



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Motion 18806

HEARING DATE: FEBRUARY 14, 2013

*Date:* January 31, 2012  
*Case No.:* **2013.0050CTZ**  
*Project Address:* **1731 Powell Street**  
*Zoning:* North Beach Neighborhood Commercial District  
 North Beach Special Use District  
 North Beach Financial Service, Limited Financial Service, and Business or  
 Professional Service Subdistrict  
 40-X Height and Bulk District  
*Block/Lot:* 0101/004  
*Project Sponsor:* Brett Gladstone  
 177 Post Street, Penthouse  
 San Francisco, CA 94108  
*Staff Contact:* Kevin Guy – (415) 558-6163  
 kevin.guy@sfgov.org

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121.1, 121.2, 303, 221.1, AND 722 OF THE PLANNING CODE TO ALLOW A RESTAURANT (D.B.A. LA CORNETA) WITH A TYPE 47 ABC LICENSE, TO ALLOW THE DEMOLITION OF AN EXISTING VACANT MOVIE THEATER, TO ALLOW THE DEVELOPMENT OF A LOT GREATER THAN 5,000 SQUARE FEET, AND TO ALLOW NON-RESIDENTIAL USES GREATER THAN 2,000 SQUARE FEET, IN ASSOCIATION WITH A PROJECT TO DEMOLISH THE EXISTING THEATER (FORMERLY KNOWN "PALACE" OR "PAGODA" THEATER), AND CONSTRUCT A NEW FIVE-STORY OVER BASEMENT MIXED-USE BUILDING CONTAINING UP TO 18 DWELLING UNITS, A RESTAURANT MEASURING APPROXIMATELY 4,700 SQUARE FEET, AND UP TO 27 OFF-STREET PARKING SPACES, WITHIN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT, THE NORTH BEACH SPECIAL USE DISTRICT, THE NORTH BEACH FINANCIAL SERVICE, LIMITED FINANCIAL SERVICE, AND BUSINESS OR PROFESSIONAL SERVICE SUBDISTRICT, AND THE 40-X HEIGHT AND BULK DISTRICT.**

## **PREAMBLE**

On January 15, 2013 Brett Gladstone ("Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization to allow development of a lot greater than 5,000 square feet (Section 121.1), non-residential uses greater than 2,000 square feet (Section 121.2), demolition of a movie theater use (Section 221.1), and establishment of a restaurant use, including a Type 47 ABC License to provide beer, wine, and/or liquor in a Bona Fide Eating Place (Sections 722.44 and 790.142), for a project to demolish the existing vacant movie theater (formerly known as the "Palace" or "Pagoda" Theater), and construct a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces, within the North Beach Neighborhood Commercial District, the North Beach Special Use District, the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict, and the 40-X Height and Bulk District. Following demolition of the existing building, and prior to the construction of the new mixed-use building, the site would be utilized for extraction of a tunnel boring machine associated with the Central Subway project (Case No. 2013.0050C, collectively "Project").

On January 8, 2009, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.1117C, which proposed to rehabilitate the existing theater and convert the building to up to 18 dwelling units, a restaurant measuring approximately 4,000 square feet, an additional ground-floor commercial space measuring approximately 1,000 square feet, and 27 off-street parking spaces located at 1731 Powell Street (Motion No. 17797). The Zoning Administrator also granted variances from Planning Code regulations for rear yard and dwelling unit exposure in association with the rehabilitation project (Case No. 2007.1117V). On October 28, 2010, the Commission approved an amendment to Conditional Use Application No 2007.1117C, allowing the project to satisfy the Inclusionary Affordable Housing requirements of Planning Code Section ("Section") 415 through the payment of an in-lieu fee rather than through the construction of off-site affordable dwelling units (Motion No. 18204). The project was determined to be categorically exempt under the California Environmental Quality Act (CEQA).

On August 7, 2008, the Planning Commission reviewed and considered the Central Subway/Third Street Light Rail Phase 2 Final Supplemental Environmental Impact Statement/Final Supplemental Environmental Impact Report ("Final SEIS/SEIR") and found that the contents of said report and the procedures through which the SEIS/SEIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission found the SEIS/SEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the SEIS/SEIR for the Central Subway Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Jonas Ionin, is the custodian of records, located in the File for Case No. 1996.281E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program, which material was made available to the public and the Commission for the Commission's review, consideration, and action. On August 19, 2008, the San Francisco Municipal Transportation Agency adopted the Project and adopted findings under CEQA, including a statement of overriding considerations and a mitigation monitoring

and reporting program. This Commission has reviewed the findings, and adopts and incorporates them herein by reference.

On January 31, 2013, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that the revisions to incorporate the proposed Project, would not cause and new significant impacts not identified in the original Final SEIS/SEIR (Case No. 1996.281E).

On January 8, 2013, the San Francisco Board of Supervisors ("Board") introduced legislation to amend Zoning Map HT01 to reclassify the subject property from the 40-X Height and Bulk District to the 50-X Height and Bulk District, and to amend Zoning Map SU01 and the text of the Planning Code to establish the "Central Subway Tunnel Boring Machine Extraction Site Special Use District" (SUD) on the property. The proposed SUD would modify specific Planning Code regulations related to off-street parking, rear yard, ground-floor ceiling heights, dwelling unit exposure, signage, allowing a restaurant use at the property, and other provisions of the Planning Code. Substitute legislation was introduced on January 29, 2013, which increase the height to 55-X and allowed a non-residential use over 4,000 square feet. Adoption of the SUD (as amended in the substitute legislation) would enable the construction of the proposed Project in a manner similar to the configuration and program of uses envisioned by the previously-approved rehabilitation project, after the existing building is demolished to allow the extraction of the boring machine utilized for the Central Subway project (Case No. 2007.1117C).

On February 14, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0050C.

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0050C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the southwest corner of the intersection of Columbus Avenue and Powell Street, Assessor's Block 0101, Lot 004. The property is located within the North Beach NCD Neighborhood Commercial District (NCD), the 40-X Height and Bulk District, the North Beach Special Use District, and the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict. The property is historically known as the Palace and the Pagoda Theaters. The subject property is a corner lot,

with approximately 40 feet of frontage on Columbus Avenue and 58 feet of frontage on Powell Street. The existing building that is proposed for demolition has full lot coverage.

3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Powell Street and Columbus Avenue within the North Beach NCD and directly across the street from Washington Square Park. The North Beach NCD is a generally linear district situated along Columbus Avenue between Grant Avenue and Francisco Street. The District hosts a mixture of commercial establishments, but is heavily oriented toward restaurants, including a number of larger restaurants such as Original Joe's (measuring approximately 7,800 square feet), Park Tavern (measuring approximately 7,200 square feet), and Fior D' Italia (measuring approximately 6,000 square feet). The surrounding area is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the vicinity, including restaurants, financial institutions, apparel stores, and other types of retailers. Upper floors of buildings are generally occupied by offices, residential units, or tourist-hotels. Other nearby uses include the Church of Saint Peter and Paul and the Saint Francis of Assisi Church.
4. **Project Description.** The applicant proposes to demolish the existing vacant movie theater (formerly known "Palace" or "Pagoda" Theater), and construct a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces. Following demolition of the existing building, and prior to the construction of the new mixed-use building, the site would be utilized for extraction of a tunnel boring machine associated with the Central Subway project.

A project was previously approved for the subject property (Case No. 2007.1117C; Motion No. 17797, adopted on January 8, 2009, and amended by Motion No. 18204, adopted on October 28, 2010), to rehabilitate the existing theater and convert the building to a similar program of uses as the mixed-use building proposed by this application.

5. **Public Comment.** To date, the Department has received six communications in support of the project, and no letters in opposition.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in the 40-X Height and Bulk District, with a 40-foot height limit.

*The Board has introduced legislation to reclassify the subject property from the existing 40-foot height limit to a 55-foot height limit. This height reclassification is necessary to allow the construction of the building to the height of the existing vacant movie theater, which exceeds the current height limit applicable to the property. The newly-constructed building would not exceed the roof height or roof profile of the existing theater building. The proposed SUD would also allow the reconstruction of the blade sign feature found on the existing theater. This blade sign would be exempt from the height limit of the 55-X Height and Bulk District.*

- B. **Bulk.** Planning Code Section 270 limits the bulk of buildings and structures, and assigns maximum plan dimensions. The proposed Project is located in a 40-X Height and Bulk district, with an "X" bulk controls.

*Planning Code Section 270 does not regulate bulk dimensions for sites with "X" controls.*

- C. **Floor Area Ratio (FAR)** Planning Code Section 124 limits the building square footage to 1.8 square feet of building area for every 1 square foot of lot area, or approximately 21,300 square feet of building area for the subject site.

*The FAR limits do not apply to dwellings or to other residential uses in NC Districts, nor do they apply to non-accessory off-street parking. The Project includes a total of approximately 4,700 square feet of ground floor commercial space, and is therefore well within the allowed FAR.*

- D. **Open Space.** Section 135 of the Planning Code requires a minimum of 60 square feet of private open space for each residential unit or approximately 80 square feet of common open space per unit within the North Beach NCD.

*All of the 18 units will have access to private terraces that meet the Code requirements for private useable open space. Each of the terraces will meet the minimum Code requirements for area, dimension, and exposure to light and air.*

- E. **Exposure.** Section 140(a)(2) of the Planning Code requires each unit to face directly onto a public street or an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

*Several of the units toward the interior of the property do not face onto an area that meets the exposure requirements of the Code. However, the interior units face onto inner courtyards to be inserted on the north and south sides of the building. These courtyards measure 25-feet in every direction. The proposed SUD would exempt the project from strict compliance with the dwelling unit exposure requirements of Section 140.*

- F. **Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at every residential level.

*The Project proposes to construct a new building within the same general footprint and configuration as the existing vacant theater, which covers the entire lot and does not provide a Code-complying rear yard. The proposed SUD would exempt the project from strict compliance with the rear yard requirements of Section 134. It should be noted that the subject block is generally occupied by buildings with full-lot coverage, and does not exhibit a strong pattern of mid-block open space that is intended by the rear yard requirements of the Code. The Project includes private terraces for each of the dwelling units, creating ample exterior open space for the use of residents that might ordinarily be satisfied by a Code-complying rear yard. In addition, the Project includes two courtyards situated*

*toward the interior of the lot that create exposure to light and air for several of the dwelling units, in a manner that is typical of the traditional dense development pattern of the North Beach neighborhood.*

- G. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade. Section 145.1(c)(4) requires that non-residential ground-floor uses within NC Districts provide a minimum floor-to-floor height of 14 feet.

*The subject commercial space has approximately 100-feet of frontage on Columbus Avenue and Powell Street with the majority devoted to either the retail entries or window space. The windows are clear and unobstructed. The floor-to-floor heights within portions of the ground-floor restaurant space measure approximately 10 feet, and do not strictly comply with the requirements of Section 145.1(c)(4). However, the ceiling heights must be limited in order for the overall structure to fit within the height and roof profile of the existing vacant theater building. Therefore, the proposed SUD would exempt the project from strict compliance with the ceiling height requirements of Section 145.1(c)(4). The SUD would allow ceiling heights of 8.5 feet, and the project would comply with this requirement.*

- H. **Parking.** Section 151 of the Planning Code allows one off-street parking space for every two residential units within the North Beach NCD, or up to .75 spaces per residential unit with Conditional Use Authorization. Eating and drinking establishments are required to provide one parking space for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

*The occupied floor area of the proposed restaurant is less than 5,000 square feet; therefore the restaurant use within the Project is not required to provide parking. The project includes 27 off-street parking spaces, which exceeds the maximum permitted residential parking per Section 151. The proposed SUD would exempt the subject property from the parking limitations of Section 151, allowing up to 27 off-street parking spaces for the Project.*

- I. **Bicycle Parking.** Section 155.4 of the Planning Code requires that one bicycle parking space be provided for every two dwelling units.

*The Project will provide secured storage for nine bicycles within the basement parking garage to serve the 18 proposed dwelling units.*

- J. **Shadow.** Planning Code Section 295 generally does not permit new buildings over 40-feet in height to cast new shadows on a property owned and operated by the Recreation and Park Commission. Section 295 does not apply to structures of the same height and in the same location as structures in place on June 6, 1984.

*The existing theater building to be demolished was constructed in 1908. The proposed project would be constructed to match the existing height and roof profile of the existing theater, and would therefore not create any new shadows on Recreation and Park Commission that did not exist on June 6, 1984. Therefore, the Project is not subject to Section 295.*

- K. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing for the purpose of increasing affordable housing citywide.

*The Project Sponsor has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing at a rate equivalent to an off-site requirement of 20%. The project sponsor has not selected an alternative to payment of the Fee.*

- L. **Signage.** Currently, there is not a developed sign program on file with the Planning Department; however, the previously-approved project for the site included the rehabilitation/reconstruction of the existing blade sign.

*The height of the blade sign, which exceeds the roof height of the existing building, would not be permitted by the existing sign regulations of Article 6. The Project Sponsor has indicated, as shown in the proposed plans, that the new building will include a new blade sign that is comparable to the size and character of the existing blade sign. The proposed SUD would exempt the blade sign from the height limitation which applies to the property.*

- M. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Eating and drinking establishments up to 10,000 square feet in gross floor area are not required to provide off-street freight loading.

*With a gross floor area of under 10,000 square feet, the Project is not required to provide off-street loading. There are nearby yellow zones that can be used for deliveries.*

- N. **Formula Retail.** Section 703.3 places notification requirements and other restrictions on formula retail uses.

*The Project is not considered to be a Formula Retail Use as defined by Section 703.3 of the Planning Code. The proposed location would be a sister restaurant to the La Corneta Restaurant in the Mission.*

- O. **Hours of Operation.** Section 722.27 allows hours of operation from 6:00AM until 2:00AM as of right and requires conditional use authorization to operate between the hours of 2:00AM and 6:00AM.

*The Project Sponsor is not requesting conditional use authorization to operate between the hours of 2:00AM and 6:00AM.*

- P. **North Beach Special Use District/Restaurant Use.** Section 780.3 (the North Beach SUD) prohibits a restaurant from being located within a space that is currently or last occupied by a Basic Neighborhood Sale or Service.

*The proposed SUD would exempt the project from this prohibition, allowing the proposed restaurant to seek Conditional Use authorization.*

- Q. **Use Size.** Sections 722 and 121.2(a) establishes size limits on nonresidential uses in all NCDs. In the North Beach NCD, conditional use authorization is required for any nonresidential use that exceeds 1,999 square feet. Section 121.2 also limits nonresidential uses to a maximum of 4,000 square feet within the North Beach NCD.

*The Project Sponsor is requesting conditional use authorization for the proposed restaurant, which would measure approximately 4,700 square feet. The proposed SUD would raise the maximum 4,000 square-foot nonresidential use size limit to 5,000 square feet for the subject property, in order to accommodate the proposed restaurant size.*

7. **Planning Code Section 303.** Specifically, the Project requires Conditional Use Authorization per 211.1 to demolish an existing theater; per 722.42 to establish a restaurant use with a Type 47 ABC License within the North Beach NCD; per 722.21 and 121.2 to allow a non-residential use exceeding 2,000 square feet; and, per 121.1 to develop a lot greater than 5,000 square feet within the North Beach NCD.

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

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

*The size of the proposed building is consistent with the existing building, and is in keeping with other buildings on the block face. The proposed restaurant will not impact traffic or parking in the District because it is not a destination restaurant. This will complement the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by demolishing an existing building that has been vacant for nearly 20 years, and by locating services and dwelling units at a location which is currently underutilized.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:



- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The proposed project is compatible in its overall massing, size, scale, and architectural features with the neighborhood and its immediate neighbors. The volume of the Project will not exceed that of the existing vacant theater building, which has existed as an element of the urban fabric in the area for over 100 years.*

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

*The proposed restaurant is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. Residents of the project would be able to walk or use transit to satisfy daily convenience needs, avoiding private automobile use which would generate excessive traffic.*

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

*The proposed use is subject to the standard conditions of approval for restaurants as shown in Exhibit A. These conditions specifically obligates the project sponsor to mitigate odor and noise generated by the restaurant use.*

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

*The Department shall review all lighting and signs proposed for the new business in accordance with the Conditions of Approval. The reconstruction of the blade sign found on the existing building is consistent with the architectural theme of the proposed building, and will retain the sign as an element of the historic urban fabric of the neighborhood.*

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

*Project complies generally with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below. The proposed SUD and height reclassification would address several areas of inconsistency between the Code and the Project, and would enable the construction of the project in a manner similar to the previously-approved rehabilitation of the theater building.*

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

*The proposed project is consistent with the purposes of The North Beach NCD in that the intended restaurant use is located at the ground floor, and will provide a compatible convenience service for the*

*immediately surrounding neighborhoods during daytime hours. The addition of dwelling units will create housing opportunities in a walkable, urban context that is well served by transit.*

8. **Planning Code Section 303(k)** establishes criteria for the Planning Commission to consider when reviewing applications for a change in use or a demolition of a movie theater Conditional Use approval. On balance, the project does comply with said criteria in that:

A. Preservation of a movie theater use is no longer economically viable and cannot effect a reasonable economic return to the property owner.

*The existing theater has been closed since 1994, and has been completely gutted of all features. To rehabilitate and return the structure into an operating theater would require a substantial and unreasonable investment.*

B. The change in use or demolition of the movie theater use will not undermine the economic diversity and vitality of the surrounding Neighborhood Commercial District.

*As stated above, the existing theater has been closed since 1994. There are no other neighborhood-serving theaters within close proximity; however, the lack of an operating theater for nearly 20 years has not impacted the diversity and vitality of the North Beach NCD.*

C. The resulting project will preserve the architectural integrity of important historic features of the movie theater use affected.

*The existing theater has been completely gutted of all interior features. Aside from the projecting blade sign, all other exterior historic character-defining features have been removed. The Project Sponsor proposes to reconstruct the blade sign, which is the one architecturally significant element remaining from the historic theater use.*

9. **Planning Code Section 121.1** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval for development of a lot exceeding 5,000 square feet within the North Beach NCD. On balance, the project does comply with said criteria in that:

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

*The massing of the building is virtually identical to the existing theater building on the site. In addition, it is compatible with many of the older buildings in the area, particularly the larger commercial structures found on corner lots and fronting along Columbus Avenue.*

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

*While contemporary, the project design incorporates visual elements of many of the Art Deco and Moderne buildings in the vicinity. The facade is expressed as a rhythm of voids framed by strong column elements, and further articulated through the use of richly detailed balconies. The project also*

*includes a reconstructed blade sign which recalls the past theater use of the site and strengthens the relationship to Art Deco motifs found in the area.*

10. **Planning Code Section 121.2** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval for a non-residential use which exceed 2,000 square feet within the North Beach NCD. On balance, the project does comply with said criteria in that:

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

*The proposed restaurant is not a destination eating establishment, but a neighborhood-serving facility. While there are a number of restaurants within the North Beach NCD, the establishment of a Mexican restaurant will help diversify the collection of eating establishments within the District. There are a number of other larger existing restaurants in the area, including Original Joe's (measuring approximately 7,800 square feet), Park Tavern (measuring approximately 7,200 square feet), and Fior D' Italia (measuring approximately 6,000 square feet). The presence of these larger establishments does not appear to preclude opportunities for other needed neighborhood-serving uses in the area.*

- B. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function;

*The proposed use is designed to meet the needs of the immediate neighborhood and visitors alike. The building's existing envelope has full lot coverage and the proposal is to accommodate the potential number of customers generated from an area with a very high level of foot traffic.*

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

*The project design respect the overall character, massing, and scale of the district. It follows the Art Deco and Moderne motifs found on other buildings within the neighborhood and its massing and scale is identical to its previous use as a movie theater. The historic blade sign will be rehabilitated as part of the proposal and will continue as a prominent visual landmark within the North Beach NCD.*

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

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

**Policy 1.1:**

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

*The Project will replace an existing structure that has been vacant for nearly 20 years with a new structure that is comparable to the scale and character of the existing vacant theater. The project will bring a neighborhood-serving restaurant and new housing opportunities to a site that is currently underutilized.*

**Policy 1.2:**

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

*The Project is located in an ideal location for a mixed-use structure. It is located within a thriving commercial area that is well served by public transit and experiences a high level of foot traffic.*

**Policy 1.3:**

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

*The proposed ground-floor commercial space shall provide goods and services to the neighborhood and shall provide resident employment opportunities to those in the community. Further, the Project Site is located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan.*

**OBJECTIVE 2:**

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

**Policy 2.1:**

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

*The Project will increase the amount of commercial activity where a building shell has been unoccupied and boarded up for nearly 20 years. The Project will enhance the diverse economic base of the City.*

**OBJECTIVE 6:**

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

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*No existing commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in

the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

### **Eating and Drinking Establishments**

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses, which can serve similar functions and create similar land use impacts, include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
  - Balance of retail sales and services;
  - Current inventory and composition of eating and drinking establishments;
  - Total occupied commercial linear frontage, relative to the total district frontage;
  - Uses on surrounding properties;
  - Available parking facilities, both existing and proposed;
  - Existing traffic and parking congestion; and
  - Potential impacts on the surrounding community.

*There is a concern with the potential over-concentration of food-service establishments in North Beach. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." However, the proposed restaurant would be located within a newly constructed building which replaces a theater that has been vacant for over 20 years. Therefore, the restaurant will not displace an existing business, or occupy an existing storefront which could otherwise be used for a neighborhood serving, non-restaurant use.*

### **Policy 6.2:**

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

*An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use, and is not a Formula Retail use.*

## URBAN DESIGN ELEMENT OBJECTIVES AND POLICIES

### Objectives and Policies

#### OBJECTIVE 1:

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

#### Policy 1.1:

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

*The Project proposes a well-designed structure that captures the character and vitality of the North Beach Neighborhood Commercial District, and the Washington Square Historic District in a contemporary idiom through its use of materials, massing, scale, and details similar to those adjacent buildings that characterize the district.*

#### Policy 1.3:

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

*The Project design expresses the character of the overall district; it is consistent with the historical pattern of development and has been found to meet the Secretary of the Interior's Standards for infill construction within a historic district, (Standard 9.)*

#### OBJECTIVE 2:

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

#### Policy 2.4:

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The subject building was not found to be a historic resource due to lack of integrity; however, the overall massing and form of the former theater, including the historic blade sign, are important visual reminders of the building's historic use and are to be retained and rehabilitated as part of the proposal.*

## TRANSPORTATION ELEMENT

### Objectives and Policies

#### OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

#### Policy 1.3

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

**Policy 1.5**

Coordinate regional and local transportation systems and provide for interline transit transfers.

*The Project will allow the construction of the Project in a manner consistent with the previously-approved rehabilitation of the theater, and will also facilitate construction of the Central Subway project. Prior to construction of the new building, the existing building on the site will be demolished and the boring machine utilized for the construction of the Central Subway project will be extracted at the site. Extracting the boring machine through the site will avoid the need to extract within the Columbus Avenue right-of-way, which would cause substantial disruption to pedestrian and vehicular movement in the area.*

**OBJECTIVE 24:**

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

*Along the Powell Street and Columbus Avenue frontages the project sponsor will activate the ground-floor of the building where pedestrians have passed by a dormant building.*

**HOUSING ELEMENT:**

**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 DEMAND.**

**Policy 1.1:**

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

**Policy 1.3**

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

**Policy 1.4:**

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

*The Project will add residential units to an area that is well-served by transit, services, and shopping opportunities. The site is suited for dense, mixed-use development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located within walking distance of the Financial District, and is in an area with abundant transit options routes that travel to the South of Market and Civic Center employment clusters.*

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

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

*The proposal would enhance the district by providing a restaurant and would be locally owned. It will create more employment opportunities for the community. The proposed alterations are within the existing building footprint.*

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

*The existing dwelling units in the surrounding neighborhood would not be adversely affected. The proposed project would activate the corner of Powell Street and Columbus Avenue by returning a building to lively use after being shuttered for nearly 20 years.*

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

*The Project will comply with the City's Inclusionary Affordable Housing Program through the payment of an in-lieu fee.*

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

*The site is well served by transit, and is located within a pedestrian-oriented context. Residents would be able to walk or use transit to commute and to meet daily convenience needs. In addition, the project will facilitate the Central Subway project by providing a site for the extraction of the boring machine used to tunnel the subway alignment. Extracting the boring machine at this site would avoid the substantial disruption to pedestrian and vehicular traffic that would result by extracting the boring machine within the public right-of-way of Columbus Avenue.*

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

*The Project will not displace any service or industry establishment. The proposed restaurant would create local ownership and employment opportunities.*

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

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



G. That landmarks and historic buildings be preserved.

*The subject building was not found to be a historic resource due to lack of integrity; however, the overall massing and form of the former theater, including the historic blade sign, are important visual reminders of the building's historic use and are reflected in the proposal.*

*The Project design expresses the character of the overall Washington Square Historic District; it is consistent with the historical pattern of development and has been found to meet the Secretary of the Interior's Standards for infill construction within a historic district, (Standard 9.)*

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

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces. The project would not exceed the roof height or roof profile of the existing theater building, and would therefore not cast new shadows on parks and open spaces.*

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

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0050C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 14, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18806. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 14, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Fong, Antonini, Borden, Hillis

NAYS: Moore, Sugaya

ABSENT: Wu

ADOPTED: February 14, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow development of a lot greater than 5,000 square feet (Section 121.1), non-residential uses greater than 2,000 square feet (Section 121.2), demolition of a movie theater use (Section 221.1), and establishment of a restaurant use, including a Type 47 ABC License to provide beer, wine, and/or liquor in a Bona Fide Eating Place (Sections 722.44 and 790.142), for a project to demolish the existing vacant movie theater (formerly known "Palace" or "Pagoda" Theater), and construct a new five-story over basement mixed-use building containing up to 18 dwelling units, a restaurant measuring approximately 4,700 square feet, and up to 27 off-street parking spaces, within the North Beach Neighborhood Commercial District, the North Beach Special Use District, the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict, and the 40 Height and Bulk District; in general conformance with plans, dated February 14, 2013, and stamped "EXHIBIT B" included in the docket for Case No. **2013.0050C** and subject to conditions of approval reviewed and approved by the Commission on February 14, 2013 under Motion No 18806. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on February 14, 2013 under Motion No 18806.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18806 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

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

### **CHANGES AND MODIFICATIONS**

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

## Conditions of approval, Compliance, Monitoring, and Reporting PERFORMANCE

**1. Validity and Expiration.** The authorization and right vested by virtue of this action is valid for the term of the Central Subway Tunnel Boring Machine Extraction Site Special Use District (Planning Code Section 249.70). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained prior to the expiration of the Central Subway Tunnel Boring Machine Extraction Site Special Use District (Planning Code Section 249.70). Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and continued diligently to completion. If the site or building permit for the Project has been issued but is allowed to expire after the expiration of the Central Subway Tunnel Boring Machine Extraction Site Special Use District (Planning Code Section 249.70), then the Conditional Use authorization will be deemed null and void.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**3. Additional Project Authorization.** The Project Sponsor must obtain a height reclassification from the 40-X Height and Bulk District to the 55-X Height and Bulk District, along with Zoning Text Amendment to adopt the "Central Subway Tunnel Boring Machine Extraction Site Special Use District" associated with the project for the subject property. 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.

This approval is contingent on, and will be of no further force and effect until the date that the San Francisco Municipal Transportation Agency Board of Directors has approved by resolution approving a lease by and between the property owner and the San Francisco Municipal Transportation Agency for use of the site to remove tunnel boring machines used in the Central Subway Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

**4. Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department

staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**5. Building Height.** The height of the project shall not exceed the height of the existing vacant theater building, and the roofline of the project shall not exceed the roofline profile formed by the roof, parapet, and other rooftop appurtenances, equipment, and all other solid features of the existing theater building. Prior to demolition of the existing theater building, the Project Sponsor shall prepare and submit to the Planning Department a detailed survey, including elevations and sections, which accurately dimension the height of the existing theater building, including the heights of all rooftop features of the existing building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**9. Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and

approved as part of the site permit for the Project. All exterior signage shall be designed to complement, not compete with, the existing architectural character and architectural features of the building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

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

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

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

**11. Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

*For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, [www.sfmta.org](http://www.sfmta.org)*

**12. Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

*For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800,*

*[www.sfdph.org](http://www.sfdph.org)*

**13. Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**15. Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **PARKING AND TRAFFIC**

**16. Car Share.** No fewer than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**17. Bicycle Parking.** The Project shall provide no fewer than nine (9) Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**18. Parking Maximum.** Pursuant to Central Subway Tunnel Boring Machine Extraction Site Special Use District, the Project shall provide no more than 27 off-street parking spaces.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**19. Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

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

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org)*

**21. Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

### **22. Inclusionary Affordable Housing Program.**

**a.** Pursuant to Planning Code Section 415 Pursuant to Planning Code 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%).

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

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

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

- i. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOH prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment prior to issuance of the first certificate of



occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Inclusionary Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

- ii. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.
- iii. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

## MONITORING - AFTER ENTITLEMENT

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## OPERATION

**25. Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

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

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

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

**27. Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://www.sfdbi.org)*

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, [www.sf-police.org](http://www.sf-police.org)*

**28. Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

*For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), [www.baaqmd.gov](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**30. Hours of Operation.** The subject establishment is limited to the following hours of operation: 6:00a.m. to 2:00 a.m.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*