



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

Inclusionary Housing (Sec. 315)

First Source Hiring (Admin. Code)

Jobs Housing Linkage Program (Sec. 313)

Child Care Requirement (Sec. 314)

Downtown Park Fee (Sec. 139)

Other

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## Planning Commission Motion

NO. 17730

HEARING DATE: OCTOBER 23, 2008

*Date:* October 16, 2008  
*Case No.:* **2005.1018EKVX**  
*Project Address:* **570 JESSIE STREET**  
*Zoning:* C-3-G (Downtown General Commercial) District  
120-F Height and Bulk District  
*Block/Lot:* 3703 / 086  
*Project Sponsor:* 50 Jessie Street LLC  
RN Development  
1738 Lombard Street, Suite A  
San Francisco, CA 94123  
*Staff Contact:* Jim Miller – (415) 558-6344  
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ADOPTING FINDINGS PURSUANT TO SECTION 309 OF THE SAN FRANCISCO PLANNING CODE RELATED TO A DETERMINATION OF COMPLIANCE FOR A NEW RESIDENTIAL BUILDING CONTAINING APPROXIMATELY 47 DWELLING UNITS, 23 OFF-STREET PARKING SPACES AND THREE CAR-SHARE SPACES, AND THE GRANTING OF EXCEPTIONS TO PLANNING CODE STANDARDS FOR REAR-YARD AREA (SECTION 134) AND OFF-STREET PARKING (SECTION 151.1(e)), AT 570 JESSIE STREET, LOT 086 IN ASSESSOR'S BLOCK 3703, IN A C-3-G (DOWNTOWN GENERAL COMMERCIAL) DISTRICT AND A 120-F HEIGHT AND BULK DISTRICT.

### RECITALS

1. On March 27, 2007, Tony Kim of Town Consulting, Inc., authorized agent of 570 Jessie LLC, owner, ("hereinafter "Applicant"), filed an application with the Planning Department (hereinafter "Department") requesting, under Planning Code (hereinafter "Code") **Section 309**, of Building Permit Application No. 2006-02-02-3710 for a Determination of Compliance and the granting of exceptions to the Code requirements for rear-yard area (**Code Section 134**) and off-street parking (**Code Section 151.1(e)**) (Case No. 2005.1018EKVX) on a 5,850-square-foot site

(Lots 086 in Assessor's Block 3703) at 570 Jessie Street, north side, cul-de-sac end west of Sixth Street (hereinafter "Subject Property"). The proposed new building would contain approximately 39,547 gross square feet (hereinafter "gsf") of floor area. It would be eight stories (up to 75 feet high) and would contain approximately 47 dwelling units, 23 off-street parking spaces and three car-share spaces (collectively, hereinafter "Project").

2. The Department published a Mitigated Negative Declaration (hereinafter "MND"), Case No. 2005.1018EKVX, on September 29, 2008, pursuant to be the California Environmental Quality Act (hereinafter "CEQA"). The Commission concludes that with the mitigations identified in the amended MND (hereinafter "MND") and accepted by the Applicant, no significant impacts would be generated by this Project.
3. On October 23, 2008, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly-noticed public hearing for the Project on the request for approval pursuant to Code Section 309.
4. MOVED, that the Commission does hereby adopt the aforementioned CEQA findings contained in the MND, the Mitigation Measures contained therein and the Mitigation Monitoring Program for their implementation.
5. FURTHER MOVED, That the Commission hereby makes the Determination of Compliance (pursuant to Code Section 309) and authorizes the exceptions requested in Application No. 2005.1018EKVX subject to the conditions contained in "Exhibit A", attached hereto and incorporated herein by reference thereto, based on the following findings:

## FINDINGS

Having reviewed all of the materials submitted by the Applicant and having heard all testimony and arguments, this Commission finds, concludes and determines that:

1. Project Site. The Project site (the Subject Property) consists of Lot 086 in Assessor's Block 3703. It contains 5,850 square feet in area. The Project site is located at 570 Jessie Street, north side, cul-de-sac end west of Sixth Street, in the South of Market. It is 78 feet in width and 75 feet deep with a frontage of 53 feet on Jessie Street.
2. Existing Use. The Subject Property contains one existing building. It is two stories in height with 100 percent lot coverage. It contains approximately 11,700 square feet of floor area. It is vacant and it formerly housed a printing business.

3. Surrounding Development. The Subject Property is located in the South-of-Market San Francisco area. To the west lie parking lots and the U.S. Courthouse (formerly the main Post Office building) at Seventh and Mission Streets. Small and mid-sized business structures line Jessie Street east of the Project site and small retail businesses line Sixth Street between Market and Mission Streets nearby. Some of these buildings contain upper-floor residential hotels. To the south across Jessie Street is a site (known as 1036 Mission Street) that is proposed for development of an approximately 116,000-square-foot building containing 106 affordable dwelling units and being eight to 13 stories high. BART and MUNI stations are located nearby to the north. The Project site is well served by transit of all varieties.
4. Project Description. The proposed Project is to demolish the existing building and to build a new eight-story residential building approximately 75 feet in height with approximately 39,547 gross square feet (hereinafter "gsf") of floor area. For purposes of the Code Section 102.9 definition of "gross floor area", the Project would have 32,439 square feet of floor area. It would contain approximately 47 dwelling units, 23 off-street parking spaces in a ground-floor garage using mechanical lifts, and three car-share spaces. The Project design features a decorative architectural "fin" projecting approximately three feet off the building's front façade over a width of approximately one foot. This "fin" would begin at the building's second level and proceed upwards to the roof level. Additionally, there would be a "bump out" of approximately 80 square feet (four feet by 20 feet) at the rear of the building up against the one adjoining building to the east, which building covers 100 percent of its lot. This "bump out" would be devoted to approximately 40 square feet of additional inside floor area for one of the units on each of the floors from the second through the eighth floors plus a 40-square-foot balcony for that unit. This "fin" and this "bump out" are the subject of a companion Variance case, 2005.1018EKVX.
5. Requirement of Project Compliance with Code Section 309. This Section of the Code requires review of Building or Site Permit applications for new buildings or for substantial alteration of existing buildings in C-3 Districts. It requires a public hearing by the Commission where there are exceptions requested and/or when the building exceeds 75 feet in height and/or 50,000 square feet of gross floor area. The Commission may approve a project, grant exceptions from certain requirements of the Code and/or impose conditions of approval. A project is required to meet all applicable Code requirements or request exceptions as allowed under Section 309(a) (1)-(12). Because the Project is located in a C-3-G District, and the Project proposal involves two requested exceptions, it is subject to Planning Commission review with respect to the Project's compliance with applicable Code requirements pursuant to Section 309. Two of the exceptions listed in Section 309 are being sought as part of the Project: Rear yard (Code Section 134) and off-street parking (Code Section 151.1(e)) [Section 309(a)(1 and 4)]
6. Compliance with C-3 District Code Requirements – Code Section 309. In determining if the Project would comply with applicable Code Sections, the Commission has reviewed the Project in reference to the Code Sections listed below. The Commission hereby finds as follows:

7. Section 101.1(b)(1-8)–Priority Policies. This Section establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies. They are included in the preamble to the Master Plan and are the basis upon which inconsistencies in the General Plan are resolved:

(1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The Project is entirely residential. Therefore, it would have no direct effect on existing retail uses. The Project would enhance existing neighborhood-serving retail uses by providing new customers and new employment opportunities. The project would add new residents (approximately 47 households), visitors and employees to the neighborhood, which could strengthen nearby neighborhood retail uses by broadening the consumer base and the demand for such retail services*

(2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The Project would not displace any existing housing. It would provide approximately 47 dwelling units and introduce an additional residential element to the mostly commercial character of the South-of-Market environs in a well-designed building.*

(3) That the City's supply of affordable housing be preserved and enhanced;

*The Project does not negatively impact any affordable housing. The Project is required to comply with the inclusionary housing requirements of Section 315 of the Planning Code.*

(4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

*The Project would not adversely impact public transit or burden the existing supply of parking in the neighborhood. The Project will have a total parking capacity of up to 26 cars (23 off-street parking spaces – 0.5 spaces per dwelling unit – plus three car-share spaces). Because of the numerous public transit alternatives within blocks of the Project site and the small size of the proposed new units, it is anticipated that many residents of and visitors to the Project will use public transit or walk for many of their trips.*

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

*The Project would not displace any industrial or service sector uses as no such uses currently exist on the site (the subject building is vacant). Rather the Project would enhance opportunities for resident ownership and would place residents closer to the Downtown employment sector. The Project also would generate employment opportunities available to a diverse socio-economic range of city residents in its construction phase.*

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The Project would be constructed according to current local building codes and would comply with all current seismic safety standards in order to insure a high level of seismic safety.*

- (7) That landmarks and historic buildings be preserved; and,

*The Project site is not located in an historically sensitive area. The building proposed for demolition does not qualify for landmark or historic status or otherwise as an historic resource. The proposed building is well designed and would be an asset to the surrounding area.*

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

*The Project would have no impact on public parks, open space, or vistas. It was analyzed for its potential for shadow impacts on public open spaces protected under Code Section 295 and was found not to create any. The project also would not significantly impact any vistas.*

In summary, the proposed 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 provide needed housing and it would contribute to the character and stability of the neighborhood.

8. **Section 124 – Floor Area Ratios.** This Section of the Code establishes basic floor area ratios (hereinafter “FAR”). In the subject district, 6:1 is the base FAR. This figure is inclusive of residential uses. The base FAR in C-3-G Districts may be increased to 9:1 through acquisition of Transfer of Development Rights (hereinafter “TDR”). Alternately, the Applicant may seek Conditional Use authorization, pursuant to Code **Section 124(f)**, to permit additional square footage above that permitted by the base floor area ratio limits set forth above for construction of dwellings on the site of the building affordable for 20 years to households whose incomes are within 150 percent of the median income as defined in the Code. The Zoning Administrator has opined that the BMR units postulated in Code **Sections 315 through 315.9** qualify for this additional floor area allowed through Code **Section 124(f)** in that they are more affordable for a longer period of time. At 32,439 applicable square feet, the Applicant proposes a building of approximately 5.55 FAR. Therefore, the Applicant would not need to apply “TDR” in order to develop the proposed project.

9. **Section 134—Rear Yard.** This Section establishes rear yard requirements. In a C-3-G District, this requirement applies only to dwelling units and must be equal to 25 percent of the total depth of the lot on which the building is situated. In this district, the rear-yard area must be provided at the lowest story containing a dwelling unit, and at each succeeding level or story of the building. These requirements are intended to assure the protection and continuation of established mid-block, landscaped open spaces, and maintenance of a scale of development appropriate to each district, consistent with the location of adjacent buildings.

*The Applicant is seeking a rear yard exception in accordance with Code Section 309. (See Exceptions finding below).*

10. **Section 135—Usable Open Space.** This Section establishes standards for usable open space for dwelling units in various zoning districts. In the C-3-G District, it requires 36 square feet of usable open space per dwelling unit if that space is all private. Common usable open space may be substituted for private space at a ratio of 1.33 square feet to one (48 square feet per dwelling unit in the subject case). Accordingly, the Project must provide either 1,692 square feet of private usable open space or 2,256 total square feet of common open space (if all common), or some combination of the two.

*The usable open space requirement will be met through use of common usable open space. The Project has 47 dwelling units. Common usable open space is required at a ratio of 48 square feet per unit or 2,256 square feet. The Project meets the Code requirement by providing approximately 2,332 square feet of common open space in the form of a roof deck. Accordingly, the Project would comply with the usable open space standards of this Section. In addition, approximately 12 of the proposed dwelling units would have access to Code-complying private usable open space. An additional six units would have balconies that would be below the minimum size to meet private open space standards.*

11. **Section 136 – Obstructions Over Streets and Alleys and in Required Setbacks, Yards and Usable Open Space.** Section 136(a)(1) states that every portion of projections from a building or structure extending over a street or alley as defined by the Code must have a minimum headway of seven feet, six inches above the sidewalk or other surface above which it is situated, or such greater vertical clearance as may be required by the San Francisco Building Code. The permit under which any such projection over a street or alley is erected over public property may not be construed to create any perpetual right but is a revocable license. **Subsection 136(c)(1)** of this Section permits overhead horizontal projections of a purely architectural or decorative character such as cornices, eaves, sills and belt courses, with a vertical dimension of no more than two feet, six inches, not increasing the volume of space enclosed by the building and not projecting more than: (A), at roof level, three feet over streets and alleys and into setbacks, or to a perimeter in such required open areas parallel to and one foot outside the surfaces of bay windows immediately below such features, whichever is the greater proportion, (B), at every other level, one foot over streets and alleys and into setbacks, and (C), three feet into yards and usable open space or one-sixth of the required minimum dimensions (when specified) of such open areas, whichever is less. However, the Code has no provision(s) for a vertical architectural projection.

*The Project features a vertical architectural “fin” up the front of the proposed building that is decorative in nature, would project approximately three feet over the street area over approximately one foot of width (leaving a ten-foot minimum headway beneath it), and is an integral part of the design of the building.*

*Accordingly, the Applicant has sought a Variance, Companion Case No. 2005.1018EKVX, seeking relief from the standards set forth in Code Section 136(c) as part of the Project proposal.*

12. **Section 139 – Downtown Park Fund.** New downtown office developments are required to pay a per-square-foot fee to mitigate the increased demand on existing public parks in the Downtown Area.

*Residential projects are exempt from this requirement.*

13. **Section 140 – Dwelling Unit Exposure.** This Section requires that one room of each dwelling unit must look out onto the street, onto a Code-complying rear yard, a side yard at least 25 feet in width or onto a courtyard generally of minimum dimensions of at least 25 feet in each direction, which space must increase in its horizontal dimensions as it rises from its lowest level. The space must be unobstructed, except for certain specified permitted obstructions.

*All of the street-facing units will comply with the exposure requirement by looking onto Jessie Street. The rear-facing units (27 in number), however, will be exposed only to the rear-yard area which area (because of the rear "bump out" at the easterly end of the building) does not meet any of the above-recited types of open space that comply with Code Section 140 exposure standards. Consequently, the Applicant has sought a Variance, Application No. 2005.1019EKVX, from the Section 140 exposure requirement for the units that only face the rear-yard area.*

14. **Section 143 – Street Trees.** This Section requires, in conjunction with the construction of a new building, the planting of street trees at 20-foot intervals. **Section 143(e)** thereunder states that, in C-3 Districts, the Zoning Administrator may waive such a requirement in areas where landscaping is considered to be inappropriate because it conflicts with policies of the Downtown Plan, such as the policy favoring unobstructed pedestrian passage.

*The Applicant will provide street trees on Jessie Street as required by the Code as interpreted by the Zoning Administrator.*

15. **Section 147 – Shadows on Publicly Accessible Open Spaces.** This Section sets forth certain requirements and determinations regarding shadows being cast on public or publicly accessible open space. It seeks to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under **Section 295**.

*A shadow study has been conducted and concluded that the Project will not create shadows that will impact any public open spaces protected under Section 295, or other, public-accessible open space. Therefore, the proposed Project would comply with the standards established in Code Section 147.*

16. **Section 148 – Ground Level Wind Currents.** Pursuant to this Section, new buildings in C-3 Districts must be shaped, or other wind-baffling measures must be adopted, so that the developments will not cause ground-level wind currents to exceed coefficients contained in the text of the Section. When pre-existing ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building must be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of **Section 309**, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if, (1) it can be shown that a building or addition cannot be shaped and other

wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception may be granted and no building or addition may be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 mph for a single hour of the year.

*According to the MND, wind speeds in the vicinity of the Subject Property are moderate. As a background study for the MND, a wind analysis was prepared by an independent consultant to address potential wind impacts associated with the proposed development. With the addition of the Project's eight-story, 75-foot building, the average wind speed would vary only slightly and would continue to meet the Code's pedestrian-comfort criterion value of 11 miles per hour (hereinafter "mph"). The proposed Project would not add any pedestrian-comfort criterion exceedences. Any future development will be subject to environmental review and, therefore, wind analysis, so that the wind impacts of the Project and other area development would be factored into that review.*

17. **Section 149 – Public Art.** In the case of construction of a new building in a C-3 District, this Section requires a project to include works of art costing an amount equal to one percent of the cost of construction of the building and requires the Commission to approve the type and location of the art work, but not the artistic merits of the specific art work proposed. The types of permitted art work include sculptures, bas-reliefs, murals, mosaics, decorative water features, or other work permanently affixed to the building.

In lieu of installing and maintaining works of art, an applicant may elect to contribute a sum of money at least equivalent to the cost of the artwork to finance, in whole or in part, rehabilitation or restoration of the exterior of a publicly-owned building

*Based on the Project's estimated construction cost of \$8,000,000, the Project would be required to provide artwork or a sum of money in the amount of \$80,000. The general type and location of the artwork is still being determined and will be presented to the Commission, in the future, for its final review.*

18. **Section 151—Off-Street Parking.** This Section was amended in 2006 by the Board of Supervisors and permits the Planning Commission to approve, via a **Section 309** Exception, up to 0.75 spaces for each dwelling unit and up to 1.0 space for each dwelling unit that has at least two bedrooms and at least 1,000 square feet of occupied floor area.

*Of the Project's approximately 47 units, roughly 15 units will be one-bedroom units and the rest are to be studios. None of the units are to be two-bedroom or to have at least 1,000 square feet of occupied floor area. Accordingly, Section 151.1 permits, with a Section 309 exception, up to 35 off-street parking spaces in conjunction with the proposed units. The Applicant, however, is seeking a Section 309 exception to allow up to 23 residential parking spaces (0.5 spaces per dwelling unit) plus three car-share spaces on an independently accessible basis. (See Exceptions finding below).*

19. **Section 151.1 – Permitted Off-Street Parking in C-3 Districts.** This section, originally approved by the Board of Supervisors on August 19, 2005, states that no off-street parking is required for any



use in the C-3 Districts. It goes on to state that one car for each four dwelling units is permitted and, subject to the criteria outlined in **Section 151.1(e)**, up to 0.75 off-street parking spaces per dwelling unit may be approved by the Commission as an exception pursuant to Code **Section 309**. **Section 151.1(e)(2)** states that "(f)or any project with residential accessory parking in excess of 0.375 parking spaces for each dwelling unit, the project complies with the housing requirements of **Sections 315 through 315.9** of this Code except as follows: the inclusionary housing requirements that apply to projects seeking conditional use authorization as designated in **Section 315.3(a)(2)** shall apply to the project."(emphasis added) Accordingly the subject Project must provide 12 percent (or 5.64 dwelling units, rounded up to six) instead of ten percent (4.7 units rounded up to five) BMR units.

20. **Section 152.1—Off-Street Loading.** This Section contains the schedule of required off-street freight loading and service vehicle spaces in C-3 Districts. Retail uses with a gross floor area between 10,001 and 30,000 require one (1) off-street loading space. Residential uses of less than 100,000 *gsf* require no off-street loading spaces.

*The Project provides approximately 39,547 gsf of total building space. The Project contains fewer than 100.000 gsf of residential use therefore no off-street loading spaces are required for the Project.*

21. **Section 155.5 – Bicycle Parking Required for Residential Uses.** For buildings of four dwelling units up to 50 dwelling units in all zoning districts, this Section requires (pursuant to Table 155.5) one Class 1 bicycle parking space for every two dwelling units.

*The Project includes 47 dwelling units. Therefore, it is subject to a requirement for 24 bicycle parking spaces. The Applicant will include the required bicycle parking spaces in the proposed new building.*

22. **Section 295 – Shadowing.** This Section concerns the review of structures exceeding 40 feet in height insofar as their shadowing of lands under the jurisdiction of the City's Recreation and Parks Department. It requires that such buildings have no significant or adverse shadow effects on such affected lands.

*The Project's Negative Declaration refers to a shadow analysis performed by Department staff for the 75-foot-tall Project (Case No. 2005.1018EKVX) which analysis concludes that the Project would not cast new shadows on any properties under the Recreation and Park Commission's jurisdiction protected by **Section 295**. The shadows to be produced by the proposed Project would not exceed levels commonly expected in urban areas and would have no significant or adverse shadow effects.*

22. **Section 315 -- Housing Requirements for Residential Development Projects.** **Sections 315.1—315.9** set forth the requirements and procedures for the Residential Inclusionary Affordable Housing Program (hereinafter "Program"). The Program requires, in the subject case, that 12 percent of the dwelling units on site must be affordable (given the proposed off-street parking exception – See discussion of Code **Section 151.1** above).

*The Project will comply with the Inclusionary Housing Ordinance through on-site inclusion of six BMR units.*

23. **Section 309 -- Exceptions.** **Section 309** provides that certain exceptions to the Code may be granted pursuant to **Section 309(a)(1)-(12)**. As noted above, the Applicant seeks exceptions

under 309(a) (1 and 4), rear yard and off-street parking, respectively. Section 309(b) of the Planning Code provides that the Commission may impose additional requirements and limitations in order to achieve the objectives and policies of the General Plan. The Commission imposes additional modifications on the project as indicated above or included in Exhibit A (Conditions of Approval) appended to this motion. The Commission hereby finds, concludes and determines that the requested exceptions are justified based on the following findings:

- a. Rear Yard -- **Section 134**. As noted above, the rear yard requirement in C-3 Districts seeks to preserve mid-block open space so as to provide light and air to dwelling units in the Downtown area. Here, the Project requires an exception to this requirement in that the building design features a rear "bump out" of approximately 80 square feet per floor at the second level and above into the required rear-yard area. Because the rear yard does not occupy the entire depth of the lot and the area of the rear yard is less than 25 percent of the lot area, an exception is being sought

*The Project design features a "bump out" measuring approximately four by 20 feet, at the rear of Floors 2 through 8, up against the deeper blank wall of the one adjoining building to the east. This "bump out" would be divided approximately in half with 40 square feet being indoor space and 40 square feet devoted to an outdoor balcony. Such a projection into the rear-yard area would render this yard slightly less than Code-complying. Therefore, dwelling units facing out onto this somewhat reduced area would require the granting of a Variance of the dwelling-unit-exposure standards of Code Section 140. The granting of such a Variance would not affect negatively the remaining rear-yard area or the proposed usable open space. There is no pattern of mid-block open space on this block. An exception is justified, therefore, because it provides for a superior building design and it affords seven of the units private usable open space in the form of a small balcony. The rear yard will provide sufficient light and air to the dwelling units proposed to face the yard area. Above approximately the fifth or sixth level, the rear-yard-facing units will also be above the adjacent five-story building to the immediate east, therefore, these units would also receive direct and indirect sunlight from and views to the north and east. In addition, in partial substitution for a larger rear yard, the Project would provide approximately 2,332 square feet of common residential open space on top of the roof.*

- b. Parking -- **Section 151.1**. Of the Project's approximately 47 units, 15 would be one-bedroom units and the remainder would be studios. All of the proposed units would be smaller than 1,000 square feet in superficial floor area. Accordingly, **Section 151.1** permits, with a **Section 309** exception, up to 35 parking spaces for these units (up to 0.75 space for each dwelling unit). The Applicant is seeking a **Section 309** exception to allow up to 23 residential parking spaces (0.50 spaces per unit) plus three car-share spaces. Pursuant to Code **Section 151.1(e)**, additional dwelling-unit affordability is required when a parking exception is granted by the Commission for off-street parking exceeding 0.375 spaces per dwelling unit. (See discussion below).

In C-3 Districts, requests for accessory parking in excess of what is permitted by right must be reviewed on a case by case basis by the Commission in accordance with **Section 309**. The Commission hereby grants approval for parking accessory to residential uses above that permitted by right based upon the following affirmative findings:

- (1) As with any project with residential accessory parking in excess of 0.375 parking spaces for each dwelling unit, the project must comply with the housing requirements of **Sections 315 through 315.9** of this Code except as follows: the inclusionary housing requirements that apply to projects seeking Conditional Use authorization (12 percent as opposed to ten percent) in **Section 315.3(a)(2)** shall apply to the project.

*The Project would comply with Sections 315 through 315.9 of the Code by providing six BMR units on site. Because the Project would provide more than 0.375 spaces per unit (or more than 18 spaces, based on 47 units) it would comply with the 12 percent on-site (rather than the ten percent applicable for a project not receiving a Section 309 exception for additional off-street parking). Thus, depending on the final unit count, the granting of the parking exception would result in at least one additional inclusionary unit.*

*The Board of Supervisors' approved, in early August, 2006, two Ordinances amending the Below Market Rate ("BMR") inclusionary housing standards of Code Section 315. This legislation increased the percentage of required inclusionary housing units to 15 percent on site or 20 percent off site and lowered the threshold that triggers implementation of Code Section 315 from ten new dwelling units to five units. However, pursuant to Code Section 315.3(b)(2), the new requirements are not applicable to projects for which an environmental review application was filed prior to July 18, 2006, and which do not require zoning map amendments or Planning Code text amendments that would result in a net increase in the number of permissible residential units. The proposed Project filed an environmental review application on November 2, 2005, and would not require zoning map or Planning Code text amendments. This date, being prior to the date of approval by the Board of Supervisors of the new BMR requirements, exempts the Project from the new rules. Prior to the new requirements, projects not seeking Conditional Use authorization were required to provide BMR units at a rate of ten percent. According to Code Section 151.1(e), those projects providing over 0.375 off-street parking spaces per dwelling unit as an exception to the 0.25-spaces-per-dwelling-unit as-of-right amount, were subject to the rate (12 percent) for BMR unit provision associated with Conditional Use.*

- (2) The findings of **Section 151.1(d)(2), (d)(3) and (d)(5)** are satisfied;

Vehicle movement on or around the project site associated with the excess accessory parking would not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district.

*The Project would not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district. All parking would be accessible from Jessie Street and therefore there would be no curb cuts along principal traffic-carrying streets. The Project site is also within approximately two blocks of many MUNI lines and BART. This would provide a safe environment and easy access to MUNI and BART for pedestrians and bicyclists.*

*Further, the traffic analysis prepared for the Project concluded that the Project would not worsen the current conditions on MUNI and therefore would not have a significant impact on MUNI operation. The Project reviewed in the transportation study contemplated 26 spaces. The transportation analysis is primarily based on the number of dwelling units rather than parking places provided on site.*

*Finally, the traffic analysis prepared for the Project also concluded that the addition of project-generated traffic would result in relatively small changes in the average delay per vehicle at the study intersections and all study intersections would continue to operate at the same service levels as under existing conditions (LOS B and C) and, therefore, the Project would not result in any significant impacts.*

*The transportation analysis evaluated the transportation impacts of a project of up to 47 units. Under the City's methodology, vehicle trip generation is based on the number of dwelling units and not on the number of parking spaces proposed to be available on site. This is based in part on an assumption that any resident who cannot obtain a space in the building will be able to park his or her vehicles nearby. Thus, the finding of the Transportation study, that the Project would not have significant impacts on overall traffic movement, transit bicycle movement and pedestrians, is applicable to both the amount of accessory parking permitted as of right (0.25 spaces per unit as well as the proposed 26 spaces). Moreover, as discussed in the MND and transportation report, there is off-street parking available in the vicinity. Since any parking spaces that are not provided in the building could readily be relocated to other off-street parking spaces very near the building, the Project would not have a significant impact on overall traffic, transit, pedestrian, or bicycle movement in the vicinity.*

Accommodating excess accessory parking does not degrade the overall urban design quality of the Project proposal; and

*The Project would be of quality design and would provide a residential lobby on the Jessie Street frontage. All parking would be inside the building and, therefore, would have no impact on the overall urban design quality of the Project. The only evidence that the Project has parking would be the garage entrance on Jessie Street. The proposed parking also would not impact the quality of building materials, the articulation of the façade, or the massing of the Project.*

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

*The parking to be provided would be only accessible by way of Jessie Street, thereby hiding the parking and creating active street walls at the ground-floor level. The additional parking would not increase the size or visibility of the parking access in Jessie Street, and would not impact planned streetscape improvements on Jessie Street and nearby.*

- (3) All parking meets the active use and architectural screening requirements in **Sections 155(s)(1)(B) and 155(s)(1)(C)** and the project sponsor is not requesting any exceptions or Variances of Sections requiring such treatments elsewhere in this Code.

**Section 155(s)(1)(B)** requires that parking at the ground level to the full height of the ground-level parking shall be lined with active uses to a depth of at least 25 feet along all street frontages, except for parking and loading access, building egress, and access to mechanical systems. So as not to preclude conversion of parking space to other uses in the future, parking at the ground-level shall not be sloped and shall have a minimum clear ceiling height of nine feet.

**Section 155(s)(1)(C)** requires that parking allowed above ground level in accordance with an exception under **Section 309** shall be entirely screened from public rights-of-way in a manner that accentuates ground-floor retail and other uses, minimizes louvers and other mechanical features and is in keeping with the overall massing and architectural vocabulary of the building's lower floors. So as not to preclude conversion of parking space to other uses in the future, parking allowed above the ground level shall not be sloped and shall have a minimum clear ceiling height of nine feet.

*The Project would provide indoor parking accessible only by way of Jessie Street. No above-ground-level parking would be provided, and therefore the criteria for above grade parking are not applicable. The Applicant seeks no other exceptions or Variances of Sections requiring such treatments elsewhere in the Code.*

24. **Bulk – Section 270.** Maximum plan dimensions apply for structures over the minimum heights set forth in Table 270 of the Code. For "F" Districts, the bulk restriction applies above the 80-foot height and the as-of-right bulk is limited to a maximum length of 110 feet and a maximum diagonal dimension of 140 feet. In that the Subject Property is 78 feet wide and 75 feet deep, no bulk exception under Code **Section 309** is required for the Project.
25. Compliance with the Objectives and Policies of the General Plan The Commission hereby finds that the Project will comply with or affirmatively promote the following Objectives and Policies of the General Plan (*Project specific findings are in italics*):

The Downtown Area Plan contains the following relevant objectives and policies:

Space for Housing

OBJECTIVE 7: EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 1: Promote the inclusion of housing in downtown commercial developments.

*The Project would provide approximately 47 dwelling units in an emerging "C-3" downtown mixed-use neighborhood.*

Urban Form

OBJECTIVE 14: CREATE AND MAINTAIN A COMFORTABLE PEDESTRIAN ENVIRONMENT.

Policy 1: Promote building forms that will maximize the sun access to open spaces and other public areas.

*The Project would not create any significant new shadows and is consistent with the General Plan. While some new shadows are unavoidable with new building on sites occupied by older buildings that are smaller than the neighborhood patterns, high-density projects are encouraged by the Code in the C-3 Districts. The proposed Project is an eight-story building set in an environment of other buildings, some as large as the project. It would cast only minimal new shadows. The Project would not cast any shadows on properties under the jurisdiction of the Recreation and Park Department, and is therefore in conformance with Code Section 295. The new shadows created by the Project would not exceed levels commonly expected in urban areas and would have no significant or adverse shadow effects.*

Policy 2: Promote building forms that will minimize the creation of surface winds near the base of buildings.

*The Project would not significantly affect wind conditions.*

OBJECTIVE 16: CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 1: Conserve the traditional street-to-building relationship that characterizes downtown San Francisco.

Policy 4: Use designs and materials and include activities at the ground floor to create pedestrian interest.

*The Project would be compatible with the downtown San Francisco character. The area is comprised of a variety of building heights and scales, often with taller, more massive buildings occupying corner locations. The Project is well designed and would provide an appropriate transition to the adjacent buildings by responding to the architectural context of the surrounding neighborhood, which varies in height and scale.*

*The design of the building incorporates contemporary detailing that is compatible with the variety of styles and periods of this San Francisco district. The building's vertical "fin" and clean lines are appropriately scaled with quality materials and fixtures to create a rich and varied pedestrian experience.*

Moving About -- Moving to and from Downtown

OBJECTIVE 18: ENSURE THAT THE NUMBER OF AUTO TRIPS TO AND FROM DOWNTOWN WILL NOT BE DETRIMENTAL TO THE GROWTH OR AMENITY OF DOWNTOWN.

Policy 2: The Project will further provide incentives for the use of transit, carpools, and vanpools, to reduce the need for new or expanded automobile parking facilities.

*The Project site is adjacent to numerous forms of transit including BART, MUNI, bus and streetcar lines. The somewhat limited amount of residential parking on the site also would discourage the use of vehicles for commuting and daily errands. Accordingly, the infill nature of the Project as well as the small size of the proposed new dwelling units naturally would reduce the need for expanded automobile parking facilities.*

Moving Around Downtown

OBJECTIVE 20: PROVIDE FOR THE EFFICIENT, CONVENIENT AND COMFORTABLE MOVEMENT OF PEOPLE AND GOODS, TRANSIT VEHICLES AND AUTOMOBILES WITHIN THE DOWNTOWN.

OBJECTIVE 21: IMPROVE FACILITIES FOR FREIGHT DELIVERIES AND BUSINESS SERVICES.

Policy 2: Discourage access to off-street freight loading and service vehicle facilities from transit preferential streets, or pedestrian oriented streets and alleys.

*The off-street parking to be provided as part of the Project would be accessed from Jessie Street, thereby avoiding conflicts with traffic and pedestrians on nearby Sixth Street.*

OBJECTIVE 22: IMPROVE THE DOWNTOWN PEDESTRIAN CIRCULATION SYSTEM, ESPECIALLY WITHIN THE CORE, TO PROVIDE FOR EFFICIENT, COMFORTABLE, AND SAFE MOVEMENT.

Policy 1: Provide sufficient pedestrian movement space.

Policy 5: Improve the ambience of the pedestrian environment.

*The Project site allows for sufficient pedestrian movement. The Project involves the construction of a new building containing dwelling units and off-street parking. The vibrancy resulting from the residential uses would improve the ambience of the pedestrian environment by improving the street frontage on Jessie Street. The Project design, which provides vehicular access only to and from Jessie Street, would tend to minimize vehicle movements across the sidewalks.*

#### Seismic Safety

OBJECTIVE 23: REDUCE HAZARDS TO LIFE SAFETY AND MINIMIZE PROPERTY DAMAGE AND ECONOMIC DISLOCATION RESULTING FROM FUTURE EARTHQUAKES.

Policy 2: Initiate orderly abatement of hazards from existing buildings and structures, while preserving the architectural and design character of important buildings.

*The Project would reduce hazards to life safety and minimize property damage and economic dislocation resulting from future earthquakes through building design and construction in compliance with current structural and seismic codes.*



The **Housing Element** contains the following relevant objectives and policies:

OBJECTIVE 1: TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 4: Locate infill housing on appropriate sites in established neighborhoods.

*The Project site is within the Downtown Area Plan that promotes residential intensification that will complement the mix of downtown uses. This area is appropriate as a location for new infill housing.*

OBJECTIVE 4: TO REDUCE THE RISK OF BODILY HARM AND LOSS OF HOUSING IN AN EARTHQUAKE.

*The Project would be built to current new-construction standards for seismic safety as contained in the Building Code.*

OBJECTIVE 12: TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1: Assure housing is provided with adequate public improvements, services and amenities.

Policy 2: Allow appropriate neighborhood-serving commercial activities in residential areas.

Policy 4: Promote construction of well designed housing that conserves existing neighborhood character.

*The Project is well designed and will locate much-needed housing near the Downtown and Union Square neighborhoods. It would add approximately 47 new dwelling units suitable for work-force housing units while complementing the existing character of the neighborhood. Public services, improvements and amenities (including all varieties of public transit) abound in the vicinity.*

OBJECTIVE 13: TO PROVIDE MAXIMUM HOUSING CHOICE.

Policy 1: Prevent housing discrimination based on age, race, religion, sex, sexual preference, marital status, ancestry, national origin, color, disability, health (AIDS/ARC), source or amount of income, citizenship or employment status as a family day care provider.

Policy 2: Promote adaptability and maximum accessibility of residential dwellings for disabled occupants.

*The Project would be handicapped-accessible per the City's new-construction building standards. The Project also will comply with all applicable City laws in regard to its employment and marketing practices.*

The Urban Design Element contains the following relevant policies and objectives:

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

*The Project would add to the image and mixed-use orientation of the downtown neighborhood. There are no important public views in this area that would be significantly affected by the Project. ("Public views" refers to views from public places such as parks and open spaces, views from private open spaces that are open to the public, and views from streets and sidewalks where topography or other local physical features create a significant view corridor.)*

Policy 3: Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

*The height, massing, generally light color, and shape of the proposed building would ensure its compatibility with the other buildings in the vicinity by transitioning appropriately with the context of the surrounding neighborhood*

OBJECTIVE 3: MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 1: Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 2: Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

Policy 5: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

Policy 6: Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

*The Project would be compatible with the visual relationship and transitions between new and older buildings in the neighborhood. The design and proportions of the building would be compatible with the varying sizes of the buildings in the vicinity. The design of the building incorporates contemporary design that responds appropriately to the variety of styles and periods of this C-3 District. Accordingly, the Project would reflect the design elements of nearby existing buildings and would avoid extreme contrasts in color, shape and other characteristics that would make it stand out in excess of its civic importance.*

*The Project's height and bulk would be consistent with the surrounding streetscape and would be visually compatible with the surrounding buildings.*

OBJECTIVE 4: IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 12: Install, promote and maintain landscaping in public and private areas.

Policy 13: Improve pedestrian areas by providing human scale and interest.

*The Project features public and private landscaping as well as street improvements designed to enhance the pedestrian experience on Jessie Street.*

The **Transportation Element** contains the following relevant policies and objectives:

OBJECTIVE 2: USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1: Use rapid transit and other transportation improvements in the City and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

*The Project site is near numerous forms of transit. In conformity with the City's "Transit First" policy, no commuter parking would be provided.*

OBJECTIVE 11: MAINTAIN PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3: Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

*Recognizing the many transit opportunities available at and near the Project site no commuter parking is to be provided. The parking ratio of the Project would be 0.5 spaces per dwelling unit and there would be three car-share spaces included. The Project would not result in any significant traffic impacts or impacts on transit.*

OBJECTIVE 24: IMPROVE THE AMBIANCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.4: Preserve pedestrian-oriented building frontages.

*The Project proposes pedestrian-friendly streetscape improvements. The Project would create an active and interesting pedestrian environment.*

OBJECTIVE 28: PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1: Provide secure bicycle parking in new governmental, commercial, and residential developments.

*The Project would include approximately 24 spaces for off-street bicycle parking.*

OBJECTIVE 34: RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1: Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

*The City's amended parking regulations would allow for up to 35 residential parking spaces with a Section 309 exception. The Project seeks to provide up to 23 such parking spaces on an independently accessible basis (or 0.5 spaces per dwelling unit). In addition, the Project proposes to include three car-share spaces in the new building.*

28. Potential Impact on Archeological Resources:

The MND has determined that the excavation for the Project's subsurface levels could have a potentially significant impact on subsurface cultural resources which might be present at the site.

Implementation of mitigation measure 1, the City's standard requirements for sites with potential archeological resources, which requires an architectural testing program and data recovery, would mitigate this potential impact to a less than significant level. The sponsor has agreed to this measure and it is being included as a condition of approval.

29. Potential Construction Air Quality Impacts:

The MND has determined that the demolition, excavation and other ground-disturbing construction activity could temporarily adversely affect local air quality due to fugitive dust and emissions from construction equipment. Implementation of mitigation measure 2, which includes a set of feasible particulate (PM10 and PM2.5) emissions measures and requires construction equipment be maintained so as to minimize exhaust emissions, would cause the Project to have less than significant construction-related air quality impacts. The sponsor has agreed to this mitigation and it is being imposed as a condition of approval.

30. Potential Impacts from Hazardous Materials:

The MND has identified that potential hazardous materials such as total lead and petroleum hydrocarbons could pose health threats. Implementation of Mitigation Measure 4, requiring surveys for specified hazardous materials, and abatement per federal, state and local law if necessary, would result this potential impact to a less than significant level. The Project Sponsor has agreed to implement this measure and it is being incorporated as a condition of approval.

31. The Commission finds that granting the Project authorization in this case would promote the public welfare, convenience and necessity of the City for the reasons set forth above.
32. Modification Required by the Commission: Section 309(b) of the Planning Code provides that the Commission may impose additional requirements and limitations in order to achieve the objectives and policies of the General Plan. The Commission imposes additional modifications on the project as indicated above or included in Exhibit A (Conditions of Approval) appended to this motion.

### DECISION

The Commission, after carefully balancing the competing public and private interests, both environmental and otherwise, hereby **APPROVES** Application No. 2005.1018EKVX, and determines that the Project complies with the requirements of the relevant Sections of the Code, and grants the requested exceptions as set forth above from the standards for rear-yard area and off-street parking in C-3 Districts, pursuant to Code Sections 134 and 151, subject to the conditions contained in "Exhibit A" appended hereto and incorporated herein by reference thereto as though fully set forth, and in general conformance with the plan drawings stamped as "Exhibit B".

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal the granting of an exception, pursuant to Code Section 309(e)(3) and (4) to the Board of Appeals within fifteen (15) days after the date of this Motion No. 17730. The effective date of this Motion shall be the date of this Motion if not appealed (After the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission Street, Room 3036, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was adopted by the Planning Commission on October 23, 2008.

Linda Avery  
Commission Secretary

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

**Motion No. 17730**  
**Hearing Date: October 23, 2008**

**Case No. 2005.1018EKVX**  
**570 Jessie Street**

NOES:           None

ABSENT:       Commissioner Lee

ADOPTED:     October 23, 2008

CONDITIONS OF APPROVAL

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

This approval is pursuant to Planning Code **Section 309** Determinations of Compliance and granting of exceptions to otherwise-applicable Code standards for rear yard and off-street parking in C-3 Districts, for the construction of a new eight-story residential building at 570 Jessie Street, Lot 086 in Assessor's Block 3703, with approximately 47 dwelling units, 23 off-street parking spaces and three car-share spaces, generally as described in the application, in the text of the accompanying Motion, and in plans stamped "Exhibit B" and dated "October 23, 2008".

1. COMPLIANCE WITH OTHER REQUIREMENTS

- (A) This decision conveys no right to construct. The Project Sponsor must first obtain a Variance for dwelling-unit exposure (Code **Section 140**) and projections over streets and alleys (Code **Section 136**) standards of the Code. The project sponsor must obtain a building permit and satisfy all the conditions thereof, including mitigation measures addressing environmental impacts. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

2. GENERAL CONDITIONS

- (A) Mitigation Measures – The following Mitigation and Improvement Measures, all of which are necessary to reduce the potential impacts of the Project, have been agreed to by the project sponsor. They are hereby imposed by the Commission as Conditions of approval and shall be binding on the Applicant and his successors in interest.

**Mitigation Measure 1**

*Archeological Resources (Archeological Testing)*

Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effects from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban



historical archeology. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).

*Archeological Testing Program.* The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or

A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

*Archeological Monitoring Program.* If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;

The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;

The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;

The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;

If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

*Archeological Data Recovery Program.* The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

*Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.

*Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.

*Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.

*Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.

*Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.

*Final Report.* Description of proposed report format and distribution of results.

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

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

*Final Archeological Resources Report.* The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

## **Mitigation Measure 2**

### ***Construction Air Quality***

The project sponsor shall require the contractor(s) to spray the site with water during demolition, excavation and construction activity; spray unpaved construction areas with water at least twice per day; cover stockpiles of soil, sand, and other material; cover trucks hauling debris, soil, sand or other such material; and sweep surrounding streets during demolition and construction at least once per day to reduce particulate emissions. Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991,

requires that non-potable water be used for dust control activities. Therefore, the project sponsor would require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose.

The project sponsor shall require the project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.

### **Mitigation Measure 3**

#### ***Hazardous Materials***

##### **Step 1: Determination of Presence of Contaminated Soils**

Prior to approval of a building permit for the project, the project sponsor shall hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the soil samples for total lead and petroleum hydrocarbons. The consultant shall analyze the soil borings as discrete, not composite samples.

The consultant shall prepare a report on the soil testing for lead and petroleum hydrocarbons that includes the results of the soil testing and a map that shows the locations of stockpiled soils from which the consultant collected the soil samples.

The project sponsor shall submit the report on the soil testing for lead and petroleum hydrocarbons and a fee of \$425 in the form of a check payable to the San Francisco Department of Public Health (SFDPH), to the Hazardous Waste Program, Department of Public Health, 101 Grove Street, Room 214, San Francisco, California 94102. The fee of \$425 shall cover five hours of soil testing report review and administrative handling. If additional review is necessary, DPH shall bill the project sponsor for each additional hour of review over the first five hours, at a rate of \$85 per hour. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the soil testing report to determine whether soils on the project site are contaminated with lead and/or petroleum hydrocarbons at or above potentially hazardous levels.

If DPH determines that the soils on the project site are not contaminated with lead or petroleum hydrocarbons at or above a potentially hazardous level (i.e., below 50 ppm soluble lead), no further mitigation measures with regard to contaminated soils on the site would be necessary.

##### **Step 2: Preparation of Site Mitigation Plan**

If based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated with lead and/or petroleum hydrocarbons at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to

handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.

**Step 3: Handling, Hauling, and Disposal of Contaminated Soils**

(a) specific work practices: If based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated with lead and/or petroleum hydrocarbons at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations, including OSHA lead-safe work practices) when such soils are encountered on the site.

(b) dust suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.

(c) surface water runoff control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.

(d) soils replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.

(e) hauling and disposal: Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.

**Step 4: Preparation of Closure/Certification Report**

After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.

(B) Community Liaison: The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Project. **Prior to the commencement of construction activities**, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the project site written notice of the name, business address, and telephone number of the community liaison.

(C) Recordation. **Prior to the issuance of any building permit application** for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state

that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

- (D) Reporting. The Project Sponsor shall submit two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion **every six months from the date of this approval through the issuance of the first temporary certificate of occupancy.** Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

(E) Construction:

- (1) The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
- (2) Truck movements shall be limited to the hours between 9:30 A.M. and 3:30 P.M. to minimize disruption of the general traffic flow on adjacent streets.
- (3) The contractor shall arrange for off-street parking for construction workers until workers can park at the proposed project's parking garage.
- (4) The Applicant and construction contractor(s) shall meet with the Traffic Engineering Division of the Department of Parking and Traffic, the Fire Department, MUNI, and the Planning Department to determine feasible traffic mitigation measures to reduce traffic congestion and pedestrian circulation impacts during construction of the proposed project.

(F) Performance:

- (1) A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization may become null and void.
- (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the bureau of the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s). The Project Sponsor shall obtain required site or building permits within three (3) years of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.

- (G) First Source Hiring Program: The Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this program.
- (H) Severability: If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

3. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING (OR SITE) PERMIT

- (A) Inclusionary Affordable Housing Program: Sections 315.1–315.9 set forth the requirements and procedures for the Residential Inclusionary Affordable Housing Program (hereinafter "Program") and the herein-approved Project is subject to the requirements of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"). The Program requires, in the subject case (because of the off-street parking exception, the fact that the environmental evaluation for the Project was filed prior to July 18, 2006, and the fact that the Applicant has elected to provide his BMR units on site), that 12 percent of the dwelling units on site must be affordable.
- (1) The Project includes 47 dwelling units, and thus under Code Section 315, it is required to provide six below-market-rate ("BMR") on-site dwelling units (12 percent); and the Project sponsor has provided a "Declaration of Intent" electing to construct the BMR units on site to satisfy the inclusionary housing requirement.
  - (2) The subject BMR units shall be evenly spread throughout the development as determined by the Zoning Administrator, and reflect the unit-size mix of the market-rate units and shall be distributed in the range of unit sizes based on the proposed unit mix.
  - (3) The BMR units shall be designated on the building plans prior to approval of any building permit. The BMR units shall (1) reflect the unit size mix in number of beds and square footage of the market rate units, (2) shall be constructed, completed, and ready for occupancy no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal Project. The Project proposes 47 dwelling units, ranging in size from studio to one-bedroom units.
  - (4) If the units in the building are offered for sale, the BMR units shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA). The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for the life of the Project from the date of the initial sale of the BMR unit.

- (5) The Applicant shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such fees are authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.
  - (6) The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
  - (7) Prior to issuance of any building permit for the Project (including any building permit issued for any partial phase of the Project), the Project Sponsor shall have designated the BMR units in accordance with Items 1, 2 and 3 above.
  - (8) Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of Motion No. 17730, including this Exhibit A, and identifies the BMR unit(s) satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).
- (B) Garbage and Recycling: The building design shall provide adequate space designated for trash compactors and trash loading. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall also be provided at the ground level of the project. Enclosed trash areas with provisions for separating recyclable and non-recyclable materials shall be provided for Project residents on each floor of the residential tower. These areas shall be indicated on the building plans.
- (C) Parking: Off-street parking provided in conjunction with the Project shall not exceed the parking for more than a total of 23 vehicles (plus three car-share spaces) whether independently-accessible, stacked or "valet" parked, or the Applicant shall seek and be authorized a new exception pursuant to Code Section 309.
4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM
- (A) Design:
- (1) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
  - (2) The Project Sponsor and the Project architect shall continue to work on design development with the Department. Should there be major design changes occasioned by this review, the Project shall be brought back to the Commission for new review and entitlements commensurate with such changes.



- (3) Space shall be included for antennae in the building's design to avoid unattractive appendages.
- (4) Final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Director of the Department. In that a high quality of finish materials is proposed and sought by the Commission, and the design details of the proposed Project are a part of the approval, special efforts shall be made by the Department staff and the Applicant to deliver a final product commensurate with that shown to the Commission at public hearing and on file with the Application. The Project architect shall submit dimensional design drawings for building details with specifications and samples of materials to insure a high design quality is maintained.
- (5) Except as otherwise provided in this Motion, the Project shall be completed in general accordance with plans dated October 23, 2008, labeled "Exhibit B," and reviewed by the Commission on October 23, 2008.
- (6) Landscape plans indicating landscaping, furniture and any other improvements proposed for the Project's common usable open space area(s) shall be included in the architectural addendum, for review by planning staff.
- (B) Signage: The Project Sponsor shall develop a signage program for the Project, which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the project.
- (C) Lighting: The Project Sponsor shall develop a lighting program for the Project, which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the project.
- (D) Pedestrian Streetscape Improvements: The Project shall include pedestrian streetscape improvements generally as described in this Motion and in conformance with Planning Code Section 138.1, and the Downtown Streetscape Plan.
- (E) Public Artwork: The Project shall include the work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The project sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.

The Project sponsor and the Project artist shall consult with the Department during design development regarding the height, size, type and location of the art. The final art concept and location shall be submitted for review by, and shall be satisfactory to the Planning Director in consultation with the Commission. The Project sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept no later than six months after the date of this approval.

4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF THE FIRST (TEMPORARY OR PERMANENT) CERTIFICATION OF OCCUPANCY
- (A) Public Artwork:
- (1) The Project Sponsor shall install the public art generally as described in Code **Section 149** and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
- (2). The Project sponsor shall comply with Code **Section 149(b)** by providing a plaque or cornerstone identifying the Project architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project site. The design and content of the plaque shall be approved by Department staff prior to its installation.
- (B) Pedestrian Streetscape Improvements. The project sponsor shall complete the required pedestrian streetscape improvements. The project sponsor shall be responsible for the upkeep and maintenance of such improvements if they exceed City standards.
- (C) Street Trees. Pursuant to the standards set forth in Code **Section 143**, the Applicant shall plant and maintain a minimum of one tree of 15-gallon size for each 20 feet of frontage along the Jessie Street frontage of the Subject Property (with any remainder of ten feet or more of frontage requiring an additional tree) or shall seek a Zoning Administrator exemption from same as provided for in Code Section 143(e).
- (D) Open Space Improvements. The project sponsor shall complete the required improvements (landscaping, furniture, lighting, etc.) for all of the Project's common usable open space areas.
- (E) Garbage and Recycling: The Project shall provide containers to collect and store recyclable solid waste and the project sponsor shall contract for recycling pickup. Trash compactors shall not occupy or impede the use of required freight loading spaces.
- (F) Emergency Preparedness Plan: An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Project's plan and to provide for building occupants in the event of an emergency. The Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations

noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

5. CONDITION TO BE MET TWO YEARS AFTER INITIAL OCCUPANCY OF THE PROJECT

Two years after the issuance of the first Certificate of Occupancy, the project sponsor shall report to the Planning Department the number of dwelling units sold (or rented) and the following data in summary form: (1) the number of children per household at the Project Site; (2) Zip Codes of places of employment of residents; (3) means of transportation to place of employment; (4) number automobiles owned per household at the Project site. If not all units are sold (or rented) within the two years of issuance of the first Certificate of Occupancy, the project sponsor shall provide the Department with a final report once all the units are sold (or rented).

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