing site directly to the West of Lee Ave is zoned for 65-foot height.

height district. Thus, the project's size and orientation is designed to respect the prevailing height and scale along each of its edges. This transit-oriented, mixed use project is precisely what was contemplated by the Area Plan's 10-foot reduction of height at this site.

The project provides efficient access to the site for the proposed uses, respecting and enhancing both its location and the rectangular shape of the site. The project achieves this efficiency in many ways. First, it employs the Area Plan's requirement to extend Brighton Avenue into the site. This creates 2 separate blocks upon which to build the project. Thus, rather than build one massive building of the proposed uses, densities and size, the project provides for these uses in 2 separate structures. This allows the project to realize greater visual and aesthetic benefits of reduced massing, scale and height along the edges of the adjacent single-family neighborhood. Second, the parking area is accessed from only Brighton Avenue, except that the retail uses will exit only from Lee Avenue. Similarly, retail loading will be accessible only from Lee Avenue. This lessens the traffic conflicts between the residential and retail users. It also reduces the project's traffic impacts by reducing queuing to get onto Ocean Avenue. Locating the vehicular garage entrances on Brighton Avenue avoids curb cuts on Ocean Avenue, as required by the Area Plan. Aligning the on-grade garage on the West Block with the retail uses on Ocean Avenue also meets the intent of the Area Plan.

An additional feature of the project is the opportunity for interior courtyard common open space created by the bifurcation of the project site. To maximize the site's open space potential, the project proposes two interior courtyards, one for each building. This results in approximately 8,323 square feet of interior courtyard space located on the one-story podium of each building in lieu of a more conventional rear-yard configuration. There are no density requirements under the proposed NC-T zoning. Lastly, the project will be designed to meet or exceed all applicable seismic and life-safety requirements, as well as to provide pedestrian and vehicular accessibility around the site.

The project will have no significant or detrimental shadow or wind impacts. There is no existing Recreation and Park Department open spaces near the project site. The Brighton Avenue open space is new and will not be acquired by the Recreation and Park Department. The potential shadow impact was discussed in the Area Plan Draft Environmental Impact Report. It found that the project will not create any new shade on any protected Recreation and Park Commission properties, nor would it produce shading not commonly expected or experienced in urban areas such as the project site.

The project will include the demolition of the existing, one-story retail structure. The Kragen Auto Parts building is not mentioned in the Area Plan Draft EIR as an historic resource. Thus, its demolition will not constitute a significant impact, and it will not be detrimental to those residing and working in the area.

- 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 be detrimental to the neighborhood with regard to pedestrian or vehicular traffic. The project will be easily accessible to pedestrians and persons with disabilities. Entrances to any of the other commercial spaces and the residential building facilities are separately accessible. The finish floor of the retail store is level with the intersection of Ocean and Lee Avenues. There is an accessible ramp at the mid-block retail entry as well as accessible ramps at the western retail entry. The residential buildings are both accessible from the Brighton Avenue extension. Both of these streets will have active retail and residential uses. The medium sized commercial space will be accessed near the corner of Ocean and Lee Avenues. The remaining, smaller neighborhood-serving spaces will be accessible through their Ocean Avenue frontages. The retail vehicular ingress for the project will be on Brighton. Vehicular egress will be from Lee Avenue. No curb cuts are proposed along Ocean Avenue. Both the entrance and exit for the residential vehicular trips will be from Brighton Avenue.

The 149 parking spaces for building residents will be located in a secure, on-grade and underground parking area. The on-grade portion of the parking garage will be lined with retail and will not be visible from Ocean Avenue. This results in a superior urban design and superior integration of the site and the buildings with the street and sidewalk. The commercial parking garage is completely below-grade.

In addition to off-street parking, the project is well-served by public transit. The K-Ingleside Metro runs along Ocean Avenue in front of the project. The project site is also served by the 9X, 9AX, 9BX, 29, 43, 46 and 49 lines along Ocean Avenue. It is less than 1/3 mile from the Balboa Park BART station.

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

Since this will be a predominantly residential project with small scale, neighborhood-serving retail uses and a medium-sized commercial use, the project will not generate unusual noise, odor, dust and glare as a result of its operations. The buildings will comply with Title 24 standards for noise insulation. The materials for the facades of the buildings will not result in glare. The project would generate additional night lighting, but not in amounts unusual for an urbanized area. Design of exterior lighting could ensure that off-site glare and lighting spillover would be minimized. New buildings and vehicles would also produce additional glare. However, as with light, this would not result in a substantial change as use of reflective glass is restricted by Planning Commission Resolution 9212.

In terms of dust generation, the project would excavate to a depth of between 14 to 16 feet for the construction of the underground parking garages and would remove approximately 427,500 cubic yards of soil. Most construction materials, storage, and construction worker parking would be provided on-site. The City's standard mitigation measures are hereby imposed on the project through the MMRP and in compliance with the Public Works Code to prevent negative impacts to the surrounding community from dust blowing during construction.

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

The project takes into special consideration such issues as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs, and will ensure that the project will not be detrimental to the neighborhood and neighbors. Specifically, the project will provide interior, landscaped open space on top of a one-story podium, and street trees and street furniture on Brighton Avenue consistent with code requirements.

The project will create the Brighton Avenue extension as a publicly accessible open space. Parallel to the Brighton Avenue roadway, there will be 4,500 square feet of publicly accessible improvements, including 10' wide sidewalks on each side of the 20' wide roadway that will serve as open space. On the east side of Brighton Avenue there will be a 20' wide terrace, raised 1 foot above the sidewalk. The raised terrace will be improved with street furniture and planters with flowers and trees to provide passive open space for residents, pedestrians and customers of the retail spaces. This open space function is in addition to pedestrian and vehicular access and circulation provided by the Brighton Avenue roadway.

The project's privately accessible open space plan is novel and unique. The project takes advantage of the site design created by the Brighton Avenue extension to create two privately accessible common open spaces on the interior podium level courtyards in each building. This creates approximately 8,323 square feet of common open space for the project's residents. The West Block courtyard provides approximately 3,803 square feet of common open space. The East Block courtyard provides approximately 4,520 square feet of common open space. Private open space would also be in the form of patios and decks that average roughly 115 square feet due to the substantial interior setbacks at the courtyards of the second floor of each building. This results in approximately 8,039 square feet of privately accessible open space. Lastly, the project will provide a widened sidewalk area for retail frontages along Ocean Avenue and at the corner of Ocean Avenue and Brighton Street which could accommodate outdoor seating for a café.

Parking and loading areas, service areas, lighting and signage will all reflect the design of each of the buildings as well. Site lighting will be a combination of pole, building mounted and low level lighting to provide the code required light levels, while complimenting the site design. The lighting will be designed to support the security of the site and the surrounding neighborhood. The project sponsor intends to utilize full cut off light shields to limit light pollution and to investigate the use of solar powered lighting to mitigate energy consumption.

- 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 as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The Project is consistent with the stated purposes of Ocean Avenue NC-T District in that the intended commercial uses are located at the ground, and the Project as a whole will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours as well as providing 173 new residential units to San Francisco's housing stock.

11. **Section 121.1 Findings.** In addition to the criteria of Section 303(c) of this Code, the City Planning Commission has considered the extent to which the following criteria are met for a project site exceeding 9,999 square feet in the Ocean Avenue NC-T zoning district:

- A. The mass and façade of the proposed structure are compatible with the existing scale of the district.

The project will be compatible with the existing scale of the district. The project site is located on Ocean Avenue, a major transit and commercial corridor in the City. The Area Plan reduced the height limit from 65 to 55 feet. The project will not exceed this height limit.

The buildings' massing takes into consideration all of the adjacent uses surrounding the site. On the East block, the building stands a full 55 feet with no setbacks in anticipation of the proposed housing site to the East. To be compatible with the adjacent uses on the West Block, specifically the smaller scale of the new Ingleside Library and the single family homes and neighborhood of Westwood Park, the massing of the West Block includes setbacks and step downs. For example, the fifth level of the West Block steps back 7 feet from Ocean Avenue and the PUC access drive (in between the Ingleside Library and the site). Additionally, the northwest corner of the West Block adjusts to the different scale of the single family homes by stepping down gradually, first to 4 stories and then 3 stories. At the ground level along Ocean Avenue, the proposed project includes street front retail. The East Block is designed for medium-sized commercial tenants while the West Block is designed for smaller, neighborhood serving retailers, adjusting to the existing commercial scale of Ocean Avenue further West.

- B. The façade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

The façade of the project will contribute to the positive visual quality of the district, which does not possess a prevailing architectural style. The articulated vertical and horizontal proportions along the Ocean Avenue frontage, provided by tall (e.g., 15-foot high) transparent windows at the retail stores' frontage below canopies, helps break up the building mass, reflecting the more refined fabric of the smaller retail uses west of Phelan Avenue along Ocean Avenue. The upper story residential use is further set off by horizontal articulation and alternating patterns. Lighting will be designed with concern for neighborhood safety, privacy, and aesthetics. Moreover, the project design features elements that create an active pedestrian environment (e.g., tall windows and canopies above ground floor retail uses) and elements that minimize the massing of the buildings by use of breaking up facades at upper building levels.

12. **Section 121.2 Findings.** In addition to the criteria of Section 303(c) of this Code, the Commission has considered the extent to which the following criteria are met for a non-residential use exceeding 3,999 square feet (the 29,500 square foot medium-sized commercial space, including but not limited to a grocery store) :

- A. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

The project will replace the 14,900 square foot Kragen Auto Parts retail supply store, which had been at this location for several years. Kragen intends to relocate within San Francisco. On the East Block, the project includes a medium-sized commercial space of approximately 27,500 square feet. A tenant has yet to be identified for this anchor location at the corner of Ocean Avenue and Lee Avenue. This space could potentially be occupied by a grocery store. This medium-sized commercial use within this mixed-use project will not foreclose the location of other needed neighborhood-serving uses in the area. The West Block includes space for small commercial spaces for a total of 2,000 square feet of neighborhood serving retail uses. The small size of these commercial spaces makes it more likely that the type of use that will locate in them will be neighborhood-serving retail.

Overall, it is unlikely the project's proposed medium-sized commercial space will displace any nearby existing businesses. The existing businesses serve a different market area than would the business that would occupy the medium-sized commercial space. It is also unlikely there would be competition for products between the existing businesses and the medium-sized retailer. The existing businesses provide very specialized goods for the neighborhood. In addition, because of the approximately 173 new housing units, there will likely be new consumers added to the neighborhood that will utilize and enhance the economic vitality of the existing retail uses on Ocean Avenue. The proposed new retail use will bring both employees and shoppers to the neighborhood, resulting in a positive economic multiplier for the surrounding commercial district.

- B. The building in which the use is to be located is designed in discrete elements which respect the scale of the development in the district.

The East Block building where the medium-sized commercial space will be located has been designed in discrete elements to respect the scale of development in the nearby residential neighborhood as well as the commercial corridor to the west of the project site on Ocean Avenue. The ground floor frontage along Ocean Avenue has transparent glazing below canopies or awnings, which adds further visual elements to the building.

13. **Section 303(i) Findings for Formula Retail Grocery Store Use.** The Commission hereby approves use of up to approximately 27,500 square feet of the east block for a formula retail grocery store. Planning Code Section 303(i)(1) states: "With respect to an application for a formula retail use as defined in Section 703.3, whenever a conditional use permit is required per Section 703.3(f), the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c)" the following:

- C. The existing concentrations of formula retail uses within the Neighborhood Commercial District.

The project site is located in the Ocean Avenue NC-T district extending east and west along Ocean Avenue between Manor Drive to the west and Phelan Avenue to the east. There are approximately 100 storefronts on this stretch of Ocean Avenue, many of which are small "mom and pop" type stores, specializing in serving as a small, neighborhood convenience markets.

Formula retail stores within the Ocean Avenue Commercial District include a Walgreens and a Rite Aid , a 7-Eleven, several fast food and self-service restaurants, including a large MacDonaldds restaurant, and the Kragen Auto Parts Store that will close to make room for the Project. The nearest formula retail grocery stores are the Safeway at 625 Monterey Boulevard, which is roughly .65 miles from the site and at 4950 Mission, .9 miles from the site. Stonestown Mall, which has numerous formula retail stores is located 1.4 miles west of the project site.

Other than the fairly large number of fast-food and self-service restaurants, there is not an over-concentration of other formula retail uses in the district. With the closing of the Kragen Auto Parts store, and its replacement by a formula grocery store, that concentration will not change.

D. The availability of other similar retail uses within the Neighborhood Commercial District.

There are no other formula retail grocery stores within the Ocean Avenue NC-T The nearest formula retail grocery stores are two Safeway stores (at 625 Monterey and 4950 Mission), which are located more than ½ mile from the project site. There are scores of small, neighborhood convenience stores that are less than 1 mile from the project site. Some of these carry food, beverages and complementary products, but none are full-service grocery stores.

If the medium-sized commercial space were occupied by a grocery, this store would be first such formula retail grocery use in the Ocean Avenue commercial district. As shown, there is not an over-abundance of grocery stores in the district or of other formula retail uses. In fact, the largest percentage of the existing retail establishments in the area are convenience stores.

E. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

The proposed medium-sized commercial space will occupy all of a large portion of the ground floor retail space of the east block of the newly constructed mixed-use building at a prominent location in the neighborhood commercial district. This building's design is compatible with the commercial district's character and setback. This use will blend into this building and will not be distinguishable from any other storefront. No special architectural or aesthetic features of the building have been designed just for this space or to call attention to this formula retail use.

F. The existing retail vacancy rates within the Neighborhood Commercial District.

The Ocean Avenue NC-T has an estimated vacancy rate of approximately 5%, such that there are opportunities in the district for other non-formula retailers to locate. Because the grocery store will locate in a new building, no non-formula retail establishments are being displaced.

- G. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

The grocery store will be neighborhood-serving, in that residents tend to shop at local grocery stores, rather than travel to "destinations" like some formula retail users. The Ocean Avenue NC-T is primarily neighborhood-serving, and the proposed grocery store would not alter than existing mix

While there are Citywide-serving uses in the Stonestown Mall, (which is 1.4 miles from the subject site), the predominant retail use in this Neighborhood Commercial District is neighborhood-serving, small food and beverage "mom and pop" stores. Accordingly, there is no shortage of neighborhood-serving uses in the district and no urgent neighborhood serving use (other than a grocery store) that is not represented. Any formula retail use that occupies the medium-sized commercial space will replace another formula retail use on the site (Kragen Auto Parts and Repair) that was not a Citywide-serving use.

14. **Planned Unit Development.** Planning Code Section 304(d) establishes criteria and limitations for the authorization of PUD's over and above those applicable to Conditional Uses in general and contained in Section 303(c) and elsewhere in the Code. PUD's must:

- A. Affirmatively promote applicable objectives and policies of the General Plan.

This Project is consistent with the objectives and policies of the General Plan as outlined in Section 12 below.

- B. Provide off street parking adequate for the occupancy proposed.

The project includes 173 dwelling units and medium sized grocery store. Consistent with City policy for projects along transit corridors, the project would have residential parking at a ratio less than 1:1. This provides flexibility for households that may not own vehicles and for those that own several. The grocery store use is one that sells merchandise that is bulky or difficult to carry by hand or by public transit. Thus, persons that own vehicles are more likely to use them when shopping for groceries. The commercial parking ratio is higher than what is permitted by Code without conditional use authorization in acknowledgement of this parking need. Furthermore, some of the residential neighborhoods that abut Ocean Avenue and would be served by the proposed grocery store are low-density neighborhoods with detached housing. Households in these neighborhoods are more likely to drive than those in denser neighborhoods. In addition, the project provides space for 5 car share vehicles. Thus the proposed 237 total combined off-street parking spaces are appropriate for the occupancy proposed.

- C. Provide open space usable by the occupants and, where appropriate, by the general public, at least equal to the open spaces required by the Code.

The Project, with 173 dwelling units, is required to provide approximately 17,300 sf of private, or 23,009 sf of common open space, or an equivalent combination of private and common open space. The Project provides approximately 8,040 sf of private deck areas, areas ranging in size from 49 to 210

sf, for 69 of the 173 residential units, thereby partially meeting the private open space requirement for those units. The Project provides 8,323 sf of common open space at the podium within the courtyards that are accessible to all units. Another 5,700 square-feet of common usable open space is located at and the raised plaza and sidewalks at Brighton Avenue. The open space at Brighton Avenue would be accessible to the general public. The Project would provide the total amount of open space equal to the open space required by the Code, but some of the private open space provided does not meet minimum dimensions or area required by Code.

- D. Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a District permitting a greater density, so that the PUD will not be substantially equivalent to a reclassification of property.

There is no density limit for projects within the Ocean Avenue NC-T.

- E. In R Districts, include commercial uses only to the extent that such uses are necessary to serve residents of the immediate vicinity, subject to the limitations for NC-1 (Neighborhood Commercial Cluster) Districts under the Code.

The Project Site is not located within an R-District.

- F. Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections.

The project site is within a 55-X Height and Bulk District. The project does not exceed a height of 55 feet.

- G. In NC Districts, be limited in gross floor area to that allowed under the Floor Area Ratio limit permitted for the district in Section 124 and Article 7 of this Code.

The Floor Area Ratio (F.A.R.) limit for the Ocean Avenue NC-T is 2.5 to 1. The F.A.R. for the property would limit nonresidential uses to 200,375 square-feet.. The project would provide approximately 29,500 square-feet of commercial uses, well within the limit prescribed by the Code.

- H. In NC Districts, not violate the use limitations by story set forth in Article 7 of this Code.

The Project requires a variety of approvals by the Planning Commission, yet as designed meets all the use limitations by story of the NC-Districts.

15. **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 enhanced.

The Project Site is located within Ocean Avenue Neighborhood Commercial Transit District and is thought to enhance the commercial vitality of the area. With approximately 29,500 sf of ground floor retail development, the project will have a synergistic relationship with the District which is underserved by a larger grocery store. The size of the grocery store use would provide many opportunities for local resident employment. The project also includes a smaller, 1,975 sf ground floor commercial space that is suitable for local business ownership. Should a Formula Retail Use other than a grocery store wish to operate within one of these spaces, they will be subject to the Formula Retail provisions of the Planning Code.

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

The Project would increase the City's housing supply by 173 units. The existing buildings that will be demolished do not contribute to the character of the Ocean Avenue NC-T. Furthermore, the Project will not result in the loss of existing housing. The project would promote the economic diversity of the neighborhood by providing residents a rental housing option.

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

The Project is subject to the City's affordable housing policies. Planning Code Section 315 sets forth the requirements and procedures for the Residential Inclusionary Affordable Housing Program. The Project Sponsor has decided to provide the affordable housing on-site. 26-units (two studios, 13 one-bedrooms, and 11 two-bedrooms) of the 173 units provided will be affordable units.

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

The construction of the project including the extension of Lee Avenue will impact MUNI services in the adjacent Phelan Loop site. The sponsor is working closely with SFMTA to reduce the construction's impact on MUNI services. The Project will require new signalization at the proposed Brighton Avenue and Lee Avenue intersections to reduce the Project's vehicular movement impact on Ocean Avenue traffic.

The Site is well served by multiple transit lines, including MUNI's K-Ingleside metro line. It is anticipated that smaller households in the surrounding neighborhood will visit the Project by alternative modes, including transit. The increase in transit demand anticipated by the Project would not have a significant or noticeable impact upon transit services in the neighborhood or affect transit operations.

The Project is well served by off-street parking, exceeding the minimum requirements for both commercial and residential parking. Because of the large amount of off-street parking the Project would provide, it is not anticipated that it would impact neighborhood parking.

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

The Project will not displace any service or industry establishment due to commercial office development. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmark and historic buildings be preserved.

The existing buildings on the Site are not landmarks or historic buildings.

- 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 parks or open space.

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

COMMERCE AND INDUSTRY

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 will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The new commercial tenants will not result in undesirable consequences. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's Neighborhood Commercial Districts, while recognizing and encouraging diversity among the Districts.

The Project would provide a neighborhood serving grocery store in a neighborhood that is underserved by this use. The new commercial tenants will not prevent the District from achieving optimal diversity in the types of goods and services available in the neighborhood, but will instead enhance diversity. The existing businesses that would be displaced by the Project include a "Wheel Works" service station, a use that draws customers from outside the immediate neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

None of the tenants have been chosen for the ground floor commercial spaces. The smaller commercial space within the west block is suitable for a small business enterprise. The formula retail authorization included in this motion is only for a grocery store tenant within the east building. Any other formula retail tenant that seeks to locate within the Project thereafter would be subject to the current Formula Retail provisions of the Planning Code.

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAXIMIZE OPPORTUNITIES TO INCREASE THE POTENTIAL SUPPLY OF HOUSING IN APPROPRIATE LOCATIONS CITYWIDE.

Policy 1.4:

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

The Project will create up to 173 units of new housing, including 15 percent Below Market Rate units, which will be in a location well-served by transit with access via BART and MUNI to several employment centers around the region.

The residential neighborhoods surrounding the Ocean Avenue NC-T District are established family-oriented residential neighborhoods. The subject site is suitable for residential development because it is underutilized and well served by transit.

OBJECTIVE 4:

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY.

Policy 4.2:

Include affordable units in larger housing projects.

The Project includes 26 affordable units to be located on-site.

OBJECTIVE 8:

ENSURE EQUAL ACCESS TO HOUSING OPPORTUNITIES.

Policy 8.4:

Encourage greater economic integration within housing projects and throughout San Francisco.

Instead of being located off-site or paying an in-lieu fee, all inclusionary housing units required for the Project will be located on-site, thus, promoting economic integration within the Project by including market rate and below market rate units.

OBJECTIVE 11

IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO CONTINUE SAN FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS.

Policy 11.2:

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

In order to meet its obligation for public improvements the Project will contribute to the Balboa Park Community Improvement Fund. Instead of paying the fee the sponsor has agreed to construct two street extensions. The Brighton Avenue extension is a shared private and public open space amenity that is being provided by the project.

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 OR ORIENTATION.

Policy 1.1:

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

Policy 1.3:

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

Policy 1.6:

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

The Project proposes a well-designed structure that captures the character and vitality of the neighborhood through its use of materials, massing, scale, and details. The buildings will promote harmony in visually relating to, and serving as a transition between the larger institutional buildings of CCSF and the more fine grain buildings at the center of the Ocean Avenue NC-T. The buildings are sided in stucco, the most common material found in the District, with a modern vocabulary. Although the buildings are large, mostly a function of their site, their scale reduced by the change in height at the roof level, the well defined pedestrian oriented commercial base, and the extension of Brighton Avenue through the site. Furthermore, the façade is articulated with more meaningful projections that are larger than those that are permitted by Code and the top floor is set back on the west building to acknowledge the shorter buildings west of the site.

OBJECTIVE 4:

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

Policy 4.4:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.12:

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

The Proposal includes 5,700 square feet of public open space for visitors to utilize within the Brighton Avenue extension. The area is well defined and landscaped to promote pedestrian movement. The street is narrowed and paved with special pavers to slow auto traffic and signify the entrance into a pedestrian realm. Planters are located at the base of the buildings that help soften the materials and further define the pedestrian realm. The street and sidewalk on Brighton Avenue are proposed to be the same surface with either bollards or special pavers to indicate where the sidewalks meet the roadway.

BALBOA PARK STATION AREA PLAN

Objectives and Policies

OBJECTIVE 1.2:

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT

Policy 1.2.2:

Encourage mixed-use residential and commercial infill within the neighborhood commercial district.

The project provides a mixed-use residential and commercial infill development in the Ocean Avenue NC-T district.

OBJECTIVE 3.2:

ENSURE THAT NEW DEVELOPMENT DOES NOT ADVERSELY AFFECT PARKING AVAILABILITY FOR RESIDENTS.

Policy 3.2.3:

Promote car-sharing programs as an important way to reduce parking needs while still providing residents with access to an automobile when needed.

The project provides 5 car share parking spaces, in excess of that required by the Planning Code.

OBJECTIVE 3.3:

ENSURE THAT NEW OFF-STREET PARKING DOES NOT ADVERSELY AFFECT NEIGHBORHOOD CHARACTER OR THE PEDESTRIAN FRIENDLINESS OF STREETS IN THE PLAN AREA.

Policy 3.3.1:

Prohibit garage doors and curb cuts on neighborhood commercial and transit preferential streets.

No garage doors or curb cuts are proposed on Ocean Avenue (other than to create the Brighton Avenue extension and the Lee Avenue extension, pursuant to Policy 6.1.1).

OBJECTIVE 4.1:

MAXIMIZE OPPORTUNITIES FOR RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 4.1.1:

Housing, supported by a modest amount of neighborhood-oriented commercial establishments, should form the backbone of all new development in the plan area.

The project provides 173 dwelling units, supported by a modest amount (approximately 29,500 square feet) of ground floor commercial space.

OBJECTIVE 4.2:

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING.

Policy 4.2.1:

Encourage mixed-use commercial and residential infill within the commercial district while maintaining the district's existing fine-grain character.

The project provides a mixed-use residential and commercial infill development respectful of the existing character of the Phelan Loop area.

Policy 4.2.2:

Redevelop the parcels in the Phelan Loop Area with new mixed-use development.

The project redevelops the Kragen Auto Parts in the Phelan Loop area site with a mixed-use residential and commercial development.

OBJECTIVE 5.1:

CREATE A SYSTEM OF PUBLIC PARKS, PLAZAS AND OPEN SPACES IN THE PLAN AREA.

Policy 5.1.3:

Ensure that new open spaces are linked to and serve as an extension of the street system.

OBJECTIVE 5.2:

CREATE OPEN SPACE WITHIN NEW DEVELOPMENT THAT CONTRIBUTES TO THE OPEN SPACE SYSTEM

Policy 5.2.1:

Require good quality public open space as part of major new developments.

The Brighton Avenue Extension provides good quality public open space linked to the existing street system.

OBJECTIVE 5.3:

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

Policy 5.3.1:

Improve the visual and physical character of the Ocean Avenue Neighborhood Commercial District.

The project improves the visual and physical character of the Ocean Avenue NC-T district by replacing a surface parking lot with a well-designed mixed-use development.

Policy 5.3.3:

Pedestrian routes, especially in commercial areas, should not be interrupted or disrupted by auto access and garage doors.

No garage doors or curb cuts are proposed on Ocean Avenue (other than to create the Brighton Avenue extension and the Lee Avenue extension, pursuant to Policy 6.1.1).

OBJECTIVE 6.1:

CREATE STRONG PHYSICAL AND VISUAL LINKS BETWEEN THE TRANSIT STATION NEIGHBORHOOD, CITY COLLEGE, AND THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 6.1.1:

Large parcels should emphasize the existing street pattern, by extending Harold, Brighton, and Lee Avenues north across Ocean Avenue.

The project extends Brighton Avenue and Lee Avenue across Ocean Avenue.

OBJECTIVE 6.2:

KNIT TOGETHER ISOLATED SECTIONS OF THE PLAN AREA WITH NEW MIXED-USE INFILL BUILDINGS.

The mixed-use infill project knits together the Phelan Loop area and City College to the east with the Ocean Avenue neighborhood commercial district to the west.

OBJECTIVE 6.4:

RESPECT AND BUILD FROM THE SUCCESSFUL ESTABLISHED PATTERNS AND TRADITIONS OF BUILDING MASSING, ARTICULATION, AND ARCHITECTURAL CHARACTER OF THE AREA AND THE CITY.

Policy 6.4.2:

New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of the older buildings that surround them.

Policy 6.4.3:

Ground floor retail uses should be tall, roomy and as permeable as possible.

Policy 6.4.4:

Height and bulk controls should maximize opportunities for housing development while ensuring that new development is appropriately scaled for the neighborhood.

Policy 6.4.5:

Heights should reflect the importance of key streets in the city's overall urban pattern, while respecting the lower scale development that surrounds the plan area.

The project features contemporary but contextual architecture, tall roomy and permeable ground floor retail spaces, and conforms to the site's 55-foot height limit.

17. The Project has completed the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator as they apply to permits for residential development (Section 83.4(m) of the Administrative Code). The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.
18. 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.
19. Where feasible, all significant environmental impacts of the Project have been mitigated to a less than significant level, and to the extent that an environmental impact of the Project cannot feasibly be mitigated to a less than significant level, specific overriding economic, legal, social, technological and other benefits of the Project each independently outweigh these significant and unavoidable impacts and warrant approval of the Project, as stated in the Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations which is attached hereto as "Exhibit C and Attachment A" and incorporated by this reference.
20. Discussion and Rejection of EIR Alternatives - CEQA provides that alternatives analyzed in an EIR may be rejected if "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible....project alternatives identified in the final EIR." (CEQA Guidelines § 15091(a)(3).) The Commission has reviewed each of the alternatives to the Project as described in the Final EIR that would reduce or avoid the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological and other considerations that make the No Project Alternative and the Area Plan Alternative with No Transportation Improvements infeasible, as stated in the Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations which is attached hereto as "Exhibit C and Attachment A" and incorporated by this reference.
21. Statement of Overriding Considerations - CEQA (Public Resources Code Section 21081 and CEQA Guidelines 15093) requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its

unavoidable environmental risks when determining whether to approve the project. In approving the Project, the Commission has balanced the benefits of implementing the Project against its unavoidable environmental effects described above. After balancing these issues, the Commission has determined that the significant unavoidable effects of the Project are acceptable as stated in the Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations which is attached hereto as "Exhibit C and Attachment A" and incorporated by this reference.

The Commission finds that granting authorization for the Subject Project would promote the public welfare, convenience, and necessity for the reasons set forth above.

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 **ADOPTS CEQA Findings** attached hereto and including a Statement of Overriding Benefits and a Mitigation Monitoring and Reporting Program, and **APPROVES Conditional Use Application No. 2006.0884CU** subject to the following conditions attached hereto as "EXHIBIT A" 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. 17885. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on May 21, 2009.

Linda Avery
Commission Secretary

AYES: Commissioners Olague, Antonini, Moore, Borden, Miguel
and Sugaya

NAYES: None

ABSENT: Commissioner Lee

ADOPTED: May 21, 2009

Exhibit A

Conditions of Approval

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

General Conditions

1. This approval is for Conditional Use authorization and Planned Unit Development approval pursuant to Planning Code Sections 737, 121.1, 121.2, 703.4, 303 and 304 in the Ocean Avenue NC-T District and a 55-X Height and Bulk District for construction of an approximately 318,300 gross square foot mixed-use Project that would include demolition of the existing auto parts store and surface parking lot, construction of one five-story and one four-story building over a ground level and basement garage, with approximately 173 dwelling units, including 26 on-site BMR units, up to approximately 29,500 square feet of retail space, including up to approximately 27,500 gross square foot formula retail grocery use (with off-sale liquor) in the east block, approximately 237 parking spaces above and below grade, the Brighton Avenue Extension and the Lee Avenue Extension. The Project approved by this Motion is in general conformity with the plans dated April 20, 2009, on file with the Department in the docket for Case No. 2006.0884C (labeled Exhibit B), reviewed and approved by the Commission on May 21, 2009.
2. Prior to the issuance of the Building Permit 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 premises (Assessor's 2515, Lot 001), which Notice shall state that construction has been authorized by and is subject to the conditions of this Motion including the designation of the below market rate housing units. From time to time after the recordation of such Notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of no less than \$200.00 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, biweekly litter pickup and disposal, and cleaning of the main entrance and abutting sidewalks as needed.
6. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors during project construction. The Project Sponsor shall report the name and telephone number of this

Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

7. Mitigation Measures. The mitigation measures and improvement measures set forth in the attached Mitigation Monitoring and Reporting Program, Exhibit C and Attachment A, which have been agreed to by the Project Sponsor, and which constitute the mitigation measures and improvement measures applicable to the project in the Balboa Park Station Area Plan Final EIR (Case 2004.1059E), as necessary to avoid potential significant effects of the project and reduce less than significant effects (in the case of improvement measures), are fully incorporated herein as conditions of approval of this authorization. If said measures are less restrictive than the other conditions herein, the more restrictive and protective control as determined by the Zoning Administrator, shall govern.

First Source Hiring

8. The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing.

Design

9. The Project sponsor shall continue to work with staff to refine the project design in general conformity with the plans labeled Exhibit B to assure that all building materials, including finishes, windows, entrances, storefronts, and detailing are appropriate for the Site and neighborhood. The project design shall include exploring opportunities to add visual interest (e.g. green wall, mural) to the west wall of the west building at the ground floor.
10. The project sponsor shall continue to work with staff to refine the design of the streetscape improvements, in general conformity with the plans labeled Exhibit B, including the Brighton Avenue sidewalks, consistent with the requirements of the Department of Public Works applicable to public sidewalks. The streetscape design shown in the plans before the Commission for approval are generalized and may require further refinement.
11. Space for the collection and storage of garbage shall be provided within enclosed areas on the property. Garbage containers shall be kept inside buildings, and placed outside only when being serviced by the disposal company. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall be provided at the ground level of the buildings.
12. All applicable City Codes and standards shall be met.
13. No general advertising signs shall be permitted anywhere on the building.
14. The Project shall comply with the provision of street trees as required by Planning Code Section 143.

15. Signs and exterior lighting shall be reviewed and approved by the Planning Department before they are installed.
16. The Project Sponsor shall maintain attractive storefronts providing visibility of the commercial interior through the storefront windows. The Project Sponsor shall require that the tenants maintain storefronts that maximize the visibility of the interior through the storefront windows.

Parking

17. The Project shall provide no more than the maximum number of parking spaces allowed by Planning Code 151.1 (up to 1 space per dwelling unit; 1 space per 1,500 occupied square feet of retail space and 1 space per 250 occupied square feet for a retail grocery store in excess of 20,000 occupied square feet).
18. All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space.
19. The Project Sponsor shall provide 5 off-street parking spaces to be dedicated for the exclusive use by a car-sharing organization, 2 spaces in excess of the requirements of and pursuant to the provisions of Planning Code Section 166.
20. The Project Sponsor shall comply with the residential bicycle parking requirements and shower and locker requirements of Planning Code Section 155.3 and 155.5 and shall provide more than the number of commercial employee bicycle parking spaces required by Section 155.4.
21. If the Project includes a retail use larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, then the Project shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service, to meet the requirements of Section 151.1(f) of the Code.

Housing

22. The Project's dwelling units shall not be marketed for time-share or short-term transient use. No residential units shall be used as a hotel unit.

Inclusionary Housing

23. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"), incorporated herein by reference, as adopted on June 28, 2007 by the Planning Commission, and as required by Planning Code Section 315 (collectively the "Inclusionary Requirement"). The Project Sponsor has elected to provide fifteen percent on-site affordable below-market-rate units ("BMR units"), for a total of approximately 26 units, to satisfy its Inclusionary Requirement.

- a. The BMR unit(s) shall be designated on the building plans prior to approval of any building permit. The BMR unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, and ready for occupancy no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project.
- b. If the units in the building are offered for sale, the BMR unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA). The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for a fifty (50) year period from the date of the initial sale of the BMR unit.
- c. The Applicant shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such fees are authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.
- d. The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
- e. Prior to issuance of any building permit for the Project (including any building permit issued for any partial phase of the Project), the Project Sponsor shall have designated the BMR units in accordance with Items a, b and c above.
- f. Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR unit(s) satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).

Formula Retail Grocery Store

24. Approximately 27,500 gross square feet of the commercial space in the east block has been designed for and is intended for occupancy by a formula retail grocery store (with off-sale liquor), as defined by Planning Code Sections 790.102(a), 790.55 and 703.4. This approval includes authorization for a formula retail grocery store (with off-sale liquor) within the ground floor commercial space within the east block. In the event the Project Sponsor determines not to include a grocery store in the project, any other use proposed for the grocery tenant space (or elimination of the grocery store space) shall require a new informational hearing before the Planning Commission that is subject to the notification procedures of Section 303 of the Code. Notwithstanding the hearing requirement specified above, the Planning Code may require any non-grocery store to obtain an independent

conditional use authorization. Should this occur, the Planning Commission, in its discretion, may consolidate the informational hearing with a conditional use hearing.

Balboa Park Impact Fee

25. Prior to the issuance of the first site or building permit, the project sponsor shall comply with Planning Code Sections 330-330.6 (Ordinance 61-09) by paying a community impact fee of \$8 per gross square foot of new residential space and \$1.50 per gross square foot of net new commercial space, enter into an In-Kind Agreement with the City, or comply through a combination of payment and in-kind improvements, as provided by Section 330.3(d).

Brighton Avenue Extension

26. Pursuant to the policies of the Balboa Park Area Plan, prior to issuance of the Certificate of Final Completion, the Project Sponsor shall construct the Brighton Avenue Extension as a private pedestrian street between the two building blocks with vehicular access only to the project's parking garages, in general conformity with Exhibit B.
27. The Project Sponsor shall cause its engineer to prepare detailed plans and specifications for the Brighton Avenue public sidewalks, to be submitted for review and approval by the Department of Building Inspection ("DBI") in the ordinary course of the process of obtaining a building permit for the Project. The Department of Public Works ("DPW") shall review the permit plans for the Brighton Avenue public sidewalks as part of its review of the Project's site or building permit to confirm for DBI that the sidewalk, when completed, will meet City standards. Prior to issuance of the Certificate of Final Completion involving the Brighton Avenue Extension, the Project Sponsor shall convey a public access easement to the City providing for public access at all times to the sidewalk areas (but not the vehicular roadways) of the Brighton Avenue Extension, totaling approximately 3,460 square feet. The value of the public access easement (\$354,650) shall qualify as an In-Kind Improvement credit pursuant to Planning Code Section 328.3(f). The Project Sponsor shall retain maintenance and liability responsibility for the Brighton Avenue Extension, including the sidewalk area. Maintenance and liability for the sidewalk area should be addressed specifically in the public access easement. The provisions of an approved In-Kind Agreement shall govern the implementation of this condition.

Lee Avenue Extension

28. Pursuant to the policies of the Balboa Park Area Plan, prior to issuance of the Certificate of Final Completion for the Project, the Project Sponsor shall construct the Lee Avenue Extension as a public vehicular and pedestrian street at the east side of the project, part of which will be located on Project Sponsor property and part of which will be located on City property under the control of the Municipal Transportation Agency (MTA), in general conformity with Exhibit B and consistent with DPW standards for streets, curbs and sidewalks, provided the MTA approves such construction on its property. The actual costs to the Project Sponsor of the Lee Avenue Extension improvements shall qualify as an In-Kind Improvement credit pursuant to Planning Code Section 328.3(f) and an In-Kind Agreement to be approved by the Commission.
29. Upon completion of the Lee Avenue Extension and confirmation by DPW that the Lee Avenue Extension improvements meet City standards, the Project Sponsor shall irrevocably offer to dedicate

such improvements and its land underlying a portion of the extension to the City for use as an accepted public street, for which the City shall assume maintenance and liability responsibility. An irrevocable offer of land dedication may be a condition precedent to DPW issuance of a street improvement permit; provided, however, it shall not qualify for an In-Kind Improvement credit. The provisions of an approved In-Kind Agreement shall govern the implementation of this condition.

Loading Driveway

30. To accommodate a grocery store use in the east block, a loading dock capable of accommodating 65-foot trucks as shown in Exhibit B may be provided with access from the Lee Avenue Extension. The Project Sponsor may seek an easement, license or other accommodation from the appropriate City agency permitting trucks up to 65 feet in length to use a turn-around at the rear of the current Phelan Loop perpendicular to the Lee Avenue Extension to maneuver trucks so that they can back into the loading dock.
31. All grocery store loading shall occur from Lee Avenue and utilize the two-space off-street loading area located on Lee Avenue.
32. Because of the location of residential units in the project above the loading dock and the City's proposal to construct an affordable residential project directly across Lee Avenue from the project site, loading via the truck turnaround driveway/easement on the adjacent property to the east shall be prohibited during the late night and early morning hours of 11:00 p.m. to 6:00 a.m.
33. Loading dock personnel shall be stationed on Lee Avenue whenever delivery vehicles accessing the loading dock require traffic lanes to be blocked, in the northbound and/or southbound direction, to assist truck maneuvering and manage traffic flow including minimizing potential conflicts with MUNI operations.
34. Loading dock staging shall be prohibited from Ocean, and deliveries by 18-wheel trucks shall be scheduled such that on-street queuing is unnecessary.

Exhibit C and Attachment A
MITIGATION MONITORING AND REPORTING PROGRAM
(Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

MITIGATION MEASURES FROM THE BALBOA PARK STATION AREA PLAN FINAL EIR				
Transportation Mitigation Measure				
<p>Ocean Avenue/Brighton Avenue: Adjust the intersection signal timing to provide a short protected left-turn green phase for eastbound traffic to accommodate the Krage Auto Parts Site development. The change in signalization shall meet City standards and specifications. The project sponsor for the Krage Auto Parts Site development shall work with MTA and the Planning Department to confirm that this signal change would be acceptable.</p> <p>All changes to the intersection signalization plan, including addition of new signal phases shall be reviewed, analyzed, and implemented by MTA. The project sponsor shall fully fund these efforts.</p>	Project sponsor, MTA, and Planning Department	Prior to issuance of certificate of occupancy	MTA, Planning Department	Considered complete upon signal adjustment
Noise Mitigation Measures				
<p>N-1: In accordance with the San Francisco Land Use Compatibility Guidelines for Community Noise, conduct a detailed evaluation of noise reduction requirements and incorporate needed noise reduction measures into the project design wherever new residential development is proposed in areas subject to existing or future noise levels over 60 dBA (CNEL).</p>	Project sponsor	Prior to issuance of applicable site permit addendum	Planning Department and DBI	Considered complete upon approval of site permit addendum
<p>N-2: Complete a vibration analysis for any residential or vibration-sensitive land uses proposed within critical distances of existing or planned BART or MUNI facilities (see Table 18, p. 224 of the Draft EIR). Incorporate measures into the design as necessary to reduce the potential for vibration disturbance.</p>	Project sponsor	Prior to issuance of applicable site permit addendum	Planning Department and DBI	Considered complete upon approval of site permit addendum
Air Quality Mitigation Measures				
<p>AQ-1: The project sponsor(s) shall ensure that contractors spray all sites with water during demolition, excavation, and construction activities; spray unpaved construction areas with water at least twice per day; cover stockpiles of soil, sand, and other material; cover trucks hauling debris, soils, sand or other such material; and sweep surrounding streets during demolition, excavation, and construction at least once per day to reduce particulate emissions. Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor(s) would require that the project contractor(s) obtain reclaimed water from the Clean Water Program for this purpose. The project sponsor(s) would require the project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other</p>	Project sponsor	During construction	Planning Department and DBI	Considered complete upon completion of construction

<p>pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.</p>				
<p>AQ-2: New residential development proposed in the following areas shall include an analysis of PM2.5 and shall, if warranted based on the results, incorporate upgraded ventilation systems to minimize exposure of future residents to PM2.5 (which includes DPM) and other pollutant emissions, as well as odors: (1) within 500 feet of the I-280 freeway; (2) adjacent to the proposed bus layover facility on the Phelan Loop Site; (3) any active recreation areas such as playgrounds that are proposed as part of any future residential development in either of these areas; and (4) any other location where total daily traffic volumes from all roadways within 500 feet of such location exceed 100,000 vehicles.</p> <p>The analysis shall employ either site-specific modeling of PM2.5 concentrations or other acceptable methodology to determine whether the annual average concentration of PM2.5 from the roadway sources within 500 feet would exceed the standard of 0.2 micrograms per cubic meter that has been shown to result in an increase of approximately 0.3 percent in non-injury mortality. If the incremental annual average concentration of PM2.5 concentration (from roadway sources only) were to exceed 0.2 micrograms per cubic meter at the project site, the project sponsor shall be required to install a filtered air supply system to maintain all residential units under positive pressure when windows are closed.</p> <p>The ventilation system, whether a central HVAC (heating, ventilation and possibly air conditioning) or a unit-by-unit filtration system, shall include high efficiency filters meeting minimum efficiency reporting value (MERV) 13, per American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 52.2 (equivalent to approximately ASHRAE Standard 52.1 Dust Spot 85%). Air intake systems for HVAC shall be placed based on exposure modeling to minimize roadway air pollution sources. The ventilation system shall be designed by an engineer certified by ASHRAE, who shall provide a written report documenting that the system offers the best available technology to minimize outdoor to indoor transmission of air pollution.</p> <p>In addition to installation of air filtration, the project sponsor shall present a plan that ensures ongoing maintenance of the ventilation and filtration systems. The project sponsor shall also ensure that the following information is disclosed to buyers and renters: (1) the findings of the particulate matter analysis, and (2) instructions concerning the proper use of any installed air filtration. If active recreation areas such as playgrounds are proposed as part of</p>	<p>Project sponsor</p>	<p>Prior to issuance of applicable site permit addendum</p>	<p>Planning Department, Department of Public Health (DPH), and the Department of Building Inspection (DBI)</p>	<p>Considered complete upon approval of site permit addendum showing HVAC system, as appropriate, if warranted</p>

<p>any future residential development, such areas shall be located at least 500 feet from freeways, if feasible.</p> <p>The above standard shall also apply to other sensitive uses such as schools, daycare facilities, and medical facilities. (It is noted that such facilities are somewhat more likely to employ central air systems than are residential developments.)</p>				
<p>Hazardous Materials Mitigation Measures</p>				
<p>HM-2: Ensure that any equipment containing PCBs or DEHP, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, state, and local laws prior to the start of renovation or demolition, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed of. Any other hazardous materials identified, such as asbestos-containing building materials, either before or during work, shall be abated according to applicable federal, state, and local laws.</p>	<p>Project sponsor</p>	<p>Submit work plan prior to start of demolition</p>	<p>Planning Department, in consultation with the Bay Area Air Quality Management District (BAAQMD)</p>	<p>Submit work completion report to Planning Department, in consultation with BAAQMD</p>
<p>HM-4: Ensure that an environmental professional shall be present during excavation activities when the hydraulic lifts are removed and when excavation occurs in the vicinity of the storm sewer system to observe for staining and to collect soil samples, if staining is observed. If the sampling indicates that a release of hazardous materials could have affected soil or groundwater quality at the site, conduct follow-up investigations and possibly remediation in conformance with state and local laws, regulations, and guidelines.</p>	<p>Project sponsor</p>	<p>Submit work plan prior to start of demolition</p>	<p>Planning Department, in consultation with DPH</p>	<p>Submit work completion report to Planning Department, in consultation with DPH</p>
<p>Archeological Mitigation Measures</p>				
<p>AM-1: AM-1 applies to projects involving activities including excavation, construction of foundations, soils improvement/densification, installation of utilities or soils remediation resulting in soils disturbance/modification to a depth of four (4) feet or greater below ground surface.</p> <p>The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried historical resources as defined in CEQA Guidelines Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities contractor involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel, including machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p>	<p>Project sponsor</p>	<p>Prior to and during construction</p>	<p>The ERO to review and approve the Final Archeological Resources Report</p>	<p>The project archeologist to consult with the ERO as indicated. Considered complete after review and approval of the Final Archeological Resources Report by the ERO.</p>

<p>Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p> <p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p>				
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<p>AM-2: Based on the reasonable potential that archeological resources may be present within the Project Area, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried historical resources. The project sponsor of a development project under the Balboa Park Station Area Plan shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce the potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c), to a less-than-significant level.</p> <p>Archeological monitoring program (AMP). The archeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> • The archeological consultant, project sponsor of a development project under the Balboa Park Station Area Plan, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the project archeologist shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archaeological resources and to their depositional context; • The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; • The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects 	<p>Project sponsor</p>	<p>Prior to and during construction</p>	<p>The ERO to review and approve the Final Archeological Resources Report</p>	<p>The project archeologist to consult with the ERO as indicated. Considered complete after review and approval of the Final Archeological Resources Report by the ERO.</p>
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<p>on significant archeological deposits;</p> <ul style="list-style-type: none"> • The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; • If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO. <p>If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:</p> <p>A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or</p> <p>B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p> <p>If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery</p>	<p>Project archeologist</p>	<p>Follow requirements of an ADRP</p>	<p>The ERO to review and approve the ADRP</p>	<p>Considered complete after review and approval of the ADRP by the ERO</p>
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methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- **Field Methods and Procedures.**
 Descriptions of proposed field strategies, procedures, and operations.
- **Cataloguing and Laboratory Analysis.**
 Description of selected cataloguing system and artifact analysis procedures.
- **Discard and Deaccession Policy.**
 Description of and rationale for field and post-field discard and deaccession policies.
- **Interpretive Program.** Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- **Security Measures.** Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- **Final Report.** Description of proposed report format and distribution of results.

Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

Human Remains, Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to

Project archeologist

Following discovery of human remains

County Coroner and ERO

Completion of notification and consultation requirements of Pub. Res. Code Sec. 6097.98

Project archeologist

Completion of draft FARR

The ERO to review and approve the

Considered complete after review and approval of the FARR

<p>the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p>			FARR	by the ERO
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IMPROVEMENT MEASURES FROM THE BALBOA PARK STATION AREA PLAN FINAL EIR

Transportation Improvement Measures

<p>The project sponsor shall coordinate with one of the carshare providers to provide carshare spaces within new off-street parking facilities to encourage carshare use. Make efforts to enhance transit, pedestrian, and bicycle circulation and access in the Project Area, which would reduce the reliance upon private vehicles.</p>	Project sponsor	Prior to issuance of certificate of occupancy	MTA, Planning Department	Considered complete upon provision of car share parking
<p>To minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods, limit construction truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by MTA). In addition, have all construction contractors meet with representatives of MTA and the Planning Department to determine feasible measures to reduce traffic congestion, including transit disruption and pedestrian and bicycle circulation impacts during construction of individual projects within the Project Area.</p>	Project sponsor	During construction	DBI	Considered complete upon completion of construction
<p>Allow project residents to park within the food market/retail spaces overnight. It would be necessary to have these spaces dedicated to retail patrons during store hours; however, during other times, project residents could be allowed to utilize these spaces. In addition, coordinate with one of the carshare providers to provide carshare spaces within the parking garage to encourage carshare use.</p>	Project sponsor	Monitor biannually	MTA, Planning Department	Ongoing
<p>To encourage food market/retail employees to commute to work on bicycle (thereby improving</p>	Project sponsor	Prior to issuance of	Planning Department	Considered complete upon construction of showers, lockers and

<p>traffic and parking conditions), provide the Planning Code-required shower and locker facilities for the food market/retail space. In addition, provide additional bicycle parking spaces in a safe and secure location for employees.</p>		<p>site permit</p>		<p>bicycle parking</p>
<p>Truck Loading:</p> <ul style="list-style-type: none"> Restrict truck access to the food market loading dock to 30 foot trucks or shorter. If longer trucks are needed, restrict deliveries to the early morning to avoid peak morning and peak evening commute periods. Schedule all deliveries to reduce the potential for trucks waiting to enter the loading dock (which may cause a back up onto Ocean Avenue). Traffic volumes along Ocean Avenue are constantly high throughout the day; therefore, deliveries between 7:00 a.m. and 7:00 p.m. should be avoided. Maintain accurate truck logs to document the time and duration of truck activities. Station loading dock personnel at the corner of the Ocean/Lee intersection and at the loading dock to assist truck maneuvers and to manage traffic flows. Work with MTA to prohibit on-street parking along Lee Avenue during the peak loading periods to provide sufficient right-of-way for truck maneuvers. 	<p>Project sponsor</p>	<p>Monitor biannually</p>	<p>MTA, Planning Department</p>	<p>Ongoing</p>
<p>Water Quality Improvement Measure</p>				
<p>WQ-1: Incorporate green stormwater management technologies into proposed new open spaces in the Project Area. Examples of green stormwater technologies include swales and other infiltration methods, rainwater gardens, stormwater planters, green roofs, pervious concrete, green streets, new open space, and reducing the use of pipes, curbs and gutters. Incorporation of these green stormwater management technologies could further delay peak stormwater runoff flows and provide reduction of pollutants in the stormwater runoff discharged to the combined sewer system.</p>	<p>Project sponsor</p>	<p>Prior to issuance of a applicable landscaping permit</p>	<p>Planning Department, DBI</p>	<p>Considered complete upon installation of landscaping</p>

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|---|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 18153

HEARING DATE: JULY 22, 2010

Date: July 15, 2010
Case No.: 2009.1117C
Project Address: 1100 OCEAN AVENUE
Zoning: Ocean Avenue NC-T (Neighborhood Commercial Transit)
55-X Height and Bulk District
Block/Lot: 3180/001
Project Sponsor: Steve Rajninger
Herman Coliver Locus Architecture
363 Clementina Street
San Francisco, CA 94103
Staff Contact: Michael Smith – (415) 558.6322
michael.e.smith@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 737.11 TO ALLOW DEVELOPMENT ON A LOT EXCEEDING 9,999 SQUARE FEET, AND TO ALLOW A PLANNED UNIT DEVELOPMENT PER PLANNING CODE SECTIONS 303 AND 304, WITH EXCEPTIONS FROM PLANNING CODE SECTIONS 134 (REAR YARD); 135 (OPEN SPACE DIMENSIONS); AND 136 (PERMITTED OBSTRUCTIONS WITHIN REQUIRED OPEN AREAS), FOR A PROJECT TO DEMOLISH AN EXISTING BUS SHELTER AND SURFACE PARKING LOT AND TO CONSTRUCT A NEW FIVE-STORY MIXED-USE BUILDING WITH 71 DWELLING UNITS OVER GROUND FLOOR COMMERCIAL SPACE. THE RESIDENTIAL COMPONENT OF THE PROJECT WOULD BE 100% AFFORDABLE, INTENDED FOR OCCUPANCY BY YOUNG ADULTS TRANSITIONING OUT OF FOSTER CARE AND HOUSEHOLDS AT OR BELOW 50% OF AREA MEDIAN INCOME. FIVE OFF-STREET PARKING SPACES WOULD BE PROVIDED. THE PROJECT IS LOCATED WITHIN THE OCEAN AVENUE NC-T (NEIGHBORHOOD COMMERCIAL TRANSIT) DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT. THE APPROVAL ALSO INCLUDES ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On December 14, 2009, Steve Rajninger, from Herman Coliver Locus Architecture acting on behalf of Bernal Heights Neighborhood Center ("Project Sponsor") filed an application with the San Francisco Planning Department (hereinafter the "Department") requesting, under Sections 737.11, 303, and 304, Conditional Use Authorization to allow development on a lot exceeding 9,999 square feet, to establish a planned unit development (PUD), for a development on a 25,772 square-foot site (Lot 001 in Assessor's Block 3180) at 1100 Ocean Avenue (a.k.a. 11 Phelan Avenue), between Plymouth and Phelan Avenues ("Project Site"). The project proposed to demolish an existing bus shelter and surface parking lot and to construct a mixed-use, five-story, 55-foot-tall buildings totaling approximately 86,500 gross square feet (gsf) with five off-street parking spaces. The project would include 71 affordable dwelling units and approximately 7,300 gsf of ground-floor commercial space (tenants not yet determined). The project requires subdividing the 30-acre lot creating a 25,772 square-foot lot with approximately 137-feet of frontage on Ocean Avenue.

Pursuant to CEQA Guidelines Section 15168, the Planning Department conducted a program-level EIR for the *Balboa Park Station Area Plan*. The area plan EIR was also a project-level EIR that analyzed the proposed project at 11 Phelan Avenue (the "Phelan Loop Site"). The analysis was performed at a project level to address the environmental effects associated specifically with the proposed housing project at 11 Phelan Avenue. Pursuant to CEQA Guidelines Section 15090, the Planning Commission certified the Final EIR on December 4, 2008, in its Motion No. 17774. No appeal of the certification was filed with the Department. The Commission found significant unavoidable environmental impacts for the Balboa Park Station Area Plan and related approvals that could not be mitigated to a level of non-significance. Pursuant to CEQA Guidelines Section 15093, the Commission adopted a statement of overriding considerations for approving the Plan on December 4, 2008, in its Motion No. 17776. The Board of Supervisors made the same findings in Ordinance Nos. 58-09, 59-09, 60-09, and 61-09. Said motion and ordinances are incorporated herein by reference. As part of the Planning Commission's actions related to the 11 Phelan Avenue, the Commission is adopting additional CEQA findings specific to this development project.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2004.1059E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.

On July 22, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1117C, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.1117C, 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. **Project Description.** The request is for Conditional Use Authorization pursuant to Planning Code Sections: 737.11, for development of a lot that is greater than 9,999 square-feet; and Planning Code Sections 303 and 304 to allow a Planned Unit Development, with a request for exceptions from Planning Code Sections: 134 (rear yard); 135 (open space dimensions); and 136 (permitted obstructions over streets and alleys).

The proposal is to demolish the existing bus shelter and surface parking lot and to construct a mixed-use, five-story, 55-foot-tall building totaling approximately 86,466 gross square feet (gsf) with five off-street parking spaces. The project would include 71 affordable dwelling units and approximately 7,300 gsf of ground-floor commercial space (tenants not yet determined). The project requires subdividing the 30-acre lot creating a 25,772 square-foot lot with approximately 137-feet of frontage on Ocean Avenue.

The project is a joint partnership between the Mayor's Office of Housing and the Bernal Heights Neighborhood Center. The building will have four levels of residential occupancy above ground-floor retail space. The residential units will be provided as follows: (18) studio units, (18) one-bedroom units, (21) two-bedroom units, and (13) three-bedroom units. Forty-eight percent of the units contain two-bedrooms or more. The units are 100% affordable with approximately 21 of the units intended for occupancy by young adults transitioning out of foster care. The remaining residential units are intended for occupancy by households earning less than 50% of area median income. The parking garage is located at grade level and is accessed from the Lee Avenue extension. The garage contains five off-street parking spaces including a handicap accessible space and a car share space. The building will have 32 class 1 bicycle parking spaces for the residential space and four class 1 bicycle parking spaces for the commercial space. The remainder of the ground floor will provide supportive service and community space.

The Project includes approximately 7,841 square-feet of on-site residential open space with the remainder of the open space requirement being met by the proposed adjacent

public open space. The adjacent open space will be developed by the City separate from the project. The primary areas of on-site open space are located within the courtyard at the podium level and the rear yard.

- 3. Site Description and Present Use.** The Project Site (Assessor's Block 3180, Lot 001) is a City owned parcel located on the north side of Ocean Avenue, between Phelan and Plymouth Avenues. The lot measures 30-acres in area with frontage on both Ocean and Phelan Avenues. The project site is located just west of Highway 280 and San Francisco City College. The property is improved with the PUC water reservoir at the rear, the Phelan Loop bus turnaround and layover area, a surface parking lot for 23 vehicles, and a fire station. The property is on the border of the Westwood Park and Ingleside neighborhoods. The Project Site is within the boundaries of the Balboa Park Station Area Plan and was recently rezoned from NC-2 (Small-Scale, Neighborhood Commercial) Zoning District to the Ocean Avenue NCT (Neighborhood Commercial Transit) Zoning District and the height limit for the property was changed in the process from 65-A Height and Bulk District to a 55-X Height and Bulk District.

The Balboa Park Station Area Plan calls for rerouting the Phelan Loop bus turnaround to circle the fire station.

- 4. Surrounding Properties and Neighborhood.** The Ocean Avenue NCT District is mixed use, transitioning from a predominantly one- and two-story retail district to include taller buildings at its eastern end. The Kragen site, which the Commission approved in May 2009, is one such taller building adjacent to the site to the west. The "Kragen" development includes 173 dwelling units and a ground floor grocery store. The grocery store requires a truck hammerhead easement that is partially located with in the required rear yard of the subject property. To the north, the property abuts an empty PUC water reservoir that is currently used by City College of San Francisco for parking. To the east the site abuts the existing fire station. Across Ocean Avenue, to the south of the site, is a vacant corner lot, a McDonald's restaurant, and a modern, four-story mixed-use building as well as two smaller scale mixed use buildings. The MUNI K-Ingleside line travels down the center of Ocean Avenue with east and west bound MUNI stops in front of the site. The MUNI stops continue the length of the block and consist of raised platforms with barriers, ADA accessible boarding ramps, and covered bus shelters. City College of San Francisco's main campus is located northeast of the site. The single-family neighborhoods of Westwood Park and Ingleside flank Ocean Avenue to the north and south respectively.
- 5. Public Comment.** The Department has received no correspondence from the public regarding this project.
- 6. Balboa Park Station Area Plan.** As part of the Better Neighborhoods Program, the Balboa Park Station Area Plan has been identified as one of the areas studied. The "plan

area" for the Balboa Park Station Area Plan is in south central San Francisco. The area comprises approximately 210 acres and includes the Ocean Avenue Campus of City College of San Francisco (CCSF), the Ocean Avenue Neighborhood Commercial District, Balboa Park, and the Balboa Park BART station. More specifically, the plan area consists primarily of those parcels fronting on Ocean, Geneva and San Jose Avenues. The area provides a diverse range of uses including; institutional, recreational, retail, housing, and transportation. Seven neighborhoods surround the Plan Area: Westwood Park, Ingleside, Ingleside Terraces, Miraloma Heights, Sunnyside, Oceanview, and Balboa Terraces. The plan area is best characterized by four distinct areas; the Transit Station Neighborhood, City College of San Francisco, the Reservoir, and the Ocean Avenue Commercial District. The Plan's objectives and policies are informed by three key principles;

- a. Improve the area's public realm,
- b. Make the transit experience safer and more enjoyable,
- c. And improve the economic vitality of the Ocean Avenue Neighborhood Commercial District.

7. **Ocean Avenue NC-T (Neighborhood Commercial Transit).** The Ocean Avenue Neighborhood Commercial Transit District is located on Ocean Avenue from Phelan to Manor Avenues. Ocean Avenue is a multi-purpose transit-oriented small-scale commercial district that is modeled on the NC-T-2 District. Ocean Avenue was developed as a streetcar-oriented commercial district in the 1920s and continues to serve this function, with the K-line streetcar on Ocean Avenue. Numerous other bus lines serve the area, especially the eastern end, where the Phelan Loop serves as a major bus terminus. The eastern end of the district is anchored by the main City College campus at Phelan and direct linkages to the Balboa Park BART/MUNI rail station two blocks to the east, which serves as the southernmost San Francisco station for BART and the terminus of the J, K, and M streetcar lines. Because of the immediate proximity of the BART/MUNI station the district has quick and easy transit access to downtown.

The Ocean Avenue NC-T District is mixed use, transitioning from a predominantly one- and two-story retail district to include neighborhood-serving commercial uses on lower floors and housing above. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Access (i.e. driveways, garage entries) to off-street parking and loading is generally prohibited on Ocean Avenue to preserve and enhance the pedestrian-oriented character and transit function of the street. Residential and commercial parking are not required.

The Ocean Avenue NC-T District is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices. Buildings may range in height, with height limits generally allowing up to four or five stories. Lots are generally small to medium in size and lot consolidation is prohibited to preserve the

fine grain character of the district, unless the consolidation creates a corner parcel that enables off-street parking to be accessed from a side street.

Rear yard requirements above the ground story and at residential levels preserve open space corridors of interior blocks.

Commercial uses are required at the ground level and permitted at the second story. Large Fast Food uses are not permitted.

Housing development in new buildings is encouraged above the ground story. Existing residential units are protected by limitations on demolition and upper-story conversions.

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

A. **Rear Yard.**

Planning Code Section 134 requires a 25% rear yard. Planning Code Section 737.12 requires the yard to be located at the second story and above and at all residential levels.

The Project would have a rear yard located at grade but because a portion of the building would encroach into this required open space an exception is required. See Finding 9A below.

B. **Open Space.**

Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. Either 100 square feet of private usable open space per dwelling unit or 133 square feet of common usable open space per dwelling unit or any combination thereof must be provided for the project.

The Project, with 71 dwelling units, is required to provide approximately 7,100 sf of private open space, or 9,443 sf of common open space, or an equivalent combination of private and common open space. The Project provides approximately 7,841 sf of combined common and private open space on-site, thereby partially meeting open space requirement on site. The remainder of the requirement is met off-site by the proposed adjacent public plaza. See Finding 9B below.

C. **Density.**

Planning Code Section 737.91 places no limits on residential density in the District. Density is only restricted by physical building envelope.

The project would provide 71 dwellings which is a ratio of one dwelling per 363 square-feet of lot area.

D. **Street Trees.**

Planning Code Section 143 requires the owner or developer of a new building in a NC District to install one 24-inch box street tree for every 20-feet of lot frontage.

The project meets the requirement by adding five new street trees at the Ocean Avenue frontage and five new street trees at the proposed Lee Avenue frontage.

E. Permitted Parking (Residential).

Planning Code Section 737.94 requires no residential parking and permits up to one parking space for each dwelling unit. Parking above a ratio of 1:1 is not permitted.

The project would provide five residential parking spaces which is .07 parking space for each dwelling unit.

F. Permitted Parking (Commercial).

Planning Code Section 737.22 requires no commercial parking and permits up to one space per 1,500 square-feet of occupied floor area, not permitted above.

The project would not provide any commercial parking.

G. Off-Street Loading.

Planning Code Section 152 requires one off-street loading space for retail uses between 10,001 and 30,000 square feet and zero off-street loading space for residential uses between 0 and 100,000 sf.

An off-street loading space is not required because the project has 7,300 gross square-feet of commercial space and 79,200 sf. of residential space. The project includes a non-Code complying freight space within the parking garage.

H. Height and Bulk.

The subject property is located within the 40-X, 55-X, and 65-A Height and Bulk Districts.

The Project reaches a finished roof height of 55 feet. The Project therefore complies with the basic height limitation for the property. Pursuant to Section 270, projects within "-X" Bulk Districts are not subject to specific bulk controls.

I. Floor Area Ratio.

In the Ocean Avenue NCT District, Section 124 allows a Floor Area Ratio (FAR) of up to 2.5. In NC Districts the FAR requirement does not apply to residential uses.

The Project Site has an area of 25,772 square feet; therefore the allowable FAR would permit up to 64,430 square feet of gross floor area of nonresidential space. The Project would provide approximately 7,300 gross square feet of nonresidential space, and therefore complies with the maximum allowable FAR.

J. Car Sharing.

Section 166 of the Planning Code does not require any car share parking spaces if a project has 0 – 49 off-street parking spaces.

The Code does not require any car share space because the Project proposes no off-street parking, however, the project would provide one car share space for use by residents of the building.

K. Shower and Locker Facilities.

Section 155 of the Code does not require a shower or locker facility for retail uses that are less than 25,000 sf.

The Project would not provide any shower or locker facilities.

L. Bicycle Parking.

Section 155 of the Code requires no bicycle parking for commercial uses less than 10,000 sf. and requires 25 Class 1 spaces plus 1 Class 1 space for every 4 dwelling units over 50.

No bicycle parking is required for the commercial uses because it is only 7,300 sf. However, the project would provide four Class 1 bicycle spaces for the commercial uses. The Code requires 30 Class 1 bicycle parking spaces for the residential uses. The Project would provide 32 Class 1 spaces.

M. Dwelling Unit Mix.

Section 207.6 of the Planning Code requires that a minimum of 40 percent of all dwelling units in NC-T-Districts have at least two-bedrooms or more to ensure an adequate supply of family-sized units.

The project proposes 34- dwellings with two or more bedrooms, or 48 percent of the total number of units.

N. Lot Size per Development.

Planning Code Section 737.11 permits development of lots larger than 9,999 square-feet within the Ocean Avenue NC-T with conditional use authorization.

The subject lot would be subdivided from lot 001 in assessor's block 3180 and measure 25,772 square-feet thus requiring conditional use authorization to develop.

O. Inclusionary Housing.

Planning Code Section 315 requires that a minimum of 15 percent of the total dwelling units constructed be affordable to and occupied by qualifying persons and families as defined in the Code.

The Project proposes 100 percent of the total units to be affordable. Twenty-one of the dwellings would be for young adults transitioning from foster care. According to the sponsor, the remaining 50 dwellings would be for qualifying households earning less than 50% of area median income which is subject to change based upon financing. The Sponsor has submitted the "Declaration of Intent" to memorialize his intent.

P. Balboa Park Community Improvements Fund.

Pursuant to Section 331 of the Code, the project requires payment of \$8.00 per net occupied square foot of residential development and \$1.50 per square-foot of net additional commercial square-footage for the Balboa Park Community Improvement Fund, prior to issuance of site permit.

The project includes 79,166 gross square-feet of residential uses and 7,300 gross square-feet of commercial uses. Per the Balboa Park Community Improvements Fund the project requires a payment of approximately \$633,328 for residential uses and \$10,950 for commercial uses.

9. **Planning Code Exceptions:** Planning Code Section 304 allows exceptions from the Code for larger development sites. The Commission finds that the following exceptions are hereby approved for the project.

A. Rear Yard.

Section 134 of the Planning Code requires a 25 percent rear yard at the second story and at all residential levels.

The proposed project would provide open space at the rear of the site, but the space is not large enough to meet the Code's rear yard requirements. The project proposes an interior open space courtyard that when combined with the open space at the rear of the property will provide more useable and accessible open space for residents of the project than would a single rear yard.

B. Open Space.

Section 135 of the Planning Code requires at least 100 sf of private open space, 133 sf of common open space, or some equivalent combination of both, per dwelling unit. Furthermore, the Code section requires that open space meet certain minimum dimensions.

The Project, with 71 dwelling units, is required to provide approximately 7,100 sf of private open space, or 9,443 sf of common open space, or an equivalent combination of private and common open space. The Project provides approximately 7,841 sf of combined common and private open space on-site, thereby partially meeting the open space requirement on site. The remainder of the requirement is met off-site by the proposed adjacent public plaza. The Project provides 3,615 sf of common open space at the podium within the courtyard, 1,230 sf

of open space within the covered children's play area, 2,112 sf of open space within the rear yard, 724 sq of open space at the courtyard entry, and 160 sf of open space for four top floor dwellings with balconies. The Project is not deficient in total required amount of open space but the private open space provided does not meet minimum dimensions or area required by Code and the children's playground does not meet the Code's open space exposure requirement.

C. Permitted Obstructions.

Sections 136 and 136.1 of the Planning Code requires maximum dimensions for each bay window or balcony and each awning or canopy that extends over streets and alleys.

Due to the scale of the building and the amount of street frontage, the project would include several bay windows and a continuous ground floor awning that are larger than permitted by Code. The larger bay windows are appropriate because they articulate the building's façade and add more visual interest to a large street wall. The larger continuous awning is appropriate to reduce glare on the ground floor windows and provide a pedestrian scale at the base of the building.

10. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project complies with the criteria of Section 303, in that:

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

The proposed project is necessary and desirable for the community because it fills multiple needs in the City of San Francisco. The currently proposed project will augment the City's supply of affordable housing by 71 units, 48% of which would be designed for families. According to the sponsor, 21 of the dwellings will be provided for young adults transitioning out of foster care, a unique and underserved population.

The proposed project will also provide approximately 7,300 gross square-feet of commercial space. The commercial space will be accessible by walking, MUNI and car. In combination, the proposed residential and retail uses, at the densities and scale contemplated, will enhance the existing mixed-use character of the neighborhood and create needed amenities in this area.

As found in the Area Plan, this project is compatible with the neighborhood at the proposed size and intensity at this location. The project is located adjacent to City College's main campus along a major transit and vehicular corridor, providing direct access to Highway 280 from this part of the City. The project's transit rich location will make it easier for the households living in the dwellings to forego vehicle ownership, thus saving money on the expenses of vehicle ownership. Furthermore, the close proximity of City College makes it

easier for the young adult and adult population to obtain higher education and other needed skills if desired.

- B. The use or feature as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:
- i. The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.

The project site is much larger than the average lot within the Ocean Avenue NC-T. However, the site is located at the edge of the District near an institutional use that is comprised of large buildings. The project is a transitional property from the larger buildings of CCSF to the finer grained buildings of the Ocean Avenue NC-T. The Project Site is an irregularly-shaped lot that is adequately sized to accommodate the development. The building is generally arranged as a unified form occupying the majority of the lot, similar to other large structures in the area. In addition, the base of the Project is differentiated by being inset from the upper floors and transparent along the Ocean Avenue frontage. This differentiation activates the streetscape and reinforces a human scale for the pedestrian. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.

The project will have no significant or detrimental shadow or wind impacts. There is no existing Recreation and Park Department open spaces near the project site. The proposed Phelan Loop Plaza open space is new and will not be acquired by the Recreation and Park Department. The project will not create any new shade on any protected Recreation and Park Commission properties, nor would it produce shading not commonly expected or experienced in urban areas such as the project site.

The project will include the demolition of the existing one-story bus shelter structure. This structure is not mentioned in the Area Plan Draft EIR as an historic resource. Thus, its demolition will not constitute a significant impact, and it will not be detrimental to those residing and working in the area.

- 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 and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166.

The program-level EIR that was done for the project as part of the Balboa Park Station Area Plan did not identify any transportation or circulation impacts beyond those generally anticipated by an infill urban project. The Project includes minimal off-street parking, however, the area is served by ample public transit, so that many of the

employees, residents, and patrons can be expected to arrive by transit or other means beyond private automobiles. While no off-street loading is required by the Planning Code, the Project includes a small loading area within the parking garage to accommodate deliveries associated with the building.

As proposed, the traffic patterns, off-street loading, and the lack of off-street parking will not be detrimental to persons or adjacent properties in the vicinity.

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

Since this will be a predominantly residential project with small scale, neighborhood-serving retail uses and a medium-sized commercial use, the project will not generate unusual noise, odor, dust and glare as a result of its operations. The buildings will comply with Title 24 standards for noise insulation. The materials for the facades of the buildings will not result in glare. The project would generate additional night lighting, but not in amounts unusual for an urbanized area. Design of exterior lighting could ensure that off-site glare and lighting spillover would be minimized.

In terms of dust, the City's standard Building Code requirement regarding construction dust is sufficient to prevent negative impacts to the surrounding community from dust blowing during construction.

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

The project will provide an interior, landscaped open space on top of a one-story podium, and street trees consistent with code requirements will be installed along Ocean and Lee Avenues. The Project Sponsor will continue to work with Department staff to refine details of lighting, signage, materials, street trees, and other aspects of the design.

- C. Such use or feature as proposed will comply with the applicable provisions of this 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 as detailed below.

- D. Such use or feature as proposed will provide development that is in conformity with the state purpose of the Ocean Avenue NCT.

The Project is consistent with the stated purposed of Ocean Avenue NC-T District in that the intended commercial uses are located at the ground, and the Project as a whole will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours as well as providing 71 new residential units to San Francisco's housing stock.

11. **Planning Code Section 121.1 Findings.** In addition to the criteria of Section 303(c) of this Code, the City Planning Commission has considered the extent to which the following criteria are met for a project site exceeding 9,999 square feet in the Ocean Avenue NC-T zoning district:

- E. The mass and facade of the proposed structure are compatible with the existing scale of the district.

The project will be compatible with the existing scale of the district. The project site is located on Ocean Avenue, a major transit and commercial corridor in the City. The Area Plan reduced the height limit from 65 to 55 feet. The project will not exceed this height limit. The large bay windows and defined storefronts help to further break down the scale of the building.

- F. The facade of the proposed structure is compatible with the design features of adjacent facades that contribute to the positive visual qualities of the district.

Existing buildings in the area exhibit an eclectic architectural character, with no prevailing style establishing a dominant visual pattern for the neighborhood. The style of the proposed building is contemporary, however, the relatively uniform massing is comparable to the uniform massing of many of the early twentieth century structures. The bay windows add depth and shadow across the Ocean Avenue elevation. The southeast corner of the building rises up to frame the future plaza entrance.

12. **Planned Unit Development.** Planning Code Section 304(d) establishes criteria and limitations for the authorization of PUD's over and above those applicable to Conditional Uses in general and contained in Section 303(c) and elsewhere in the Code. PUD's must:

- A. Affirmatively promote applicable objectives and policies of the General Plan.

This Project is consistent with the objectives and policies of the General Plan as outlined in Section 12 below.

- B. Provide off street parking adequate for the occupancy proposed.

The project includes 71 dwelling units and ground floor commercial space. Consistent with City policy for projects along transit corridors, the project includes minimal amounts of off-street parking. The location is transit rich making it more feasible for households to live without personal vehicles.

- C. Provide open space usable by the occupants and, where appropriate, by the general public, at least equal to the open spaces required by the Code.

The Project, with 71 dwelling units, is required to provide approximately 7,100 sf of private, or 9,443 sf of common open space, or an equivalent combination of private and common open space. The Project proposes a total of approximately 7,841 square feet of open space on the subject lot which includes the rear yard, the courtyard, the kids' play area, and private decks. The remainder of the open space requirement would be met off-site by the proposed adjacent plaza.

- D. Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a District permitting a greater density, so that the PUD will not be substantially equivalent to a reclassification of property.

There is no density limit for projects within the Ocean Avenue NC-T.

- E. In R Districts, include commercial uses only to the extent that such uses are necessary to serve residents of the immediate vicinity, subject to the limitations for NC-1 (Neighborhood Commercial Cluster) Districts under the Code.

The Project Site is not located within an R-District.

- F. Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections.

The project site is within a 55-X Height and Bulk District. The project does not exceed a height of 55 feet.

- G. In NC Districts, be limited in gross floor area to that allowed under the Floor Area Ratio limit permitted for the district in Section 124 and Article 7 of this Code.

The Project Site has an area of 25,772 square feet; therefore the allowable FAR would permit up to 64,430 square feet of gross floor area of nonresidential space. The Project would provide approximately 7,300 gross square feet of nonresidential space, and therefore complies with the maximum allowable FAR.

- H. In NC Districts, not violate the use limitations by story set forth in Article 7 of this Code.

Consistent with the District controls, the project provides general commercial space at the ground floor and residential units at the floors above.

13. **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 enhanced.

The Project Site is located within Ocean Avenue Neighborhood Commercial Transit District and is thought to enhance the commercial vitality of the area. With approximately 7,300 gross sf. of ground floor retail development, the project will complement the district's small-scale retail environment.

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

The Project would increase the City's housing supply by 71 units. The existing buildings that will be demolished do not contribute to the character of the Ocean Avenue NC-T. Furthermore, the Project will not result in the loss of existing housing. The project would promote the economic diversity of the neighborhood by providing residents a rental housing option.

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

The Project will provide 71 affordable housing units thereby enhancing the City's supply of affordable housing.

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

The Site is well served by multiple transit lines, including MUNI's K-Ingleside metro line. It is anticipated that smaller households in the surrounding neighborhood will visit the Project by alternative modes, including transit. The increase in transit demand anticipated by the Project would not have a significant or noticeable impact upon transit services in the neighborhood or affect transit operations.

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

The Project will not displace any service or industry establishment due to commercial office development. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmark and historic buildings be preserved.

The existing buildings on the Site are not landmarks or historic buildings.

- 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 parks or open space.

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

COMMERCE AND INDUSTRY ELEMENT:

Objectives and Policies

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.10:

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The Project would replace an underutilized parcel with a building that will provide affordable housing opportunities to the area. In addition, the ground-floor commercial space will activate the streetscape and enhance the pedestrian realm compared with the existing uses on the site.

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAXIMIZE OPPORTUNITIES TO INCREASE THE POTENTIAL SUPPLY OF HOUSING IN APPROPRIATE LOCATIONS CITYWIDE.

Policy 1.4:

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

The Project will create up to 71 units of new housing, all of which would be Below Market Rate units, in a location well-served by transit with access via BART and MUNI to several employment centers around the region.

The residential neighborhoods surrounding the Ocean Avenue NC-T District are established family-oriented residential neighborhoods. The subject site is suitable for residential development because it is underutilized and well served by transit.

**BALBOA PARK STATION AREA PLAN:
Objectives and Policies**

OBJECTIVE 1.2

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 1.2.2:

Encourage mixed-use residential and commercial infill within the commercial district.

The Project would provide an infill mixed-use building that would strengthen the commercial district by extending and connecting it to the City College campus.

OBJECTIVE 3.1

ESTABLISH PARKING STANDARDS AND CONTROLS THAT PROMOTE QUALITY OF PLACE, AFFORDABLE HOUSING, AND TRANSIT-ORIENTED DEVELOPMENT.

Policy 3.1.1

Provide flexibility for new residential development by eliminating minimum off-street parking requirements and establishing reasonable parking caps.

Policy 3.1.2

Provide flexibility for non-residential development by eliminating minimum off-street parking requirements and establishing parking caps generally equal to the previous minimum requirements.

The project's transit rich location and lack of off-street parking will encourage residents, employees, and patrons to use alternative means of transportation.

OBJECTIVE 4.2

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING.

Policy 4.2.1

Encourage mixed-use commercial and residential infill within the commercial district while maintaining the district's existing fine-grained character.

Policy 4.2.2

Redevelop the parcels in the Phelan Loop Area with new mixed-use development.

The project would provide a well designed mixed-use building on the Phelan Loop site.

OBJECTIVE 4.5

PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

Policy 4.5.1

Give first consideration to the development of affordable housing on publicly-owned sites.

The project is a public/private partnership between the City and the Bernal Heights Neighborhood Center (BHNC) to provide 71 dwelling units that are 100% affordable on a City owned parcel commonly known as the Phelan Loop.

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 5.2.1:

Eliminate minimum off-street parking requirements and establish parking caps for residential and commercial parking.

Policy 5.2.3:

Minimize the negative impacts of parking on neighborhood quality.

The Project provides minimal off-street parking, creating an incentive for employees, patrons, and students of the facility to travel by means other than the private automobile. The area is well-served by public transit, and is within walking distance of many retail goods and services. The lack of parking will not negatively impact the quality of the surrounding neighborhood.

15. 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.
16. The Project has completed the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator as they apply to permits for residential development (Section 83.4(m) of the Administrative Code). The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.
17. 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 Project Sponsor, 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. 2009.1117C** subject to the following conditions attached hereto as EXHIBIT A which is incorporated herein by reference as though fully set forth, and in general conformance with the plans stamped EXHIBIT B, dated July 7, 2010 and on file in Case Docket No. 2009.1117C.

The Planning Commission has reviewed and considered the program-level EIR for the *Balboa Park Station Area Plan* and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the MMRP.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Resolution/Motion by this reference thereto. All required mitigation measures identified in the program-level EIR for the *Balboa Park Station Area Plan* and contained in the MMRP are included as conditions of approval.

The Planning Commission further finds that since the program-level EIR for the *Balboa Park Station Area Plan* was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the EIR.

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. 18153. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 22, 2010.

Linda Avery
Commission Secretary

Motion No. 18153
Hearing Date: July 22, 2010

CASE NO 2009.1117C
1100 Ocean Avenue

AYES: Commissioners Olague, Antonini, Borden, Lee, Moore, and Sugaya

NAYES: None

ABSENT: Commissioner Miguel

ADOPTED: July 22, 2010

Exhibit A

Conditions of Approval

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

This Conditional Use Authorization is to demolish the existing bus shelter and surface parking lot and to construct a mixed-use, five-story, 55-foot-tall buildings totaling approximately 79,166 gross square feet (gsf) with five- off-street parking spaces all as part of a Planned Unit Development (PUD). The project would include 71 affordable dwelling units and approximately 7,300 gsf of ground-floor commercial space (tenants not yet determined). The project requires subdividing the 30-acre lot creating a 25,772 square-foot lot with approximately 137-feet of frontage on Ocean Avenue. The project site is located at 1100 Ocean Avenue (a.k.a. 11 Phelan Avenue), Lot 001 in Assessor's Block 3180, within the Ocean Avenue Neighborhood Commercial Transit District and a 55-X Height and Bulk District, in general conformance with the revised plans dated July 7, 2010, and marked "Exhibit B", except as modified herein.

1. MITIGATION MEASURES

Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

2. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. 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. The conditions set forth below shall remain in effect for the life of the Project, unless specifically noted otherwise

3. GENERAL CONDITIONS

- A. Recordation. Prior to the issuance of any building permit for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

B. Construction.

(1). The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby Projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.

(2). The contractor(s) shall arrange for off-street parking for construction workers.

C. Performance. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.

D. The commercial tenant(s) shall obtain all necessary approvals from the appropriate City agencies prior to establishing a commercial use.

E. Severability. 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 of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

F. First Source. The Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this Program.

G. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Sections 176 and 176.1 of the Planning Code and actions to abate violations of this conditional use authorization in accordance with Section 303(f).

H. Should monitoring of these Conditions of Approval be required, the Project Sponsor or successors shall pay fees as established in Section 351(e)(1) of the Planning Code.

- I. The Property Owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
 - J. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
 - K. Ground level storefronts and glazing in general conformity with Exhibit B shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the interiors and activity through all windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Interior layouts should be designed with these requirements in mind. Generally, windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The Property Owner shall ensure that this condition of approval is incorporated into all commercial leases.
 - L. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FIRST SITE OR BUILDING PERMIT
- A. Design. The Project Sponsor and the Project architects shall continue to work on design development with the Department, with particular attention given to details regarding reveal dimensions at all windows, moldings, and other details, as well as building materials and colors.
 - B. Balboa Park Community Improvements Fund. The Project Sponsor shall satisfy the requirements of Planning Code Section 331 either through a payment to the Fund or through the provision of in-lieu improvement, as specified within this Section.
5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM TO A BUILDING (OR SITE) PERMIT
- A. Except as otherwise provided in this Motion, the Project shall be completed in

compliance with the Planning Code and in general conformity with plans dated July 7, 2010, labeled "Exhibit B".

- B. Final detailed building plans shall be reviewed and approved by the Planning Department. Detailed building plans shall include a final site plan, elevations, sections, and a landscape plan, and shall specify final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes, and details of construction.
 - C. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
 - D. Pursuant to Planning Code Section 141, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
 - E. 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. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.
 - F. Lighting. The Project Sponsor shall develop a lighting program for the Project which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the Project.
 - G. A final pedestrian streetscape improvement plan, including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Planning Director, in consultation with staff from the Department of Public Works, the Department of Parking and Traffic, and the Bureau of Urban Forestry. Other agencies shall be contacted as appropriate. The Project shall include street trees in conformance with Section 143. Relocation of some existing underground utilities may be necessary to accommodate the required street trees. The street trees planted pursuant to this condition shall be maintained in perpetuity by the Project Sponsor.
6. CONDITIONS TO BE MET PRIOR TO ISSUANCE OF ANY CERTIFICATES OF OCCUPANCY FOR THE PROJECT.
- A. All usable open spaces shall be completed and available for use.

- B. An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Project's plan and to provide for building occupants in the event of an emergency. The Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Mohammed Nuru, Director, Department of Public Works
Ed Reiskin, Director, Municipal Transportation Agency
John Updike, Director, Real Estate Division

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: October 17, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Yee on October 8, 2013:

File No. 131000

Ordinance accepting an irrevocable offer for a public sidewalk easement on the Brighton Avenue extension, north of Ocean Avenue, and accepting an easement for these purposes; accepting an irrevocable offer for improvements and real property related to Lee Avenue, north of Ocean Avenue, and accepting a grant deed for these purposes; conditionally accepting an irrevocable offer for sidewalk improvements for Ocean Avenue, east of Lee Avenue; declaring such areas to be open public right-of-way and dedicating them for right-of-way and roadway purposes; accepting maintenance and liability for these areas subject to certain limitations; establishing public right-of-way width and sidewalk width for the Lee Avenue and Ocean Avenue sidewalks; approving an interdepartmental transfer of property for a portion of Lee Avenue and for a portion of Ocean Avenue; approving and making findings, including environmental findings, General Plan findings, and the eight priority policies of Planning Code, Section 101.1; and authorizing official acts in connection with this Ordinance.

The Resolution references the following documents, which are needed for the legislative file:

- ✓ Lee Avenue, Irrevocable Offer of Improvements (page 1, lines 24-25)
- ✓ Brighton Avenue, Irrevocable Offer of Improvements (page 2, lines 3-4)
- ✓ Grant Deed (page 2, lines 1-2)
- ✓ Sidewalk Easement Agreement (page 2, line 5)
- ✓ DPW Map A-17-168 (page 2, lines 8-9)
- ✓ DPW May Q-20-697 (page 2, Lines 9-10)
- ✓ DPW Order (page 2, line 10)
- ✓ SFMTA Director's Transfer Letter (page 2, lines 22-25)
- ✓ Planning Commission Motion Nos. 17885 and 18153 (page 5, lines 14-23)
- ✓ DPW Public Improvement Permit 091E-0693, dated 5/26/11 (page 6, lines 23-25)

Copies of all above documents are required prior to this matter being scheduled for hearing.

Please forward the referenced documents and any additional comments/reports to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email: alisa.miller@sfgov.org.

c: Scott Sanchez, Planning Department
Sarah Jones, Planning Department
AnMarie Rodgers, Planning Department
Frank Lee, Department of Public Works
Javier Rivera, Department of Public Works
Kate Breen, Municipal Transportation Agency
Janet Martinsen, Municipal Transportation Agency

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisor Norman Yee

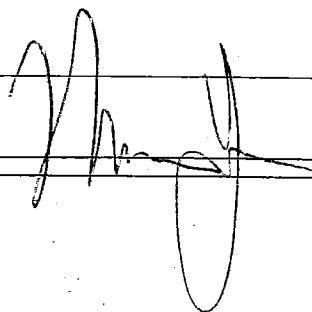
Subject:

Street Acceptance of Lee Ave. and Approval of a Sidewalk Easement for Brighton Ave.

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

131000

