



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: EN Impact Fee (sec. 423)

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Planning Commission Motion No. 18766

HEARING DATE: DECEMBER 6, 2012

Date: November 29, 2012
Case No.: 2007.1035CK
Project Address: 350 8TH STREET
Zoning: SLR (Service / Light Industrial / Residential)
 40-X Height and Bulk District
Proposed Zoning: WMUG (Western SOMA Mixed Use General)
 55/65-B Height and Bulk District
Block/Lot: 3756/003, 015
Project Sponsor: Amir Massih
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 TO 823 ALLOW APPROXIMATELY 410 DWELLING UNITS, APPROXIMATELY 22,280 SQUARE FEET OF RETAIL/COMMERCIAL SPACE, APPROXIMATELY 9,400 SQUARE FEET OF OFFICE SPACE, APPROXIMATELY 10,600 SQUARE FEET OF ART ACTIVITY/PDR SPACE AND APPROXIMATELY 7,780 SQUARE FEET OF ACCESSORY USE SPACE FOR THE RESIDENTIAL UNITS WITHIN 8 NEW FIVE- AND SIX-STORY BUILDINGS ON A SITE APPROXIMATELY 3.4 ACRES IN SIZE, AND TO: (1) ALLOW EXCEPTIONS TO THE LOT MERGER RESTRICTION OF PLANNING CODE SECTION 121.7; (2) ALLOW EXCEPTIONS TO THE REAR YARD REQUIREMENTS OF PLANNING CODE SECTION 134; (3) TO ALLOW EXCEPTIONS TO THE USEABLE OPEN SPACE REQUIREMENTS OF PLANNING CODE SECTION 135; (4) TO ALLOW EXCEPTIONS TO THE DWELLING UNIT EXPOSURE REQUIREMENTS OF PLANNING CODE SECTION 140; (5) TO ALLOW EXCEPTIONS TO THE OFF-STREET PARKING REQUIREMENTS OF PLANNING CODE SECTION 151.1; (6) TO ALLOW EXCEPTIONS TO THE LOCATION AND ARRANGEMENT OF FREIGHT LOADING REQUIREMENTS OF PLANNING CODE SECTION 155; (7) TO ALLOW EXCEPTION TO THE SPECIAL HEIGHT EXCEPTIONS REQUIREMENT OF PLANNING CODE SECTION 263.29; (8) TO ALLOW EXCEPTIONS TO THE BULK LIMITS REQUIREMENTS OF SECTIONS 270 AND 271; (9) TO ALLOW EXCEPTIONS TO THE MID-BLOCK ALLEY REQUIREMENTS OF PLANNING CODE

SECTION 270.2; AND, (10) ADOPTING FINDINGS AND MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT WITHIN THE SLR (SERVICE / LIGHT INDUSTRIAL / RESIDENTIAL) ZONING DISTRICT AND THE 40-X HEIGHT AND BULK DISTRICT AND UNDER THE WESTERN SOMA COMMUNITY PLAN WMUG (WESTERN SOMA MIXED USE – GENERAL) ZONING DISTRICT, THE WESTERN SOMA SPECIAL USE DISTRICT AND THE 55-X/65-B HEIGHT AND BULK DISTRICT, SUBJECT TO THE ADOPTION OF THE WESTERN SOMA COMMUNITY AREA PLAN, PLANNING CODE AND ZONING MAP AMENDMENTS BY THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS.

PREAMBLE

On September 7, 2007 Amir Massih (hereinafter “Project Sponsor”) filed Environmental Review Application No. 2007.1035E with the Planning Department (hereinafter “Department”) and on December 1, 2011 filed a Conditional Use Application No. 2007.1035C per Planning Code Section 303 and 823 to construct approximately 410 dwelling units, approximately 22,280 square feet of retail/commercial space, approximately 9,400 square feet of office space, approximately 10,600 square feet of arts activity/PDR space and approximately 7,780 square feet of accessory use space for the residential units within 8 new five- and six-story buildings on a site approximately 3.4 acres in size and including the following exceptions: (1) lot mergers; (2) rear yard; (3) useable open space; (4) dwelling unit exposure; (5) off-street parking; (6) arrangement and location of freight loading; (7) bulk limits; (8) special height exceptions; and (9) mid-block alleys.

On December 6, 2012, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1035C.

The Department determined that an Environmental Impact Report (“EIR”) was required and the Department printed and circulated a Notice of Preparation on August 11, 2009, that solicited comments regarding the content of the proposed EIR for the Project. The Department accepted comments on the EIR content through September 11, 2009. Subsequently, the Department published the Draft EIR on June 20, 2012, on which comments were accepted until August 6, 2012. A public hearing on the Draft EIR was held on July 26, 2012. Following the close of the public review and comment period, the Department prepared written responses that addressed all of the substantive written and oral comments on the Draft EIR, and the EIR was revised accordingly.

Several comments on the Draft EIR were made both in writing and at a public hearing in front of the Planning Commission (hereinafter “Commission”) on July 26, 2012, and those comments were incorporated in the Final EIR with a response. The comment and response did not substantially revise the Draft EIR and therefore no recirculation was required under the State CEQA Guidelines Section 15073.3.

On December 6, 2012, the Commission certified the final EIR (FEIR) for the Project. This Motion, including Exhibit C attached hereto, sets forth the necessary California Environmental Quality Act (CEQA) findings, and said Exhibit C is hereby incorporated in this Motion by reference as if set forth in full.

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

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.

The Planning Department, Jonas P. Ionin, is the custodian of records, and they are located in the File for Case No. 2007.1035E at 1650 Mission Street, Fourth Floor, San Francisco, California.

MOVED, subject to the adoption of the Western SoMa Community Area Plan, Planning Code and Zoning Map Amendments, currently before the Planning Commission, by the Board of Supervisors, that the Commission hereby authorizes the Conditional Use requested in Application No. 2007.1035CK, 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 is located at the northwest intersection of 8th and Harrison Streets and is bounded to the north by Ringold Street, to the west by Gordon Street, to the south by Harrison Street and to the east by 8th Street. The site is composed of two lots, Lot 003 and Lot 015 in Assessor's Block 3756. Combined, the two lots are approximately 146,300 square feet in area (approximately 3.4 acres) and provide 425 feet of frontage on Ringold Street, 275 feet of frontage on Gordon Street, 415 feet of frontage on Harrison Street and 350 feet of frontage on 8th Street.

The site is currently a surface parking lot and is used as a bus depot by Golden Gate Transit, a public transit system that serves Marin, Sonoma, Contra Costa and San Francisco Counties. A one-story industrial building is located at the northeast corner of the site and spans half the width of the lot, fronting Ringold Street.

3. **Surrounding Properties and Neighborhood.** The site is located within the South of Market Area, adjacent to an exit of Interstate 80. Much like other parts of the South of Market Area, the surrounding area is a mix of industrial, residential and retail uses with buildings of heights that range from one- to five-stories. To the west of the site, along Gordon Street are multiple two- and three story industrial buildings that utilize Gordon Street for loading and other access. There is also a one-story bar use at the corner of Gordon and Harrison Streets. To the south of the site, along Harrison Street is a social service use operated by the Salvation Army and a five-story mixed use development with ground floor retail and live/work uses above. To the east of the

site, along 8th Street, two-story buildings housing light industrial and retail uses are found. To the north of the site, along Ringold Street are two- and three-story buildings with industrial and residential uses. Many of the buildings along Ringold Street are residential in nature and Ringold Street, given its relative narrow width, lends itself to residential uses.

As part of the Western SoMa Community Plan, the properties surrounding the subject site are undergoing rezoning to new zoning districts, including the WMUG (Western SoMa Mixed Use – General) the RED MX (Residential Enclave – Mixed), the RCD (Regional Commercial District), the P (Public Use) and the SALI (Service/Arts/Light Industrial) zoning districts.

4. **Project Description.** The project proposes to demolish the existing one-story industrial building at the north end of the site and construct an eight building multi-use development that includes residential, retail, office and arts activities.

The residential uses are found throughout the project site and are the predominate use. They are generally located above the ground floor, however dwelling units are located on the ground floor of the two buildings in the interior of the site and of the two buildings at the north of the site. In total, the project is proposing approximately 410 dwelling units, of which 168 are two-bedroom units, 196 are one-bedroom units and 46 are studio units.

The retail/commercial uses are located at the ground floor of the buildings that front 8th and Harrison Streets and total approximately 22,280 square feet. Approximately 10,600 square feet of arts activity/PDR space is located at the ground floor, along Gordon Street. The approximately 9,400 square feet of office use is located at the southwest corner of the site, within a five story building.

Off-street parking is located in the basement level of the site, as well as within the interior of the site.

5. **Public Comment.** As of November 21, 2012 the Planning Department has not received any public input regarding the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code, as currently proposed by the Western SoMa Community Plan Area, Planning Code and Zoning Map Amendments, currently before the Planning Commission and subject to approval by the Board of Supervisors, in the following manner:
 - A. **Restriction of Lot Mergers.** Planning Code Section 121.7 requires Conditional Use authorization to merge lots that result in a street frontage greater than 100 feet within the WMUG zoning district. In addition, a request to merge lots in this fashion must meet one or more of the following findings:

1. The lot merger will enable a specific residential project that provides housing onsite at affordability levels significantly exceeding the requirements of Section 315;
2. The lot merger will facilitate development of an underutilized site historically used as a single use and the new project is comprised of multiple individual buildings;
3. The lot merger serves a unique public interest that cannot be met by building a project on a smaller lot.

The Project will propose to merge lots 003 and 015 of Assessor's Block 3756, resulting in a street frontage along Ringold Street of approximately 425 feet. The Project is seeking Conditional Use authorization for the proposed lot merger as the lot merger will facilitate development of an underutilized site historically used as a single use and the new project is comprised of multiple individual buildings.

- B. Rear Yard.** Planning Code Section 134 requires a minimum rear yard depth to be equal to 25 percent of the total depth of the lot on which the building is situated, but in no case less than 15 feet and that the rear yard be located at the ground level for any building containing a dwelling unit, and at each succeeding level or story of the building

The Project does not propose a rear yard equal to 25 percent of lot depth. Planning Code Section 823 allows the Project to seek an exception from the Rear Yard requirement as provided by Planning Code Section 329. As such, the Project provides approximately 67,851 square feet of open area, which is comparable to the 37,073 square foot rear yard required under Planning Code Section 134; the Project proposes new structures on Ringold and Gordon Streets that are setback at the 4th and 5th stories, thereby not significantly impeding the access to light and air from adjacent properties; and the Project does not adversely impact the interior block open space formed by the rear yards of adjacent properties as an interior block open space does not exist on the block.

- C. Useable Open Space for Dwelling Units.** Planning Code Section 135 requires a minimum of 80 square feet of useable open space per dwelling unit.

The Project is required to provide 32,800 square feet of useable open space for the proposed 410 dwelling units. The Project does not provide 32,800 square feet of Planning Code complying useable open space. However, the Project does provide approximately 32,525 square feet of open space between a park at the northeast corner of the site, open areas within the interior of the site, roof decks, private balconies and decks and open areas providing landscape and pedestrian amenities complying with the Better Streets Plan per Planning Code Section 138.1.

- D. Useable Open Space for uses other than Dwelling Units.** Planning Code Section 135.3 requires useable open space for uses other than dwelling units for all newly constructed structures.

The Project is required to provide 320 square feet of useable open space for the proposed retail/commercial, office and arts activity/PDR uses. The park at the northeast corner of the site

provides approximately 6,000 square feet of useable open space at the ground level of the site for use by the employees, patrons and users of the non-Dwelling Unit uses.

- E. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires the provision of one street trees for every 20 feet of street frontage when a project proposes new construction. Planning Code Section 138.1 also requires streetscape and pedestrian elements in conformance with the Better Streets Plan when a project is on a lot that is greater than ½-acre in total area and the project includes new construction.

The Project is required to provide a combined 74 street trees along the perimeter of the site. The Project provides the 73 street trees and will be assessed the in-lieu street tree fee for one tree. The Project Sponsor has also submitted a streetscape plan to the Planning Department which has been reviewed and accepted.

- F. **Dwelling Unit Exposure.** Planning Code Section 140 requires each dwelling unit to face directly on either a public street or alley at least 25 feet in width or an open area no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The Project provides Planning Code complying dwelling unit exposure for 338 dwelling units. Approximately 72 of the 410 dwelling units, or 17.6%, do not meet the Dwelling Unit Exposure requirements. An exception is being sought pursuant to Planning Code Sections 140, 303 and 823.

- G. **Street Frontage in Mixed Use Districts.** Section 145.1 of the Planning Code requires off-street parking at street grade on a development lot to be set back at least 25 feet on the ground floor; that no more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new or altered structure parallel to and facing a street shall be devoted to parking and loading ingress or egress; that space for active uses be provided within the first 25 feet of building depth on the ground floor; that non-residential uses have a minimum floor-to-floor height of 14 feet; that the floors of street-fronting interior spaces housing non-residential active uses and lobbies be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces; and that frontages with active uses that are not residential or PDR be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level.

The Project is proposing off-street parking either within a basement level garage or within the interior loop of the site that is in excess of 25 feet from 8th, Harrison, Ringold or Gordon Streets, is proposing street frontages with parking entrances no more than 20 feet in width; is proposing active uses including retail/commercial, office arts activity/PDR space, and residential units meeting the Ground Floor Residential Design Guidelines, within the first 25 feet of building depth along 8th, Harrison, Gordon and Ringold Streets; is proposing non-residential floor-to-floor heights of at least 14 feet; is proposing non-residential active uses and lobbies as close to the adjacent sidewalk as possible given

improvements pursuant to the Better Streets Plan; and is proposing fenestrated frontages for no less than 60% of the linear length.

- H. **Off-Street Parking.** Planning Code Section 151.1 establishes parking limits for residential uses, retail/commercial uses, office uses and PDR uses. For residential uses Planning Code Section 151.1 principally permits up to one car for each four dwelling units and allows up to 0.75 cars for each dwelling unit, subject to the criteria and conditions and procedures of Section 151.1(g). For dwelling units with at least 2 bedrooms and at least 1,000 square feet of occupied floor area Planning Code Section 151.1 principally permits up to one car for each four dwelling units and up to one car for each dwelling unit, subject to the criteria and conditions and procedures of Section 151.1(g). For retail/commercial uses Planning Code Section 151.1 allows up to one for each 500 square feet of gross floor area up to 20,000 square feet, plus one for each 250 square feet of gross floor area in excess of 20,000. For office uses, Planning Code Section 151.1 allows up to seven percent of the gross floor area of such uses and subject to the pricing conditions of Section 155(g). For arts activity uses, Planning Code Section 151.1 allows up to one for each 2,000 square feet of occupied floor area.

The Project is proposing 380 units that are not two-bedroom units with at least 1,000 square feet of occupied floor area and is providing 285 off-street parking spaces for these units. The Project is proposing 30 two-bedroom units with at least 1,000 square feet of occupied floor area and is providing 30 off-street parking spaces for these units. The Project is proposing approximately 22,280 square feet of retail space and is providing 40 off-street parking spaces for the first 20,000 square feet and nine off-street parking spaces for the remaining 2,280 square feet of this use. The Project is proposing approximately 9,400 square feet of office is and proposing three off-street parking spaces for this use. The Project is proposing approximately 10,600 square feet of arts activity space and is providing five off-street parking spaces.

Planning Code Section 151.1(g) requires off-street parking in excess of the principally permitted amounts, as stated above, but not in excess of the limits in Table 151.1 to be reviewed 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.**

- i. 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;
- ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;
- iii. All above-grade parking is architecturally screened and lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code;

- iv. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements;

The vast majority of the off-street parking is located within the basement level garage, avoiding any potential impacts upon pedestrian, transit, bicycle or overall traffic movements. The remaining 22 off-street parking spaces are located within the interior loop of the site and minimize impacts upon pedestrian, transit, bicycle or overall traffic movements. The accessory parking will not be readily visible from the public right of way, as it will be located either in the basement level garage or screened from view within the interior loop by active uses and thereby maintaining the urban design quality, including the quality of future streetscape enhancements.

2. Parking for residential uses.

- i. For projects with 50 dwelling units or more, all residential accessory parking in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts valet, or other space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.

Planning Code Section 823(c)(12) exempts the Project from the space-efficient requirement as the accessory parking is located below grade in the basement garage.

3. Parking for non-residential uses.

- i. 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).
- ii. 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.
- iii. Parking shall be limited to short-term use only.
- iv. 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 sponsor has indicated compliance with the requirement for the dedication of off-street parking for non-residential uses to car-sharing organizations. The Project is not proposing retail uses of 20,000 square feet in size. The off-street parking for non-residential uses will be limited to short-term use and available to the general public at times when such parking is not needed to serve the use or uses to which it is accessory.

- I. **General Standards as to the Location and Arrangement of Off-Street Parking and Freight Loading.** Planning Code Section 155 requires off-street freight loading and service vehicle spaces to be completely enclosed and accessed from a public street or alley by means of a private service driveway, which is totally contained within the structure.

The off-street freight loading is located within the open air interior loop of the Project site and is not contained within a structure.

- J. **Bicycle Parking.** Planning Code Section 155.5 requires 25 Class 1 spaces plus one Class 1 space for every four dwelling units over 50.

The Project is proposing 410 dwelling units and is required to provide 110 bicycle spaces. The Project is proposing approximately 390 bicycle spaces.

- K. **Car Sharing.** Planning Code Section 166 requires two car sharing spaces, plus one car share space for every 200 dwelling units over 200 for residential uses and one car share space, plus one car share space for every 50 parking spaces over 50 for non-residential uses.

The Project is proposing five car share spaces, meeting the minimum required five spaces per Planning Code Section 166 and 151.1(g).

- L. **Dwelling Unit Mix.** Planning Code Section 207.6 requires no less than 40 percent of the total number of proposed dwelling units shall contain at least two bedrooms or no less than 30 percent of the total number of proposed dwelling units shall contain at least three bedrooms.

The Project is proposing 410 dwelling units, of which 168, or 41%, will be two-bedroom units.

- M. **Special Height Exceptions, Permitted Building Heights in the Western SoMa Special Use District.** Planning Code Section 263.29 allows height exceptions above the base limit to the maximum height in accordance with the procedures and criteria required for a Conditional Use as set forth in Section 303 and 823(c)(12).

The Project is proposing five buildings with a height of 65 feet and is seeking Conditional Use authorization.

- N. **Mid-Block Alleys in Large Lot Development.** Planning Code Section 270.2 requires new construction on lots with greater than 300 linear feet of street frontage to provide a publicly-accessible mid-block alley for the entire depth of the property, generally located toward the middle of the subject block face, perpendicular to the subject frontage and connecting to any existing streets and alleys. For development lots with frontage on more than one street that exceeds the above dimensions, one such mid-block alley will be required per frontage. The mid-block alley shall have a minimum width of 30 feet from building face to building face.

The Project is proposing mid-block alleys that span the width and depth of the subject lot, connecting to all four streets that bound the site. However, the mid-block alleys do not meet the minimum 30 foot width requirement in two locations and the Project Sponsor is seeking Conditional Use authorization.

- O. **Bulk Limits: Exception.** Planning Code Section 270 establishes bulk limits for the 'B' bulk district as a plan length of 110 feet and a diagonal dimension of 125 feet when a height of 50 feet or greater is proposed. Planning Code Section 271 requires the Planning Commission consider the standards and criteria below in granting the exception to the Bulk Limits under Planning Code Section 270.

The Project is proposing plan lengths in excess of 110 feet and diagonal dimensions in excess of 125 feet on buildings that are proposing heights in excess of 50 feet. The Project is seeking an exception to the bulk limit through Conditional Use authorization pursuant to Planning Code Section 271.

1. The appearance of bulk in the building, structure or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
 - i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass;
 - ii. Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements;
 - iii. Differences in materials, colors or scales of the facades that produce separate major elements;
 - iv. Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted; and
 - v. In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures or towers.

All buildings within the Project provide variations in the planes of wall surfaces through upper story setbacks and saw tooth-like differentiation of facades. The buildings in the Project are of differing heights and building mass is segmented through the use of notches of depths from eight to 25 feet and widths of nine to 19 feet. Facades are proposed to feature materials corresponding to building use and an appropriate palette of colors is proposed to emphasize massing breaks. Buildings in the Project are also separated by mid-block alleys of widths from 16 feet to 37 feet.

2. In every case the building, structure or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:

- i. A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
- ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;
- iii. Use of materials, colors and scales either similar to or harmonizing with those of nearby development; and
- iv. Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The Project is proposing a harmonious silhouette with the relatively flat area in which it is located by avoiding abrupt and uncharacteristic height differentials. The heights of the Project scale back at the smaller Streets, such as Gordon and Ringold Streets, in response to the adjacent buildings. At 8th and Harrison Streets, the Project is proposing six stories as the surrounding buildings or the width of those streets complement the greater height. The Project proposes buildings with residential character along Ringold, in deference to the existing residential buildings found on that street. Along Gordon Street, the Project is proposing arts activity/PDR space, in response to the largely light industrial nature of the uses found on that street. Along 8th and Harrison Streets the Project is proposing heights and uses that are compatible with the existing uses, including ground floor retail and building heights of 65 feet. The pedestrian environment will be enhanced as the Project will fully comply with the Better Streets Plan requirements and provides an extensive mid-block alley system and park that will be made accessible to the public.

- P. **Shadow.** Planning Code Section 295 requires developments proposing heights in excess of 40 feet to provide an analysis to determine if any net new shade or shadow will be cast upon properties under the jurisdiction of, or designated for acquisition by, the Recreation and Parks Department.

A shadow fan analysis was conducted for the Project and it determined that no properties protected by Planning Code Section 295 will be affected by net new shade or shadow cast by the Project.

- Q. **Transit Impact Development Fee.** Planning Code Section 411 applies the Transit Impact Development Fee to projects cumulatively creating more than 3,000 gross square feet of non-residential uses including Retail/Entertainment, Management, Information and Professional Services and Production/Distribution/Repair.

The Project is proposing approximately 22,280 square feet of retail use, 9,400 square feet of office use and 10,600 square feet of arts activity/PDR use. These uses, cumulatively, are subject to the Transit Impact Development Fee at the per gross square foot rate in place at time of building permit issuance.

- R. **Jobs-Housing Linkage Program.** Planning Code Section 413 applies the Jobs-Housing Linkage Fee to any project that increases by at least 25,000 gross square feet the total amount

of any combination of entertainment use, hotel use, Integrated PDR use, office, research and development use, retail use, and/or Small Enterprise Workspace use

The Project proposes approximately 22,280 square feet of retail use and 9,980 square feet of office use, cumulatively 32,260 square feet of uses subject to Planning Code Section 413, and is subject to the Jobs-Housing Linkage Program. The Project Sponsor may elect between the Housing Requirement option, the Payment to Housing Developer option, the In-Lieu Fee Payment option or compliance by combination payment to Housing Developer and payment of In-Lieu Fee at the time of building permit issuance.

- S. **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 five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Project is meeting the Inclusionary Affordable Housing Program requirement through the On-site Affordable Housing Alternative by providing 15% 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 Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program 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 or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), and entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on November 2, 2012. The EE application was submitted on September 7, 2007. 62 units (seven studio units, 30 one-bedroom units and 25 two-bedroom units) of the 410 units provided will be affordable rental 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. The Project must execute the Costa Hawkins agreement prior to Planning Commission approval or must revert to payment of the Affordable Housing Fee.

- T. **Eastern Neighborhood Infrastructure Impact Fees.** Planning Code Section 423 is applicable to any development project which in the Western SoMa Community Plan that results in the addition of at least one new residential unit or the new construction of a non-residential use.

The Project is proposing approximately 410 dwelling units and approximately 42,280 square feet of non-residential use and is subject to Planning Code Section 423. The Impact Fee must be paid prior to the issuance of the building permit application.

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

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

The new uses the Project proposes are necessary, desirable and compatible with the neighborhood and community. The surrounding neighborhood is of mixed use character and includes light industrial uses, retail uses, automotive uses and residential uses. The residential, arts/activity/PDR, retail and office uses are all compatible with the neighborhood and community and will be a desirable addition. The scale and massing scheme of the Project are also compatible and desirable. The Project sets back upper stories along lower scaled, narrower streets in response to the surrounding condition. The Project proposes its maximum heights along 8th and Harrison Street, streets that are sufficiently wide to complement the proposed height and to blend with existing development also of comparable height.

- 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 is approximately 3.4 acres in size and is currently a bus depot. The addition of residential, retail, arts activity/PDR and office uses will prove beneficial to the convenience and general welfare of persons residing in the vicinity in comparison to the existing condition. The Project has carefully located the individual uses to best ensure compatibility with the existing uses and to the scale of and context of adjacent uses. The proposed buildings are designed so as to differentiate the buildings from one another and yet maintain a unified sense of place.

- 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 is proposing an appropriate amount of off-street parking and is screening it from the surroundings by means of a basement level garage. Required freight loading will be located within the interior of the Project, to screen these spaces from view and to prevent vehicular conflicts with traffic on adjacent streets.. Automotive entrances to the site are located at major streets, diverting traffic from smaller scale streets that surround the Project.

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

The nature of the proposed uses will not produce noxious or offensive emissions such as noise, glare, dust and odor, as the uses are primarily residential in nature.

- 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 comply with the Better Streets Plan so as to provide an enhanced pedestrian environment; pedestrian scale lighting, bulb outs and additional landscaping are features the Project will provide. As part of the open spaces on site, the Project proposes a park at the northeast corner of the site. The vast majority of off-street parking is located away from sidewalks, within a basement level garage.

- 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, or is requesting exceptions from the Planning Code via Conditional Use authorization, and is consistent, on balance, with the objectives and policies of the General Plan as detailed below.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 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.

Policy 4.4:

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.6:

Encourage an equitable distribution of growth according to infrastructure and site capacity.

The Project will provide a wide array of unit types including studio apartments, lofts, one-bedroom units and two-bedroom units at a site identified by a community plan area as a location for housing and commercial development. The housing is proposed to be rental housing, which is often a housing tenure that is easily accessed by households of all income levels. This variety and tenure provides a number of different household types an opportunity for housing.

OBJECTIVE 5:

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4:

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

The Project proposes a mix of unit types, including studio, loft, one- and two-bedroom apartments, which may suit the needs of a variety of households including singles, families and the elderly.

OBJECTIVE 11:

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

Policy 11.1:

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

Policy 11.3:

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

Policy 11.6:

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

The individual buildings the Project proposes are designed to provide the residents a sense of place while allowing each building a level of distinctive design. The Project scales back mass where appropriate, respecting the less intense scale, and provides an adequate street wall where necessary. Prominent pedestrian and automotive passages through the site help to provide a sense of permeability, yet at the same time the buildings are located so as afford a feeling of respite from the busy thoroughfares that bound the

site at the east and south. The interior court and the park are demonstrative of the design features that aid in the creation of community.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The Project proposes retail/commercial, office and art activity/PDR uses that are compatible with the mixed use character of the area. These uses will provide a net benefit and can create synergies with the existing uses, many of which are retail and light manufacturing in nature. The commercial uses would not create offensive odors, but where the possibility exists, applicable Conditions or building code requirements will attenuate any adverse impact. These uses are also allowed under the proposed zoning district and as such are appropriate according to an overall land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

Policy 2.3:

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The various non-residential uses the Project proposes will aid in the attraction of new commercial and light industrial uses to San Francisco, further enhancing its diverse economic base. The addition of arts

activity/PDR space within a dense and centrally located area such as the SoMa will maintain and foster a favorable social and cultural climate in San Francisco, as this use is popularly held as an attractor of firms seeking a location home to a creative class of employee.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.4:

Assist newly emerging economic activities.

The inclusion of arts activity/PDR space can attract the artistically oriented, including artists and crafts people, to San Francisco or can provide San Franciscans the space to start new economic endeavors. This possibility is of great importance to the economic base of the City.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 4:

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

Policy 4.2:

Provide buffering for residential properties when heavy traffic cannot be avoided.

Policy 4.3:

Provide adequate lighting in public areas.

Policy 4.4:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.8:

Provide convenient access to a variety of recreation opportunities.

Policy 4.10:

Encourage or require the provision of recreation space in private development.

The Project proposes the majority of the residential units, including two six-story residential buildings, away from 8th and Harrison Streets, the two major streets that bound the 3.4 acre site, and onto the interior of the block. This siting will provide a buffer from the automotive traffic that is found on 8th and Harrison Streets. The Project will comply with the Better Streets Plan, thereby providing pedestrian scale lighting along the perimeter of the site, along the public right of way, as a benefit to pedestrians. The mid-block alleys provide pedestrians a means to travel between 8th, Harrison, Gordon and Ringold Streets through an interior mews that expects much less traffic than 8th or Harrison Streets. The Project also provides a park

for use by residents and the general public. This park is located at the northeast corner of the site and also affords pedestrians a path of travel free from traffic.

WESTERN SOMA PLAN AREA

Objectives and Policies

OBJECTIVE 1.1:

BUILD ON AN EXISTING MIXED-USED CHARACTER THAT ENCOURAGES PRODUCTION OF RESIDENTIAL USES IN AREAS MOST APPROPRIATE FOR NEW HOUSING WITH A PROXIMATE MIX OF USES AND SERVICES SERVING LOCAL NEEDS AND THEREBY DEVELOPING A COMPLETE NEIGHBORHOOD

Policy 1.1.2

Western SoMa land uses should progress from non-residential uses south of Harrison Street northward to an increasingly residential neighborhood with retention of a mix of uses and new mixed-use developments where appropriate.

Policy 1.1.6:

Limit commercial development of retail uses to no more than 25,000 square feet throughout the Western SoMa SUD. These larger retail uses shall be allowed to locate without restriction south of Harrison Street and be permitted only on large development sites (LDS = one acre or larger) north of Harrison Street.

The Project is located at the intersection of 8th and Harrison Streets and adheres to the Area Plan by introducing residential uses north of Harrison Street. The Project proposes 22,280 square feet of retail uses, under the 25,000 square foot threshold as indicated by the Area Plan.

OBJECTIVE 2.1:

RETAIN AND ENCOURAGE GROWTH OPPORTUNITIES FOR EXISTING NEIGHBORHOOD BUSINESSES

Policy 2.1.2:

Promote a wide range of neighborhood-serving commercial uses north of Harrison Street.

The Project proposes in excess of 22,000 square feet of retail/commercial space, providing the opportunity for neighborhood serving commercial uses north of Harrison Street.

OBJECTIVE 2.2:

PROMOTE APPROPRIATE NEW NEIGHBORHOOD BUSINESS OPPORTUNITIES THAT CREATIVELY RESPOND TO NEIGHBORHOOD, CITYWIDE AND REGIONAL ECONOMIC NEEDS AND TRENDS.

Policy 2.2.2:

Prohibit new retail uses in excess of 25,000 square feet throughout the Western SoMa SUD.

Policy 2.2.4:

Encourage mixed-use development of new large retail sites throughout the Western SoMa SUD.

The Project proposes approximately 22,280 square feet of retail/commercial space, under the 25,000 square foot threshold. The Project is a mixed use development featuring a large quantity of retail/commercial space, residential uses, office and arts activity/PDR space.

OBJECTIVE 3.2:

ENCOURAGE NEW NEIGHBORHOOD RESIDENTIAL USES IN LOCATIONS THAT PROVIDE THE GREATEST OPPORTUNITIES TO BUILD ON THE EXISTING NEIGHBORHOOD PATTERNS.

Policy 3.2.2:

Encourage in-fill housing production that continues the existing built housing qualities in terms of heights, prevailing density, yards and unit sizes.

Policy 3.2.5:

Encourage creation of upper floor residential uses on major streets north of Harrison Street.

The Project proposes approximately 410 dwelling units at a variety of unit sizes and types on an in-fill site, the majority of which are located above the ground floor. The Project scales back its height at Ringold Street to respect the lower height and residential character of the street.

OBJECTIVE 4.21:

PROVIDE SAFE, EFFICIENT AND PLEASANT PEDESTRIAN CIRCULATION IN WESTERN SOMA.

Policy 4.21.1:

Improve sidewalk lighting to ensure safety and security.

The Project will comply with the Better Streets Plan which requires the addition of pedestrian scale lighting along the perimeter of the site.

OBJECTIVE 5.2:

PROMOTE ENVIRONMENTAL SUSTAINABILITY.

Policy 5.2.6:

Existing surface parking lots and off-street loading areas should be retrofitted to minimize negative effects on microclimate and stormwater infiltration. The San Francisco Stormwater Master Plan, upon completion, will provide guidance on how best to adhere to these guidelines.

Policy 5.2.10:

When soil conditions allow, the use of open pavers (porous pavement materials) on drives, sidewalks, parking lots and plazas should be required.

The Project is subject to the San Francisco Recycled Water Ordinance (Public Works Code, Article 22) requiring new development be dual-plumbed to allow for use of recycled water for certain uses such as landscape irrigation. The Project will incorporate porous pavers where appropriate as part of its strategy to promote sustainability.

OBJECTIVE 5.3:

PROMOTE WALKING, BIKING AND AN ACTIVE URBAN PUBLIC REALM.

Policy 5.3.3:

Minimize the visual impact of parking.

Policy 5.3.5:

Strengthen the pedestrian and bicycle network by extending alleyways to adjacent streets or alleyways wherever possible, or by providing new publicly accessible mid-block rights of way.

The Project will locate the vast majority of the off-street parking within a basement level garage, minimizing the visual impact of parking. The Project proposes a mid-block alley system that will be open to pedestrians.

OBJECTIVE 7.6:

MAINTAIN AND PROMOTE DIVERSITY OF NEIGHBORHOOD OPEN SPACES.

Policy 7.6.4:

Encourage recreational spaces for toddlers and elders as part of major new residential development.

Policy 7.6.6:

Encourage new commercial and industrial development to contribute to public open space such as street-level plazas with benches, street lights, and street front open space accessible to workers, residents and visitors at minimum during the day time.

The Project will provide a park open to the public as well as a tot lot for use by toddlers and provides a number of different open spaces for workers, residents and visitors to the site.

OBJECTIVE 8.1:

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES.

Policy 8.1.2:

Create, expand and protect space for the arts.

OBJECTIVE 8.2:

IMPROVE LIVABILITY BY ENCOURAGING THE DEVELOPMENT OF NEW ARTS USES.

Policy 8.2.3:

Include new arts spaces as a proportion of new private development.

The Project will provide approximately 10,600 square feet of arts activity/PDR space, thereby expanding the total space for the arts within San Francisco.

OBJECTIVE 10.3:

INCREASE SOCIAL COHESION AMONG RESIDENTS AND LOCAL BUSINESS OWNERS.

Policy 10.3.2:

Increase mid-block crossings throughout the Western SoMa SUD.

The Project proposes a mid-block alley system that will facilitate mid-block crossings between Ringold, Gordon, 8th and Harrison Streets.

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

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

The proposal will enhance the economic environment for neighborhood-serving retail by providing additional space for other retailers that could create synergies. The additional retail space can provide opportunities for resident employment.

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

The existing neighborhood character is respected as the Project proposes a mix of uses that are compatible with the existing uses in the area. Further the Project is sensitive to the scale of development to the north and west of the site, as it sets back the upper stories.

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

The Project is required to comply with the Affordable Housing Requirement under Planning Code Section 415 and will provide additional resources to the supply of affordable housing.

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

The Project will provide the vast majority of its off-street parking within a basement level garage, reducing the burden upon the supply of on-street 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 and proposes to increase the available retail and PDR space within San Francisco.

- F. That the City achieve 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 Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project will have no negative impact on existing parks and open spaces. The Project proposes to add a park accessible to the public.

10. 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.
11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. Findings under the California Environmental Quality Act (CEQA) are incorporated by reference and as Exhibit D.
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. 2007.1035CK** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated November 5, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as **Exhibit C** and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the FEIR and contained in the MMRP are included as conditions of approval.

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. 18766. 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 December 6, 2012.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Sugaya, Antonini, Moore, Borden, and Wu

NAYES: None

ABSENT: Commissioners Fong and Hillis

ADOPTED: December 6, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use for new construction of approximately 410 dwelling units, approximately 22,280 square feet of retail/commercial space, approximately 9,400 square feet of office space, approximately 10,600 square feet of arts activity/PDR space and approximately 7,780 square feet of accessory use space for the dwelling units on a site approximately 3.4 acres in size located at 350 8th Street, Lots 003 and 015 in Assessor's Block 3756, pursuant to Planning Code Section(s) 303, 121.7, 134, 135, 140, 151.1, 155, 263.29, 270, 271, 270.2 and 823 within the SLR (Service / Light Industrial / Residential) Zoning District and a 40-X Height and Bulk District and within the Western SoMa Community Plan Area, the proposed WMUG (Western SoMa Mixed Use – General) Zoning District and a 55/65-X Height and Bulk District; in general conformance with plans, dated November 5, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2007.1035CK and subject to conditions of approval reviewed and approved by the Commission on December 6, 2012 under Motion No. 18766. 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 December 6, 2012 under Motion No. 18766.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18766 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

1. This approval is contingent on and subject to the Board of Supervisors adopting the proposed Western SoMa General Plan, Planning Code, and Zoning Map amendments. Notwithstanding any specific provisions or conditions listed herein, this approval shall be subject to the Western SoMa General Plan, Planning Code, and Zoning Map amendments, as amended and adopted by the Board of Supervisors.

PERFORMANCE

2. **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.

3. **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

4. **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.

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

DESIGN

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

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

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

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

7. **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.

8. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

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

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

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;

6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

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

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

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

PARKING AND TRAFFIC

11. **Parking for Affordable Units.** 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 for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

12. **Car Share.** Pursuant to Planning Code Section 166, no fewer than four car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

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

13. **Bicycle Parking.** The Project shall provide no fewer than 110 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
14. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 372 off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
15. **Off-street Loading.** Pursuant to Planning Code Section 152, the Project will provide four off-street loading spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

16. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.
For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org
17. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
18. **Jobs Housing Linkage.** Pursuant to Planning Code Section 413 (formerly 313), the Project Sponsor shall contribute to the Jobs-Housing Linkage Program (JHLP). The calculation shall be based on the net addition of gross square feet of each type of space to be constructed as set forth in the permit plans. The Project Sponsor shall provide evidence that this requirement has been satisfied to the Planning Department prior to the issuance of the first site or building permit by the Department of Building Inspection.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

19. **Eastern Neighborhoods Infrastructure Impact Fee.** Pursuant to Planning Code Section 423 (formerly 327), the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4.

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

20. **Affordable Units.**

- A. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 15% of the proposed dwelling units as affordable to qualifying households. The Project contains 410 units; therefore, 62 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 62 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 ("MOH").

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 at 415-701-5500, www.sf-moh.org.

- B. **Unit Mix.** The Project contains 46 studios, 196 one-bedroom and 168 two-bedroom; therefore, the required affordable unit mix is 7 studios, 30 one-bedroom and 25 two-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 MOH.

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 at 415-701-5500, www.sf-moh.org.

- C. **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 at 415-701-5500, www.sf-moh.org.

- D. **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 at 415-701-5500, www.sf-moh.org.

- E. **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 at 415-701-5500, www.sf-moh.org.

- F. **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 MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:
<http://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 at 415-701-5500, www.sf-moh.org.

- i. 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.
- ii. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) 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 and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.

- iv. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- v. 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 Restriction to the Department and to MOH or its successor.
- vi. 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 the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior to issuance of the first construction document or must revert payment of the Affordable Housing Fee.
- vii. 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.
- viii. 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 MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

MONITORING

21. **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

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

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

OPERATION

23. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*

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

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

OTHER CONDITONS

25. **Improvement Measures.** The Improvement 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. The Improvement Measures are as follows:

- a. **I-TR-11a: Curb Modifications on Eighth and Harrison Streets.** To minimize the potential for double parking of delivery vehicles, S.F. MTA should designate 40 feet of curb space on both Eighth Street and Harrison Street as yellow commercial vehicle loading/unloading zones to serve the ground floor commercial uses as well as the residential uses (e.g., Federal Express, UPS, and move-in and move-out operations). The

350 Eighth Street project sponsor should be required to request the curb change, and any modifications to curb regulations would need to be approved at a public hearing through the S.F. MTA

- b. **I-TR-11b: Coordination of Move-In and Move-Out Activities.** To ensure that residential move-in and move-out activities do not impede Muni operations on Harrison Street or bicycle travel on Eighth Street, move-in and move-out operations, as well as larger deliveries should be scheduled and coordinated through building management. Curb parking should be reserved through the local station of the San Francisco Police Department.

- c. **I-TR-12: On-Street Parking Removal at Driveway.** As an improvement measure to reduce the potential for conflicts between southbound bicyclists and vehicles traveling on Eighth Street and vehicles exiting the 350 Eighth Street Project driveway, on-street parking north of the project driveway could be removed. The removal of two or more on-street parking spaces on the west curb of Eighth Street north of the project driveway would improve the sight distance for vehicles exiting the project driveway and bicyclists and vehicles traveling on Eighth Street.

- d. **I-TR-14: Construction Traffic Control Strategies.** Any construction traffic occurring between 7:00 a.m. and 9:00 a.m. or between 3:30 p.m. and 6:00 p.m. would coincide with peak-hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. Limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by the S.F. MTA) would minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods. The 350 Eighth Street project sponsor and construction contractor(s) should meet with the Traffic Engineering Division of S.F. MTA, the Fire Department, Muni, the San Francisco Planning Department and other City agencies to determine feasible measures to reduce traffic congestion including temporary bus stop relocation and other potential transit disruption and pedestrian circulation effects during construction of the project. The temporary parking demand by construction workers would need to be met on-site (once the garage element of the structure is complete), on-street or within other off-street parking facilities. Construction workers should be encouraged to take transit or carpool to the 350 Eighth Street project site.