



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 20293

HEARING DATE: SEPTEMBER 27, 2018

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Record No.: 2015-010013ENV~~DN~~XVARSHD
Project Address: 30 OTIS STREET
Zoning: C-3-G (Downtown – General) Zoning District
NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District
85/250-R-2 Height and Bulk District
85-X Height and Bulk District
Van Ness & Market Downtown Residential Special Use District
Block/Lot: Block 3505; Lots 010, 012, 013, 016, and 018
Project Sponsor: Jessie Stuart, Align Real Estate
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ADOPTING FINDINGS TO APPROVE A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR LOT COVERAGE (SECTION 249.33) AND REDUCTION OF GROUND-LEVEL WIND CURRENTS (SECTION 148) AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PROJECT WOULD DEMOLISH FIVE EXISTING BUILDINGS AND CONSTRUCT A 398,365 SQUARE FOOT MIXED USE BUILDING WITH A 9-STORY (85-FOOT TALL) PODIUM ACROSS THE ENTIRE SITE AND A 26-STORY (250-FOOT TALL) TOWER. THE PROJECT WOULD CONTAIN 416 DWELLING UNITS, APPROXIMATELY 2,199 SQUARE FEET OF GROUND FLOOR RETAIL, APPROXIMATELY 15,993 SQUARE FEET OF ARTS AND ACTIVITIES SPACE, APPROXIMATELY 31,290 SQUARE FEET OF USEABLE OPEN SPACE, 256 BICYCLE PARKING SPACES (224 CLASS 1, 32 CLASS 2), AND 95 VEHICULAR PARKING SPACES AND THREE CAR-SHARE SPACES WITHIN THE DOWNTOWN-GENERAL (C-3-G) ZONING DISTRICT, THE MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT-3), THE 85/250-R-2 AND 85-X HEIGHT AND BULK DISTRICTS, AND THE VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT.

PREAMBLE

On September 23, 2015, Align Real Estate (hereinafter "Project Sponsor") filed an Environmental Evaluation application (2015-010013ENV) with the Planning Department (hereinafter "Department") for a project at 30 Otis Street, to include the properties at Block 3505, Lots 010, 012, 013, 016 and 018 (hereinafter "Project Site").

On May 10, 2016, the Project Sponsor filed an application requesting approval of a Downtown Project Authorization pursuant to Section 309 of the San Francisco Planning Code.

On July 20, 2016, the Project Sponsor filed an application requesting a Shadow Determination.

On June 19, 2017, the Project Sponsor filed an application requesting approval of a Transportation Demand Management Program pursuant to Section 169 of the San Francisco Planning Code.

On March 8, 2018, the Project Sponsor filed an application for and an In-Kind Fee Waiver Agreement for public realm improvements pursuant to Planning Code Sections 421.3(d) and 424.3(c).

On August 24, 2018, the Project Sponsor submitted applications requesting approval of a.) Variances for Awning obstructions (Planning Code Section 136.1), Dwelling Unit Exposure (Planning Code Section 140), and Ground Floor Ceiling Height (Planning Code Section 145.1(c)(4)); b.) a Rear Yard Modification pursuant to Planning Code Section 134(e)(1); and, c.) an Elevator Penthouse Height Exemption, pursuant to Planning Code Section 260(b)(1)(B).

On July 19, 2018 the San Francisco Planning Commission (hereinafter "Commission") held a duly noticed public hearing on the Draft Environmental Impact Report ("DEIR"), at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the DEIR ended on July 27, 2018. The Department prepared responses to comments on environmental issues received during the 45-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.

On September 13, 2018, the Planning Department published a Response to Comments ("RTC") on the DEIR. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the public review process, any additional information that became available, and the RTC document, all as required by law.

On September 27, 2018, the Commission reviewed and considered 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 the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The FEIR was certified by the Commission on September 27, 2018 by adoption of its Motion No. 20291.

At the same hearing and in conjunction with this motion, the Commission made and adopted findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to CEQA, the CEQA Guidelines, and Chapter 31 by its Motion No. 20292. The

Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting these CEQA findings. The Commission hereby incorporates by reference the CEQA findings set forth in Motion No. 20292.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

On September 27, 2018, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting regarding the Downtown Project Authorization, Variance and Rear Yard Modification applications 2015-010013ENV~~DN~~XVARSHD. At the same hearing, the Commission determined that the shadow cast by the Project would not have any adverse effect on parks within the jurisdiction of the Recreation and Parks Department. The Commission heard and considered the testimony presented to it at the public hearing and further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties, and the record as a whole.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2015-010013ENV~~DN~~XVARSHD is located at 1650 Mission Street, Suite 400, San Francisco, California.

MOVED, that the Commission hereby approves the Downtown Project Authorization as requested in Application No. 2015-010013ENV~~DN~~XVARSHD, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The Project would demolish the five existing buildings and construct a new 398,365 gross square-foot mixed-use building containing 416 residential units, 2,199 square feet of retail, 15,993 square feet of arts activities space and a theater to be occupied by the City Ballet School. The project provides 95 residential parking spaces, three car-share spaces, a total of 224 Class 1 bicycle parking spaces and 32 Class 2 bicycle parking spaces. The building consists of a 9-story, 85-foot tall podium across the entire site and a 26-story, 250-foot tall tower located at the southeast corner of the site, at the Otis and 12th Street intersection. The project provides approximately 31,290 square feet of usable open space including a privately owned public space along Otis Street. Additionally, the project would expand the 15-foot wide sidewalk on the west side of 12th Street to create an approximately 7,200 square foot public plaza ranging from 17 to 77 feet wide at the corner of 12th Street and South Van Ness Avenue.

3. **Site Description and Present Use.** The Project Site is located at 30 Otis Street at the intersection of Otis and 12th Streets and South Van Ness Avenue (U.S. 101) in the South of Market ("SoMa") neighborhood, within both the Downtown and the Market/Octavia Area Plan; the Project Site is also located within the pending Hub Area of the Market/Octavia Area Plan.

The Project Site is made up of five contiguous lots within Assessor's Block 3505, Lots 010, 012, 013, 016 and 018; in total, a 36,042 square-foot (sf) site with frontage along Otis Street to the north, 12th Street to the west, and Colusa Alley and Chase Court to the south. The Project Site measures about 251 feet along the Otis Street frontage, 150 feet along 12th Street, and 120 feet along the Colusa Alley and Chase Court frontage. The parcel at 74 12th Street (Lot 010) is developed with a one-story building occupied by an automotive auto body repair use. 90-98 12th Street (Lot 012) is developed with a one-story plus mezzanine building used for retail sales. The parcel at 14-18 Otis Street (Lot 013) is developed with a three-story building occupied by office use. The largest parcel, 30 Otis (Lot 016), houses a two-story building used for automotive glass repair on the first floor and a ballet school (City Ballet School) on the second floor. The last parcel, 38 Otis (Lot 18) is occupied by a one-story building used for automotive repair.

In addition to the building site, the Project site also includes surrounding areas within the adjacent public rights-of-way in which streetscape improvements including a public plaza would be constructed as part of the proposed Project.

4. **Surrounding Properties and Neighborhood.** The Project site is located in the C-3-G (Downtown Commercial, General) District, characterized by a variety of retail, office, hotel, entertainment, and institutional uses, and high-density residential. A portion of the Project site is also located in the NCT-3 (Moderate-Scale Neighborhood Commercial Transit) District, which is intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods.

The existing buildings on the surrounding block are mostly smaller structures, one- to three-stories in height and predominantly occupied by commercial and industrial uses, including multiple automotive shops. To the west of the site along Brady Street are a limited number of residential buildings, two- to four-stories in height. There is also an existing five-story residential hotel (Civic Center Hotel) to the north at 20 12th Street (a.k.a. 1601 Market Street).

There are several proposed developments within the immediate vicinity that will significantly alter the existing neighborhood character, most notably through a significant increase in residential units. Not including the subject project, it is anticipated that these developments would result in approximately 2,200 new dwelling units. The anticipated developments include: a) 1629 Market Street – five new buildings, approx. 584 units and rehabilitation of the Civic Center Hotel, new retail and assembly space, and the new Brady Park; b) 42 Otis – 24 SRO units and ground floor retail; c) 10 South Van Ness – approx. 850 units; d) 1500 Mission Street –

approx. 550 dwelling units and a City office building; and e) 1601 Mission Street – approx. 220 dwelling units.

The Project Site is bounded by Otis Street to the south and 12th Street and South Van Ness Avenue to the east, all of which are proposed for extensive streetscape improvements and redesign, including major transit improvements in the way of new bicycle lanes, a bus island, and most notably, construction of the Van Ness Bus Rapid Transit (BRT) project.

5. **Public Outreach and Comments.** To date, the Department has not received any public comments on the proposal, outside of the comments that have already been documented and incorporated into the Environmental Impact Report.

The Project has been in the pipeline since September 2015 when the Environmental Evaluation Application was first submitted. On April 19, 2016, the Project Sponsor hosted a pre-application/community meeting, which was held at 95 Brady Street. Since time of submittal in September 2015, the Project Sponsor has been actively engaged with neighbors and community groups and has presented at or hosted more than 40 large, small, and one-on-one meetings to review the proposed project and streetscape design. The Project Sponsor has reviewed the project with all adjacent neighbors and project sponsors of proposed projects within the vicinity.

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. **Floor Area Ratio.** Pursuant to Sections 123, 249.33 and 424 of the Planning Code, Projects in the C-3-G Zoning District and the Van Ness and Market Downtown Residential Special Use District have a base floor area ratio ("FAR") of 6.0:1 and may reach a FAR of 9.0:1 with payment into the Van Ness and Market Affordable Housing Fund as set forth in Sections 249.33 and 424. To exceed a floor area ratio of 9.0:1, all such projects must contribute to the Van Ness and Market Neighborhood Infrastructure Fund. Pursuant to Sections 124 and 752 of the Planning Code, Projects in the NCT-3 District have a base FAR of 3.6:1.

The Project Site has a lot area of approximately 36,042 square feet, with approximately 7,251 square feet located within the NCT-3 District and 28,791 square feet within the C-3-G District. As shown in the conceptual plans, the Project includes 398,365 gross square feet of development. Within the NCT-3 District, residential uses do not count toward the stated FAR limit. For the Project, 6,010 gross square feet of non-residential uses within the NCT-3 District contribute toward the FAR limit, a ratio of 0.83:1. Within the C-3 District, the Project contains 349,037 gross square feet, an FAR of 12.12:1. Since the portion of the Project within the C-3-G District exceeds a FAR of 6.0:1, the Project would make a payment pursuant to Section 249.33 and 424 to the Van Ness and Market Affordable Housing Fund for the Floor Area exceeding the base FAR ratio of 6.0:1 up to a ratio of 9.0:1 and make a payment pursuant to Section 424 to the Van Ness and Market Neighborhood Infrastructure Fund for the Floor Area exceeding the FAR ratio of 9.0:1.

- B. Rear Yard Requirement.** For the portion of the Project site located within the NCT-3 District, Planning Code section 134(a)(1) requires a rear yard equal to 25 percent of the total depth of the lot, but in no case less than 15 feet. Within the Van Ness and Market Downtown Residential Special Use District, pursuant to Planning Code Section 249.33(b)(5), Rear Yard requirements do not apply. Rather, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way.

For the portion of the site within the NCT-3 District, the required rear yard depth ranges from 32 feet, 6 inches to 15 feet at a small portion of the site, for a total rear yard area of 1,833 square feet. The Project is providing a rear yard that will vary in depth from 20 feet, 9 inches to 29 feet, 6 inches, and will contain approximately 1,305 square feet. The provided rear yard setback does not comply with Planning Code section 134(a)(1); therefore, a modification is requested.

The Project proposes residential uses at the second floor and above. The Project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Therefore, a Section 309 exception is requested. (See Section 7, below, for 309 findings.)

- C. Residential Open Space.** Planning Code Section 135 requires that private open space be provided at a ratio of 36 square feet per dwelling unit in the C-3-G District and 80 square feet per dwelling unit in the NCT-3 District; if provided as common usable open space, these ratios increase to 48 and 100 square feet per dwelling unit, respectively. Open space meeting the requirements of Privately-Owned Public Open Spaces (POPOS) and the requirements of common usable open space for residential uses may be used to count towards the open space requirements of both Sections 135 and 138. Projects within the Van Ness and Market Downtown Residential Special Use District may satisfy the requirement by locating up to 40 percent of the open space off-site if the space is located within the Special Use District or 900 feet of the project site, and meets standards described in Section 249.33.

The Project includes 416 dwelling units, of which 46 are located within the NCT-3 District portion of the site and 370 within the Van Ness and Market Downtown Residential Special Use District. The Project would provide private open space for 4 units within the NCT-3 District and 103 units within the Van Ness and Market Residential Special Use District in the form of private terraces and balconies. The remaining 42 units in the NCT-3 District require 4,200 square feet of common usable open space, and the remaining 267 units in the C-3-G District require 12,816 square feet, for a total of 17,016 square feet.

The Project would provide 19,013 square feet of common useable open space in the form of outdoor terraces and decks and an enclosed solarium; these common areas are located throughout the building at floors 2, 3, 9, 10, and 27. Additionally, privately-owned public open space would be provided in a 960-square-foot ground floor plaza along Otis Street.

The Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site. This plaza has not been included in the open space calculations above.

- D. Public Open Space.** New buildings in the C-3-G District must provide public open space at a ratio of one square foot per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building, pursuant to Planning Code Section 138. This public open space must be located on the same site as the building or within 900 feet of it within a C-3 district. There is no privately-owned public open space requirement in the NCT-3 District.

Ground floor retail space in the C-3 Districts that is less than 5,000 sq. ft. is excluded from gross floor area and is therefore not required to provide the associated publicly accessible open space. The Project includes approximately 2,199 square feet of ground floor retail space, and thus the provision of public open space is not required for the ground floor retail uses.

The Project also includes 15,993 square feet of arts activity space and is therefore required to provide 320 square feet of privately-owned public open space. The Project will provide 960-square feet of privately-owned public open space in a ground floor plaza along Otis Street. Additionally, the Project Sponsor will enter into an in-kind agreement with the City to expand the existing 15-foot-wide sidewalk on the west side of 12th Street to create an approximately 7,200-sf public plaza at the corner of 12th Street and South Van Ness Avenue ("12th Street Plaza"), which is located within 900 feet of the Project Site.

- E. Streetscape Improvements.** Planning Code Section 138.1 requires that when a new building is constructed on a lot that is greater than half an acre in area and contains 250 feet of total lot frontage, pedestrian elements in conformance with the Better Streets Plan shall be required.

The Project is located on an assemblage of five lots that measure 36,042 square feet (approximately 0.83 acres) with 401 feet of frontage along Otis and 12th Streets. Physical widening along the Otis Street frontage is not possible. However, the Project proposes improvements in the Otis and 12th streets public rights-of-way that would include new publicly accessible open spaces, and new street trees and landscaped areas. The streetscape improvements would create a 960-square-foot plaza fronting the podium lobby on Otis Street. In addition, the proposed Project would create the 12th Street Plaza. Therefore, the Project complies with Planning Code Section 138.1.

- F. Exposure.** Planning Code Section 140 requires all dwelling units in all use districts to face onto a public street at least 20 feet in width, side yard at least 25 feet in width or open area which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The majority of the dwelling units in the proposed project comply with exposure requirements by facing onto one of the public streets bordering the site. Of those units that do not immediately face onto a public street, the majority are able to meet exposure by facing onto a 25' by 25' expanding open area, which for many units comes through provision of an inner court within the podium beginning at the third floor level. However, three units on the second level within the NCT-3 District do not meet exposure requirements; these units face onto a modified rear yard and do not overlook the public alley beyond due to the presence of a garage exhaust vent. The Project requests and meets the criteria for a rear yard modification in that the Project provides a comparable amount of usable open space elsewhere on the lot, and will not adversely affect the light and air to adjacent properties or the interior midblock open space. A variance from dwelling unit exposure is requested for these three units, which represent less than one percent of the total units in the project.

- G. Street Frontage in Commercial Districts: Loading and Driveway Width.** Section 145.1(c)(2) limits the width of parking and loading entrances to no more than one-third the width of the street frontage of a structure, or 20 feet, whichever is less.

The Project accommodates all parking and off-street loading via a single 15-foot, 6-inch-wide curb cut along 12th Street; two 10-foot wide garage doors provide access to the basement residential parking and at-grade off-street loading. As no more than 20 feet is devoted to parking and loading entrances, the Project complies with Section 145.1(c)(2).

- H. Street Frontage in Commercial Districts: Active Uses.** Planning Code Section 145.1(c)(3) requires that space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor, and the first 15 feet above the ground floor.

At the ground floor, the Project includes an entry for the ballet school, three retail spaces (two along Otis, and one wrapping the corner of Otis and 12th Streets), residential amenity space, the leasing office for the building, and a residential lobby. Both the residential amenity space and the leasing office will have access directly to the public sidewalk, and therefore meet the intent of this section since they are considered active uses. The residential lobby along 12th Street would be limited to 40 feet in width, in compliance with the Code requirement. The remainder of the ground floor would be for parking and loading access, building egress, and access to mechanical systems, spaces which are exempt from the active use requirement. Above the ground floor, all building frontages contain residential uses and are considered active uses. Therefore, the Project complies with Section 145.1(c)(3).

- I. Street Frontage in Commercial Districts: Ground Floor Ceiling Height.** Planning Code Section 145.1(c)(4) requires that ground floor non-residential uses in all C-3 and NCT Districts have a minimum floor-to-floor height of 14 feet, as measured from grade.

The Project proposes various floor-to-floor heights along the Otis and 12th Street frontages which contain non-residential uses, ranging from 12'-9" to 21' 10" at the residential lobby and corner retail space. The Project Site has a 13-foot grade change between Otis Street and Chase Court at the rear. In

order to accommodate the grade change and also keep the non-residential uses along Otis and 12th Streets at grade level (as required per Section 145.1(c)(5)), the Project is not able to provide the full 14' height as required by Code; therefore a variance is required.

- J. **Street Frontage in Commercial Districts: Ground Floor Transparency.** Planning Code Section 145.1(c)(6) requires that frontages with active uses that are not residential or PDR 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 complies with the Ground Floor Transparency requirements of the Planning Code. Approximately 84 percent of the Project's frontage on Otis Street, and 68 percent of the Project's frontage along 12th Street are fenestrated with transparent windows and doorways. Therefore, the Project complies with Section 145.1(c)(6).

- K. **Shadows on Public Open Spaces.** Planning Code Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible open spaces other than those protected under Section 295. Consistent with the dictates of good design and without unduly restricting development potential, buildings taller than 50 feet should be shaped to reduce substantial shadow impacts on open spaces subject to Section 147. In determining whether a shadow is substantial, the following factors shall be taken into account: the area shaded, the shadow's duration, and the importance of sunlight to the area in question.

The shadow analysis determined that the Project may cast additional shadow on two public plazas or accessible open spaces, other than those protected under Section 295 – McCoppin Hub and the future Brady Park. The potential shadow cast upon McCoppin Hub is very minimal, occurring only on June 21st in the morning, lasting approximately six and a half minutes and covering an area of approximately 19.6 square feet, relative to the overall 6,454 square foot park.

Brady Park would be an approximately 21,000-square foot park, constructed as part of the private development at 1629 Market Street. The park is expected for passive recreation use, however, the exact design and layout of the park is unknown at this time, as is its timing for construction and opening. When constructed, Brady Park will have existing shading from the five buildings that were approved as part of the 1629 Market Street project, estimated at roughly 46.5% of the Theoretically Available Annual Sunlight (TAAS). The Project at 30 Otis, taken by itself, would increase shading to the park by about 6.5%; however, when analyzed cumulatively with other reasonably foreseeable projects in the vicinity, the potential net contribution of new shadow on the future Brady Park from the 30 Otis project would be minimal. Under CEQA, the Project's shadow on the future Brady Park would not constitute an adverse effect because it would not be expected to substantially and adversely affect the use of the park. Therefore, the Project complies with the requirements of Section 147.

- L. **Ground Level Wind.** Planning Code Section 148 requires that new construction in Downtown Commercial Districts will not cause ground-level wind currents to exceed pedestrian comfort levels. This standard requires that wind speeds not exceed 11 miles per

hour in areas of substantial pedestrian use for more than 10 percent of the time year-round, between 7:00 AM and 6:00 PM. The requirements of this Section apply either when preexisting ambient wind speeds at a site exceed the comfort level and are not being eliminated as a result of the project, or when the project may result in wind conditions exceeding the comfort criterion.

Exceptions from the comfort criterion may be granted through the 309 process, but no exception may be granted where a project would cause wind speed to reach or exceed the hazard level of 26 mph for a single hour of the year. Fifty-three (53) test points were selected by Planning Department staff to measure wind speeds around the Project site at ground level. Under existing conditions (without the Project), 2 of the 53 test points exceed the hazard level. These two locations collectively exceed the hazard criterion for a duration of 9 hours annually. With the proposed Project, 1 of the 53 test points exceeds the hazard level – a decrease compared to existing conditions. This one location would exceed the hazard criterion for a duration of four hours annually, which is a five hour decrease compared to existing conditions.

Under existing conditions, 29 of the 53 test points exceed the Planning Code's comfort criterion at ground level more than 10 percent of the time. These 29 test points had average wind speeds of approximately 11.4 miles per hour (mph). With the proposed Project, two additional test points exceeded the comfort criterion (31 of 53 points) with average wind speeds increasing slightly to 12.1 mph. Taken as a whole, the Project does not substantially change wind conditions.

After nearly 2 1/2 years of wind sculpting, the Planning Department and the Project Sponsor concluded that the 250-foot-tall tower cannot be sculpted in a manner that would eliminate all 29 existing comfort exceedances or the 2 new comfort exceedances caused by the Project without unduly restricting the site's high-rise development potential or causing new hazardous conditions. The Project Sponsor therefore requests a Section 309 exception because the Project would not eliminate the existing locations that meet or exceed the Planning Code's comfort criterion despite a lengthy process of iterative wind testing. (See Section 7, below, for 309 findings.)

- M. **Parking.** Planning Section 151.1 principally permits up to one car for each four dwelling units (0.25 ratio) within the Van Ness and Market Residential SUD. Pursuant to interim zoning controls passed under Board of Supervisors Resolution 448-17, parking in excess of a 0.25 ratio is not permitted. Parking for the proposed retail use shall not exceed 7% of gross floor area for that use.

The Project contains 416 dwelling units. Thus, a total of 104 spaces are principally permitted ($416 \times 0.25 = 104$) for the dwelling units. The Project proposes 95 parking spaces for the residential use, which is within the principally permitted 104 parking spaces. The Project proposes no parking for the retail uses. Additionally, the Project proposes 3 car-share spaces, 6 motorcycle spaces, and 3 scooter-share spaces, none of which factor into the project's overall parking ratio under Code.

- N. **Off-Street Freight Loading.** Planning Code Section 152.1 requires that projects in the C-3 District that include between 200,001 and 500,000 square feet of residential development

must provide two off-street freight loading spaces. The same requirement applies in the NCT-3 District pursuant to Planning Code Section 152. Pursuant to Section 153, two service vehicles may be substituted for each off-street freight loading space, provided that a minimum of 50 percent of the required number of spaces are provided for freight loading.

The Project includes 398,365 gross square feet of development, and thus requires two off-street loading spaces. One off-street freight loading space is provided and the second required loading space is substituted with two service vehicle spaces as permitted by Section 153 of the Planning Code. Accordingly, the Project complies with Section 152.1 of the Planning Code.

- O. **Bicycle Parking.** For buildings with more than 100 dwelling units, Planning Code Section 155.2 requires 100 Class 1 spaces plus one Class 1 space for every four dwelling units over 100, and one Class 2 space per 20 units. For unidentified retail uses, 1 Class 1 space is required for every 7,500 square feet of Occupied Floor Area ("OFA") and one Class 2 space is required for every 2,500 square feet of OFA, with a minimum of 2 spaces required. For arts activities uses, a minimum of two Class 1 spaces, or one Class 1 space for every 5,000 square feet of OFA are required, and a minimum of two Class 2 spaces, or one Class 2 space for every 2,500 square feet of OFA are required.

With 416 dwelling units, the Project requires 179 Class 1 spaces for the residential use. The proposed retail spaces, totaling 2,199 square feet would not require any Class 1 bicycle parking. The ballet school arts activity use, with 15,993 square feet requires 3 Class 1 spaces. The Project proposes to provide 216 Class 1 spaces to be made available to residents of the project in a secure bicycle parking room accessed from grade at the rear along Chase Court, and additionally proposes 2 Class 1 spaces for the retail uses, and 6 Class 1 spaces for the ballet school, for a total of 224 Class 1 spaces, in excess of the Code requirement.

For Class 2 spaces, the Project requires 21 spaces for the residential use, the minimum two spaces for the retail uses, and six spaces for the arts activity use, a total of 29 Class 2 spaces. The Project proposes two areas of Class 2 bicycle parking, along the Otis Street frontage and adjacent to the proposed 12th Street Plaza, and would provide a total of 32 spaces within these two areas. Therefore, the Project complies with the Class 1 and Class 2 bicycle parking requirements of the Planning Code.

- P. **Car Share.** Planning Code Section 166 requires two car share parking spaces for residential projects with 201 dwelling units plus an additional parking space for every 200 dwelling units over 200. The required car share parking spaces may be provided on the building site or on another off-street site within 800 feet of the building site.

With 416 proposed residential dwelling units, the Project requires a total of three car share spaces. Three spaces will be provided in the on-site garage. Therefore, the Project complies with Planning Code Section 166.

- Q. **Transportation Demand Management (TDM) Plan.** Pursuant to Planning Code Section 169 and the TDM Program Standards, any development project resulting in 10 or more dwelling units, or 10,000 occupied square feet or more of any use other than residential, shall be required to comply with the City's TDM Program, and shall be required to finalize a TDM Plan prior to Planning Department approval of the first Building Permit or Site Permit. Development projects with a development application filed or an environmental application deemed complete on or before September 1, 2016 shall be subject to 50% of the applicable target, as defined in the TDM Program Standards.

The Project would include 416 residential units with a total of 95 vehicle parking spaces (0.23 spaces per unit ratio), 2,199 square feet of ground-floor retail use, and 15,993 square feet of arts and activities use. No parking is proposed for the retail or arts activity uses. Therefore, the 95 residential parking spaces for the 416 residential units are used to calculate the TDM Program target points, which for this project is a total of 21 points under the residential land use category. Because the proposed Project's development and environmental applications were deemed complete before September 4, 2016, the Project is only required to meet 50 percent of its applicable target, or 11 points.

The project sponsor has preliminarily identified the following TDM measures from TDM Program Standards: Appendix A to meet the 11 target points.

- **Parking-1: Unbundled Parking, Location D – 4 points** (residential neighborhood parking rate less than or equal to 0.65, and all spaces leased or sold separately from the retail or purchase fee).
- **Parking-4: Parking Supply, Option G – 7 points** (residential parking less than or equal to 70 percent, and greater than 60 percent of the neighborhood parking rate).
- **Active-1: Improve Walking Conditions, Option A – 1 point** (streetscape improvements consistent with Better Streets Plan).
- **Active-2: Bicycle Parking, Option A – 1 points** (providing Planning Code required Class 1 and Class 2 bicycle parking)
- **Active-5A: Bicycle Repair Station – 1 point** (bicycle repair station within a designated, secure area within the building, where bicycle maintenance tools and supplies are readily available on a permanent basis).
- **Car Share-1: Option A – 1 point** (car share parking as required by Planning Code).
- **Info-2: Real Time Transportation Display – 1 point** (provide real time transportation information screen in a prominent location on-site).

The Project Sponsor could choose to revise the selected TDM measures to exceed the target points prior to issuance of a Site Permit, or to further reduce the parking supply to meet or exceed the target point requirement, but would not be required to do so.

- R. **Height and Bulk.** The Project falls within the 85/250-R-2 and 85-X Height and Bulk Districts. In height district 85/250-R-2, there are no bulk limitations below 85 feet in height, and structures above 85 feet in height must meet the bulk limitations described in subsections 270(e)(2)(A) - (F) of the Planning Code. Pursuant to subsection 270(e)(2)(B), buildings

between 241 and 300 feet in height may not exceed a plan length of 100 feet and a diagonal dimension of 125 feet, and may not exceed a maximum average floor area of 8,500 gross square feet. Pursuant to subsection 270(e)(2)(F), to encourage tower sculpting, the gross floor area of the top one-third of the tower shall be reduced by 10 percent from the maximum floor plates described in subsection 270(e)(2)(B).

The Project proposes a tower of 250 feet in height, with various features such as mechanical structures, and parapets extending above the 250-foot height limit in accordance with the height exemptions allowed through Planning Code Section 260(b). The tower would include a 36-foot elevator penthouse and the podium would include a 23-foot elevator overrun, both of which are required to meet state or federal laws and regulations, and which would require an exemption from the Zoning Administrator per Planning Code Section 260(b)(1)(B).

Consistent with the bulk control, the Project has a maximum plan length of 100 feet and a maximum plan diagonal of 125 feet. Above the podium level, the average floor area of the tower is 8,472 square feet, and the top one-third of the tower (or top six floors) has been reduced by at least ten percent from the maximum floor plate area, with these floors containing 7,639 square feet.

- S. **Shadows on Public Sidewalks (Section 146).** Planning Code Section 146(a) 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, not located on the specific streets identified in Section 146(a), shall be shaped to reduce substantial shadow impacts on public sidewalks, if it can be done without unduly creating an unattractive design and without unduly restricting development potential.

Section 146(a) does not apply to construction on Otis and 12th streets, and therefore does not apply to the Project. With respect to Section 146(c), the Project would replace five underutilized commercial buildings with a 9-story podium and 26-story tower residential structure. Although the Project would create new shadows on sidewalks and pedestrian areas adjacent to the site, 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 urban areas. The Project is proposed at a height that is consistent with the zoned height for the property and could not be further shaped to reduce substantial shadow effects on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project complies with Section 146.

- T. **Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project would result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department or designated for acquisition by the Recreation and Park Commission.

A technical memorandum was prepared by FastCast City dated February 2018 (“Shadow Study”), which analyzed the potential shadow impacts of the project to parks subject to Section 295 (in addition to other open spaces under public jurisdiction and privately owned, publicly accessible open spaces).

As detailed in the Shadow Study, the proposed project would not cast shadow on existing parks subject to Planning Code Section 295, but would cast shadow on the proposed 11th and Natoma Park under the jurisdiction of the Recreation and Park Department. Specifically, the proposed project would add 199,590 sfh of net new shadow resulting in 0.27 percent increase in annual shadow as a percentage of TAAS. Under existing plus project conditions, the total annual shadow coverage on the proposed 11th and Natoma Park would be 15,359,868 sfh. Therefore, under this scenario, the proposed 11th and Natoma Park would be shaded 21 percent annually, as a percentage of TAAS.

Shadow from the proposed project on the future Natoma & 11th Street Park would occur between February 15th – March 29th, and September 13th – October 25th. During these periods, the largest new shadow by area would occur on October 4th and March 8th at 5:47 pm, lasting approximately 8 minutes 24 seconds, and would cover an area of approximately 11,984 sf. The average duration of new shadow resulting from the proposed project would be 30 minutes and 21 seconds. The longest new shadow duration resulting from the proposed project would occur on September 27th and March 15th for approximately 50 minutes and 24 seconds.

On September 5, 2018 the Capital Committee of the Recreation and Park Commission, and on September 20, 2018, the full Recreation and Park Commission conducted duly noticed public hearings at regularly scheduled meetings and recommended that the Planning Commission find that the shadows cast by the Project would be insignificant to the use of the proposed park at 11th and Natoma Streets.

- U. Inclusionary Affordable Housing Program (Section 415).** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee (“Fee”). This Fee is made payable to the Department of Building Inspection (“DBI”) for use by the Mayor’s Office of Housing and Community Development for the purpose of increasing affordable housing citywide. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to an off-site requirement of 30%.

The Project Sponsor has submitted an ‘Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,’ to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor’s Office of Housing and Community Development. The applicable percentage is dependent on

the total number of units in the Project, the zoning of the property, and the date that the Project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on September 23, 2015; therefore, pursuant to Planning Code Section 415.3, the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate of 30%.

- V. **Public Art (Section 429).** In the case of 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, Section 429 requires a project to include works of art costing an amount equal to one percent of the construction cost of the building.

The Project would comply with this Section by dedicating one percent of the Project's construction cost to a sculpture in the 12th Street Plaza to be commissioned by the Project Sponsor.

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

- A. **Section 249.33: Lot Coverage.** Within the Van Ness and Market Downtown Residential Special Use District, Rear Yard requirements do not apply pursuant to Planning Code Section 249.33; however, lot coverage is limited to 80 percent at all residential levels, except on levels in which all residential units face onto a public right-of-way. Exceptions pursuant to Section 309 may be permitted. The criteria for granting a rear yard exception in the C-3 districts is set forth in Section 134(d): "C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided."

The project proposes residential uses at the second floor and above. The project must comply with maximum lot coverage restrictions at floors three and above for the portion of the building located within the Van Ness and Market Downtown Residential SUD. At floors 3-9, the Project proposes lot coverage of 81.6 percent, and lot coverage of 33.9 percent at floors 10-26. Despite the overall lot coverage exceedance at floors 3-9, the Project provides adequate exposure to air and light for all units. Units fronting Otis Street, 12th Street, Chase Court, and Colusa Place all possess substantial frontage overlooking City Streets, particularly along Otis Street and South Van Ness Avenue. In addition, the Project provides open space at the rear of the building that will help define a new mid-block open space that was approved as part of the 1629 Market Street project, northwest of the site.

- B. **Section 148: Ground-Level Wind Currents.** In C-3 Districts, buildings and additions to existing buildings shall be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed more than 10 percent of the time year-round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 miles per

hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour 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. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception 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 (mph) for a single hour of the year.

Independent consultants analyzed ground-level wind currents in the vicinity of the Project Site by working with Department staff to select 53 test points throughout public areas in the general vicinity of the Project Site. A wind tunnel analysis, the results of which are included in a technical memorandum prepared by BMT Fluid Mechanics, was conducted using a scale model of the Project Site and its immediate vicinity. The study concluded that the Project would not result in any substantial change to the wind conditions of the area.

Comfort Criterion

Under existing conditions, 29 of the 53 locations tested currently exceed the pedestrian comfort level of 11 mph at grade level more than 10% of the time. Average wind speeds measured close to 11.4 mph. With the Project, 31 of 53 locations tested exceeded the pedestrian comfort level of 11 mph more than 10% of the time. Average wind speeds increased by 0.7 mph to approximately 12.1 mph.

The Project does not result in substantial change to the wind conditions. However, since comfort exceedances are not entirely eliminated by the Project, an exception is required under Planning Code Section 309. The tower has been substantially reshaped through a rigorous and iterative series of wind tests and street trees have been added to further diffuse pedestrian-level winds near the site. The Project could not be designed in a manner that could eliminate all 29 of the existing comfort exceedances or the 2 comfort exceedances caused by the Project, without unduly restricting the site's development potential, resulting in an ungainly building form or creating new hazard exceedances.

Hazard Criterion

The Wind Study indicated that the Project does not cause any net new hazardous conditions. Overall, the Project would decrease number of test points that exceed the hazard criterion from 2 under existing conditions to 1 under existing plus Project conditions. The hours per year in which the hazard

critera would be exceeded would decrease from 9 hours under existing conditions to 4 hours with the Project, an improvement of five fewer hours of hazardous wind conditions. Therefore, the Project would comply with the hazard criteria of Section 148.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY 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 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 11.3

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

Policy 11.6

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

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.3

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

Policy 1.6

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

OBJECTIVE 2:

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

Policy 2.1

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

OBJECTIVE 11:

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

Policy 11.3

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

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its 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 3.6

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

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 16:

CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 16.4

Use designs and materials and include amenities at the ground floor to create pedestrian interest.

MARKET AND OCTAVIA AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A 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 1.1.4

As SoMa West evolves into a high-density mixed-use neighborhood, encourage the concurrent development of neighborhood-serving uses to support an increasing residential population.

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 1.2.3

Limit heights along the alleys in order to provide ample sunlight and air in accordance with the plan principles that relate building heights to street widths.

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.

OBJECTIVE 4.1:

PROVIDE SAFE AND COMFORTABLE PUBLIC RIGHTS-OF-WAY FOR PEDESTRIAN USE AND IMPROVE THE PUBLIC LIFE OF THE NEIGHBORHOOD.

Policy 4.1.1

Widen sidewalks and shorten pedestrian crossings with corner plazas and boldly marked crosswalks where possible without affecting traffic lanes. Where such improvements may reduce lanes, the improvements should first be studied.

Policy 4.1.4

Encourage the inclusion of public art projects and programs in the design of streets and public spaces.

OBJECTIVE 5.1:

IMPROVE PUBLIC TRANSIT TO MAKE IT MORE RELIABLE, ATTRACTIVE, CONVENIENT, AND RESPONSIVE TO INCREASING DEMAND.

Policy 5.1.2

Restrict curb cuts on transit-preferential streets.

Policy 5.1.4

Support innovative transit solutions that improve service, reliability, and overall quality of the transit rider's experience.

OBJECTIVE 5.3:

ELIMINATE OR REDUCE THE NEGATIVE IMPACT OF PARKING ON THE PHYSICAL CHARACTER AND QUALITY OF THE NEIGHBORHOOD.

Policy 5.3.1

Encourage the fronts of buildings to be lined with active uses and, where parking is provided, require that it be setback and screened from the street.

OBJECTIVE 7.2:

ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

Policy 7.2.5

Make pedestrian improvements within the block bounded by Market, Twelfth, Otis, and Gough Streets and redesign Twelfth Street between Market and Mission Streets, creating a new park and street spaces for public use, and new housing opportunities.

The Project supports the objectives and policies of the General Plan, along with the Market and Octavia and Downtown Area Plans. The Project would replace the existing underutilized commercial structures with a 416-unit residential structure containing ground floor retail and arts activity uses that are more consistent and compatible with the anticipated development within the area and the Van Ness and Market Downtown Residential Special Use District. The Project is located in close proximity to multiple forms of public transportation that future tenants would be encouraged to use. The Project has been thoughtfully designed and will be compatible with the adjacent buildings and neighborhood, and will greatly enhance the character of the existing neighborhood particularly through creation of 12th Street Plaza.

The Project would create 416 dwelling units, of which 212 (51%) are studios, 98 (24%) are one bedroom, and 106 (25%) are two bedrooms. Additionally, the Project is subject to the City's Inclusionary Affordable Housing Program (Planning Code Section 415) and is electing to meet the requirement through payment of a fee at a rate of 30 percent. The current estimated fee payment would contribute over \$32 million towards the development of permanently affordable housing within the City. The Project will also pay additional fees through the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee.

The Project supports the City's transit-first policy, including enhancement and support of the pedestrian environment and bicycle infrastructure. Located just one block south of Market Street, the Project Site is within walking distance of BART (Civic Center Station) and MUNI rail lines (Van Ness Station), and is also within a quarter-mile of several MUNI bus lines (6, 7, 7R, 7X, 9, 9R, 14, 14R, 47 and 49). Currently under construction, the Van Ness Bus Rapid Transit (BRT) line will terminate adjacent to the project at the Mission and South Van Ness Avenue intersection, and the project team has been working with SFMTA

on construction coordination between the two projects. As part of the Project's Transportation Demand Management Plan, the lobby will include real-time information displays for nearby transit stops.

In addition to providing bicycle parking, amenities such as a bicycle repair workshop, and a separate bicycle storage room for larger, cargo bikes or trailers, make cycling a convenient transit option, even for families. A relatively small amount of vehicle parking at a ratio of 0.23 spaces per dwelling unit will be provided at the basement levels of the building, accessed through a single garage entry so as to minimize the impact on the physical character of the public right-of-way. Three spaces will be equipped for electric vehicle charging, and the garage will also have three dedicated car-share spaces.

The proposed streetscape and plaza improvements enhance both the safety and attractiveness of the pedestrian environment. In particular, 12th Street has been redesigned to minimize the number curb cuts as points of possible pedestrian-vehicle conflict, as well as minimize the distance of pedestrian crossings. Along Otis Street, the Project will remove all existing curb cuts, enhancing this transit- and bike-preferential street. Perhaps most noticeable is the proposed 12th Street Plaza, which will create a new public space, enhanced visually through incorporation of a public art piece by Frida Escobedo.

The proposed building has been designed thoughtfully and utilizes high-quality materials; it will be compatible with and enhance the neighborhood character, particularly as the surrounding vicinity continues to develop, consistent with the Market and Octavia and proposed Hub plans. The building's form is characterized by a 9-story, 85-foot tall podium and 26-story, 250-foot tall tower, excluding the parapet and elevator penthouse. The height and bulk of the Project are consistent with zoning controls, relevant area plans, and other buildings proposed in the vicinity, including the 380-foot tall residential tower being constructed at 1500 Mission Street. The tower form has been shaped by wind mitigation efforts in addition to zoning requirements and a desire for an iconic sculptural, yet simple curved form. Conceptually the building is expressed as a glass tower and more solid podium base. The tower is consistent with fundamental design principles, incorporating both horizontal articulation and a change in the vertical plane to differentiate the tower element along the Otis façade. In contrast to the podium, the tower has a primarily glass façade, giving a lightness and airiness to the structure. At the podium, the depth and spacing of the punched window openings give visual interest, and reflect different individual residential configurations functioning within the building.

The building's massing gives consideration to light and air both for the units within the project, but also to surrounding properties and future development of many of those sites. The raised courtyard at the rear of the property provides an open space amenity and helps a number of units meet exposure requirements; programmatically, this is also the same location where the long spans are required for the ballet theater performance space below. At the rear of the building, the building massing steps back from the alley at upper floors, providing light and air onto these narrower public sidewalks and contributing positively to the envisioned mid-block open space, which includes Brady Park.

At the ground floor, the ballet school entry along 12th Street is materially differentiated from the residential portions of the podium, and its location will activate that portion of 12th Street, also fostering a direct connection with the proposed 12th Street Plaza as a gathering or potential performance space. The

remainder of the ground floor contains a mix of retail space and residential amenity space. Internal stairs and passages connect common spaces and amenities at the first three floors in a natural way, and results in a convenient path of travel through the building from Otis or 12th Streets, to the rear of the property at Chase and Colusa, in order to provide access to the proposed Brady Park.

Lastly, the Project will create three retail spaces for the provision of neighborhood-serving goods and services, particularly as more residential development is anticipated in the vicinity. A substantial portion of the ground floor is also provided to the City Ballet School; this arts activity use currently operates at the site, and one of the primary goals for the Project Sponsor has been to create an improved and permanent home for this school, and have also worked with the business on relocation efforts during the construction phase of the Project.

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 will add approximately 2,199 square feet of retail space across three tenant spaces to allow for provision of neighborhood-serving retail uses and employment. These businesses would be supported by the demand from the 416 proposed residential units, and would be further enhanced by the POPOS space along Otis Street and by the 12th Street Plaza, which will attract pedestrian interest and provide space for seating and gathering.

- 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 Site does not possess any existing housing. The Project would provide 416 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. In addition, the Project's retention of an existing arts activity use, and creation of a new public plaza and streetscape improvements will help to retain and enhance the existing neighborhood character. The project design is compatible with the scale and form of surrounding buildings and incorporates high-quality materials and detailing to provide visual interest.

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

The Project Site does not currently possess any existing affordable housing. The Project will comply with the City's Inclusionary Housing Program by contributing to the Inclusionary Housing Fund at a rate of 30 percent, currently estimated to at least \$32 million. The Project will also require payments into the Market-Octavia Affordable Housing Fee and Van Ness & Market SUD Affordable Housing Fee. These affordable housing fees will help fund construction of new, permanently affordable housing throughout the City.

- 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 near a major transit corridor with access to BART and MUNI rail and bus service that would promote rather than impede the use of MUNI transit service. All existing curb cuts along Otis Street will be removed, further enhancing this transit-preferential street. The Project also provides a sufficient amount of off-street parking for future residents so that neighborhood parking will not be overburdened by the addition of new residents. The entrance to the proposed garage would be located on 12th Street where no transit lines exist.

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

The Project would displace industrial uses but not for commercial office development since it is a residential project; the provision of housing, particularly near transit, is a top priority for the City. Further, the proposed ground-floor retail spaces provide future opportunities for resident employment and ownership in service-sector businesses.

- 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. The proposed Project would replace older buildings that do not comply with current seismic safety standards.

- G. That landmarks and historic buildings be preserved.

The proposed Project would demolish the 14-18 Otis Street building, which is a historical resource as defined in CEQA Guidelines section 15064.5. The Project will mitigate impacts to the building by documenting the history of the building, providing a permanent display of interpretive materials concerning the history and architectural features of the building, and preparing video documentation of the building and its setting.

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

The proposed project will create shadow on two proposed parks – 11th and Natoma Park, under jurisdiction of the Recreation and Park Department, and Brady Park, proposed through the private development of 1629 Market Street. For both parks, the amount of additional shadow that would occur

as a result of the Project has not been found to be significant or adverse to the proposed use of the parks.

10. The Commission made and adopted environmental findings by its Motion No. 20292, which are incorporated by reference as though fully set forth herein, regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, a statement of overriding considerations and a mitigation and monitoring reporting program, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopted these findings as required by CEQA, separate and apart from the Commission's certification of the Project's Final EIR, which the Commission certified prior to adopting the CEQA findings.
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. 2015-010013ENV~~DN~~XVARSHD** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 22, 2018, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

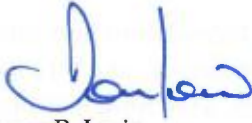
The Planning Commission has reviewed and considered the FEIR and the record as a whole and incorporates by reference herein the CEQA Findings contained in Motion No. 20292 and MMRP, included as Attachment B. All required mitigation and improvement measures identified in Attachment B of Motion No. 20292 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 date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

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 Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter 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 Planning Commission ADOPTED the foregoing Motion on September 27, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NAYS: None

ABSENT: None

ADOPTED: September 27, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a **Downtown Project Authorization and Request for Exceptions** to allow demolition of the five existing buildings currently located at the project site, and new construction of a residential building with a 9-story podium and 26-story, 250-foot tall tower, containing 416 dwelling units, approximately 2,199 square feet of retail space, 15,993 square feet of arts activities space to be occupied by City Ballet School, 31,290 square feet of usable open space, 95 accessory residential parking spaces, 3 car-share spaces, and construction of an approximately 7,200 square foot public plaza at the corner of 12th Street and South Van Ness Avenue, located at 30 Otis Street, on Assessor's Block 3505, Lots 010, 012, 013, 016, and 018 pursuant to Planning Code Section(s) 309, 134, 249.33(b)(5), and 148 within the C-3-G (Downtown-General) Zoning District, the NCT-3 (Moderate-Scale Neighborhood Commercial Transit Zoning District), the Van Ness and Market Downtown Residential Special Use District, and both the 85-X and the 85/250-R-2 Height and Bulk Districts; in general conformance with plans, dated August 22, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2015-010013ENV~~DN~~XVARSHD and subject to conditions of approval reviewed and approved by the Commission on September 27, 2018 under Motion No. 20293. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on September 27, 2018 under Motion No. 20293.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20293 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 the Downtown Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** 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.

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 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 a Shadow Determination under Section 295 that the net new shadow cast by the Project on the proposed 11th and Natoma Park will be insignificant to the use of the park, a Variance under Section 305 from Planning Code requirements for Awning Obstructions (Section 136.1), Dwelling Unit Exposure (Section 140), and Ground Floor Ceiling Height (Section 145.1(c)(4)), a Rear Yard Modification (Section 134(e)(1)), and an Elevator Height Exemption Waiver (Section 260(b)(1)(B)), and satisfy all the conditions thereof. Additionally, in order to construct the proposed 12th Street Plaza, the Project Sponsor must obtain an In-Kind Fee Waiver Agreement. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

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

7. **Improvement and Mitigation Measures.** Improvement and Mitigation measures described in the MMRP and found as Attachment B contained within Motion No. 20292 are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

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

DESIGN – COMPLIANCE AT PLAN STAGE

8. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Specifically, as described in the Commission's approval motion, the Project Sponsor shall continue to work with the Planning Department on increasing the visibility and activity of the ballet school at the ground floor. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

9. **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

10. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit

application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

11. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.

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

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

13. **Open Space Provision - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the public open space so that the open space generally meets the standards of the Downtown Open Space Guidelines in the Downtown Plan of the General Plan.

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

14. **Open Space Plaques - C-3 Districts.** Pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques at each building entrance including the standard City logo identifying it; the hours open to the public and contact information for building management. The plaques shall be plainly visible from the public sidewalks on Otis and 12th Streets and shall indicate that the open space is accessible to the public. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.

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

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

exterior signage shall be designed to compliment, 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

16. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
- A. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
 - B. On-site, in a driveway, underground;
 - C. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
 - D. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
 - E. Public right-of-way, underground; and based on Better Streets Plan guidelines;
 - F. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
 - G. On-site, in a ground floor façade (the least desirable location).

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

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

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

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

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

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

19. **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

20. **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

21. **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.

22. **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

23. **Car Share.** Pursuant to Planning Code Section 166, no fewer than three (3) car share spaces 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

24. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 211 bicycle parking spaces (179 Class 1 spaces for the residential portion of the Project, 3 Class 1 spaces for the arts activity use, and 29 Class 2 spaces for all proposed uses in the Project). 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

25. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than one hundred and four (104) off-street parking spaces.

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

26. **Off-street Loading.** Pursuant to Planning Code Section 152.1, the Project will provide one (1) off-street loading space, and spaces for two (2) service vehicles, which may be used to substitute for a second off-street loading space.

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

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

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

PROVISIONS

28. **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
29. **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
30. **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
31. **Child Care Fee - Residential.** 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
32. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning 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. **Requirement.** Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is thirty percent (30%). The Project Sponsor shall pay the applicable Affordable Housing Fee at the time such Fee is required to be paid.
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. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time

to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at:

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

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.*

- a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.
 - b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
 - c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.
33. **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
34. **Market Octavia Community Improvements Fund.** 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
35. **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

36. **Art.** The Project is subject to the Public Art Fee, as applicable, pursuant to Planning Code Section 429.

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

37. **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

38. **Art.** Pursuant to Planning Code Section 429, the Project Sponsor and the Project artist shall consult with the Planning 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 Planning 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

39. **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

40. **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

41. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
42. **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 350 and work with the Planning Department for information about compliance.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
43. **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

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. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

47. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building 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. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

48. **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

