



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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. 19489

HEARING DATE: OCTOBER 8, 2015

Date: October 1, 2015
Case No.: **2013.1022CE**
Project Address: **1463 Lombard Street**
Zoning: NC-3 (Moderate-Scale Neighborhood Commercial) District
 40-X Height and Bulk District
Block/Lots: 0503/020, 021 and 095
Project Sponsor: The Toboni Group
 c/o Michael Leavitt
 Leavitt Architecture
 1327 Mason Street
 San Francisco, Ca, 94133
Staff Contact: Mary Woods – (415) 558-6315
 mary.woods@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 161(G), 303(C), 307(I), 317 AND 712.37 OF THE PLANNING CODE TO ALLOW FOR THE DEMOLITION OF A TWO-STORY-OVER-GARAGE, TWO-UNIT RESIDENTIAL BUILDING AND REPLACEMENT OF A FOUR-STORY, 14-UNIT RESIDENTIAL BUILDING (INCLUDING THREE BELOW-MARKET RATE UNITS) WITH GROUND-FLOOR COMMERCIAL SPACE AND PARKING GARAGE, AND TO REDUCE THE OFF-STREET PARKING REQUIREMENT WITHIN THE NC-3 (MODERATE-SCALE NEIGHBORHOOD COMMERCIAL) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 17, 2014, Joseph Toboni of the Toboni Group (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for a Conditional Use Authorization under Planning Code Sections 161(g), 303(c), 307(i), 317 and 712.37 to demolish a two-story over-garage, two-unit residential building and replace it with a four-story, 14-unit residential building (including three below-market rate units) with ground floor commercial space and a nine-car parking garage, and to reduce the off-street parking requirement within the NC-3 (Moderate-Scale neighborhood Commercial) District and a 40-X Height and Bulk District.

On October 8, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1022CE.

On September 21, 2015, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 32 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project (Case No. 2013.1022CE).

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.1022CE, 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 Project Site consists of two vacant lots and a third lot containing a two-unit residential building. The Project includes the demolition of the existing two-story over-garage building, containing two rent-controlled dwelling units (one is vacant and one is occupied by a relative of the Property Owner). The proposed replacement building (occupying all three lots) is a four-story, 14-unit residential building (including three permanently affordable units) with ground floor commercial space (approximately 600 square feet) and a nine-car parking garage. 14 Class 1 bicycle parking spaces are located in the parking garage on the ground floor, and four Class 2 bicycle parking racks are provided on the sidewalk for the proposed commercial and residential uses, for a total of 18 bicycle parking spaces.

Planning Code Section 207, subsection (b)(6) states that dwelling unit density for Projects within the NC Districts shall not exceed the density of the nearest R-District. The nearest residential district to the Site is the RC-3 District, which allows one dwelling unit per 400 square feet of lot area, resulting in a total of 13 dwelling units allowed at the Site. Pursuant to Planning Code Section 207 subsection (c)1, the Project was further able to increase the number of units to 14 by not counting the on-site Affordable Units toward the calculation of dwelling unit density where 20 percent or more of the dwelling units on-site are Affordable Units. The Project includes three Affordable units, which do not count against the density limit because 21 percent of the dwelling units on-site are Affordable Units. With 14 units, the Project's dwelling unit density is below the maximum, provided three Affordable units are provided on-site.

3. **Site Description.** The Project Site is located on the south side of Lombard Street between Franklin Street and Van Ness Avenue in the NC-3 (Moderate-Scale Neighborhood Commercial) District, in a 40-X Height and Bulk District, Assessor's Block 503, Lots 20, 21 and 95, an area of approximately 5,313 square feet (50 feet wide by 106 feet deep).

Prior to 2000, Lot 95 (50 feet wide by 28 feet deep) fronting on Lombard Street was used as an open space easement by Caltrans (Lombard Street is designated State Highway 101) until it was sold to the previous Property Owner in 2000. Lot 20 (25 feet wide by 78 feet deep) was and still is a vacant lot. Lot 21 (25 feet wide by 78 feet deep) is improved with a two-story over-garage, two-unit residential building, constructed circa 1924. Both Lots 20 and 21 are situated behind Lot 95.

4. **Surrounding Neighborhood.** The Project Site is located in the Marina neighborhood. It is in a neighborhood of mixed commercial and residential uses. Both ends of the subject block are bounded by hotels - Days Inn to the east and Lombard Motor Inn to the west. Across the street, uses include a Travelodge Motel, a four-story apartment building, multi-story buildings with commercial uses on the ground floor, such as restaurants and cafes, and residential units on the upper floors. Residential zoning districts are adjacent to the Project Site.

Lombard Street is a major vehicular and pedestrian thoroughfare, the City's primary link to the North Bay via the Golden Gate Bridge. Transit lines serving San Francisco and Marin County are nearby and are within walking distance of the Site. The Site is also well-served by public transit. Within two blocks, there are five MUNI lines available: 30-Stockton, 30X-Stockton Express, 45-Union, 47-Van Ness, and 49-Van Ness/Mission.

The Chestnut Street NC-2 Zoning District is six blocks west of the Project Site while the Union Street Neighborhood Commercial District is three blocks south of the Project Site. On the west end of Lombard Street is the Golden Gate National Recreation Area, the Presidio, and the Golden Gate Bridge; to the northeast is Fisherman's Wharf and Pier 39, and to the east is Russian Hill and North Beach.

5. **Public Comment.** The Department has not received any correspondence in support or in opposition to the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Sections 317 and 712.37, Conditional Use Authorization is required for applications proposing to remove residential units, located at the second floor or above. Section 317 establishes a checklist of criteria that delineate the relevant General Plan policies and objectives.

As the Project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317(d) have been incorporated as findings in this Motion (see Item 9 below).

Planning Code Section 317(d)(2) states that "If Conditional Use Authorization is required for approval of the permit for Residential Demolition by other sections of this Code, the Commission shall consider the replacement structure as part of its decision on the Conditional Use application. If Conditional Use Authorization is required for the replacement structure by other sections of this Code, the Commission shall consider the demolition as part of its decision on the Conditional Use application. In either case, Mandatory Discretionary Review is not required, although the Commission shall apply appropriate criteria adopted under this Section 317 in addition to the criteria in Section 303 of the Planning Code in its consideration of Conditional Use Authorization."

- B. Residential Density.** The permitted ratio of dwelling units in the NC-3 District is one dwelling unit per 600 square feet of lot area, pursuant to Planning Code Section 712.91. Pursuant to Planning Code Section 207, dwelling unit density in NC Districts may be based on the proximity to the nearest residential district, which is RC-3 District. The permitted ratio of dwelling units in the RC-3 District is one dwelling unit per 400 square feet of lot area. Pursuant to Planning Code Section 207(c)(1), on-site Affordable Units do not count towards the calculation of dwelling unit density where 20 percent or more of the dwelling units on-site are Affordable Units

The lot area is approximately 5,313 square feet, thus thirteen (13) dwelling units are permitted. The three on-site Affordable Units represent 21 percent of the dwelling units and thus do not count toward the maximum dwelling unit density maximum. Accordingly, the fourteen (14) units proposed comply with the Planning Code.

- C. Non-Residential Use Size.** Planning Code Sections 121.2 and 712.21 state that a Conditional Use Authorization is required for development of a non-residential use size exceeding 5,999 square feet in Neighborhood Commercial Districts, as defined by Planning Code Section 790.130.

The Project includes approximately 600 square feet of non-residential uses, which does not exceed the 5,999 square-foot threshold for use size.

- D. Basic Floor Area Ratio.** Planning Code Sections 124 and 712.20 limit the building square footage to 3.6 square feet of building area for every 1 square feet of lot area, or approximately 19,127 square feet of building area for the subject Site. However, in NC Districts, the FAR limits do not apply to dwellings or to other residential uses per Section 124(b).

The entire Project would total approximately 16,000 square feet, of which, approximately 9,800 square feet is related to residential uses. The resulting FAR is approximately 1.2:1.

- E. Rear Yard.** Planning Code Section 134 requires that in NC-3 Districts rear yards must be provided at the lowest story containing a dwelling unit, and at each succeeding story of the building.

The Project includes 27-foot rear yard setback at the second story, which is equal to 25 percent of the 106-foot lot depth.

- F. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

The Project includes both common and private usable open space. Approximately 1,200 square feet of common open space would be provided at the roof deck, and three private decks - each approximately 260 square feet - would be provided at the rear of the second floor level.

- G. **Dwelling Unit Exposure.** Planning Code Section 140 requires that all dwelling units face a public street or side yard at least 25 feet in width, a required rear yard, or an open area of 25 feet in width.

All of the units in the Project meet this requirement.

- H. **Street Frontages in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be provided within the first 25 feet of building depth on the ground floor;

An active ground floor retail use is proposed within the first 25 feet of the building depth on the ground floor of the proposed building.

2. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for the building would be a minimum of ten feet tall.

3. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The floor of the proposed retail use and residential lobby is designed at grade and recessed five feet from the front property line.

4. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed retail use is designed entirely with a glazed façade. As designed, the storefront windows would be transparent and unobstructed, with the exception of the window casework and concrete bulkhead.

5. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- I. **Parking, Retail.** Planning Code Section 151 requires one off-street parking space for each 200 square feet of occupied floor area where the occupied floor area exceeds 5,000 square feet for retail space.

The proposed retail space, at approximately 650 square feet, would not require any off-street parking spaces.

- J. **Parking, Residential.** Planning Code Section 151 requires one automobile parking space per dwelling unit. However, Planning Code Section 307(i) allows a reduction in the parking requirement in NC districts if certain criteria are met (see item 8 below).

The Project could accommodate up to nine off-street parking spaces while a total of 14 spaces are required.

- K. **Off-Street Parking Reduction.** Planning Code Sections 161(g) and 307(i) allows a reduction in the parking requirement in NC districts if certain criteria are met.

The Project requires 14 off-street parking spaces for the residential use; however, the Project includes only nine off-street parking spaces. Section 161(g) of the Planning Code permits the Zoning Administrator to reduce the off-street parking requirements in NC Zoning Districts pursuant to the procedures and criteria of Sections 307(i) of this Code. The criteria set forth in Section 307(i) are addressed under item 8 below.

- L. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use. Section 155.4(f) requires that new commercial buildings must provide adequate signs or notices to advertise the availability of bicycle parking.

The Project proposes 14 Class 1 bicycle parking spaces and four Class 2 bicycle parking spaces.

- M. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit.

The Project includes a mixed-use building of approximately 40 feet in height, with permitted exceptions such as parapets, stair and elevator penthouses above the height limit.

- N. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under

Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Sections 415.5 and 415.6, the Inclusionary Affordable Housing Program requirement for the On-Site Affordable Housing Alternative is to provide 12% of the proposed dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Sections 415.5 and 415.6, and has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing On-Site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an "Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415," to the Planning Department stating that any affordable units designated as On-Site units shall be sold as ownership units and will remain as ownership units for the life of the Project. The Project Sponsor submitted such Affidavit on October 8, 2015. The EE application was submitted on December 9, 2013. Pursuant to Planning Code Sections 415.3 and 415.6, the On-Site requirement is 12%. Three units (three one-bedroom) of the 14 units provided will be affordable units, representing 21% of the units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-Site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

O. Signage. Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

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

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

The Project Site is in a neighborhood of mixed commercial and residential uses. Both ends of the subject block are bounded by hotels - Days Inn to the east and Lombard Motor Inn to the west. Across the street, uses include a Travelodge Motel, a four-story apartment building, multi-story buildings with commercial uses on the ground floor, such as restaurants and cafes, and residential units on the upper floors. The Project includes ground floor retail space and upper story residences, which is consistent with the character and pattern of development in the area.

While the existing two rent-controlled dwelling units (one is vacant and the other is occupied by a relative of the Property Owner) would be demolished, the Project is necessary and desirable as it proposes to construct 14 new dwelling units, including three permanently affordable/Below-Market Rate units.

The Project originally proposed to demolish the existing two-unit building and construct 9 market-rate units with ground floor commercial space and an accessory nine-car parking garage. The Department encouraged the Project Sponsor to explore alternate schemes besides the demolition option. The alternate schemes included: (1) retention of the existing two rent-controlled units; (2) construction of a new multi-unit building on the vacant lots; (3) construction of additions (either horizontal and/or vertical additions) to the existing building and construction of a new building on the vacant lots; or (4) feasibility of building two new permanently affordable units as part of the new construction project.

Under Section 207, subsection (c)(1), the Project was able to provide 14 by not counting the on-site Affordable Units towards the calculation of dwelling unit density where 20 percent or more of the dwelling units on-site are Affordable Units. Under Section 207, subsection (b) (6) the permitted density is based on the nearest residential district to the Site which is the RC-3 District., and One dwelling unit per 400 square feet of lot area is permitted in the RC-3 District, resulting in a total of 13 dwelling units allowed at the Site. By utilizing Planning Code Section 207, subsection (c) (1), the Project was able to not count three units against the density calculation,, because 21 percent of the dwelling units on-site are Affordable Units. With 14 units, the Project's dwelling unit density is below the maximum, provided three Affordable units are provided on-site.

Overall, the use and size of the Project is compatible with the immediate neighborhood. The replacement building is designed to be in-keeping with the existing development pattern and the neighborhood character, and the ground floor retail use is in-keeping with the pedestrian-oriented neighborhood commercial district. It will revitalize an underutilized Site as a vibrant retail and housing development.

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

The Project Site consists of three lots totaling approximately 5,300 square feet. Two of the lots are vacant and used as open space, while the remaining lot is developed with a two-story over garage, two-unit building that occupies less than one-half of the Site and is set back 28 feet from the sidewalk.

The Project will efficiently utilize the site by occupying the majority of the available space, except for the Code-required rear yard. The new four-story mixed-use building, containing 14 dwelling units on three floors with a ground floor retail space, is designed to be compatible with the surrounding neighborhood commercial district and adjacent residential buildings. The massing and scale of the new building is broken down with the use of varied materials, colors and architectural features, including floor-to-ceiling windows on the Lombard Street frontage and horizontal and vertical building articulations creates distinct building elements that are consistent, and in scale with the neighborhood's pattern of development.

- 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 includes nine off-street parking spaces while 14 are required. However, in NC Districts, the Zoning Administrator may reduce that requirement pursuant to Sections 161(g) and 307(i) of the Planning Code. The Project will also provide 14 Class 1 bicycle parking spaces, located in the ground level garage, and four Class 2 bicycle racks that will be located on the sidewalk, for a total of 18 bicycle parking spaces. The Site is also well-served by public transit, thus offering transit opportunities for resident commuters and potential users of the commercial space. The Site is located on Lombard Street (also serves as State Highway 101). Lombard Street is a major vehicular and pedestrian thoroughfare, the City's primary link to the North Bay via the Golden Gate Bridge. Transit lines serving San Francisco and Marin County are nearby and are within walking distance of the Site. Within two blocks, there are five MUNI lines available: 30-Stockton, 30X-Stockton Express, 45-Union, 47-Van Ness, and 49-Van Ness/Mission.

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

As the Project is primarily residential, it is not considered to have the potential to produce noxious or offensive emissions. The retail tenant has not been determined at this time.

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

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement building have been appropriately selected to be harmonious with the surrounding neighborhood.

- 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 NC-3 District.

The Project is consistent with the stated purpose of the NC-3 (Moderate-Scale Neighborhood Commercial) District.

- 8. **Planning Code Section 307(i)** establishes criteria for the Zoning Administrator or the Planning Commission to consider in approving a reduction of off-street parking requirements for residential units. On balance, the Project complies with said criteria in that:

- A. The reduction in the parking requirement is justified by the reasonably anticipated automobile usage by residents of and visitors to the Project; and

The Project will provide nine off-street parking spaces in a ground level garage, and a total of 18 bicycle parking spaces. The Site is well-served by public transit, thus offering transit opportunities for resident commuters and potential users of the commercial space. The Site is located on Lombard Street (also serves as State Highway 101). Lombard Street is a major vehicular and pedestrian thoroughfare, the City's primary link to the North Bay via the Golden Gate Bridge. Transit lines serving San Francisco and Marin County are nearby and are within walking distance of the site. Within two blocks, there are five MUNI lines available: 30-Stockton, 30X-Stockton Express, 45-Union, 47-Van Ness, and 49-Van Ness/Mission. According to the Project Sponsor, a high level of use of cars by the Project's residents is not expected given the ease and availability of numerous transit options.

- B. The reduction in the parking requirement will not be detrimental to the health, safety, convenience or general welfare of persons residing in or working in the vicinity; and

Given the multiple transit options available in the immediate vicinity of the Project Site, the reduction of five off-street spaces from the required 14 off-street parking spaces would not be detrimental to the health, safety and welfare of persons living or working in the neighborhood. For those visitors, shoppers or workers who come to the Site for specific purposes, the Project is within 1,000 feet of approximately 200 metered on-street parking spaces. The availability of that many nearby off-street parking spaces and the numerous MUNI bus stops would minimize any adverse effect caused by the Project's off-street parking reduction.

- C. The minimization of conflict of vehicular and pedestrian movements; and

As part of the Project, the existing curb cut would be relocated such that only one curb cut would be used for the ingress and egress of the building. Reduction of the number of off-street parking spaces in the Project would minimize potential conflicts between cars coming in and out of the project garage's entry on Lombard Street. It will also minimize conflicts with pedestrians traveling on Lombard Street.

- D. The availability of transportation modes other than the automobile; and

The Project will provide nine off-street parking spaces in a ground level garage, and a total of 18 bicycle parking spaces. The Site is also well-served by public transit, thus offering transit opportunities for resident commuters and potential users of the commercial space. The Site is located on Lombard Street (also serves as State Highway 101). Lombard Street is a major vehicular and pedestrian thoroughfare, the City's primary link to the North Bay via the Golden Gate Bridge. Transit lines serving San Francisco and Marin County are nearby and are within walking distance of the Site. Within two blocks, there are five MUNI lines available: 30-Stockton, 30X-Stockton Express, 45-Union, 47-Van Ness, and 49-Van Ness/Mission.

- E. The pattern of land use and character of development in the vicinity; and

The land uses, surrounding the Project Site along the Lombard Street commercial corridor, consist of primarily ground floor retail shops and services, including hotels, motels and restaurants. Many of the surrounding buildings, like the Project, provide housing on the second floor and above. The Project Site is at the eastern edge of the NC-3 District along Lombard Street. Nearby residential districts include the RC-3 Zoning District, which permits higher density housing with no minimum parking required, and the RH-3 Zoning District to the north of the Project Site.

Based on the surrounding uses and zoning, the Project is consistent with the prevailing uses, intensity and character of the surrounding neighborhood.

- F. Such other criteria as the Zoning Administrator or the Planning Commission deems appropriate in the circumstances of the particular case.

The Planning Commission determined that no additional criteria are required for consideration in the circumstances of the particular case.

9. **Planning Code Section 317(d)** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert residential buildings. On balance, the Project complies with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where “soundness” is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The “soundness factor” for a structure shall be the ratio of a construction upgrade cost to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50 percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

A soundness report for the subject property was not submitted, as the existing residential building is in sound and habitable condition.

- ii. Whether the property is free of a history of serious, continuing Code violations;

Project meets criterion.

A review of the Planning Department and Department of Building Inspection databases showed no enforcement cases for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent, safe, and sanitary condition.

- iv. Whether the property is an “historic resource” under CEQA;

Project meets criterion.

Although the existing structure is more than 50 years old, a Historic Resource Evaluation Report prepared by Department staff, Case No. 2013.1022E, found that the subject building is not individually eligible for listing on the California Register of Historic Resources as an historic resource, nor is it located within an eligible historic district.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Criterion not applicable.

The structure is not an historical resource.

- vi. Whether the Project converts rental housing to other forms of tenure or occupancy;

Project does not meet criterion.

The Project would remove two rent-controlled units from the City's housing stock although neither unit is currently used as rental housing: one unit is vacant and one unit is occupied by a relative of the Property Owner. Although the market-rate units in the Project will not be rent-controlled, the Project will include three Below-Market Rate Ownership Units.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or affordable housing;

Project does not meet criterion.

The existing building contains two dwelling units subject to the Rent Stabilization and Arbitration Ordinance. Both rent-controlled units will be removed - one of the units is currently occupied by a relative of the Project Sponsor, and the other unit has not been occupied by tenants since the current owner purchased the property in 2013. No "no-fault" evictions have been filed with the Rent Board for the property. If the existing units were to be maintained and rented at current market rate, the Project Sponsor could potentially charge monthly rents between \$8,000 to \$9,500 per unit before the units are subject to the Rent Stabilization and Arbitration Ordinance. However, upon completion of the Project, the two rent-controlled units will be replaced by three permanently affordable housing units.

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-unit building, the replacement structure will provide a net gain of 12 additional units at the Project Site, in addition to a retail space on the ground level.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement mixed-use building has been designed to integrate modern, high-quality elements while increasing the density of the Site. The façade and eastern wall of the new building will utilize terra cotta tiles that complement the character of the surrounding buildings and neighborhood.

- x. Whether the Project protects the relative affordability of existing housing;

Project meets criterion.

While the Project proposes demolition of the existing two-unit building, the replacement building will construct 14 new dwelling units, three of which would be permanently affordable/below-market rate units. The Project will provide a net increase of 12 dwelling units, in addition to the two replacement affordable units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The Project is subject to the provisions of Planning Code Section 415, as the Project proposes 14 units, three of which would be permanently affordable units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The Project Site is located within a fully developed area of the city, in the Marina neighborhood, surrounded by urban uses. Surrounding uses near the Project Site include residential, tourist hotels, retail, and other commercial uses. The Project has been designed to be in-keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project increases the number of family-sized units on-site;

Project meets criterion.

The Project proposes one, two-bedroom unit for family-sized housing.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion.

The Project does not create supportive housing.

- xv. Whether the Project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

Project meets criterion.

The replacement building has been designed to integrate modern, high-quality elements with the more traditional character of the neighborhood. The façade of the new building and the eastern

wall will utilize terra cotta tiles that complement the character of the surrounding buildings and neighborhood.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion.

The Project increases the number of on-site dwelling units with a net gain of 12 new units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion.

The Project will increase the on-site bedroom count from 4 to 15; 11 bedrooms more than that of the existing building.

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

HOUSING ELEMENT

OBJECTIVE 4:

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

Policy 4.1:

Develop new housing, and encourage the remodeling of existing housing, for families with children.

This Project will create 14 new dwelling units; three of which would be family-sized units.

OBJECTIVE 11:

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

Policy 11.1:

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

This new construction Project will conform to the scale and character of the district, respecting the neighborhood character in design and use.

Policy 11.4:

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

The Project conforms to the zoning and height districts for the NC-3 District.

Policy 11.6:

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

The Project's residential entry is defined with a transition between the public and private realms. A portion of the street frontage is dedicated to commercial use, with requirements for active use, and designed with transparent storefront system.

URBAN DESIGN

OBJECTIVE 1:

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

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

Policy 1.3:

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

The Project includes demolition of one existing building. The replacement building has been designed to integrate modern, high-quality elements with the more traditional character of the neighborhood. The façade and the eastern wall of the new building will utilize terra cotta tiles that complement the character of the surrounding buildings and neighborhood.

OBJECTIVE 2:

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

Policy 2.6:

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

The massing of the replacement building's main front façades has been designed to reflect the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

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

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

Existing neighborhood-serving retail uses would not be displaced or otherwise adversely affected by the Project, as the existing building does not contain any commercial uses/spaces. The Project will add approximately 600 square feet of retail space to the NC-3 District, which will enhance opportunities for resident employment. The 14 new residential units will also support existing neighborhood-serving retail uses.

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

While the existing two-unit building is proposed to be demolished, the new replacement building will bring additional life and vitality to the neighborhood, with a net gain of 12 new dwelling units. In keeping with the neighborhood's mixed-use character, the Project will provide retail on the ground floor and residential units in the upper floors. The Project respects the character of the neighborhood in terms of scale, massing, and proportions.

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

The existing building contains two dwelling units subject to the Rent Stabilization and Arbitration Ordinance. Both units will be removed - one unit is currently occupied by a relative of the Property Sponsor, and one unit has not been occupied by tenants since the current owner purchased the property in 2013. Upon completion of the Project, the two rent-controlled units will be replaced by three permanently affordable housing units. The Project will contain a mix of studio, one-bedroom, and two-bedroom family-sized housing. The Project will also increase the number of dwelling units on the lot from two to 14 units.

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

The Project will provide nine off-street parking spaces in a ground level garage, and a total of 18 bicycle parking spaces. The Site is also well-served by public transit, thus offering transit opportunities for resident commuters and potential users of the commercial space. The Site is located on Lombard Street (also serves as State Highway 101). Lombard Street is a major vehicular and pedestrian thoroughfare, the City's primary link to the North Bay via the Golden Gate Bridge. Transit lines serving San Francisco and Marin County are nearby and are within walking distance of the Site. Within two blocks, there are five MUNI lines available: 30-Stockton, 30X-Stockton Express, 45-Union, 47-Van Ness, and 49-Van Ness/Mission.

- 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 is not a commercial office development. The Project includes an approximately 600 square-foot retail space at street level, creating opportunities for resident employment and business ownership without displacing existing industrial or service uses. Ownership of industrial or service sector businesses would not be affected by the Project.

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

The Project will be constructed to be in compliance with the City's current Building Code, Fire and life safety standards and to meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the Project Site. The existing structure is not designated as a historic resource building.

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

The Project will not affect existing parks and open space.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.1022CE** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 8, 2015 (received at the hearing), and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19489. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the

Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 8, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Wu, Hillis, Johnson and Richards

NAYS: None

ABSENT: Moore

RECUSED: Antonini

ADOPTED: October 8, 2015

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use to allow demolition of a three-story, two-unit dwelling and construction of a 14-unit residential building (including three Below-Market Rate units) with ground-floor commercial space and parking garage, and to reduce the off-street parking requirement, located at 1463 Lombard Street, Block 0503, Lots 020, 021 and 095, pursuant to Planning Code Sections **161(g), 303(c), 307(i), 317 and 712.37** within the **NC-3 (Moderate-Scale Neighborhood Commercial) District** and a **40-X Height and Bulk District**; in general conformance with plans, dated **October 8, 2015**, and labeled "EXHIBIT B" included in the docket for Case No. **2013.1022CE** and subject to conditions of approval reviewed and approved by the Commission on **October 8, 2015** under Motion No. 19489. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the Project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **October 8, 2015** under Motion No. 19489.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19489 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the Project and/or commence the approved use must be issued as this Conditional Use Authorization is only an approval of the proposed Project and conveys no independent right to construct the Project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

AFFORDABLE UNITS

3. **Number of Required Units.** Pursuant to Planning Code Section 415.6 and 207 (c) (1), the Project is required to provide a minimum of 20% of the proposed dwelling units as affordable to qualifying households. The Project contains 14 units; therefore, a minimum of three (3) affordable units are required. The Project Sponsor will fulfill this requirement by providing three affordable units On-Site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

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

4. **Unit Mix.** The Project contains 13 one-bedroom, and one (1) two-bedroom unit; therefore, the required affordable unit mix is three (3) one-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

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

5. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

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

6. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as On-Site affordable units.

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

7. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the Project.

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

8. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

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

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall

- quality, construction and exterior appearance as the market rate units in the principal Project. The interior features in affordable units should be generally the same as those of the market units in the principal Project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for sale, the affordable 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 ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
 - c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
 - d. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
 - e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restrictions to the Department and to MOHCD or its successor.
 - f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
 - g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development Project and to pursue any and all available remedies at law.

- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

DESIGN – COMPLIANCE AT PLAN STAGE

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

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

SIGNAGE

10. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code.

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

MONITORING

11. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other City departments and agencies for appropriate enforcement action under their jurisdiction.

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

OPERATION

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

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

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