



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary

### SECTION 309 DETERMINATION OF COMPLIANCE ZONING MAP AMENDMENT PLANNING CODE TEXT AMENDMENT GENERAL PLAN REFERRAL SECTION 295 SHADOW ANALYSIS

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HEARING DATE: APRIL 11, 2013

*Date:* March 28, 2013  
*Case No.:* **2008.1084EHKXRTZ**  
*Project Address:* **706 Mission Street**  
*Project Site Zoning:* C-3-R (Downtown, Retail, Commercial)  
400-I Height and Bulk District  
*Block/Lots:* 3706/093, 275, portions of 277 (706 Mission Street)  
0308/001 (Union Square)  
*Project Sponsor:* 706 Mission Street, LLC  
c/o Sean Jeffries of Millennium Partners  
735 Market Street, 4<sup>th</sup> Floor  
San Francisco, CA 94107  
*Staff Contact:* Kevin Guy – (415) 558-6163  
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*Recommendations:* **Adopt CEQA Findings**  
**Approve Section 309 Determination of Compliance with Conditions**  
**Recommend Approval (Zoning Map/Planning Code Text Amendments)**  
**Adopt General Plan Referral Findings**  
**Raise Cumulative Shadow Limit for Union Square**  
**Adopt Findings Regarding Shadow Impacts**

#### PROJECT DESCRIPTION

The Project would rehabilitate the existing 10-story, 144-foot tall Aronson Building, and construct a new, adjacent 47-story tower, reaching a roof height of 520 feet with a 30-foot tall mechanical penthouse. The two buildings would be connected and would contain up to 215 dwelling units, a “core-and-shell” museum space measuring approximately 52,000 square feet that will house the permanent home of the Mexican Museum, and approximately 4,800 square feet of retail space. The project would reconfigure portions of the existing Jessie Square Garage to increase the number of parking spaces from 442 spaces to 470 spaces, add loading and service vehicle spaces, and would allocate up to 215 parking spaces within the garage to serve the proposed residential uses. The Project Sponsor has proposed a “flex option” that would retain approximately 61,000 square feet of office uses within the existing Aronson Building, and would reduce the residential component of the project to approximately 191 dwelling units.

The Project includes the reclassification of the subject property from the existing 400-foot height limit to a 520-foot height limit, as well as the adoption of the “Yerba Buena Center Mixed-Use Special Use District” (“SUD”). The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations.

Through transactional documents between the project sponsor and the Successor Agency to the Redevelopment Agency (“Successor Agency”), the Successor Agency would convey to the Project Sponsor the Jessie Square garage and the portion of property located between the Aronson Building parcel and Jessie Square that would be developed with the tower portion of the Project (portions of Lot 277, Assessor’s Block 3706). The Successor Agency would also convey to the Project Sponsor the parcel containing the garage access driveway (Lot 275, Assessor’s Block 3706) from Stevenson Street. In addition, the Project Sponsor would provide \$5 million endowment for the operation of the Mexican Museum, and would contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

## **SITE DESCRIPTION AND PRESENT USE**

The Project Site measures 72,181 sq. ft. and is comprised of three separate parcels within Assessor’s Block 3706. Lot 093 is located at the northwest corner of Third and Mission Streets, and is currently developed with the existing 10-story, 144-foot tall Aronson Building. The Aronson Building is designated as a Category I (Significant) Building in Article 11 of the Planning Code, and is located within the New Montgomery-Mission-Second Street Conservation District. The building contains approximately 96,000 sq. ft. of office uses and approximately 10,600 sq. ft. of ground-floor retail uses.

Lot 275 is improved with an existing vehicular access ramp that leads from Stevenson Street into the subterranean Jessie Square Garage. Lot 277 includes the property located between the Aronson Building parcel and Jessie Square, fronting along Mission Street. This property is the location of the proposed tower portion of the Project, and is currently unimproved except for a subsurface foundation structure. Lot 277 also includes the subterranean Jessie Square Garage, which is improved with the Jessie Square public plaza on the surface. The Project would reconfigure and utilize a portion of the Jessie Square garage, which is considered a part of the Project Site. However, the Jessie Square plaza located on the surface of a portion of Lot 277 would not be changed by this Project, and is not considered part of the Project Site.

## **SURROUNDING PROPERTIES & NEIGHBORHOOD**

The Project Site is situated within the C-3-R Downtown Commercial zoning district, and is within the former Yerba Buena Center Redevelopment Area, a context characterized by intense urban development and a diverse mix of uses. Numerous cultural institutions are clustered in the immediate vicinity, including SFMOMA, the Yerba Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the Cartoon Art Museum, the Children’s Creativity Museum, the California Historical Museum, and others. Multiple hotels and high-rise residential and office buildings are also located in the vicinity, including the W Hotel, the St. Regis Hotel and Residences, the Four Seasons, the Palace Hotel, the Paramount Apartments, One Hawthorne Street, the Westin, the Marriott Marquis, and the Pacific Telephone building. Significant open spaces in the vicinity include Yerba Buena

Gardens to the south, and Jessie Square immediately to the west of the project site. The Moscone Convention Center facilities are located one block to the southwest, and the edge of the Union Square shopping district is situated two blocks northwest of the site. The Financial District is located in the blocks to the northeast and to the north. The western edge of the recently-adopted Transit Center District Plan area is located one-half block to the east at Annie Street.

## ENVIRONMENTAL REVIEW

On June 27, 2012, the Department published a draft Environmental Impact Report (EIR) for public review (Case No. 2008.1084E). The draft EIR was available for public comment until August 13, 2012. On August 2, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On March 7, 2013, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project. On March 21, 2013, the Planning Commission held a duly noticed public hearing and certified the final EIR for the Project.

## HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	March 22, 2013	March 22, 2013	20 days
Posted Notice	20 days	March 22, 2013	March 22, 2013	20 days
Mailed Notice	20 days	March 22, 2013	March 22, 2013	20 days

## PUBLIC COMMENT

To date, the Department has not received any specific communications related to the requested entitlements. However, numerous written and verbal comments were provided during the public comment period for the draft EIR prepared for the Project. These comments related to a wide variety of topic areas, and were addressed as part of the Comments and Responses document prepared during the environmental review of the Project.

## ISSUES AND OTHER CONSIDERATIONS

- **Height Reclassification/Special Use District.** The Project proposes to reclassify the property from the 400-I to the 520-I Height and Bulk District, and to establish the “Yerba Buena Center Mixed-Use Special Use District” (SUD) on the property. The proposed SUD would modify specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations, as follows:
  - Permitted Uses – The SUD specifies that development within the SUD must include a cultural, museum, or similar public-serving institutional use measuring at least 35,000 sq. ft., no fewer than 162 dwelling units, and ground-floor retail or cultural uses within the Aronson Building.
  - Floor Area Ratio – Section 124 establishes basic floor area ratios (FAR) for all zoning districts. As set forth in Section 124(a), the FAR for the C-3-R District is 6.0 to 1. Under Sections 123 and 128, the FAR can be increased to a maximum of 9.0 to 1 with the purchase of transferable development rights (TDR). The FAR of the Project would exceed the base maximum FAR limit, as well as the

maximum FAR that could be achieved through the purchase of TDR . The proposed SUD would exempt the Project from the FAR limitations of Section 124, and the Project would not require the purchase of TDR.

- Dwelling Unit Exposure – Dwelling units on the south side of the Project would have exposure onto Mission Street, and units within the east side of the Aronson Building would have exposure onto Third Street. However, units that solely have exposure to the Westin walkway to the north, to Jessie Square to the west, and east-facing units within the tower above the 20<sup>th</sup> floor do not meet the requirements for dwelling unit exposure onto on-site open areas. The proposed SUD would exempt the Project from the exposure requirements of Section 140. It should be noted that Jessie Square and the Westin walkway are open spaces that are unlikely to be developed with structures in the future. Therefore, units that face these areas would continue to enjoy access to light and air. Additionally, units in the Tower that face east would have exposure onto the open area above the Aronson Building, as well as the width of Third Street beyond. Therefore, these units would also continue to enjoy access to light and air.
- Rooftop Equipment Height - The Project would reach a height of 520 feet to the roof, with rooftop mechanical structures and screening reaching a maximum height of approximately 550 feet. The Project Sponsor has proposed to reclassify the Project Site from the 400-I Height and Bulk District to the 520-I Height and Bulk District. In addition, the SUD would allow for an additional 30 feet of height above the roof to accommodate mechanical equipment and screening.
- Bulk Limitations - Section 270 establishes bulk controls by district. In the “-I” Bulk District, all portions of the building above a height of 150 feet are limited to a maximum length dimension of 170 feet and a maximum diagonal dimension of 200 feet. Above a height of 150 feet, the maximum horizontal length of the Project is approximately 123 feet, and the maximum diagonal dimension is approximately 158 feet. Therefore, the Project complies with the bulk controls of the “-I” Bulk District. The proposed SUD would further limit the maximum bulk controls to the maximum horizontal and diagonal dimensions proposed for the Project.
- Curb Cuts - Section 155 regulates the design of parking and loading facilities. Section 155(r)(3) specifies that no curb cuts may be permitted on the segment of Mission Street abutting the Project, except through Conditional Use authorization. The SUD proposed for the project would modify the regulations of Section 155 to allow a curb cut on Mission Street through an exception granted through the Section 309 review process, rather than through Conditional Use authorization.
- **Planning Code Exceptions.** The project does not strictly conform to several aspects of the Planning Code. As part of the Section 309 review process, the Commission may grant exceptions from certain requirements of the Planning Code for projects that meet specified criteria. The Project requests exceptions regarding "Rear Yard" (Section 134), "Reduction of Ground-Level Wind Currents in C-3 Districts" (Section 148), "Limitations on Residential Accessory Parking" (Section 151.1), and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Mission and Third Streets (Section 155). Compliance with the specific criteria for each exception is summarized below, and is described in the attached draft Section 309 motion.
- **Rear Yard.** The Planning Code requires that the project provide a rear yard equal to 25 percent of the lot depth at the first level containing a dwelling unit, and at every subsequent level.

Exceptions to the rear yard requirements may be granted if the building location and configuration assure adequate light and air to the residential units and the open space provided. The property fronts on both Mission and Third Streets. Therefore, a complying rear yard would be situated toward the interior of the property, either abutting the Westin walkway or Jessie Square. It is unlikely that these open areas on the adjacent properties would be redeveloped in the foreseeable future. Therefore, adequate light and separation will be provided by the open spaces for residential units within the Project. The Project exceeds the Code requirements for common and private residential open space. In addition, residents would have convenient access to Jessie Plaza, Yerba Buena Gardens, and other large open public open spaces in the vicinity.

- **Ground Level Wind Currents.** The Code requires that new buildings in C-3 Districts must be designed so as to not cause ground-level wind currents to exceed specified comfort levels. When preexisting ambient wind speeds exceed the comfort levels, new buildings must be designed to attenuate ambient wind speeds to meet the specified comfort level. According to the wind analysis prepared for the project, 67 of the 95 test points in the vicinity currently exceed the pedestrian comfort level. Seven of the existing comfort exceedances would be eliminated, and nine new exceedances would be created, for a net increase of two exceedances. An exception under Section 148 (a) is therefore required. An exception to these requirements may be granted if the building cannot be shaped to meet the requirements without creating an ungainly building form and unduly restricting the development potential of the building site.

The Project would result in relatively modest changes in ground-level winds. The average wind speed would increase slightly from 12.6 to 12.7 mph. the average wind speed across all test points (nine mph) would not change appreciably, nor would the amount of time (17 percent) during which winds exceed the applicable criteria. The Project would not create any new exceedances in areas used for public seating. The Project incorporates several design features intended to baffle winds and reduce ground-level wind speeds. The third floor of the museum cantilevers over the on-site open space below, shielding this open space and redirecting some wind flows away from Jessie Square. The exterior of this cantilever includes projecting fins that will capture and diffuse winds before reaching the ground. In addition, the exterior of the museum at the first and second floors is chamfered to avoid localized wind eddies that would result from a typical rectilinear exterior.

- **Residential Accessory Parking.** The Planning Code does not require that residential uses in the C-3-R District provide off-street parking, but allows up to .25 cars per dwelling unit as-of-right. Residential uses may provide up to .75 cars per dwelling unit (or up to one car for each dwelling unit with at least two bedrooms and at 1,000 square feet of floor area), if the Commission makes specific findings that the parking is provided in a space-efficient manner, that the additional parking will not adversely affect pedestrian, bicycle, and transit movement, that the parking will not degrade the quality of the streetscape, and that free carshare memberships will be provided to households in the project.

While the parking is being provided at the maximum possible 1:1 ratio, the relatively small number of 215 off-street parking spaces is not expected to generate substantial traffic that would adversely impact pedestrian, transit, or bicycle movement. Given the proximity of the Project Site to the employment opportunities and retail services of the Downtown Core, it is expected that residents will prioritize walking, bicycle travel, or transit use over private automobile travel. In

addition, the proposed residential spaces are being reallocated from spaces within the existing garage that are currently used for general public parking. Residential uses generally generate fewer daily trips than the uses that are served by the existing public parking. Therefore, the conversion of spaces for residential use would not create new vehicular movement compared with existing conditions.

- **Curb Cuts.** Section 155 regulates the design of parking and loading facilities. Section 155(r)(4) specifies that no curb cuts may be permitted on the segment of Third Street abutting the Project. Within the C-3 Districts, the Planning Commission may grant an exception for this curb cut through the Section 309 Review process. Section 155(r)(3) specifies that no curb cuts may be permitted on the segment of Mission Street abutting the Project, except through Conditional Use authorization. The SUD proposed for the project would modify the regulations of Section 155 to allow a curb cut on Mission Street through an exception granted through the Section 309 review process, rather than through Conditional Use authorization.

Currently, the access for the Jessie Square garage is provided by an ingress/ egress driveway from Stevenson Street, as well as an egress-only driveway that exits onto Mission Street. The Project would retain the Mission Street curb cut, but would relocate it slightly, approximately 2.5 feet to the east. This curb cut would continue its present function to provide egress from the Jessie Street garage, helping to divide vehicular travel between the Stevenson Street and Mission Street driveways.

The Project also proposes to utilize an existing curb cut on Third Street for ingress-only vehicular access for residents. This curb-cut would access a driveway leading to two valet-operated car elevators, which would move vehicles into the Jessie Square garage. This curb cut was previously used to access a loading dock for the Aronson Building. This loading dock would be demolished as part of the Project. The EIR concludes that the Project, including the use of the existing curb-cuts on Third Street and Mission Street, would not result any significant pedestrian impacts, such as overcrowding on public sidewalks or creating potentially hazardous conditions. Given the limitations on the use of the curb cut (for inbound, valet service only), and given that the use of the curb cut would not cause any significant pedestrian impacts, the exception to allow the Project to utilize the Third Street curb cut is appropriate. However, because there could be improvements that might enhance pedestrian comfort and/or provide pedestrian amenities at the project site and in the vicinity, a condition of approval has been added requiring that the Project Sponsor collaborate with the Planning Department, DPW, and SFMTA to conduct a study to assess the existing pedestrian environment on the subject block, and to make recommendations for improvements that could be implemented to enhance pedestrian comfort and provide pedestrian amenities.

- **Shadow Impacts.** Section 295 (also known as Proposition K from 1984) requires that the Planning Commission disapprove any building permit application to construct a structure that will cast shadow on property under the jurisdiction of the Recreation and Park Department, unless it is determined that the shadow would not have an adverse impact on park use. In 1989, the Planning Commission and the Recreation and Park Commission adopted criteria for the implementation of Section 295, which included the adopting of Absolute Cumulative Shadow Limits (ACLs) for certain parks in and around the Downtown core.

A technical memorandum, prepared by Turnstone Consulting, was submitted on June 9, 2011, analyzing the potential shadow impacts of the Project to properties under the jurisdiction of the Recreation and Parks Department (Case No. 2008.1084K). The memorandum concluded that the Project would cast 337,744 sfh of net new shadow on Union Square on a yearly basis, which would be an increase of about 0.09% of the theoretical annual available sunlight ("TAAS") on Union Square.

October 11, 2012, the Planning Commission and the Recreation and Park Commission held a joint public hearing and raised the absolute cumulative shadow limits for seven open spaces under the jurisdiction of the Recreation and Park Department that could be shadowed by likely cumulative development sites in the Transit Center District Plan ("TCDP") Area, including Union Square. As part of this action, the Planning Commission and the Recreation and Park Commission designated the ACLs exclusively for shadows that are anticipated from the development of projects within the TCDP. Because the proposed Project lies outside the TCDP area, the Project requires a separate amendment to the ACL for Union Square.

The impact of the shadow cast by the Project on Union Square would be limited. The new shadow would occur for a limited amount of time during the year, from October 11<sup>th</sup> to November 8<sup>th</sup>, and from February 2<sup>nd</sup> to March 2<sup>nd</sup> for no more than one hour on any given day. The new shadow would not occur after 9:30 a.m. (the maximum new shadow range would be 8:30 a.m. to 9:30 a.m.), and would be consistent with the 1989 Memo qualitative standards for Union Square in that the new net shadow would not occur during mid-day hours. Usage of Union Square is relatively low in the morning hours.

## REQUIRED ACTIONS

In order for the project to proceed, the Commission must 1) Adopt findings under the California Environmental Quality Act, including findings rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations and Mitigation, Monitoring, and Reporting Programs; 2) Adopt Findings of Consistency with the General Plan and Priority Policies of Planning Code Section 101.1; 3) Approved jointly with the Recreation and Park Commission an increase of the absolute cumulative shadow limit for Union Square; 4) Adopt findings that the net new shadow cast by the project on Union Square will not be adverse to the use of the park, and to allocate to the Project the absolute cumulative shadow limit for Union Square; 5) Recommend that the Board of Supervisors approve a Height Reclassification to reclassify the site from the 400-I Height and Bulk District to the 520-I Height and Bulk District; 6) Recommend that the Board of Supervisors approve a Zoning Text Amendment and Zoning Map Amendment to establish the "Yerba Buena Center Mixed-Use Special Use District"(SUD) on the site; and, 7) Approve a Determination of Compliance pursuant to Planning Code Section 309, with requests for exceptions from Planning Code requirements including "Reduction of Ground-Level Wind Currents in C-3 Districts", "Off-Street Parking Quantity", "Rear Yard, and "General Standards for Off-Street Parking and Loading" to allow curb cuts on Third and Mission Streets.

## BASIS FOR RECOMMENDATION

- The Project will add housing opportunities within an intense, walkable urban context.
- The Project will provide space for a permanent home for the Mexican Museum, within a cluster of art museums and cultural institutions, in an area served by abundant existing and planned transit service.

- The Project will contribute to an operating endowment for the Mexican Museum.
- The Project will rehabilitate the existing Aronson Building, which is a Category I (Significant) Building in Article 11 of the Planning Code located within the New Montgomery-Mission-Second Street Conservation District
- The Project would enhance the City's supply of affordable housing by participating in the Inclusionary Affordable Housing Program. The project will also contribute an additional affordable housing fee to the Successor Agency equal to 8% of the residential units.
- Residents of the Project would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open space areas in the vicinity.
- The project meets all applicable requirements of the Planning Code, aside from the exceptions requested pursuant to Planning Code Section 309, and the Planning Code provisions that would be modified by the proposed SUD.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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**Attachments:**

- Draft CEQA Findings, including Mitigation, Monitoring, and Reporting Program (to be transmitted under separate cover)
- Draft Section 309 Motion
- Draft Section 295 Resolution
- Draft Section 295 Motion
- Draft General Plan Referral Motion
- Draft Resolution for Height Reclassification and Planning Code Text Amendment
  - Including Draft Ordinance
- Shadow Analysis Technical Memorandum
- Residential Pipeline Report
- Term Sheet, excerpt from Exclusive Negotiation Agreement between Project Sponsor and Successor Agency
- Block Book Map
- Aerial Photograph
- Zoning District Map
- Graphics Package from Project Sponsor



## Exhibit Checklist

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary   | <input checked="" type="checkbox"/> Project sponsor submittal   |
| <input checked="" type="checkbox"/> Draft Motion        | Drawings: <u>Existing Conditions</u>  |
| <input type="checkbox"/> Environmental Determination    | <input checked="" type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u>   |
| <input checked="" type="checkbox"/> Height & Bulk Map   | <input checked="" type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Parcel Map          | <input type="checkbox"/> Wireless Telecommunications Materials  |
| <input checked="" type="checkbox"/> Sanborn Map         | <input type="checkbox"/> Health Dept. review of RF levels   |
| <input checked="" type="checkbox"/> Aerial Photo        | <input type="checkbox"/> RF Report  |
| <input checked="" type="checkbox"/> Context Photos      | <input type="checkbox"/> Community Meeting Notice   |
| <input checked="" type="checkbox"/> Site Photos         | <input checked="" type="checkbox"/> Housing Documents   |
|   | <input checked="" type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
|   | <input checked="" type="checkbox"/> Residential Pipeline  |

Exhibits above marked with an "X" are included in this packet

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Planner's Initials

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