



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 20728

HEARING DATE: MAY 28, 2020

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Record No.: 2016-014802DNX
Project Address: 98 FRANKLIN STREET
Zoning: C-3-G (Downtown General Commercial) Zoning District
85-X // 120/365-R-2 Height and Bulk District
Van Ness & Market Residential Special Use District
Downtown and Market & Octavia Plan Areas
Block/Lots: 0836 / 008, 009 & 013
Project Sponsor: Jim Abrams
J. Abrams Law, P.C.
One Maritime Plaza, Suite 1900
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ADOPTING FINDINGS TO APPROVE A DOWNTOWN PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 309 TO ALLOW A PROJECT GREATER THAN 50,000 SQUARE FEET OF FLOOR AREA WITHIN THE C-3 ZONING DISTRICT WITH REQUESTS FOR EXCEPTIONS FOR AWNINGS, CANOPIES, AND MARQUEES (SECTION 136.1); USABLE OPEN SPACE FOR DWELLING UNITS (SECTION 135); DWELLING UNIT EXPOSURE REQUIREMENTS (SECTION 140); REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS (SECTION 148); MINIMUM DWELLING UNIT MIX REQUIREMENTS (SECTION 207.6); HEIGHT LIMITS FOR PARCELS WITHIN THE VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT (SECTION 263.19); AND BULK CONTROLS (SECTION 270) TO PERMIT NEW CONSTRUCTION OF A NEW 36-STORY MIXED-USE BUILDING REACHING A ROOF HEIGHT OF UP TO 365 FEET TALL (396'8" INCLUSIVE OF ROOFTOP SCREENING/MECHANICAL EQUIPMENT) WITH APPROXIMATELY 524,014 GROSS SQUARE FEET, INCLUDING APPROXIMATELY 379,003 GROSS SQUARE FEET OF RESIDENTIAL USE WITHIN A TOWER SITUATED ATOP A 5-STORY PODIUM CONTAINING APPROXIMATELY 84,815 GROSS SQUARE FEET OF INSTITUTIONAL USE (FRENCH AMERICAN INTERNATIONAL SCHOOL) AND APPROXIMATELY 3,229 GROSS SQUARE FEET OF GROUND FLOOR RETAIL USES, LOCATED AT 98 FRANKLIN STREET, LOTS 008, 009 & 013 OF ASSESSOR'S BLOCK 0836, WITHIN THE C-3-G (DOWNTOWN GENERAL COMMERCIAL) ZONING DISTRICT AND 85-X // 120/365-R-2 HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On October 27, 2017, 98 Franklin, LLC (hereinafter "Project Sponsor") filed an Environmental Evaluation Application for the Project, and thereafter submitted a revised Application on April 13, 2018, with the

Planning Department (“Department”). The application packet was assigned Case Number 2016-014802ENV.

On or after December 21, 2017, the Project Sponsor submitted the following applications with the Department: Downtown Project Authorization; Shadow Analysis; and Transportation Demand Management. The application packets were accepted on or after January 10, 2018 and assigned to Case Numbers: 2016-014802DNX; 2016-014802SHD; and 2016-014802TDM, respectively.

The City and County of San Francisco, acting through the Department fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code section 21000 *et seq.*, hereinafter “CEQA”), the State CEQA Guidelines (Cal. Code. Regs. Title 14, section 15000 *et seq.*, (hereinafter “CEQA Guidelines”), and Chapter 31 of the San Francisco Administrative Code (hereinafter “Chapter 31”).

The Department determined that an environmental impact report (hereinafter “EIR”) was required. Environmental review for the Project, as well as a separate private development project at 30 Van Ness Avenue, was coordinated with the City’s Hub Plan, which would amend the 2008 Market and Octavia Area Plan of the San Francisco General Plan for the easternmost portions of the Market and Octavia Area Plan, including the project site. The Department provided public notice of that determination by publication in a newspaper of general circulation on May 23, 2018. The Department held a public scoping meeting on June 12, 2018 in order to solicit public comment on the scope of the project’s environmental review.

On July 24, 2019, the Department published the draft EIR (hereinafter “DEIR”) and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment, and of the date and time of the Planning Commission (“Commission”) public hearing on the DEIR; this notice was mailed to the Department’s list of persons requesting such notice, and to property owners and occupants within a 300- foot radius of the site on July 24, 2019. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the Site on July 24, 2019.

The EIR contains both analysis at a “program-level” pursuant to CEQA Guidelines section 15168 for adoption and implementation of the Hub Plan, and “project-level” environmental review for the Hub Plan streetscape and street network improvements, the Project, and the individual development project at 98 Franklin Street. This EIR also evaluates the designation of portions or all of the Hub Plan area as a housing sustainability district (“HSD”), in accordance with Assembly Bill 73 (Government Code sections 66202 to 66210 and Public Resources Code sections 21155.10 and 21155.11). Designation of an HSD, through adoption of an ordinance by the San Francisco Board of Supervisors, would allow the City and County of San Francisco (“City”) to exercise streamlined ministerial approval of residential and mixed-use development projects meeting certain requirements within the HSD.

On July 24, 2019, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse. A notice of completion was filed with the State Secretary of Resources via the State Clearinghouse on July 24, 2019.

The Historic Preservation Commission held a duly advertised hearing on said DEIR on August 8, 2018 at which the Historic Preservation Commission formulated its comments on the DEIR.

The Commission held a duly advertised public hearing on said DEIR on August 29, 2019 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 9, 2019.

The Department prepared responses to comments on environmental issues received during the 46-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR. This material was presented in a responses to comments document, published on March 12, 2020, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

The Department prepared a final EIR (hereinafter "FEIR") consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the responses to comments document, all as required by law.

On February 13, 2020, the Commission adopted Resolutions 20653 through 20656 to initiate legislation entitled (1) Ordinance amending the General Plan to amend the Market and Octavia Plan, (2) Ordinance amending the Planning Code to update the Market and Octavia Area Plan, (3) Ordinance amending the zoning map to change the land use, zoning, and height and bulk classifications in the Hub Plan area, respectively, and (4) Ordinance amending the Business and Tax Regulations and Planning Code to create the HUB Housing Sustainability District.

On May 21, 2020, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding (1) the General Plan Amendment amending to amend the Market and Octavia Plan; and (2) the ordinance amending the Planning Code to update the Market and Octavia Area Plan, (3) Ordinance amending the zoning map to change the land use, zoning, and height and bulk classifications in the Hub Plan area, respectively, and (4) Ordinance amending the Business and Tax Regulations and Planning Code to create the HUB Housing Sustainability District.

On May 21, 2020, the Commission reviewed and considered the information contained in the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on May 21, 2020, by adoption of Motion No. 20707.

On May 21, 2020, through Motion No. 20707, the Commission approved findings required by CEQA, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), under Case No. 2016-014802ENX, for approval of the Hub Plan ("Hub Plan CEQA Findings"), which are incorporated by reference as though fully set forth herein.

On May, 21, 2020, the Commission adopted Resolutions 20709 through 20712 to recommend that the Board of Supervisors approve: (1) the Ordinance amending the General Plan to amend the Market and Octavia Plan; (2) an Ordinance amending the Planning Code to update the Market and Octavia Area Plan; (3) an Ordinance amending the zoning map to change the land use, zoning, and height and bulk classifications in the Hub Plan area, respectively; and (4) an Ordinance amending the Business and Tax Regulations and Planning Code to create the HUB Housing Sustainability District.

On May 28, 2020, through Motion No. 20726, the Commission approved findings required by CEQA, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), under Case No. 2016-014802ENV, for approval of the Project, which findings are found in Attachment C to this Motion No. 20728 and incorporated by reference as though fully set forth herein.

On May 28, 2020, through Motion No. 20727, the Commission adopted findings, with the recommendation from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, that the shadows cast by the Project on four properties under the jurisdiction of the Recreation & Park Department would not be adverse to the use of these properties, and that the Commission allocate to the Project allowable shadow from the absolute cumulative shadow limits for Civic Center Plaza (where such limits have been adopted) (Case No. 2017-008051SHD). As part of this recommendation, the Recreation and Park Commission adopted environmental findings in accordance with CEQA, along with a Mitigation Monitoring and Reporting program ("MMRP") for the Project (Recreation and Park Commission Resolution No. 2005-008).

The Department Commission Secretary is the custodian of records; all pertinent documents are located in the File for Case No. 2017-008051DNX, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On May 28, 2020, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization application No. 2017-008051DNX.

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 Downtown Project Authorization as requested in Application No. 2017-008051DNX, subject to the conditions contained in "EXHIBIT A" of this motion, and to the Mitigation, Monitoring and Reporting Program contained in "EXHIBIT C", and incorporated by reference, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.

2. **Project Description.** The proposed project ("Project") includes the construction of a new 36-story mixed-use building reaching a roof height up to 365 feet tall (396'8" inclusive of rooftop screening/mechanical equipment). The Project includes a total of approximately 524,014 gross square feet of uses, with approximately 379,003 gross square feet of residential use (at least 345 dwelling units situated on floors 7 through 36) situated atop a 5-story podium containing approximately 84,815 square feet of school use (French American International High School) and approximately 3,229 square feet of retail, 306 Class 1 and 57 Class 2 bicycle parking spaces, and three below-grade levels that would accommodate up to 111 vehicle parking and 3 car share spaces provided for the residential and school uses. The Project would contain a mix of 259 studio or one-bedroom units, 52 two-bedroom units, and 35 three-bedroom units, with 20 percent (or 69 dwelling units) provided as on-site affordable dwelling units (also known as "Below Market Rate" units).
3. **Site Description and Present Use.** The Project Site ("Site") is an approximately 23,750 square-foot irregular-shaped corner lot located on the east side of Franklin Street, between Market Street and Oak Street, with approximately 142' of frontage along Oak Street, 54' of frontage along Market Street, and 154' of frontage along Franklin Street. The subject property (Lots 008, 009 and 013 of Assessor's Block 0836) is located within the C-3-G (Downtown General Commercial) Zoning District, the 85-X // 120/365-R-2 Height and Bulk District, and the Van Ness & Market Residential Special Use District. The Site currently contains a surface parking lot with 100 off-street vehicular parking spaces.
4. **Surrounding Properties and Neighborhood.** The Site is located within the southwestern edge of downtown in the C-3-G (Downtown Commercial, General) District. The area is characterized as an urban, mixed-use area that includes a diverse range of residential, commercial, institutional, office, and light industrial uses. Office use is prevalent located along Market Street and Van Ness Avenue, while most government and public uses are located to the north in the Civic Center. West of Franklin Street, is an NC-3 Moderate-Scale Neighborhood Commercial District that comprises a diverse mix of residential, commercial, and institutional uses. South of Market Street, and west of 12th Street, are the WSOMA Mixed Use, General and Production, Distribution and Repair (PDR) Districts. Further, the Site is within a block of the intersection of Market Street and Van Ness Avenue, two of the City's widest and most recognizable thoroughfares. As such, the Site is uniquely positioned at one of the most important transit nodes within the city: rail service is provided underground at the Van Ness Muni Metro Station as well as via historic streetcars that travel along Market Street while Bus service is provided on both Van Ness Avenue and Market Street.
5. **Public Outreach and Comments.** The Project Sponsor has conducted community outreach to stakeholders that includes local community groups, namely: Hayes Valley Neighborhood Associates, Hayes Valley Merchants, Civic Center Community Benefit District, SF Jazz, SF Ballet, SPUR, SF Housing Action Coalition, and SF Chamber of Commerce. To date, the Department has received three support letters from organizations and businesses, including: Mercy Housing, Civic

Center Community Benefit District, The Church of the Advent of Christ the King. The Department has not received any letters in opposition to the project.

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use Compliance within the C-3-G Zoning District and Van Ness & Market Residential Special Use District (Sections 210.2 and 249.33).** The Planning Code lists the use controls for residential and non-residential uses within the C-3-G Zoning District and the Van Ness & Market Residential Special Use District.

The Project includes a total of approximately 524,014 gross square feet of uses (total gross floor area of 449,406 gsf of uses per the Planning Code Section 102). The Project would include approximately 379,003 gross square feet of residential use, approximately 84,815 square feet of school use and approximately 3,229 square feet of retail. Residential uses, institutional school uses and sales and service use are all principally permitted within the C-3-G Zoning District. Therefore, the Project complies with Section 210.2.

Non-Residential Uses

The use controls of the Van Ness & Market Residential Special Use District require at least three occupied square feet of residential use to be provided for each occupied foot of non-residential use.

The Project includes a total of approximately 379,003 gross square feet of residential uses and approximately 88,044 gross square feet of new non-residential uses, equating to a ratio of approximately four (4) occupied feet of residential use for each occupied foot of non-residential use. While Planning Code Section 102 Occupied Floor Area calculations are not set forth in the Project's plan set, the Gross Floor Area calculations sufficiently establish that the Project will comply with Section 249.33(b)(1).

Retail Use Size

In the Van Ness & Market Residential Special Use District, Retail Sales and Service Uses are permitted up to 5,999 gross square feet in size, with Conditional Use Authorization required above 6,000 gross square feet.

The Project includes a total of one (1) retail space located on the ground floor totaling less than 6,000 gross square feet. Therefore, the Project complies with Section 210.2.

Micro-Retail (Section 249.33)

The use controls of the Van Ness & Market Residential Special Use District require at least one Micro-Retail unit for every 20,000 gross square feet of lot area, rounded to the nearest unit. Projects providing ground floor uses that are larger than 1,000 gross square feet and defined as Arts Activities, Child Care Facility, Social Service, School, Community Facility, or Public

Facility are exempt from the Micro-Retail requirement. Exceptions to the micro-retail requirement may be granted through the Section 309 process, pursuant to Code Section 249.33(b)(9)(B)(iv).

The Site is 23,750 square feet, leading to a requirement of one (1) Micro-Retail units. However, the Project includes approximately 10,000 gross square feet of school uses on the ground floor, so is therefore exempt from the micro-retail requirement.

- B. Floor Area Ratio (Sections 123, 124, 128, and 210.2).** The Planning Code establishes a basic floor area ratio (FAR) for all zoning districts. For C-3 zoning districts, the numerical basic FAR limit is set in Section 210.2. The basic FAR for the C-3-G District is 6.0 to 1. Any development project within the Van Ness & Market Residential Special Use District that exceeds the base FAR shall be required to pay the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fee.

The Site is 23,750 square feet (0.55 acres) in area. Therefore, up to 142,500 square feet of Gross Floor Area is allowed under the basic FAR limit (6:1). The Project proposes a total of 449,406 gsf, for a FAR of approximately 19-to-1. All uses in any development project within the Van Ness & Market Residential Special Use District shall pay \$30.00 per net additional gross square foot of floor area in any portion of building area exceeding the base development site FAR of 6:1 up to a base development site FAR of 9:1, and \$15.00 per net additional gross square foot of floor area in any portion of building area exceeding the base development site FAR of 9:1, as set forth in Code Section 424. Conditions of Approval are included to require the Project Sponsor pay the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fee for all floor area above 6:1 FAR.

- C. Rear Yard (Section 134).** The Project is located within the Van Ness & Market Residential Special Use District where the rear yard requirements of Section 134 of Code shall not apply. Instead, lot coverage is limited to 80 percent at all levels containing a dwelling unit or group housing bedroom. The unbuilt portion of the lot shall be open to the sky except for those obstructions permitted in yards per Section 136(c) of this Code. Exceptions to the 20 percent open area may be granted pursuant to the procedures of Section 309.

The Project includes a full lot coverage podium containing non-residential uses with a tower containing residential uses (dwelling units). The footprint of the residential tower occupies approximately 64% of lot coverage, well below the limit of 80 percent of lot coverage. Therefore, the Project complies with Section 249.33(b)(5).

- D. Publicly Accessible Open Space (Section 138).** The Planning Code requires new Non-Residential buildings, or additions of Gross Floor Area equal to 20 percent or more to an existing Non-Residential building, in the C-3-G zoning district to provide public open space at a ratio of one square-foot per 50 gross square feet of all uses, except residential uses and institutional uses.

The Project would include 379,003 gross square feet of residential use, 84,815 square feet of school use and 3,229 square feet of retail. Residential and school (Educational Institutional) uses are exempt from Planning Code Section 138's requirements. Because the significant majority of the building's use will be residential and exempted Institutional space, the building is not considered a Non-Residential building and the public open space requirement does not apply to the 3,229 square feet of ground floor retail. Therefore, the Project is not subject to Planning Code Section 138.

- E. **Streetscape and Pedestrian Improvements (Section 138.1).** Planning Code Section 138.1 requires that additions of Gross Floor Area equal to 20 percent or more to an existing building provide streetscape improvements consistent with the Better Streets Plan. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan

The Project Sponsor shall comply with this requirement. The conceptual plan shows improved pedestrian amenities along Franklin and Oak Streets, including, but not limited to improved and enlarged sidewalks, along with the installation of street trees and other improvements. In addition, contingent upon approval of an in-kind agreement crediting the amount owed by the Project under the Market and Octavia Community Infrastructure Fee for the full cost of the improvements, Project Sponsor may implement streetscape improvements on Lily Street between Gough and Franklin Streets, including but not limited to raised crosswalks, new street trees and a mid-alley furnished pedestrian zone. The precise location, spacing, and species of the street trees, as well as other streetscape improvements, will be further refined throughout the building permit review process. Therefore, the Project complies with Section 138.1.

The Project would apply to the San Francisco Municipal Transportation Agency's (SFMTA) Color Curb Program to install a passenger loading zone (white curb) along Oak Street and a school drop off zone (white curb) on Franklin Street.

- F. **Standards for Bird-Safe Buildings (Section 139).** The Planning Code outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The Site is not located in close proximity to an Urban Bird Refuge as defined in Section 139. As such, the Project is only required to include feature-related standards, and includes such features. Therefore, the Project complies with Section 139.

- G. **Street Frontage in Commercial Districts (145.1).** The Planning Code requires that within Downtown Commercial Districts, space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor. Spaces such as lobbies are considered active uses only if they do not exceed 25% of the building's frontage at the ground level, or 40 feet,

whichever is greater. Section 145.1(c)(2) of the Planning Code requires that no more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new or altered structure parallel to and facing a street shall be devoted to parking and loading ingress or egress. With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses as defined in Subsection (b)(2) and permitted by the specific district in which it is located shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. Section 145.1(c)(4) of the Planning Code requires that ground floor non-residential uses in all C-3 Districts shall have a minimum floor-to-floor height of 14 feet, as measured from grade. Section 145.1(c)(5) requires the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Section 145.1(c)(6) of the Planning Code requires that within Downtown Commercial Districts, frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

The Project includes 3,229 gross square feet of ground floor retail sales and service uses on Oak Street. This retail space is at least 25 feet deep at all locations, meeting the strict active use requirements of Section 145.1(c)(3). The balance of the ground floor on Oak Street is comprised of a residential building lobby that is 40 feet in width, as well as a school café space near the corner of Oak and Franklin streets. The majority of the Franklin Street frontage contains the main entrance to the school, including a furnished common space for student congregation. The balance of ground floor on Franklin Street is comprised of a 20' driveway to the building's basement vehicle parking area, as well as a dedicated ramp providing bicycle access to the first-floor basement bicycle parking area. The frontage on Market Street contains a multi-purpose assembly space for the school and gas meter access (permitted mechanical system). The three street frontages are fenestrated with transparent windows for at least 60 percent of the total street frontage, allowing visibility into the inside of the building. The ground floor height is at least 15'. Therefore, the Project complies with Section 145.1.

- H. **Shadows on Public Sidewalks (Section 146).** The Planning Code establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings should be shaped so as to reduce substantial shadow impacts on public sidewalks, if doing so would not create an unattractive design and without unduly restricting the development potential of the site in question.

Section 146(a) does not apply to Franklin Street, Market Street, or Oak Street and therefore does not apply to the Project. Regarding Section 146(c), the Project would create new shadows on sidewalks and pedestrian areas adjacent to the Site. The amount of shadow cast on sidewalks would vary based on time of day, day of year, and weather conditions. Additionally, in certain locations, existing and future development would mask or subsume new shadows from the Project that would otherwise be cast on sidewalks in the Project vicinity. The Project's shadows would be limited in scope and would not

increase the total amount of shading above levels that are commonly accepted in dense urban areas. Therefore, the Project complies with Section 146.

- I. **Shadows on Public Open Spaces (Section 147).** The Planning Code requires new buildings in the C-3 districts exceeding 50 feet in height to be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site, to reduce substantial shadow impacts on public plazas and other publicly-accessible spaces other than those under the jurisdiction of the Recreation and Parks Department under Section 295. The following factors shall be taken into account: (1) the amount of area shadowed; (2) the duration of the shadow; (3) the importance of sunlight to the type of open space being shadowed.

Background

The Hub Plan FEIR analyzed potential shadow impacts that could occur as a result of the Hub Plan, the two individual development projects (30 Van Ness Avenue and 98 Franklin Street), the Hub Housing Sustainability District (HSD), and cumulative conditions. For non-RPD parks and open spaces, the general timing of net new shadow effects was analyzed.

Existing Non-RPD Open Spaces

The Hub Plan FEIR concluded that the Project would not cast shadow on non-RPD parks and open space.

- J. **Off-Street Parking (Sections 151.1 and 249.33).** The Planning Code does not require any off-street parking spaces be provided, but instead provides maximum parking amounts based on land use type. Off-street accessory parking for all non-residential uses in the C-3-G Zoning District is limited to 7% of the gross floor area for such uses. For residential uses, one off-street parking space is principally permitted for every four Dwelling Units. The Van Ness & Market Residential Special Use District permits accessory non-residential parking to be used jointly as accessory residential parking for residential uses within the same project, so long as the project provides 25% or more on-site affordable housing units as defined in Section 415, and the total number of independently accessible parking stalls (whether residential or non-residential) provided in such project shall not exceed the sum of the maximum amount of accessory residential and accessory non-residential parking spaces permitted by the Planning Code and the total number of parking spaces used as residential accessory parking shall not exceed 0.4 spaces per each Dwelling Unit.

The Project would provide a total of 111 off-street accessory parking spaces. 86 parking spaces would be available for 345 dwelling units, equating to parking ratio of 0.25 spaces per dwelling unit (within the 0.25 ratio limit as established by Code). The balance of the parking spaces (25 spaces or approximately 4,625 gross square feet) would be available for the school uses (within the limit of 7% of non-residential Occupied Floor Area as established by the Code). The Project therefore complies with Code Section 151.1.

- K. **Off-Street Freight Loading (Sections 152.1, 153, and 154).** The Planning Code requires certain amounts of off-street freight loading space based on the type and size of uses in a project. For residential units and school uses, 2 off-street spaces are required between 200,001 and 500,000 square feet of Occupied Floor Area of each use. No loading is required for retail uses under 10,000 square feet of Occupied Floor Area. Pursuant to Section 153(a)(6), two service vehicle spaces can be substituted for one required freight loading space if at least 50% of the required number of freight loading spaces are provided. Planning Code Section 154 sets forth standards as to location and arrangement of off-street freight loading and service vehicle spaces. Off-street loading spaces are required to have a minimum length of 35 feet, a minimum width of 12 feet, and a minimum vertical clearance including entry and exit of 14 feet, except that the first freight loading space required for any structure or use shall have a minimum width of 10 feet, a minimum length of 25 feet, and a minimum vertical clearance, including entry and exit, of 12 feet.

The Project would comply with the off-street freight loading requirement by providing one (1) space meeting the dimensional requirements of Code Section 154(b)(2) and two (2) service vehicle spaces, pursuant to Section 154(b)(2)(3). The Project therefore complies with Sections 152.1, 153, and 154.

- L. **General Standards for Location and Arrangement of Off-Street Parking, Freight Loading, and Service Vehicle Facilities (Sections 155 and 155(u)).** The Planning Code requires all off-street freight loading and service vehicle spaces in the C-3 Zoning District be completely enclosed, and access from a public Street or Alley shall be provided by means of a private service driveway that is totally contained within the structure. Such a private service driveway shall include adequate space to maneuver trucks and service vehicles into and out of all provided spaces, and shall be designed so as to facilitate access to the subject property while minimizing interference with street and sidewalk circulation. Any single development is limited to a total of two façade openings of no more than 11 feet wide each or one opening of no more than 22 feet wide for access to off-street parking and one façade opening of no more than 15 feet wide for access to off-street loading. Shared openings for parking and loading are encouraged. The maximum permitted width of a shared parking and loading garage opening is 27 feet. The Planning Code requires any projects of more than 100,000 net new gross square feet within the Hub area to develop and implement a Driveway and Loading Operations Plan (DLOP) to address project-generated commercial and passenger loading issues.

The Project includes one opening along the Franklin Street frontage: a 20-foot wide entrance for access to off-street parking and off-street loading. Therefore, the Project complies with Section 155(s)(4). The Project includes 524,014 net new gsf and the Project Sponsor will be required to prepare a DLOP for review and approval by Department staff, in consultation with the San Francisco Municipal Transportation Agency prior to issuance of the first site permit or building permit. Therefore, the Project will be in compliance with Section 155(u) prior to issuance of first site permit or building permit.

- M. **Bicycle Parking (Sections 155.1, 155.2).** The Planning Code establishes bicycle parking requirements for new developments, depending on use. For projects with over 100 residential dwelling units, 100 Class 1 spaces are required, plus 1 additional space for every four units over

100. One Class 2 space is required for every 20 dwelling units. For school uses, four Class 1 space is required for every classroom, and one Class 2 space is required for every classroom. are required for the first 5,000 gross square feet, plus one Class 2 space for each additional 50,000 occupied square feet. For general retail uses, one Class 1 space is required for every 7,500 square feet of occupied floor area and a minimum of two Class 2 spaces or one Class 2 space for every 2,500 square feet of occupied floor area. For Retail Eating and Drinking uses, one Class 1 space is required for every 7,500 square feet of occupied floor area and a minimum of two Class 2 spaces or one Class 2 space for every 750 square feet of Occupied Floor Area. A Class 1 space is located in a secure, weather-protected facility and intended for long-term use by residents and employees. A Class 2 space is located in a publicly-accessible and visible location, and intended for use by visitors, guests, and patrons.

The Project includes 306 Class 1 and 57 Class 2 bicycle parking spaces, 162 Class 1 spaces and 17 Class 2 spaces associated with residential uses, 144 Class 1 spaces and 36 Class 2 spaces associated with school uses and 4 Class 2 spaces associated with the ground-floor retail uses (which are conservatively assumed to be Eating and Drinking uses given the higher requirement for that subset of Retail uses under the Code). The Class 2 bicycle parking spaces would be located along all three of the Site's street frontages (Van Ness Avenue, Oak Street and Franklin Street), with the exact location to be determined in consultation with SFMTA. The Class 1 bicycle parking would be located on the first basement floor, accessible by a dedicated ramp from Franklin Street. Therefore, the Project complies with Section 155.1 and 155.2.

- N. **Shower Facilities and Lockers (Section 155.4).** The Planning Code requires shower facilities and lockers for Institutional (school) Uses in the following amounts: four showers and 24 clothes lockers are required where the Occupied Floor Area exceeds 50,000 square feet. One shower and six clothes lockers are required where the Occupied Floor Area of retail exceeds 25,000 square feet.

The Project includes more than 50,000 square feet of institutional school uses and thus a total of 4 showers 24 lockers are required per Code. The Project would provide 4 showers and 24 lockers on the first basement floor, adjacent to the ground floor Class 1 bicycle storage area. Therefore, the Project complies with Section 155.4.

- O. **Car Sharing (Section 166).** The Planning Code establishes requirements for new developments to provide off-street parking spaces for car-sharing services. The number of spaces depends on the amount of residential or non-residential parking. Projects with over 200 residential units but less than 400 units require two spaces. For non-residential uses, one space is required if the project provides 25-49 off-street spaces for those uses. The car-share spaces must be made available to a certified car-share organization at the building site or within 800 feet of it.

The Project includes three car share spaces, on the first floor of the basement immediately adjacent to the ramp from Franklin Street, for both the residential and non-residential uses where three are required by

Code (two for the 365 dwelling units and one for the 25 parking spaces associated with the school use). Therefore, the Project complies with Section 166.

- P. **Unbundled Parking (Section 167).** The Planning Code requires all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more, or in new conversions of non-residential buildings to residential use of 10 dwelling units or more, shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space.

The Project will lease or sell all accessory off-street parking spaces separately from the rental or purchase fees for dwelling units for the life of the dwelling units. Therefore, the Project complies with Section 167.

- Q. **Transportation Demand Management (TDM) Plan (Section 169).** The Planning Code requires applicable projects to finalize a TDM Plan prior Department approval of the first Building Permit or Site Permit.

The Project submitted a completed Environmental Evaluation deemed complete on or after September 5, 2016, and before January 1, 2018. Therefore, the Project must only achieve 75% of the point target established in the TDM Program Standards, resulting in a required target of 11 points (75% of 14) for the school uses and 15 points (75% of 19) for the residential uses. As currently proposed, the Project would achieve a total of 11 of its required 11 points for the school uses through the following TDM measures:

- Improve Walking Conditions (Option A)
- Bicycle Parking (Option A)
- Bicycle Repair Station
- Car-share Parking and Membership (Option A)
- Tailored Transportation Marketing Services (Option B)
- Unbundled Parking (Location E)

As currently proposed, the Project would achieve 17 points (where 15 points are required) for the residential uses through the following TDM measures:

- Improve Walking Conditions (Option A)
- Bicycle Parking (Option A)
- Bicycle Repair Station
- Car-share Parking and Membership (Option A)
- On-site Affordable Housing (Option A)
- Unbundled Parking (Location D)
- Parking Supply (Option G)

Therefore, the Project complies with Section 169.

- R. **Height: Rooftop Screening and Appurtenances (Section 141(b) and 260(b)(N)).** Pursuant to Planning Code 141, 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. In the Van Ness & Market Residential Special Use District, additional building volume may be used to enclose or screen from view the features listed in Sections 260(b)(1)(A) and 260(b)(1)(B). The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to the building, but shall meet the requirements of Section 141; shall not exceed 10 percent of the total height of any building taller than 200 feet; shall have a horizontal area not more than 100 percent of the total area of the highest occupied floor; and shall contain no space for human occupancy. The features described in Section 260(b)(1)(B) shall not be limited to 16 feet for buildings taller than 200 feet but shall be limited by the permissible height of any additional rooftop volume allowed by Section 260(b)(N).

The Project contains a rooftop parapet reaching 385' (20' over the 365' height limit) and an elevator penthouse machine room reaching 396' 8" (31'8" over the 365' height limit). These features are permitted under the Van Ness & Market Residential Special Use District and therefore comply with Planning Code Sections 260(b)(N) and 141(b).

- S. **Shadows on Parks (Section 295).** The Planning Code requires a shadow analysis for projects over 40 feet in height to ensure that new buildings do not cast new shadows on properties that are under the jurisdiction of the San Francisco Recreation and Park Department (RPD).

Background

A Shadow Study was prepared by qualified consultants ("Prevision Design"). The Shadow Study provides quantitative shadow calculations for parks under the jurisdiction of RPD. The analysis was conducted according to criteria and methodology as described in (1) the February 3, 1989 memorandum titled "Proposition K – The Sunlight Ordinance" ("the 1989 memorandum") prepared by RPD and the San Francisco Planning Department ("Planning"), (2) the July 2014 memorandum titled "Shadow Analysis Procedures and Scope Requirements" ("the 2014 memorandum") prepared by Planning, and (3) direction from current Planning and RPD staff regarding the appropriate approach, deliverables, and scope of analysis appropriate in consideration of the open spaces affected.

Note: An earlier design of the Project was reviewed for shadow impacts as part of the Hub Plan DEIR. Updates to these shadow effects due revisions to the design of the Project's parapet were subsequently detailed in the DEIR responses to comments published by the Department on March 12, 2020.

Shadow Analysis Results

The Shadow Study indicated that the Project would cast new shadows on the following four (4) properties under the jurisdiction of RPD: Koshland Community Park; Patricia's Green; Page & Laguna; and Page & Laguna Mini Park.

Koshland Community Park

The Koshland Community Park is a 0.82-acre (35,743 sf) urban park, located in the Western Addition neighborhood, occupies the northwest corner of the block and is bounded by Page Street to the north, Buchanan Street to the west, and private development along its eastern and southern borders. The park is not fenced, and the posted hours of operation are from sunrise to sunset. Entrances to Koshland Community Park are through a gate and stairs on Page Street as well as several points along Buchanan Street. The pathway diagonally bisects the upper and lower halves of the park. A half-court basketball area and playground sit on the Koshland Community Park's highest elevation and a community garden which can be accessed via terraced steps, a serpentine pathway, or several steps through the Page Street entrance occupies the sites eastern most border. A playground area featuring jungle gym and sand pit is centrally located in the park, which includes a tire swing, slide, and monkey bars. A community garden with vegetables, flowers and shrubbery occupies the eastern border of the park.

Under current conditions, the park receives 20,546,248 annual sfh of shadow. Based on a calculated TAAS of 133,014,951 sfh, Koshland Community Park's existing annual shadow load is 15.45 percent of its TAAS. Existing shadow patterns include very low levels of shadow falling throughout most of the day until late afternoon, when the western half of the park is cast in shadow. Spring and fall follow a similar pattern with most shadow falling over winter months.

The Project would result in net new shadow cast on Koshland Community Park, adding 3,963 net new annual sfh of shadow and increasing the sfh of shadow by 0.003% annually above current levels. This increase would result in a new annual total shadow load of 15.45%. Net new shadow from the Project would occur within the first nine minutes of the daily analysis period between approximately April 20 and August 22nd.

The portions of Koshland Community Park that would receive net new shadow include a portion of the community garden area in the northeastern corner of the park and a wooded area in the southeastern corner of the park. The features which could be of somewhat higher sensitivity include the community garden area, however this feature would only receive net new shadow over spring and summer in the early mornings for a short duration prior 7:15 a.m., times where lower levels of park use would be likely.

Patricia's Green

Patricia's Green is a 0.41-acre (17,903 sf) urban park, located in the Western Addition/Hayes Valley neighborhood, extends generally north-south and is bounded by Octavia Street to the east and west, Hayes Street to the north, and Fell Street to the south. The park is divided into three sections. In the northern section of the park there is a picnic seating area located along Hayes Street. It features a plaza with four picnic tables around a mature tree and a mix of wooden and concrete benches. Two additional picnic tables are located on the western side of this area along Octavia Street next to restaurants. The central section is located where the park intersects Linden Street. It contains a circular plaza with four concrete benches and eight bollards, and functions as the area for art installations. To the north and south of the center plaza are lawns. The southern section of the park contains a children's play area, which features a dome structure with ropes and bars for climbing and poured rubber safety paving. Low

concrete square pillars delineate the play area and lawn, and a metal fence encloses the Fell Street side. A service building is located at the southwest corner of the park. On the periphery of the park are concrete ledges and benches interspersed with approximately 24 trees and plantings.

Under current conditions the park receives 12,029,000 annual sfh of shadow. Based on a calculated TAAS of 66,622,661 sfh, Patricia's Green's existing annual shadow load is 18.06 percent of its TAAS. The park currently experiences higher levels of shading in the early mornings and late afternoons but is otherwise predominantly unshaded from late morning through midafternoon year-round.

The Project would result in net new shadow cast on Patricia's Green, adding 298,323 net new annual sfh of shadow and increasing the sfh of shadow by 0.45% annually above current levels. This increase would result in a new annual total shadow load of 18.51%. Net new shadow from the Project would occur within the first 52 minutes of the daily analysis period between February 2nd and March 28th and again between September 14th and November 7th.

Nearly all portions of Patricia's Green would receive net new shadow from the Project. The portions of Patricia's Green that would likely be most sensitive to the addition of net new shadow would be the children's play area, the park's fixed benches, and the tables and seating areas. All these features would receive some net new shadow, the presence of which would be noticeable to users of the park present at that time. The timing of net new Project shadow would be in the early morning prior to 9:00 a.m., and the children's play area, which would potentially be the most sensitive to additional shadow, would not receive net new shadow at any point later than 8:30 a.m., corresponding to times where lower overall levels of use would be typical.

Page & Laguna Mini Park

Page and Laguna Mini Park is a 6,600-sf urban park located in the Western Addition neighborhood and is under the jurisdiction of the RPD. It is located mid-block with residences east and west and is bounded by Page Street to the north and Rose Street to the south. Page and Laguna Mini Park is enclosed by fences, one along Rose Street and another that bisects the site from east to west. Posted signage indicates that the park hours are from 6 a.m. to 10 p.m. The mini park has two entrances, one on Page Street and one on Rose Street. The entrances are connected by a path, creating a pedestrian connection between the two streets. The mini park features two fixed benches, a designated community gardening area, and several trees ranging in size from small shrubbery to deciduous trees with larger canopies.

Under current conditions the park receives 12,469,084 annual sfh of shadow. Based on a calculated TAAS of 24,543,248 sfh, Page and Laguna Mini Park's existing annual shadow load is 50.80 percent of its TAAS. Existing shadow patterns include morning, afternoon, and evening shadow falling over the majority the park with little shadow around midday, year-round.

The Project would result in net new shadow cast on Page & Laguna Mini Park, adding 12,565 net new annual sfh of shadow and increasing the sfh of shadow by 0.05% annually above current levels. This increase would result in a new annual total shadow load of 50.85%. Net new shadow from the Project

would occur within the first 22 minutes of the daily analysis period between approximately May 18 and July 25. Net new shadow would fall only on the northern edge of the park, affecting one public entry point, a portion of the paved walkways, one fixed bench, some grassy or landscaped areas, and a small section of the community garden.

The portions of Page & Laguna Mini Park that could be characterized as being of higher sensitivity include the community garden and the fixed bench; however, shadow cast by the Project would occur in the summer for a short duration (33 minutes or less) and be gone prior to 8 a.m., corresponding to times of typically lower levels of park use.

Future 11th/Natoma Park Site

In 2017 RPD acquired a property on 11th Street between Minna and Natoma streets. The site is currently occupied by buildings that would be demolished as part of converting this site to a future park. The programming of the park, environmental review, permitting, and timing of construction are not known at this time, but the site for this contemplated future park is analyzed quantitatively and graphically in this section as it is under the jurisdiction of RPD and information is included for informational purposes.

Under current conditions the location of the proposed future park would receive (assuming the removal of existing buildings on site and full use of the site for a park) 16,085,624 annual sfh of shadow. Based on a calculated TAAS of 72,829,287 sfh, the 11th/Natoma Park Site's existing annual shadow load would be 22.09 percent of its TAAS. Existing shadow patterns include early morning and later afternoon shadow falling over the majority of the park, with little to no midday and early afternoon shadow year-round.

The 98 Franklin Street Project would result in net new shadow cast on the 11th/Natoma Park Site, adding approximately 130,635 net new annual sfh of shadow and increasing the sfh of shadow by 0.18 percent annually above current levels. This increase would result in a new annual total shadow load of 22.27 percent. Net new shadow from the 98 Franklin Street Project would occur in the late afternoon/early evening (approximately 7pm) for up to 33 minutes between approximately May 4 and August 8. Net new shadow would fall only on the southern half of the park.

As the 11th/Natoma Park site is not yet a park and no future programming information has been developed nor approved, the possible features affected and qualitative impacts of project-generated shadow on such features are not determinable.

Conclusion

While the Project would cast net new shadow on four (4) existing parks, the Project would not create new shadow that would substantially and adversely affect the use or enjoyment of publicly accessible open spaces based upon the amount and duration of new shadow and the importance of sunlight to each of the open spaces analyzed.

Thus, the Project would not result in new or more severe shadow impacts than those identified in the Hub Plan FEIR. This conclusion is consistent with the findings of the Hub Plan FEIR, and the Project would not result in individual or cumulative shadow impacts beyond those analyzed in the Hub Plan FEIR, nor would it result in substantially more severe impacts than identified in the Hub Plan FEIR.

On May 28, 2020, the Commission held a duly noticed public hearing, at which the Recreation and Park Commission recommended that the General Manager of the Recreation & Park Department recommend to the Commission that the shadows cast by the Project on four (4) properties under the jurisdiction of the Recreation & Park Department would not be adverse to the use of these properties, and that the Commission find that the shadows cast by the Project on the four (4) properties would not be adverse to the use of the properties. (Case No. 2016-014802SHD).

- T. Review of Residential, Hotel, and Motel Projects (Section 314).** In addition to any other factors appropriate for consideration under the Planning Code, the Department and Commission shall consider the compatibility of uses when approving Residential Uses, Hotel Uses, or Motel Uses, as those terms are defined in Chapter 116 of the Administrative Code, adjacent to or near existing permitted Places of Entertainment and shall take all reasonably available means through the City's design review and approval processes to ensure that the design of such new residential, hotel, or motel project takes into account the needs and interests of both the Places of Entertainment and the future residents or guests of the new development. Such considerations may include, among others: (a) the proposed project's consistency with applicable design guidelines; (b) any proceedings held by the Entertainment Commission relating to the proposed project, including but not limited to any acoustical data provided to the Entertainment Commission, pursuant to Administrative Code Section 116.6; and (c) any comments and recommendations provided to the Department by the Entertainment Commission regarding noise issues related to the project pursuant to Administrative Code Section 116.7.

The Project is located within 300 radial feet of a Place of Entertainment ("POE") and is subject to Chapter 116 of the Administrative Code. On February 21st, 2020, the Entertainment Commission received notification of the Project. In accordance with the Entertainment Commission's approved "Guidelines for Entertainment Commission Review of Residential Development Proposals Under Administrative Code Chapter 116," Entertainment Commission staff determined that a hearing on this project was not required under Section 116.7(b) of the Administrative Code. The Entertainment Commission has adopted a set of standard "Recommended Noise Attenuation Conditions for Chapter 116 Projects". Accordingly, the Commission recommends that the Department and/or Department of Building Inspection impose these standard conditions on the development permit(s) for the Project. Therefore, the Project complies with Section 314.

- U. Inclusionary Affordable Housing Program (Section 415 and Section 249.33).** The Planning Code Section sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to

projects that consist of ten or more units. In the Van Ness & Market Residential Special Use District, projects that provide 20% of units as affordable to households at 50% of Area Median Income ("AMI") are not subject to the requirement for moderate- and middle-income units set forth in Section 415.6(a).

The project filed a complete Environmental Evaluation Application after January 12, 2016, but before January 1, 2018. Therefore, the Project would be required to provide 18% of units (or 62 units) as affordable units, with rent for those units set at various AMI levels pursuant to Section 415.6(a)(3). The Project proposes 345 dwelling units and proposes to comply with the requirements of Code Section 415 by providing 20% of units (or 69 units) with rent set at 50% AMI, thereby complying with the provisions of the Van Ness & Market Residential Special Use District regarding required AMI levels for affordable units.

- V. **Public Art (Section 429).** The Planning Code Section requires a project to include works of art costing an amount equal to one percent of the construction cost of the building for construction of a new building or addition of floor area in excess of 25,000 sf to an existing building in a C-3 District.

The Project will comply with this Code requirement by dedicating one percent of the Project's construction cost to works of art. The public art concept and location will be subsequently presented to the Commission at an informational presentation.

7. **Exceptions Request Pursuant to Planning Code Section 309.** The Commission has considered the following exceptions to the Planning Code, makes the following findings, and grants each exception to the Project as further described below:

- A. **Useable Open Space (Section 135).** The Planning Code requires that a minimum of 36 square feet of private usable open space, or 48 square feet (1.33 times 36 square feet) of common usable open space be provided for dwelling units in C-3 zoning districts. The area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

The Project includes 345 dwellings units, and therefore requires private and/or common useable open space in service of the residential use. The Project includes 212 dwelling units with private balconies that meet the dimensional requirements for private useable open space (Code Section 135(f)). As such, the project is required to provide 6,384 square feet of common useable open space. The Project includes a 4,150 common open space on the roof of the tower that meets the strict dimensional requirements for common useable open space (Code Section 135(g)). The Project also includes a 3,100 square foot terrace open space associated with indoor amenities on floor 7 that does not meet the strict dimensional requirements for common useable open space, because the space is not 15 feet in every horizontal dimension. Therefore, the project proposes a total of 7,250 square feet of common open space (significantly exceeding the Code's square footage requirement), but approximately 35% of the required amount does not meet required dimensional standards.

Though the proposed common open space on floor 7 does not meet the strict dimensional requirements of Section 135, the floor plan supports that the space will provide safe and desirable outdoor living and recreation space for residents of the building. Taking together with the rooftop open space (which meets Section 135's dimensional requirements), the Project meets the intent of the provisions of Section 135.

Conclusion

The exception for dimensional standards for common open space on floor 7 is therefore warranted as the Project provides substantially more overall common open space than would otherwise be required and the open space that does not meet the Code's dimensional requirements provides safe and desirable outdoor living and recreation space for residents of the building.

B. Permitted Obstructions (Decorative Architectural Features) Over Sidewalks (Section 136).

Within the C-3 zoning districts, the Planning Code permits decorative architectural features not increasing the interior floor area or volume of the space enclosed by the building over streets and alleys and into setbacks may project two feet, with a maximum vertical dimension of four feet. Exceptions to the permitted obstructions requirements in Section 136 for projects within the Van Ness & Market Special Use District as defined by Section 309(a)(20). The Commission shall only grant such an exception if it finds that the proposed obstructions assist the proposed development to meet the requirements of Section 148, or otherwise reduce wind speeds at the ground-level or at upper level open space.

The Project includes ground-level decorative architectural features (canopies) along all the frontages of Oak Street and Franklin Street to assist the proposed development in meeting the requirements of Section 148 or otherwise reduce wind speeds at the ground-level. Implementation of Mitigation Measure M-WI-1b (included within the MMRP for the Project), requires a maintenance plan for landscaping and wind baffling measures in the public right-of-way. This mitigation measure would reduce the potential for a net increase in wind hazard exceedances and the hours of wind hazard exceedances through a specific maintenance plan to ensure wind baffling in perpetuity. The canopies extend to the following maximum projections (beyond property lines): up to 8 feet along the Oak Street frontage; and up to 8 feet along the Franklin Street frontage.

While these decorative canopies would project up to a maximum of 8 feet beyond the property lines of the Site, exceeding horizontal dimension permitted by Section 136(d), each of the canopies are located above the minimum vertical clearance (7.5') from sidewalk grade, as required by Code. The canopy along Franklin Street would reach a maximum height of approximately 67' 4", while the canopy along Oak Street would reach a maximum height of approximately 19 feet above grade. However, because each of these decorative canopies exceed the projection limits established by Code, an exception under the (Section 309) Downtown Project Authorization process is required.

Conclusion

The exception to the permitted obstructions requirements (Section 136) is therefore warranted since the decorative canopies would assist the proposed development in meeting the requirements of Section 148 or otherwise reducing wind speeds at the ground-level.

- C. **Dwelling Unit Exposure (Section 140).** The Planning Code requires that at least one room of each dwelling unit must face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

Of the 345 dwelling units proposed, 209 face on to either Franklin Street or Oak Street. 136 dwelling units face only the mid-block open space provided to the east or south of the proposed tower. The space provided at the interior of the lot on these sides is an irregularly shaped space equal to 25% or more of the lot area, but is not 25% of the lot depth or a minimum in all locations of 15 feet, meaning an exception pursuant to Section 309 is required. Adequate light and air is provided to the units because the adjacent buildings to the south and east of the Project are recently constructed residential buildings and are between 85' and 120', respectively. Only 6 of the 136 dwelling units facing the south or east mid-block open space are below the respective adjacent building's roofline. For the 6 dwelling units below the respective adjacent building's roofline, the adjacent buildings' wall do not have windows facing the shared property lines with the Project.

Conclusion

The exception to the unit exposure requirements (Section 140) is therefore warranted as the dwelling units that do not meet the area and horizontal dimension requirements are provided adequate light and air.

- D. **Reduction of Ground-Level Wind Currents in C-3 Districts.** The Planning Code requires new buildings in the C-3 Districts to be shaped or otherwise designed with wind-baffling measures, so that the development will not cause ground-level wind current to exceed, more than 10 percent of the time year round, between 7:00am and 6:00pm, the comfort level of 11 m.p.h. equivalent wind speed in areas of substantial pedestrian use and seven m.p.h. equivalent wind speed in public seating areas. When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements.

Exceptions can be granted pursuant to Section 309 allowing the building to add to the amount of time the comfort level is exceeded if (1) the building cannot be shaped and other wind-baffling features cannot be adopted without creating an unattractive and ungainly building form, and without unduly restricting the development potential of the site; and (2) the addition is insubstantial, either due to the limited amount of exceedances, the limited location where the exceedances take place, or the short time when the exceedances occur. No exception shall be granted, and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

Background

The Hub Plan FEIR analyzed potential wind impacts that could occur as a result of the Hub Plan, the two individual development projects (30 Van Ness Avenue and 98 Franklin Street), the Hub Housing Sustainability District (HSD), and cumulative conditions. A qualified wind consultant (Rowan Williams Davies & Irwin Inc., "RWDI") analyzed ground-level wind currents in the vicinity of the Site through a series of wind studies. Wind studies were prepared for the Hub Plan, in addition to two individual development projects (30 Van Ness Avenue and 98 Franklin Street) using wind testing analysis and evaluation methods to determine conformity with Section 148 criteria. The wind studies measured wind speeds for the existing, existing plus project, and cumulative scenario. The cumulative scenario included massing models of other potential future development in the vicinity of the Hub Plan Area. The wind measurement locations for the Project are the same as the ones used for the Hub Plan Area. Wind speed measurements were taken at a total 181 locations for the Hub Plan EIR and cumulative scenarios whereas a total of 58 Project-specific test locations were included in the assessment of potential comfort level wind impacts for the Project.

Hazard Criterion

The wind studies found that, under existing conditions, 9 of the 58 locations exceeded the 26-mph wind hazard criterion for a total of 305 hours per year. With the addition of design features, such as an overhead canopy and landscaping, some existing on-site and nearby windy areas are expected to improve the wind hazard conditions compared to existing conditions. As such, with the addition of the Project, the number of locations with hazardous wind conditions would be reduced from 9 to 8, with the total duration of wind hazards decreasing from 305 to 289 hours. As the proposed landscaping is not guaranteed to be maintained during operation of the Project, impacts would be significant under CEQA. Implementation of Mitigation Measure M-WI-1b (included within the MMRP), requires a maintenance plan for landscaping and wind baffling measures in the public right-of-way.

Pedestrian/Seating Comfort Criterion

The wind studies found that, under the existing scenario, wind speeds exceed the 11-mph comfort criterion at 45 out of 58 test locations, averaging 14.1 mph across all test locations. With the addition of the Project, a small net increase (0.6 mph) in wind speeds is expected as compared to the existing scenario. While the Project would eliminate existing wind comfort exceedances at 4 test locations, it would create wind comfort exceedances at other locations and wind speeds at a total of 51 locations would exceed the comfort criterion of 11 mph for pedestrians, resulting in a net increase of 6 test locations as compared to the existing scenario. With implementation of the Project, the average wind speeds would increase to 14.7 mph, exceeding the 11-mph comfort criterion approximately 25 percent of the time, representing a 3 percent increase compared to existing conditions.

Conclusion

The Project would result in a net decrease of test locations exceeding the wind hazard criterion. In addition, the total number of hours with hazardous wind conditions would decrease by 16 hours under the Project. The addition of the proposed onsite landscaping (along with the combination of other wind control measures) is expected to improve the wind hazard conditions compared to the Existing Scenario.

The net addition of 6 pedestrian comfort criterion exceedances and the total 51 pedestrian comfort criterion exceedances requires an exception under the (Section 309) Downtown Project Authorization process. The exception to the ground-level wind current requirements (Section 148) is warranted since it is unlikely that the Project could be designed in a manner that would eliminate all existing comfort criterion exceedances. Moreover, the 0.6 mph net increase in wind speed across the 6 net new comfort exceedance test locations is insubstantial due to the relatively short time (3 percent) when the exceedances would occur.

- E. **Dwelling Unit Mix (Sections 207.6 and 249.33).** For projects located within the Van Ness & Market Residential Special Use District, the Planning Code requires a dwelling unit mix of either: 1) no less than 40% of the total number of proposed dwelling units shall contain at least two bedrooms; or 2) no less than 30% as three bedroom units; or 3) no less than 35% as two or three bedroom units, with at least 10% as three bedroom units. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.

The Project will provide a total of 345 dwelling units, with the following dwelling unit mix: 259 studio and one-bedroom units (75%), 52 two-bedroom units (15%), and 35 three-bedroom units (10%). With 63% of the dwelling units containing at least two-bedroom units (of which 14% are three-bedroom units), the Project exceeds the dwelling unit mix requirement established by Code. Therefore, an exception is required pursuant to Section 309. In considering an exception, the Commission shall consider whether the Project demonstrates a need or mission to serve unique populations or whether the Project site features physical constraints that make it unreasonable to fulfill the requirements of Section 207.6 or subsection 309(a)(19)(i). Here, the Project proposes to exceed Code-required affordable housing requirements by providing 20% of units (69 units) at rents affordable at 50% AMI, thereby providing a substantial amount of new housing affordable to households considered to be low income pursuant to Section 415.

Conclusion

The exception to the unit mix requirement (Section 207.6) is therefore warranted as the project will provide a substantial amount of new housing affordable to households considered to be low income pursuant to Section 415.

- F. **Height (Section 263.19).** In the R-2 bulk district and within the Van Ness and Market Residential Special Use District, maximum permitted building heights for both podiums and towers are expressed as two sets of numbers separated by a double slash. Each set of numbers represents the maximum heights for podium and tower applicable to the parcel and as regulated as follows: The first set of numbers represents the principally permitted height limits for the parcel, both for the podium and for the tower. The second set of numbers after the double slash represents the maximum height limits for podium and tower that can be granted by the Commission for that parcel through an exception pursuant to the procedures and findings of Section 309(a)(17). In considering such exceptions, the Commission shall consider the extent to which the project achieves the following: (A) sculpts the building massing to

achieve an elegant and creative tower form that enhances the skyline; (B) reduces or minimizes potential impacts on winds and shadows; (C) provides community-serving uses, including neighborhood-oriented retail, arts, social services or public-serving uses, particularly on the ground floor; and (D) maximizes housing density within the allowed envelope.

The Site is located within the 85-X // 120/365-R-2 Height and Bulk District. The Project would construct a 5-story podium reaching a maximum height of 68', with a tower reaching a maximum finished roof height of 365', within the maximum allowable podium and tower height limits as permitted under Section 263.19, with benefit of a Section 309 exception for height.

The design of the tower features a prominent, angled shape, with each facade of the tower inset in the center (through sequentially receded window lines), such that each face of the tower presents two distinct faces. The result is a tower form that is visually distinctive from, yet also compatible with nearby towers. The tower's design results in reduced wind and shadow impacts. Further, the Project includes neighborhood-oriented retail uses on the ground floor, as well as a community-serving school use with active uses at street level. Finally, the Project maximizes residential density on the Site with 345 dwelling units located within the tower.

Conclusion

The exception for height is therefore warranted as the Project achieves all four of the required criteria for granting additional height on parcels within the Van Ness & Market Residential Use District.

- G. **Bulk (Section 270).** In the R-2 Bulk District and within the Van Ness & Market Residential Special Use District, there are no bulk limitations below the podium height, and structures above the podium height shall meet the bulk limitations in Section 270(e)(2)(A-E). To ensure tower sculpting, the gross floor area of the top one-third of the height of the tower shall be reduced by not less than 10 percent from the maximum floor plates and the average diagonal of the top one-third by not less than 13% from the average diagonal of the tower, unless the overall volume is reduced by an equal or greater volume.

In the R-2 bulk district, the Commission may grant bulk exceptions through the procedures and findings of Section 309(a)(17) to increase the allowed bulk of buildings up to the limits described in subsections (A) – (D) below. The procedures for granting exceptions to bulk limits described in Section 272 shall not apply.

(A) Towers up to 350 feet in height may not exceed an average floor area of 10,000 square feet.

(B) Towers taller than 350 feet may not exceed an average floor area of 12,000 square feet, maximum plan length of 150 feet, and maximum diagonal dimension of 190 feet.

(C) Towers taller than 550 feet in height districts of 590 feet and greater may not exceed an average floor area of 18,500 square feet between a podium height of 140 feet and 170 feet. Building mass above 140 feet shall be set back at least 10 feet from the property line for a minimum of 90% of all street frontages.

(D) Exceptions to the tower sculpting requirements may be considered up to the limits as follows:

- (i) For towers less than 400 feet, the provision may be fully waived.
- (ii) For Towers taller than 400 feet in height, at least one-quarter of the tower's floors shall be reduced by not less than 9% from the maximum floor areas described in (2)(B) above.
- (iii) For towers between 500 and 550 feet in height, the average diagonal of the upper one-third of the height of the tower shall be reduced by not less than 5% of maximum diagonal dimension described in subsection (e).

In considering such exceptions, the Commission shall consider the extent to which the project achieves the following: (A) sculpts the building massing to achieve an elegant and creative tower form that enhances the skyline; (B) reduces or minimizes potential impacts on winds and shadows; (C) provides community-serving uses, including neighborhood-oriented retail, arts, social services or public-serving uses, particularly on the ground floor; and (D) maximizes housing density within the allowed envelope.

The Project's tower includes an average floor area of approximately 11,577 sf, while the maximum plan length is 130' and the maximum diagonal dimension is 170'3.5", all of which are within the limits established by Code. However, the gross floor area of the top one-third of the height of the tower is only reduced by approximately 5 percent from the maximum floor plates, where a ten percent reduction is required by Code. Further, the average diagonal of the top one-third of the tower is not reduced where a 13 percent reduction is required by Code.

The design of the tower features a prominent, angled shape, with each facade of the tower inset in the center (through sequentially receded window lines), such that each face of the tower presents two distinct faces. The result is a tower form that is visually distinctive from, yet also compatible with nearby towers. The tower's design results in reduced wind and shadow impacts. Further, the Project includes neighborhood-oriented retail uses on the ground floor, as well as a community-serving school use with active uses at street level. Finally, the Project maximizes residential density on the Site with 345 dwelling units located within the tower.

Conclusion

The exception for bulk is therefore warranted as the Project achieves all four of the required criteria for granting bulk exceptions on parcels within the Van Ness & Market Residential Use District.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan, the Downtown Area Plan, and the Market and Octavia Plan Area Plan as follows:

GENERAL PLAN: HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 4

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

Policy 4.1

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

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 5

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4

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

OBJECTIVE 11

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

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

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

Policy 11.6

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

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.1

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

Policy 12.3

Ensure new housing is sustainably supported by the City's public infrastructure systems.

OBJECTIVE 13

PRIORITIZE SUSTAINABLE DEVELOPMENT IN PLANNING FOR AND CONSTRUCTING NEW HOUSING.

Policy 13.1

Support "smart" regional growth that located new housing close to jobs and transit.

Policy 13.3

Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

The Project would develop a mixed-use school and residential tower development on an existing surface parking lot located near two of the City's most utilized streets (Market Street and Van Ness Avenue), furthering numerous policies that support a vision for "The Hub" as a vibrant, new mixed-use neighborhood. One of the overarching goals of the Market Octavia Plan Amendment is to concentrate additional growth where it is most responsible and productive to do so — maximizing residential density and on-site affordable housing near public transit service.

This Project implements the vision of the Market and Octavia Area Plan through the construction of 345 dwelling units with 20% provided as on-site affordable units, approximately 84,815 gross square feet of school use, and ground floor retail. The Project would add a significant amount of housing to a site that is currently undeveloped, well-served by existing and future transit, and is within walking distance of substantial goods and services. Future residents can walk, bike, or access BART, MUNI, or regional bus service from the Site, furthering access for all residents at all income levels.

GENERAL PLAN: URBAN DESIGN ELEMENT

OBJECTIVE 1

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

Policy 1.3

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

Policy 1.7

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 3

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

Policy 3.1

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

Policy 3.3

Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

The Project would develop a mixed-use school and residential tower development on an existing surface parking lot located near two of the City's most utilized streets (Market Street and Van Ness Avenue), furthering numerous policies that support a vision for "The Hub" as a vibrant, new mixed-use neighborhood.

This Project implements the vision of the Downtown Area Plan, the Van Ness & Market Residential Use District, and "the Hub" as it is specifically designed to contribute a distinctive, and complementary massing to the city's skyline as shaped by the cluster of new high-rise buildings in "the Hub," as well as contribute to a vibrant street level experience.

GENERAL PLAN: TRANSPORTATION

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 1.2

Ensure the safety and comfort of pedestrians throughout the city.

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 1.6

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 2

USE THE EXISTING TRANSPORTATION INFRASTRUCTURE AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development and coordinate new facilities with public and private development.

The Project would develop a mixed-use school and residential tower development on an existing surface parking lot located near two of the City's most utilized streets (Market Street and Van Ness Avenue), and is well-served by existing and future transit, and is within walking distance of substantial goods and services. Future residents can walk, bike, or access BART, MUNI, or regional bus service from the Site. The Project is designed to contribute a distinctive, and complementary streetscape along with others in the cluster of new high-rise buildings in "the Hub," to better contribute to a vibrant street level experience.

DOWNTOWN AREA PLAN

OBJECTIVE 7

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.1

Promote the inclusion of housing in downtown commercial developments.

Policy 7.2

Facilitate conversion of underused industrial and commercial areas to residential use.

OBJECTIVE 13

CREATE AN URBAN FORM FOR DOWNTOWN THAT ENHANCES SAN FRANCISCO'S STATURE AS ONE OF THE WORLD'S MOST VISUALLY ATTRACTIVE CITIES.

Policy 13.1

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing and proposed development.

The Project would develop a mixed-use school and residential tower development on an existing surface parking lot located near two of the City's most utilized streets (Market Street and Van Ness Avenue), furthering numerous policies that support a vision for "The Hub" as a vibrant, new mixed-use neighborhood.

This Project implements the vision of the Downtown Area Plan through the construction of 345 dwelling units with 20% provided as on-site affordable units, approximately 84,815 gross square feet of school use, and ground floor retail. The Project would add a significant amount of housing to a site that is currently undeveloped, well-served by existing and future transit, and is within walking distance of substantial goods and services. Future residents can walk, bike, or access BART, MUNI, or regional bus service from the Site. The Project is designed to contribute a distinctive, and complementary massing to the city's skyline as shaped by the cluster of new high-rise buildings in "the Hub," as well as contribute to a vibrant street level experience.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 1.1

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A SUSTAINABLE MIXED-USE URBAN NEIGHBORHOOD.

Policy 1.1.2

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

Policy 1.1.5

Reinforce the importance of Market Street as the city's cultural and ceremonial spine.

Policy 1.1.8

Reinforce continuous retail activities on Market, Church, and Hayes Streets, as well as on Van Ness Avenue.

OBJECTIVE 1.2

ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

Policy 1.2.2

Maximize housing opportunities and encourage high-quality commercial spaces on the ground floor.

Policy 1.2.5

Mark the intersection of Van Ness Avenue and Market Street as a visual landmark.

Policy 1.2.7

Encourage new mixed-use infill on Market Street with a scale and stature appropriate for the varying conditions along its length.

OBJECTIVE 2.2

ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.2

Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4

Encourage new housing above ground-floor commercial uses in new development and in expansion of existing commercial buildings.

Policy 2.2.7

Without rendering new projects infeasible, increase affordable housing or other requirements on market rate residential and commercial development projects to provide additional affordable housing.

OBJECTIVE 3.1

ENCOURAGE NEW BUILDINGS THAT CONTRIBUTE TO THE BEAUTY OF THE BUILT ENVIRONMENT AND THE QUALITY OF STREETS AS PUBLIC SPACE.

Policy 3.1.1

Ensure that new development adheres to principles of good urban design.

OBJECTIVE 4.3

REINFORCE THE SIGNIFICANCE OF THE MARKET STREET STREETSCAPE AND CELEBRATE ITS PROMINENCE AS SAN FRANCISCO'S SYMBOLIC "MAIN STREET."

Policy 4.3.3

Mark the intersections of Market Street with Van Ness Avenue, Octavia Boulevard, and Dolores Street with streetscape elements that celebrate their particular significance.

The Project would develop a mixed-use school and residential tower development on an existing surface parking lot located near two of the City's most utilized streets (Market Street and Van Ness Avenue), furthering numerous policies that support a vision for "The Hub" as a vibrant, new mixed-use neighborhood. One of the overarching goals of the Market Octavia Plan Amendment is to concentrate additional growth where it is most responsible and productive to do so — maximizing residential density and on-site affordable housing near public transit service. The increase in development, in turn, will provide additional revenue for the necessary improvements and infrastructure within the Van Ness & Market Residential Use District.

This Project implements the vision of the Market and Octavia Area Plan through the construction of 345 dwelling units with 20% provided as on-site affordable units, approximately 84,815 gross square feet of school use, and ground floor retail. The Project would add a significant amount of housing to a site that is currently undeveloped, well-served by existing and future transit, and is within walking distance of substantial goods and services. Future residents can walk, bike, or access BART, MUNI, or regional bus service from the Site. The Project is designed to contribute a distinctive, and complementary massing to the city's skyline as shaped by the cluster of new high-rise buildings in the Hub, as well as contribute to a vibrant street level experience.

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

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

The Project would have a positive effect on existing neighborhood-serving retail uses because it would bring additional residents to the neighborhood, thus increasing the customer base of existing neighborhood-serving retail. The Project will provide employment opportunities with the addition of retail uses at the ground level and school uses within the podium.

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

The Project would not negatively affect the existing housing and neighborhood character. The Site is currently used as a surface parking lot. The Project's unique mixed-use program provides amenities to

visitors and residents, and contributes significantly to the neighborhood character envisioned by the Market and Octavia Area Plan.

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

The Project would not displace any housing given the Site contains only non-residential, automotive parking uses. The Project would improve the existing character of the neighborhood by developing a high-density, mixed-use building containing 345 dwelling units, including the provision of no less than 20 percent of units (or 69 units) as on-site inclusionary affordable units.

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

The Project would not impede MUNI transit service or overburden local streets or parking. The Project is located in one of the most transit-rich environs in the city and would therefore promote rather than impede the use of MUNI transit service. Future residents and employees of the Project could access both the existing MUNI rail and bus services. The Project also provides a nominal amount of off-street parking for future residents so that neighborhood parking will not be overburdened by the addition of new residents.

- 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 mixed-use Project would not negatively affect the industrial and service sectors, nor would it displace any existing industrial uses. The Project would also be consistent with the character of existing development in the neighborhood, which is characterized by neighborhood-serving ground floor retail within residential high-rise buildings, as well as a number of longstanding institutional and public uses.

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

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

- G. That landmarks and historic buildings be preserved.

Currently, the Site does not contain any City Landmarks or historic buildings.

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

A Shadow Study indicated the Project may cast a shadow on the following four (4) properties under the jurisdiction of the San Francisco Recreation and Park Department: Koshland Community Park; Patricia's Green; Page & Laguna Mini Park; and the future 11th/Natoma park site. However, based upon the amount and duration of new shadow and the importance of sunlight to each of the open spaces analyzed, the Project would not substantially affect, in an adverse manner, the use or enjoyment of these open spaces beyond what was analyzed and disclosed in the Hub Plan FEIR. The Project would not otherwise shadow public plazas and other publicly-accessible spaces other than those protected under Section 295.

10. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Downtown Project 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 Downtown Project Authorization Application No. 2016-014802DNX** subject to the following conditions attached hereto as “EXHIBIT A” in general conformance with plans on file, dated May 11 2020, and stamped “EXHIBIT B”, which is incorporated herein by reference as though fully set forth.

The Commission hereby adopts the MMRP attached hereto as “EXHIBIT C” and incorporated herein as part of this Motion by this reference thereto. All required improvement and mitigation measures identified in the Hub Plan FEIR and contained in the MMRP are included as Conditions of Approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the later of (a) the effective date of the ordinances approving the amendments to the Planning Code and General Plan required to conform the Project as shown in “EXHIBIT B” to the Planning Code and General Plan (if this Authorization is not appealed to the Board of Appeals), or (b) the date of the decision of the Board of Appeals if appealed to the Board of Appeals. Any appeal shall be made to the Board of Appeals, unless an associated entitlement is appealed to the Board of Supervisors, in which case the appeal of this Motion shall also be made to the Board of Supervisors (see Charter Section 4.135). For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103, or the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Commission ADOPTED the foregoing Motion on May 28, 2020.



Jonas P. Ionin
Commission Secretary

AYES: Koppel, Moore, Fung, Johnson, Imperial, Diamond, Chan

NAYS: None

ABSENT: None

ADOPTED: May 28, 2020

EXHIBIT A

AUTHORIZATION

This authorization is for a **Downtown Project Authorization and Request for Exceptions** relating to a Project that would allow for the construction of mixed-use building up to 365-feet tall (396 feet, 8 inches inclusive of rooftop mechanical features) with a total gross floor area of approximately 449,406 gross square feet, including 345 dwelling units, approximately 84,815 gross square feet of school use, and approximately 3,229 gross square feet of retail uses located at 98 Franklin Street, within Assessor's Block 0836, Lots 008, 009, 013, pursuant to Planning Code Sections 135, 136, 140, 148, 210.2, 249.33, 263.19, 270 and 309 within the C-3-G (Downtown General Commercial) Zoning District and 85-X // 120/365-R-2 Height and Bulk District, in general conformance with plans, dated May 11, 2020, and stamped "EXHIBIT B" included in the docket for Record No. **2016-014802DNX** and subject to conditions of approval reviewed and approved by the Commission on **May 28, 2020** under Motion No. **20728**. 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 Commission on **May 28, 2020** under Motion No. **20728**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the "EXHIBIT A" of this Commission Motion No. **20728** 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 Downtown Project Authorization and Request for Exceptions 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 Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period, unless an extension is granted by the Zoning Administrator as described below. .

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

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by an Act of God (such as pandemic or earthquake), a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

6. **Additional Project Authorization.** The Project Sponsor must obtain approval of an Ordinance amending the General Plan to amend the Market and Octavia Plan; an Ordinance amending the Planning Code to update the Market and Octavia Area Plan; and an Ordinance amending the Zoning Map to change the height and bulk classifications on the Project site. The Project Sponsor also requires the adoption of shadow findings, pursuant to Section 295.

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

7. **Mitigation Measures.** Mitigation measures described in the MMRP attached as “EXHIBIT C” are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

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

ENTERTAINMENT COMMISSION – NOISE ATTENUATION CONDITIONS

8. **Chapter 116 Residential Projects.** The Project Sponsor shall comply with the “Recommended Noise Attenuation Conditions for Chapter 116 Residential Projects,” which were recommended by the Entertainment Commission on February 21, 2020. These conditions state:

- A. **Community Outreach.** Project Sponsor shall include in its community outreach process any businesses located within 300 feet of the proposed project that operate between the hours of 9PM-5AM. Notice shall be made in person, written or electronic form (email).

- B. **Sound Study.** Project sponsor shall conduct an acoustical sound study, which shall include sound readings taken when performances are taking place at the proximate Places of Entertainment, as well as when patrons arrive and leave these locations at closing time. Readings should be taken at locations that most accurately capture sound from the Place of Entertainment to best of their ability. Any recommendation(s) in the sound study regarding window glaze ratings and soundproofing materials including but not limited to walls, doors, roofing, etc. shall be given highest consideration by the project sponsor when designing and building the project.

- C. **Design Considerations.**

- i. During design phase, project sponsor shall consider the entrance and egress location and paths of travel at the Place(s) of Entertainment in designing the location of (a) any entrance/egress for the residential building and (b) any parking garage in the building.
- ii. In designing doors, windows, and other openings for the residential building, project sponsor should consider the POE’s operations and noise during all hours of the day and night.
- iii. During the design phase, project sponsor shall consider an outdoor lighting plan at the development site to protect residents as well as patrons of surrounding Places of Entertainment.

- D. **Construction Impacts.** Project sponsor shall communicate with adjacent or nearby Place(s) of Entertainment as to the construction schedule, daytime and nighttime, and consider how this schedule and any storage of construction materials may impact the POE operations.
- E. **Communication.** Project Sponsor shall make a cell phone number available to Place(s) of Entertainment management during all phases of development through construction. In addition, a line of communication should be created to ongoing building management throughout the occupation phase and beyond.

DESIGN – COMPLIANCE AT PLAN STAGE

- 9. **Final Materials.** The Project Sponsor shall continue to work with Department staff 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 Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
- 10. **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
- 11. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the 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
- 12. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with 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, 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. Contingent upon approval of an in-kind agreement crediting the amount owed by the Project under the Market and Octavia Community Infrastructure Fee for the full cost of the improvements, the Project Sponsor may implement streetscape improvements on Lily Street

between Gough and Franklin Streets, conceptual plans for which are included in "EXHIBIT B"; however, improvements on Lily Street are not required pursuant to Section 138.1.

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

13. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Department staff before the Department approves the architectural addendum of the Site Permit for 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

14. **Transformer Vault Location.** 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. Final detail regarding PG&E Transformer Vault location for the Project shall adhere to the Memorandum of Understanding regarding Electrical Transformer Locations for Private Development Projects between Public Works and the Department dated January 2, 2019.

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

15. **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

16. **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

PARKING AND TRAFFIC

17. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project,

which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

Prior to the issuance of the first Building Permit or Site Permit, 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 to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

For information about compliance, contact the TDM Performance Manager at tdm@sfgov.org or 415-558-6377, www.sf-planning.org.

18. **Driveway Operations and Loading Plan.** The Project must prepare and submit a Driveway Operations and Loading Plan (DLOP) in accordance with Planning Code Section 155(u). The DLOP must be submitted prior to issuance of the first site or building permit.

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

19. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

20. **Car Share.** Pursuant to Planning Code Section 166, no fewer than **three (3)** 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

21. **Bicycle Parking** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than **306** Class 1 and **57** Class 2 bicycle parking spaces (**162** Class 1 and **17** Class 2 spaces for the residential portion of the Project and **144** Class 1 and **36** Class 2 spaces for the school portion of the Project and **four** Class 2 spaces for the retail portion of the Project, or other number of Class

1 and Class 2 spaces in compliance with Planning Code Section 155.3). SFMTA has final authority on the type, placement and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

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

22. **Showers and Clothes Lockers.** Pursuant to Planning Code Section 155.3, the Project shall provide no fewer than 4 showers and 24 clothes lockers.

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

23. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 111 off-street parking spaces (not including car share spaces).

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

24. **Off-Street Loading.** Pursuant to Planning Code Section 152, the Project will provide 3 off-street loading spaces (1 freight loading spaces and 2 service vehicle spaces), or another number of off-street loading spaces meeting the requirements of Section 152.

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

25. **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 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

PROVISIONS

26. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

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

27. **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

28. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

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

29. **Jobs-Housing Linkage.** The Project is subject to the Jobs Housing Linkage Fee, as applicable, pursuant to Planning Code Section 413.

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

30. **Residential Child Care Impact Fee.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

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

31. **Inclusionary Affordable Housing Program.** Pursuant to Planning Code Section 415

Affordable Units. The following Inclusionary Affordable Housing Requirements are those in effect at the time of Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

- A. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to comply with the in-lieu fee requirement set forth in Section 415.5, the on-site requirement set forth in Section 415.6 or the off-site requirement in Section 415.7. The Project contains 345 rental dwelling units and has elected to comply by providing on-site affordable units pursuant to Section 415.6, as modified by the Van Ness & Market Residential Special Use District provision regarding income levels set forth in Section 249.33(b)(15); therefore, the Project will include 20% of dwelling units (69 dwelling units) affordable to households with 50% Average Median Income. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD"). If the Project Sponsor elects to provide affordable dwelling units in excess of the 20% of dwelling units described above, those additional affordable dwelling units would not be subject to the requirements and standards of Code Section 415.

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

- B. **Notice of Special Restrictions.** The affordable units required pursuant to this condition shall be shown on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to architectural addenda. The designation shall comply with the designation standards published by the Department and updated periodically.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.
- C. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.
- D. **Expiration of the Inclusionary Rate.** Pursuant to Planning Code Section 415.6(a)(10), if the Project has not obtained a site or building permit within 30 months of Commission Approval of this Motion No. 20728, then it is subject to the Inclusionary Affordable Housing Requirements in effect at the time of site or building permit issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.
- E. **Reduction of On-Site Units after Project Approval.** Pursuant to Planning Code Section 415.5(g)(3), any changes by the project sponsor which result in the reduction of the number of on-site affordable units shall require public notice for hearing and approval from the Commission.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.
- F. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code, and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Department or MOHCD websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the

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

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

- i. The affordable unit(s) required pursuant to this condition shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (2) be distributed throughout the building in accordance with the requirements of the Planning Code; and (3) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- ii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- iii. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- iv. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- v. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law, including penalties and interest, if applicable.

32. Market Octavia Affordable Housing Fee. The Project is subject to the Market and Octavia Affordable Housing Fee, as applicable, pursuant to Planning Code Section 416.

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

33. **Market Octavia Community Improvements Fee.** The Project is subject to the Market and Octavia Community Improvements Fee, as applicable, pursuant to Planning Code Section 421.

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

34. **Market and Octavia – Van Ness & Market Street Affordable Housing Fee.** The Project is subject to the Market and Octavia – Van Ness & Market Affordable Housing Fee, as applicable, pursuant to Planning Code Section 424.3.

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

35. **Art.** The Project is subject to the Public Art Fee, as applicable, pursuant to Planning Code Section 429, unless the Project installs public art generally as described in this Motion and as required below.

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

36. **Art Plaques.** Pursuant to Planning Code Section 429(b), the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.

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

37. **Art.** Pursuant to Planning Code Section 429, the Project Sponsor and the Project artist shall consult with the Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application

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

38. **Art.** Pursuant to Planning Code Section 429, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate

assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

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

39. **Art - Residential Projects.** Pursuant to Planning Code Section 429, the Project Sponsor must provide on-site artwork, pay into the Public Artworks Fund, or fulfill the requirement with any combination of on-site artwork or fee payment as long as it equals one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder. Payment into the Public Artworks Fund is due prior to issuance of the first construction document.

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

MONITORING - AFTER ENTITLEMENT

40. **Enforcement.** Violation of any of the 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 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

41. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Department for information about compliance.

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

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

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

OPERATION

43. **Eating and Drinking Uses.** As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section [102](#), shall be subject to the following conditions:

- A. The business operator 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 Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section [34](#) of the San Francisco Police Code.

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

- B. When located within an enclosed space, 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 of 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.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 415-558-6570, www.sfdbi.org.

For information about compliance with the requirements for amplified sound, including music and television, contact the Police Department at 415-553-0123, www.sf-police.org.

- C. 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 and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

- D. 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 the Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>.

44. **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>

45. **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 and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups 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

46. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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