



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

☒ Inclusionary Housing (Sec. 415)

☐ Jobs Housing Linkage Program (Sec. 413)

☐ Downtown Park Fee (Sec. 412)

☒ First Source Hiring (Admin. Code)

☐ Child Care Requirement (Sec. 414)

☒ Other

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Planning Commission Motion 19389

HEARING DATE: JUNE 11, 2015

Date: May 28, 2015
Case No.: **2012.0086EVX**
Project Address: **101 HYDE STREET**
Zoning: C-3-G (Downtown, General Commercial) District
80-X Height and Bulk District
Block/Lots: 0346/003A
Project Sponsor: Costa Brown Architecture, Inc.
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ADOPTING FINDINGS AUTHORIZING A DETERMINATION OF COMPLIANCE PURSUANT TO PLANNING CODE SECTION 309, WITH EXCEPTIONS TO THE REQUIREMENTS FOR REAR YARD PURSUANT TO PLANNING CODE SECTION 134 AND REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS PURSUANT TO PLANNING CODE SECTION 148. THE PROPOSED PROJECT IS TO CONSTRUCT AN EIGHT-STORY 85-UNIT BUILDING WITH APPROXIMATELY 4,923 GROSS SQUARE FEET (GSF) OF GROUND FLOOR RETAIL AND DEMOLITION OF A ONE-STORY STRUCTURE, WHICH IS CURRENTLY LEASED TO THE UNITED STATES POSTAL SERVICE AS A LIMITED USE POST BOX FACILITY. THE PROJECT SITE IS LOCATED WITHIN THE C-3-G (DOWNTOWN GENERAL) ZONING DISTRICT AND 80-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On May 20, 2013, Costa Brown Architecture (hereinafter "Applicant") filed an application (Case No. 2012.0086EVX) with the Planning Department (hereinafter "Department") seeking authorization for new construction of a residential building, eight stories and approximately 80 feet in height, containing 85 dwelling units, 4,923 square feet of ground floor retail space, and 15 off-street parking spaces at 101 Hyde Street, northwest of the intersection with Golden Gate Avenue, within the C-3-G (Downtown General Commercial) District and a 80-X Height and Bulk District.

On April 15, 2015, the Planning Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration

(PMND) in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

The Draft IS/PMND was available for public comment until May 5, 2015; and

On June 4, 2015, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

The Planning Department found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department, [and that the summary of comments and responses contained no significant revisions to the Draft IS/MND,] and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) as part of the Environmental Determination made for 2012.0086EVX, which remains applicable to the current application, and this material was made available to the public and this Commission for this Commission's review, consideration and action.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2012.0086EVX at 1650 Mission Street, Fourth Floor, San Francisco, California.

On June 11, 2015, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0086EVX.

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

MOVED, that the Commission hereby approves the Determination of Compliance and Exceptions to Section 309 requested in Application No. 2012.0086EVX, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is developed with a United States Postal Service Facility located on the northwest corner of the intersection with Golden Gate Avenue, Lot

003A in Assessor's Block 0346 (hereinafter "Subject Property"). The property is in a C-3-G (Downtown General Commercial) District and an 80-X Height and Bulk District and has a lot area of approximately 10,633 square feet. The property is currently used as a United States Postal Service Facility and contains an easement from Golden Gate Avenue along the western property line. There are four street parking and one handicapped street parking space on Golden Gate Avenue and three street parking spaces on Hyde Street. The United States Postal Service Facility is open Monday through Friday 9:00AM to 5:00PM and is considered a "limited" facility since it only has boxes with general delivery. A customer cannot mail anything from this facility, nor can they buy stamps. The United States Postal Service Facility is on the public published closure list and of the 5,000 boxes, only approximately 1,000 boxes are currently rented to customers (20% utilized).

The subject block is bounded by Hyde Street to the east, Turk Street to the north, Larkin Street to the west, and Golden Gate Avenue to the south. There is approximately 138 feet of frontage on Golden Gate Avenue and 77 feet of frontage on Hyde Street.

3. **Surrounding Properties and Neighborhood.** The Project Site is located in the Downtown/Civic Center neighborhood. To the west one block is the Phillip Burton US Courthouse. Approximately one block west and one block south is the Civic Center Plaza. City Hall is adjacent to the Civic Center Plaza. The subject property is one block north of the Civic Center Historic District and is adjacent to two historic resources on Hyde Street, one of which was originally occupied by Ruffs Film Exchange. Properties to the south are zoned P (Public) Zoning District and contain such civic structures as the Asian Art Museum, the San Francisco Public Library and Hastings College of Law. To the north is the Upper Tenderloin Historic District and the zoning changes to RC-4 (Residential Commercial, High Density) District and supports high-density residential uses. Many of these buildings have ground floor commercial uses. On Hyde Street, ground floor uses include dry cleaners, an All Stars Donuts, and a corner market. The site is two blocks north of Market Street and about three blocks from the Civic Center Station serving BART and MUNI. The Project is well served by transit of all varieties.

The Project Site is located in the C-3-G District: Downtown General Commercial Zoning District. This District covers the western portions of downtown and is composed of a variety of uses: retail, offices, hotels, entertainment, clubs and institutions, and high-density residential. Many of these uses have a Citywide or regional function, although the intensity of development is lower here than in the downtown core area. As in the case of other downtown districts, no off-street parking is required for individual commercial buildings. In the vicinity of Market Street, the configuration of this district reflects easy accessibility by rapid transit.

4. **Project Description.** The Project Sponsor proposes to construct an eight-story 85-unit housing project with approximately 4,923 square feet of ground floor retail space, and 15 off-street parking spaces at 101 Hyde Street at a property developed with a one-story structure that is currently leased to the United States Postal Service for a limited use facility. The Project Site is located within the C-3-G (Downtown General) Zoning District and 80-X Height and Bulk District.

The Project consists of approximately 62,865 gsf consisting of 4,923 gsf of retail uses, 48,605 gsf of residential uses, and approximately 7,612 gsf of access and parking. The 85 units are comprised of 16 studio units, 13 junior one-bedroom units, 43 one-bedroom units, seven two-bedroom units, and six three-bedroom units. The project also includes common open space in the form of a roof deck and second story courtyard. The Project will also include 96 bicycle spaces. There will be 15 on-site automobile parking spaces.

The Project includes exceptions pursuant to Planning Code Section 309 and two Variances. The 309 exceptions include an exception to Reduction of Ground-Level Wind Currents in C-3 Districts and a reduction in Rear Yard requirements. The Variance is for permitted obstructions, and exposure requirements.

The retail use is divided into three tenant spaces; all accessed from Golden Gate Avenue, and are intended to be neighborhood-serving retail.

5. **Design.** The design of 101 Hyde Street is a mix of contemporary and vernacular architecture. The concrete structure is set in an L-shaped plan, with one level of below-grade parking, ground level retail, and above-grade residential units. The units are double loaded around an L-shaped corridor. The façade is broken down into several different massings at various planes and heights. Each distinct area is separated by its façade's geometry and different exterior materials. Vertical bay projections, which flank each side of the central corner element, are scaled to similar bay windows in the area, yet are triangular in plan and have a modern window shape and size. The bay projections will have aluminum windows set into a white panelized rain screen system.

The central corner element is a rectangular projection and is distinguished by its glass façade and set inside a thick perimeter concrete frame. The floor-to-ceiling curtain-wall window system will have random opaque panels, which will provide wall space for the residential interiors and provide a larger pixelated appearance from the exterior. Passive sun shade louvers are set at the top of these aluminum windows and will create horizontal bands. The lower horizontal earth-tone section located at the 2nd and 3rd floors will be a high-density, laminate panel system which will resemble Cor-Ten steel which is corrosion-resistant steel that forms a rust-like appearance. The scale of this element, with the punched window openings, relate to the surrounding historic fabric and windows in the area.

The ground-level retail spaces will have large, contemporary, glass and aluminum storefront windows set upon a historic-type bulkhead element found in the general Tenderloin area. In summary, the overall design is a unique mixed-use building, with varying planes, bay windows, and rain screen exterior cladding. The central corner element appears to float over a scaled down Cor-Ten-style element, and prominently stands out from the flanking white bay projections. The design proportionately meets its neighbors on each side, and the overall building composition creates a wrap-around frontage that fits well into the fabric of the city block.

6. **Public Comment.** The Project Sponsor has participated in seven community group meetings with the Tenderloin Futures Collaboration Group and the Alliance for a Better District 6. In addition

the sponsor has engaged in five separate conversations with neighboring residents and community leaders. To date, there has been unanimous support of the proposal.

7. **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 (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown General Commercial District is 6.0 to 1.

In the C-3-G District, the maximum floor area ratio (FAR) is 6.0:1. The proposed gsf subject to FAR is 62,865 sf on a 10,633 sf lot, thereby yielding a FAR of 5.91 to 1.0. The 4,923 gsf of retail on the ground floor is exempt from FAR calculations pursuant to Planning Code Section 102.9.

- b. **Rear Yard (Section 134).** Planning Code Section 134 requires that a project's minimum rear yard depth be equal to 25 percent of the total depth of the lot on which the building is situated at all residential levels.

The Project would not meet the Planning Code's minimum rear yard requirement in that the required 25% rear yard at all residential levels is not provided. The Planning Code makes no provision for the proposed courtyard configurations as a method of complying with rear yard requirements. However, Section 134(d) allows for an exception from the strict application of these requirements through the Section 309 review process, provided that the building location and configuration assure adequate light and air to all residential units and to the usable open space areas. As such, the project is seeking an exception from the rear yard requirements of Planning Code Section 134. A second story 1,764 sf courtyard is provided which accounts for approximately 17% of the lot area.

- c. **Residential Open Space (Section 135).** Planning Code Section 135 requires 36 sf per dwelling unit of residential open space requirement if the open space is private and 48 sf per dwelling unit if it is provided through common open space.

The Project meets the open space requirements of Planning Code Section 135. Of the proposed 85 units, four units provide 496 sf of private balcony space, exceeding the code requirement for private open space. Therefore the Project must provide 3,888 sf of common open space. Included in the proposal are a 3,946 sf roof deck and a 1,764 sf second level courtyard. Even though the second level courtyard does not meet the exposure requirements for open space, the roof deck satisfies the residential open space requirements.

- d. **Permitted Obstructions – Bay Windows (Section 136).** Planning Code Section 136 requires that a bay window project no more than three feet over the side walk and the maximum length of each bay window or balcony shall be 15 feet at the line establishing the required open area, and shall be reduced in proportion to the distance from such line by means of 45 degree angles drawn inward from the ends of such 15-foot dimension, reaching a maximum of nine feet along a line parallel to and at a distance of three feet from the line establishing the required open area.

The Project includes a corner element that exceeds these requirements. The projection is approximately four feet and the length is approximately 29 feet on Golden Gate Avenue and 22 feet on Hyde Street. The corner element is an architectural feature of the Project. As such, the Project is seeking a Variance for permitted obstructions of Planning Code Section 136.

- e. **Public Open Space (Section 138).** New buildings in the C-3-G Zoning District must provide public open space at a ratio of one sf per 50 gsf of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building.

The project includes approximately 4,923 sf of ground floor retail space, which is excluded from the gross floor area of the building, pursuant to Planning Code Section 102.9(b)(14). As such, there is no public open space requirement.

- f. **Exposure (Section 140).** Planning Code Section 140 requires that all dwelling units face directly onto 25 feet of open area (a public street, alley, or side yard) or onto an inner courtyard that is 25 feet in every horizontal dimension for the floor at which the dwelling unit in question is located and the floor immediately above it, with an increase in five feet in every horizontal dimension at each subsequent floor.

The majority of dwelling-units would comply fully with Section 140, by either facing one of the abutting streets (Golden Gate Avenue or Hyde Street). The courtyard measures a depth of 18'6" thereby not meeting the minimum of 25 feet. There are 28 units on levels 2-8 that do not comply with this requirement. As such, the project is seeking a Variance from the exposure requirements of Planning Code Section 140.

- g. **Street Frontage in Commercial Districts: Active Uses (145.1(c) (3)).** Planning Code Section 145.1(c) (3) requires that within Downtown Commercial Districts, space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor. Spaces accessory to residential uses, such as fitness or community rooms, are considered active uses only if they meet the intent of this section and have access directly to the public sidewalk or street. Building systems including mechanical, electrical, and plumbing features may be exempted from this requirement by the Zoning Administrator only in instances where those features are provided in such a fashion as to not negatively impact the quality of the ground floor space.

The ground floor along Hyde Street and Golden Gate Avenue have "active uses" with direct access to the sidewalk within the first 25 feet of building depth and are thus compliant with this Code Section. Along Golden Gate Avenue, the Project includes a lobby, retail spaces, and vehicular entry from an existing 20'-5 1/2" curb cut. There is an existing easement on the property which must remain thereby restricting the Project Sponsor from further reducing the vehicular entry. Egress stairs and one retail space occupy the Hyde Street frontage. Building systems including mechanical, electrical, and plumbing features do not occupy street frontages. The Project meets this section of the Code in that both frontages are completely devoted to active uses, residential entry, and spaces accessory to residential uses.

- h. **Street Frontage in Commercial Districts: Ground Floor Transparency (Section 145.1(c)(6)).** Planning Code Section 145.1(c)(6) requires that within Downtown Commercial Districts, 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 has two street frontages with Active Uses: Hyde Street and Golden Gate Avenue. The Hyde Street frontage measures approximately 77 feet and the Golden Gate Avenue frontage measures approximately 138 feet. Both measure 95 feet and meet the transparency requirement for the active uses on each frontage. The residential entry and retail tenant space will meet the glazing requirements by being 100% glazed and transparent.

- i. **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 Hyde Street or Golden Gate Avenue, and therefore does not apply to the Project.

As it relates to Section 146(c), the Project would replace a one-story United States Postal Services Facility. Although there would be new shadows on sidewalks and pedestrian areas adjacent to the site, the project's shadow effects would be limited in scope and would not increase the total amount of shading above levels that are commonly and generally accepted in urban areas. The Project is proposed at a height that is zoned for the property and cannot be further shaped to reduce substantial shadow impacts on public sidewalks without creating an unattractive design and without unduly restricting development potential. Therefore, the Project will not create substantial shadow impacts to public sidewalks.

- j. **Shadows on Public Open Spaces (Section 147).** 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.

A shadow analysis determined that the Project would not cast net new shadow on Civic Center Plaza or any other open space under the jurisdiction of, or designated to be acquired by the

Recreation and Park Commission. No other significant public or private open spaces – including those not protected by Section 295 – would be affected by shadows from the Project.

- k. **Ground Level Wind (Section 148).** Pursuant to Section 148, 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 for a single hour of the year.

The PMND associated with 2012.0086EVX refers to a wind study prepared in January 2015 that tested existing, existing plus project, and cumulative conditions. The wind study found that 9 of the 16 test point locations exceed the pedestrian comfort criterion of 11mph (more than 10 percent of the time) under existing conditions. The wind study concluded that the proposed Project would eliminate one existing exceedance and add one new exceedance of the pedestrian-comfort criterion, while eight existing exceedances would remain. Overall, nine of the 16 test points would exceed the Planning Code's pedestrian-comfort criterion of 11 mph. The proposed Project would not result in any net new exceedances of the 11 mph pedestrian comfort criterion; nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria at all test points; a Section 309 exception is requested.

- l. **Parking (Section 151.1).** Planning Code Section 151.1 does not require off-street parking for the project, but it allows .25 spaces per dwelling-unit as-of-right, and up to 7% of the gross floor area for non-residential uses.

The Project proposes 15 off-street parking, below the .25 space per dwelling unit maximum requirement. Two spaces are handicapped accessible and 1 space is for a car share vehicle.

- m. **Loading (Section 152.1).** Section 152.1 establishes minimum requirements for off-street loading. In C-3 Districts, the loading requirement is based on the total gross floor area of the structure or use. Residential uses exceeding 100,000 square feet are required to provide one off-street loading spaces. Retail uses less than 10,000 square feet are not required to provide any loading spaces. Two service-vehicle spaces may be provided in place of one full-sized loading space.

The Project is not providing any off-street loading spaces. With a floor area of approximately 62,865 gsf, the residential component of the Project is not required to provide off-street loading spaces. No off-street loading is required for the approximately 4,923-square-feet devoted to retail uses.

- n. **Bicycle Parking (Section 155.5).** Planning Code Section 155.2 requires one Class 1 space for every dwelling unit and one Class 2 space per 20 units.

The Project requires a minimum of 85 indoor secure Class 1 bicycle parking spaces. The Class 1 bicycle spaces would be provided at garage level and accessed from the main residential entry. The Project is required to provide four Class 2 spaces on the sidewalk. For the retail component, an additional two Class 2 spaces are required bringing the bicycle requirement total to 85 Class 1 spaces and 6 Class 2 spaces. The Project is providing 86 Class 1 spaces and 10 Class 2 spaces, thereby meeting this requirement.

- o. **Car Share (Section 166).** Planning Code Section 166 requires one car-share space when a residential project includes between 50 and 200 residential units.

The Project proposes 15 off-street parking and therefore is required to provide one car-share parking space which is shown on the plans.

- p. **Density (Section 210.2).** Planning Code Section 210.2 states that the C-3 districts do not have a density limit. Density is regulated by the permitted height and bulk, and required setbacks, exposure, and open space of each development lot.

The proposed residential density is 85 dwelling units on a property C-3-G Zoning District. The Project Site is 10,633 square feet in size and the density is 1/125. There is no maximum density requirement.

- q. **Use (Sections 210.2, 208, 102).** The Project Site is located in a Downtown General (C-3-G) District wherein residential and commercial uses are permitted. Areas in the City identified as Downtown General include a variety of different uses, such as retail, offices, hotels, entertainment, clubs and institutions, and high-density residential. Many of these uses have a Citywide or regional function, although the intensity of development is lower here than in the downtown core area.

The residential and retail uses of the proposed Project at the density proposed would be consistent with the permitted Downtown General uses, pursuant to Planning Code Section 210.2.

- r. **Height (Section 260).** The property is located in the 80-X Height and Bulk District, thus permitting structures up to a height of 80 feet.

The Project would reach a height of approximately 80'-0" conforming in its entirety to the Height and Bulk District. The building includes various features, such as elevator/stair penthouses, mechanical structures, an enclosed space related to the recreational use of the roof, and wind screens that extend above the 80-foot proposed height; however, these features meet the Planning Code for exemptions to the height calculation. The Project would therefore comply with the Planning Code's 80-X Height and Bulk District.

- s. **Shadows on Parks (Section 295).** Planning Code 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 will result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department.

The Project's PMND refers to a shadow analysis performed by Department staff for the 96-foot-tall Project (Case No. 2012.0086EVX) which concludes that the Project would not cast new shadows on any properties under the Recreation and Park Commission's jurisdiction protected by Section 295 (a finding of "no significance", April 22, 2009). The shadows to be produced by the proposed Project would not exceed levels commonly expected in urban areas and would have no significant or adverse shadow effects.

- t. **Inclusionary Affordable Housing Program (Section 415).** Inclusionary Affordable Housing Program. Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 12% of the proposed dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any

other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on May 14, 2015 and a draft of the Costa Hawkins agreement. The EE application was submitted on August 15, 2012. Pursuant to Planning Code Section 415.3 and 415.6 the on-site requirement is 12%. Ten units (2 studios, 1 junior one-bedroom, 5 one-bedroom, 1 two-bedroom, and 1 three-bedroom) of the 85 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- u. **Street Trees (Sections 138.1 and 428).** Planning Code Section 138.1 requires the installation of street trees in the case of the construction of a new building. One 24-inch box tree is required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works (DPW). The requirements of Section 138.1 may be waived or modified by the Zoning Administrator, pursuant to Section 428, where DPW cannot grant approval due to practical difficulties. There are additional requirements for street trees in C-Districts. Street trees must have a minimum 2 inch caliper (measured at breast height); must maintain branches a minimum of 80 inches above sidewalk grade; must be planted in a sidewalk opening at least 16 square feet, and have a minimum soil depth of 3 feet 6 inches; and include street tree basins edged with decorative treatment, such as pavers or cobbles. Edging features may be counted toward the minimum sidewalk opening per (cc) if they are permeable surfaces per Section 102.33.

The Project includes a total of approximately 215 feet of street frontage, along the Hyde Street and Golden Gate Avenue frontages, which results in a requirement for 11 street trees. Conditions of approval have to be or have been added to require the project to plant 11 street trees as part of the Project's streetscape plan, along the Hyde Street and Golden Gate Avenue frontages, unless DPW cannot grant approval for installation of any of the required trees on the basis of inadequate sidewalk width, interference with utilities, or other reasons regarding the public welfare. In any such case, the requirements of Section 138.1 may be modified or waived by the Zoning Administrator. There are three existing trees located on Golden Gate Avenue which are proposed to be removed. Eleven street trees are required to be planted as part of the Project.

- v. **Public Art (Section 429).** In the case of construction of a new building or addition of floor area in excess of 25,000 gsf 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 by dedicating one percent of construction cost to works of art, as required through the Conditions of Approval. Prior to issuance of first construction document, the sponsor shall elect to use 100% of Public Art Fee to provide on-site public artwork, contribute 100% of the Public Art Fee amount to the Public Artwork Trust Fund, or expend a portion of the Public Art Fee amount to on-site public artwork and the remainder to the Public Artwork Trust Fund. If the Project Sponsor chooses to provide the art on-site, the public art concept and location will be subsequently presented to the Planning Commission at an informational presentation.

8. **Exceptions Request 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 as further described below:

- a. **Section 134: Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at the first level containing a dwelling unit, and at every subsequent level. Per Section 134(d), exceptions to the rear yard requirements may be granted provided that the building location and configuration assure that adequate light and air to the residential units and the open space is provided.

The proposed project would not meet the Planning Code's minimum rear yard requirement in that the 25% rear yard does not span the full width of the lot. Although open space is provided in a courtyard fashion at the second level, the building volume holds the street wall on the entirety of the Hyde Street façade and the Golden Gate Avenue façade, thereby not allowing for a rear yard that spans the full width of the lot. All dwelling units face onto either this courtyard at the second level, or onto Golden Gate Avenue or Hyde Street. Open space at the roof deck and the courtyard have access to light and air; therefore, ample separation for light and air is provided for the residential units within the Project, and light and air is provided to the usable open space. Therefore, it is appropriate to grant an exception from the rear yard requirements of Planning Code Section 134.

- 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.

Section 309(a) (2) permits exceptions from the Section 148 ground-level wind current requirements. No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

Comfort Criterion

The PMND associated with 2012.0086EVX refers to a wind study prepared in January 2015 that tested existing, existing plus project, and cumulative conditions. The wind study found that 9 of the 16 test point locations exceed the pedestrian comfort criterion of 11mph (more than 10 percent of the time) under existing conditions. The wind study concluded that the proposed Project would eliminate one existing exceedance and add one new exceedance of the pedestrian-comfort criterion, while eight existing exceedances would remain. Overall, nine of the 16 test points would exceed the Planning Code's pedestrian-comfort criterion of 11 mph. The proposed Project would not result in any net new exceedances of the 11 mph pedestrian comfort criterion; nonetheless, because the project would not reduce the ambient wind speeds to meet the pedestrian comfort criteria at all test points; a Section 309 exception is requested.

An exception is warranted because the project will not add to the amount of time that the comfort level is exceeded. In addition, because the current exceedances are primarily attributable to the existing conditions, the project cannot be shaped and other wind-baffling measures cannot be adopted to meet the comfort criteria without creating an unattractive and ungainly building form and without unduly restricting the development potential of the project site.

9. **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 1.1:

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

The proposed mixed-use Project responds to the need for new affordable housing by providing 10 affordable dwelling units.

OBJECTIVE 4:

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

Policy 4.5:

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

The Project would provide 10 affordable housing for low income households. There will be approximately 16 studio units, 13 junior one-bedroom units, 43 one-bedroom units, seven two-bedroom units, and six three-bedroom units, constituting a diverse unit mix.

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 11.6:

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

The Project is well designed and compatible with the scale and proportions of buildings in the area, and will be built with high quality materials. The design is compatible with design elements in the neighborhood and would add to the image and mixed-use orientation of the downtown district. The design of the building incorporates contemporary design and detailing that responds appropriately to the variety of heights, scales, styles and periods found in the area. The design and proportions feature clean lines with appropriately scaled massing coupled with quality materials and fixtures that will add to the evolving rich and varied pedestrian experience in this neighborhood.

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.

Policy 1.2:

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

Policy 1.3:

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

The Project would add approximately 4,923 sf of new commercial space that is intended to serve residents in the building and likely draw a wider range of new neighborhood-serving retail businesses than it does today. Retail is encouraged and principally permitted on the ground floor of buildings in the Downtown General District, and is thus consistent with activities in the commercial land use plan.

TRANSPORTATION ELEMENT

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.

The Project is located within a neighborhood rich with public transportation and the people occupying the building are expected to rely heavily on public transit, bicycling, or walking for the majority of their daily trips. The project includes bicycle parking for 96 bicycles (86 Class 1, 10 Class 2 bike parking spaces). Within a few blocks of the project site, there is an abundance of local and regional transit lines, including MUNI bus lines 5, 6X, 19, 31, 38, 47, 49, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally such transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain. The site is two blocks north of Market Street and approximately three blocks from the Civic Center Station serving BART and MUNI. The Project is well served by transit of all varieties.

URBAN DESIGN ELEMENT

OBJECTIVE 1:

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

Policy 1.3:

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

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

OBJECTIVE 3:

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

Policy 3.1:

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

Policy 3.2:

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

Policy 3.5:

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

Policy 3.6:

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

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

OBJECTIVE 4:

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

Policy 4.12:

Install, promote and maintain landscaping in public and private areas.

The Project includes a landscaped second story courtyard, a roof deck and is required to provide 11 street trees.

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.

The Project will bring additional housing with 15 off-street parking spaces and an abundance of bicycle parking into a neighborhood that is well served by public transit on the outskirts of Downtown. The Project will create substantial net benefits for the City without any undesirable consequences that 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.

The Project would construct a eight-story, 85-unit residential building, with 10 affordable housing units on-site, thereby increasing the City's limited supply of affordable housing.

The Project also includes approximately 4,923 sf of ground floor commercial space, which will provide services to the immediate neighborhood.

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

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

The Project will displace an existing neighborhood-serving retail use (United States Postal Service Facility) that is used in a limited fashion. The proposed project would enhance neighborhood-serving retail uses by providing approximately 4,923 square feet of neighborhood-serving retail space.

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

The Project would not remove any existing housing, and would create 85 new dwelling units. The Project Site is located within a dense, urban-infill neighborhood on Hyde Street at the intersection with Golden Gate Avenue and within a C-3-G Downtown General Commercial District. Existing properties within the vicinity of the project site include high-density residential, government and educational buildings (Asian Art Museum, the San Francisco Public Library and Hastings College of Law), and retail uses of varying intensities. The Project would enhance the character of the neighborhood by replacing an under-utilized one-story building with housing and retail uses. The design relates to the mass and vertical articulation of the existing government buildings in the neighborhood, while incorporating bays with detailing related to the more modern structures in the area. The Project adds to the continuous ground level streetscape on Hyde Street and Golden Gate Avenue by providing active uses which will animate the street level. The Project would add to the cultural and economic diversity of the area by providing 85 new housing units, which would be affordable to a variety of income levels and household sizes.

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

There is currently no housing on the site; therefore, no affordable housing will be lost as part of this project. The Project would, however, significantly enhance the City's supply of affordable housing serving moderate income households. The Project would provide 10 affordable housing units on-site.

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

Commuter traffic would be extremely limited, consisting primarily of support staff and retail space employees. The site is two blocks north of Market Street and approximately three blocks from the Civic Center Station serving BART and MUNI. The Project is well served by transit of all varieties.

- 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.

No industrial or service sector business would be displaced by the proposed project, and there is no commercial office space in the development. The Project includes only residential dwelling units and neighborhood-serving retail. Many of the building's new residents will support the existing industrial or service sector businesses in the neighborhood, prompting the creation of more employment opportunities.

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

The Project would be constructed to meet all of the most current and rigorous seismic and life-safety requirements of the San Francisco Building Code. This proposal will not adversely affect the property's ability to withstand an earthquake; rather, it will result in the production of seismically safe affordable housing.

- G. That landmarks and historic buildings be preserved.

No landmarks or historic buildings would be demolished, and the property is not part of a historic or conservation district.

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

The Project will have not have any negative impact on existing parks and open spaces. Existing public parks and open space areas in the project vicinity include the Civic Center Plaza and the United Nations Plaza, which are all at least two blocks away. The project would not shade any of these parks.

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 Determination of Compliance with exceptions would promote the health, safety and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2012.0086EVX** and grants exceptions to Sections 134(d) and 148, pursuant to Section 309, subject to the following conditions attached hereto as Exhibit A which are incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. **2012.0086EVX**.

The Planning Commission has reviewed and considered the IS/MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

The Planning Commission hereby adopts the MMRP as prepared under **2012.0086EVX** attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions 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 in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 11, 2015.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Fong, Antonini, Hillis, Johnson, and Richards

NAYS: None

ABSENT: Commissioners Moore and Wu

ADOPTED: June 11, 2015

EXHIBIT A

AUTHORIZATION

This authorization is to grant a Planning Code Section 309 Determination of Compliance and Request for Exceptions, in connection with a proposal to construct a eight-story, 85-unit building with approximately 4,923 gross square feet (gsf) of ground floor retail on a site that currently contains a one-story United States Postal Services Facility within the C-3-G Zoning District and the 80-X Height and Bulk District, in general conformance with plans dated June 11, 2015, and stamped "EXHIBIT B" included in the docket for Case No. **2012.0086EVX** and subject to conditions of approval reviewed and approved by the Commission on June 11, 2015 under Motion No. **19389**. 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 June 11, 2015 under Motion No. **19389**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19389** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Determination of Compliance and Request for Exceptions and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Determination of Compliance and Request for Exceptions.

Conditions of approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Determination of Compliance and Request for Exceptions is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to construct the project and/or commence the approved use is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

3. **Additional Project Authorizations.** The Project Sponsor must obtain Variances pursuant to Planning Code Sections 305, 136, and 140 to provide 28 units that do not meet exposure requirements and permitted obstructions which do meet Planning Code Section 136. 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

4. **Mitigation Measures.** Mitigation measures described in the MMRP associated with 2012.0086EVX attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the Project Sponsor. The implementation of the mitigation measures is a condition of approval.

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

DESIGN – COMPLIANCE AT PLAN STAGE

5. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, ground floor, open spaces,

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 415-575-9078, www.sf-planning.org

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

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

7. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the architectural addendum to the permit. 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 415-575-9078, www.sf-planning.org

8. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff prior to Planning approval of the architectural addendum to the site permit. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to complement, not compete with, the existing architectural character and architectural features of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

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

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

5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

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

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

10. **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

11. **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

12. **Street Trees.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. A total of 11 trees are required: four on Hyde Street and seven on Golden Gate Avenue. This total is the final required amount of street trees and does not take into account existing trees. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org

PARKING AND TRAFFIC

13. **Bicycle Parking.** The Project shall provide no fewer than 85 Class 1 bicycle parking spaces and six Class 2 bicycle parking spaces as required by Planning Code Sections 155.2. [Does 155.5 need to be mentioned for retail requirements of one Class 1 and six Class 2 spaces, per PMND?]
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
14. **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
15. **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
16. **Car Share.** Pursuant to Planning Code Section 166, no fewer than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
17. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than twenty one (21) off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

18. **Affordable Units**
- a. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 85 units; therefore, 10 affordable units are required. The Project Sponsor will

fulfill this requirement by providing the 10 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

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. **Unit Mix.** The Project contains 16 studios, 13 junior one-bedroom, 43 one-bedroom, 7 two-bedroom, and 6 three-bedroom units; therefore, the required affordable unit mix is 2 studios, 1 junior one-bedroom, 5 one-bedroom, 1 two-bedroom, and 1 three-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

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

- c. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

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

- d. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units.

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

- e. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

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

- f. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the 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 MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for 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.

- i. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- ii. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- v. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide

a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

- vi. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior to issuance of the first construction document or must revert payment of the Affordable Housing Fee.
 - vii. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
 - viii. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.
19. **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.
20. **Art - C-3 District.** Pursuant to Planning Code Section 429, the Project shall pay the Public Art Fee in an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. Prior to issuance of first construction document, the sponsor shall elect to use 100% of Public Art Fee to provide on-site public artwork, contribute 100% of the Public Art Fee amount to the Public Artwork Trust Fund, or expend a portion of the Public Art Fee amount to on-site public artwork and the remainder to the Public Artwork Trust Fund.

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

21. **Art Plaques - C-3 District.** Pursuant to Planning Code Section 429(b) provided that the Project Sponsor provide the public art on-site, 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

22. **Art - C-3 District.** Pursuant to Planning Code Section 429, provided that the Project Sponsor provide the public art on-site 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

23. **Art - C-3 District.** 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

MONITORING - AFTER ENTITLEMENT

24. **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

25. **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

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

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

27. **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>

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

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

29. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the architectural addendum to the site permit.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9078, www.sf-planning.org