



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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## Planning Commission Motion No. 18789 Conditional Use

HEARING DATE: JANUARY 24, 2013

*Date:* January 10, 2103  
*Case No.:* **2011.0312 CEKVX!**  
*Project Address:* **1321 MISSION STREET (AKA 104 – 9<sup>TH</sup> STREET)**  
*Zoning:* C-3-S (Downtown Support)  
 120-F Height and Bulk District  
*Block/Lot:* 3509/043  
*Project Sponsor:* Cara Houser  
 Panoramic Interests  
 2116 Allston Way, Suite 1  
 Berkeley, CA 94704  
*Staff Contact:* Elizabeth Watty – (415) 558-6620  
[Elizabeth.Watty@sfgov.org](mailto:Elizabeth.Watty@sfgov.org)

**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, PURSUANT TO PLANNING CODE SECTIONS 124(f), 124(k), 215(b), AND 303, TO ALLOW ADDITIONAL SQUARE FOOTAGE ABOVE THE BASE FLOOR AREA RATIO (FAR) OF 5:0 TO 1 FOR DWELLING UNITS THAT WILL BE USED FOR STUDENT HOUSING AND/OR UNITS AFFORDABLE TO HOUSEHOLDS EARNING UP TO 150 PERCENT OF MEDIAN INCOME, AND TO EXCEED THE PRINCIPALLY PERMITTED DENSITY OF 74 UNITS BY AN ADDITIONAL 84 UNITS AS PART OF A PROJECT THAT WILL DEMOLISH THE EXISTING ONE-STORY COMMERCIAL BUILDIDNG AND CONSTRUCT AN 11-STORY-OVER-BASEMENT, APPROXIMATELY 120-FOOT TALL BUILDING WITH UP TO 160 DWELLING UNITS WITH APPROXIMATELY 3,359 GSF OF GROUND FLOOR COMMERCIAL SPACE, LOCATED AT 1321 MISSION STREET (AKA 104 – 9<sup>TH</sup> STREET), (ASSESSOR'S BLOCK 3509, LOT 043), WITHIN THE C-3-S (DOWNTOWN SUPPORT) DISTRICT AND THE 120-F HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

## **PREAMBLE**

On July 08, 2011, Cara Housing on behalf of Panoramic Interests (Hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Environmental Review, to allow the demolition of an existing one-story commercial building with a partial basement, and the construction of a new, 11-story-over-basement, approximately 120-foot tall building containing approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units (including 120 efficiency dwelling units with reduced square footage), and approximately 3,359 gsf of commercial space.

On September 29, 2011, the Project Sponsor filed an application with the Department for a Determination of Compliance with Planning Code Section 309, with exceptions to the requirements for Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148), Bulk Limits (Section 270), and Rear Yard Requirements (Section 134) within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District.

On November 08, 2011, the Project Sponsor filed a Shadow Study Application with the Department for compliance with Planning Code Section 295. It was determined on November 8, 2011 that the Project would not cast additional shadows on any property under the jurisdiction of, or designated to be acquired by the Recreation and Parks Department.

On June 26, 2012, the Project Sponsor filed an application with the Zoning Administrator under Planning Code Sections 136, 140, and 145.1, to allow bay windows, architectural projections, and cornices that exceed the maximum dimensions allowed for projections over the sidewalk, to allow 30 units to face onto an inner court that does not comply with the dwelling-unit exposure requirements, and to allow ground-floor common space facing Washburn Street without direct access to the street and with less fenestration transparency than required within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District.

On November 21, 2012, the Project Sponsor also filed an application with the Department for a Conditional Use Authorization under Planning Code Sections 124(f), 124(k), 215(b), and 303, to allow additional square footage above that permitted by the base FAR limit for Student Housing as defined in Section 102.36 and for on-site units affordable to households earning less than 150 percent of median income; and to exceed the principally permitted density of 74 units by an additional 56 units within the C-3-S (Downtown Support) District and a 120-F Height and Bulk District. (The project's 120 efficiency units with reduced square footage are treated as 90 units for the purposes of calculating the density limit.)

On January 24, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0312CEKVX!.

On November 21, 2012, the Preliminary Mitigated Negative Declaration (PMND) for the Project was prepared and published for public review; and

The PMND was available for public comment and appeal until December 11, 2012; and

On January 04, 2013, 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/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department/Planning Commission, [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.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2011.0312CEKVX!, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting program (MMRP), which material was made available to the public and this Commission for this Commission's review, consideration and action.

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.0312CEKVX!, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the south side of Mission Street between 9th and Washburn Streets; Lot 043 in Assessor's Block 3509. The project site is on an approximately 9,208 square-foot (sf) lot, spanning from the southwest corner of Mission and 9<sup>th</sup> Streets to the east corner of Mission and Washburn Streets. The site is on the block bounded by Washburn Street to the west, Mission Street to the north, 9th Street to the east, and Howard Street to the south. It is located in the South of Market neighborhood within the Downtown Area Plan and the Downtown Support (C-3-S) Zoning District and a 120-F Height and Bulk District. The site is currently improved with a 12,860 sf one-story building with a partial basement. The existing building covers the entire area of the lot and was built circa 1926. The building had been vacant

prior to acquisition for development by the project sponsor, and is currently occupied by a furniture store.

3. **Surrounding Properties and Neighborhood.** The Project site comprises a single parcel in the Downtown Area Plan and the South of Market (SoMa) neighborhood. The Project site is within the C-3-S (Downtown Support) Zoning District, and in the 120-F Height and Bulk Districts. The Project site is adjacent to the Western South of Market Area Plan.

The area on Mission Street north of the Project site is designated C-3-G and is developed with a mix of commercial and residential uses. Commercial uses in the area include a café (98 9th Street), a variety of music, dance, and art studios (1310, 1360, 1385 Mission Street, 116 9th Street), a market and deli (99 9th Street) kitty-corner from the Project, and a dance club (1337 Mission Street) to the west. There is a tourist hotel, Rodeway Inn (101 9th Street) to the east and several residential hotels around the Project site, including The Washburn (42 Washburn), The Potter (1284 Mission), Ram's (80 9th Street), and the El Dorado (150 9th Street). There are community aid services (1338, 1375, and 1385 Mission Street) to the west and the County Adult Assistance Program (1235 Mission). Numerous multi-family residences and mixed-use developments are located along Mission Street north of the Project site and along 9th Street to the south. In addition, there are single and multi-family residential units along the east side of Washburn Street adjacent to the proposed Project. Buildings along the north side of Mission Street are generally taller than buildings on the south side of Mission Street. Most are two-to-four stories, but some are as tall as 25 stories.

The Project block is bounded by 9th Street to the northeast, Washburn Street to the southwest, Mission Street to the northwest, and Howard Street to the southeast. Buildings in the area generally cover the entire parcel and are built to the sidewalk; two lots on the Project block include surface parking. The buildings on the Project block generally span the entire width of the block. Building heights range from two-to-four stories.

Parks and open spaces in the vicinity of the Project site include Civic Center/UN Plaza (two blocks north), Howard and Langton Mini Park (five blocks southeast), Victoria Manalo Draves Park (seven blocks southeast), and Jefferson Square Park (eight blocks northwest).

4. **Project Description.** The proposed Project would demolish the existing one-story commercial building with a partial basement, which is currently occupied by a furniture store, and construct a new, 11-story-over-basement, approximately 120-foot tall building containing approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units, and approximately 3,359 gsf of commercial space. Up to 120 of the Project's units could be "efficiency dwelling units with reduced square footage" as defined in Planning Code Sec. 318. At minimum, 80 of the Project's units would be operated as Student Housing. The remaining 80 units would be approved as a non-student residential use, but the Project Sponsor would have the flexibility to change them to Student Housing at any time up until the first Certificate of Occupancy. The Project would include no off-street parking, with the exception of one off-street car share parking space, but would include approximately 240 bicycle parking spaces.

5. **Public Comment.** The Department has received one phone call in opposition to the project and four letters in support.
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 (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the Downtown Support District is 5.0 to 1.

*The proposed Project has a gross floor area, as defined under the Planning Code, of approximately 80,107 gsf and a lot size of 9,208 sf, resulting in a FAR of approximately 8.7:1, or 34,067 gsf above the base FAR limit. Through a Conditional Use authorization granted under Planning Code Sections 124(k) or 124(f) respectively, the Planning Commission may allow building area above base FAR limit for Student Housing or for on-site units affordable to households earning less than 150 percent of median income. The Project is seeking a Conditional Use Authorization, pursuant to Sections 124(k) and 124(f) to exceed the base FAR by approximately 34,067 gsf.*

- B. **Density (Section 215).** Planning Code Sections 215(a) permits up to 74 dwelling units through a ratio of 1 unit per 125 sf of lot area, provided, however, that the maximum density ratio in a C-3 District shall in no case be less than for an RM-4 District. The RM-4 District allows 1 unit per 200 sf of lot area, but also allows units that are less than 500 square feet to be counted as  $\frac{3}{4}$  of a unit. Density above the amount principally permitted may be authorized through a Conditional Use Authorization.

*The Project seeks approval for 120 micro units and 40 two-bedroom units. Based on the C-3 Zoning, 74 units are permitted as of right, which would require a CU for the additional 86 units. Based on the calculations allowed in the RM-4 District, which allow micro units to be counted as  $\frac{3}{4}$  of a unit for the purposes of density, 46 units would be allowed as of right, and would require a CU for the additional 84 units (120 micro units x .75=90 studios + 40 2+bedroom units, for a total of 130 units for the purposes of calculating density). The proposed Project would require a Conditional Use Authorization for an additional 84 units.*

- C. **Use (Sections 215(b), 218(b)).** The project site is located in a Downtown Support (C-3-S) District wherein residential and commercial uses are permitted. Areas identified as Downtown Support include a variety of different uses, such as hotels, housing, museums and cultural facilities, retail and offices.

*The residential and retail uses of the proposed project would be consistent with the Downtown Support uses, pursuant to Planning Code Sections 215(b) and 218(b); the proposed density of the residential use would require a Conditional Use Authorization.*

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

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

*The proposed Project involves the demolition of an underutilized single story retail building and the construction of an approximately 120-foot tall, eleven-story, 160-unit residential building, containing approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units (including 120 efficiency units with reduced square footage). At minimum, 80 of the Project's units would be operated as Student Housing. The remaining 80 units would be approved as a non-student residential use, but the Project Sponsor would have the flexibility to change them to Student Housing at any time up until the first Certificate of Occupancy. The proposed Project would help fulfill General Plan policies that encourage the construction of new housing and add beds to the City's limited supply of student housing. The proposed buildings' scale and dwelling unit density are compatible with the C-3-S Zoning District and the surrounding neighborhood.*

*The proposed Project also includes approximately 3,359 gsf of ground floor commercial space, which will provide services to the immediate neighborhood. Unlike the types of commercial uses that the existing building has had over the years—such as furniture stores—this new commercial space will create pedestrian-oriented, active uses on Mission and Ninth Streets.*

- B. The proposed Project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The proposed Project has a shape, size and use that are consistent with the existing surrounding development, particularly development along Mission Street and north between Mission and Market Streets, and where no fewer than five new residential developments of equal or larger size and scale than the proposed project have recently been approved or are under construction.*

*The site has three street frontages—on Mission, Ninth and Washburn Streets. The building has only one garage door, on Washburn, and the majority of frontage features pedestrian-oriented, active uses. Additionally the Project proposed a high quality landscaping along these frontages, including a bulb out along Washburn with bike parking and at least 72 sf of public open space, which is more than required by Code. These features are consistent with promoting or creating positive general welfare for the persons residing or working in the vicinity.*

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

*No off-street parking is required for the proposed Project and none is provided. The Project has one car share parking space, as require by Planning Code Section 166, and there is only one garage*

*door located on Washburn Street, which also serves for trash pick-up. The Project would have an abundance of bicycle parking, providing spaces for 240 bicycles in a secure location in the building's basement.*

*Within a two block distance, the Project site is served by local and regional transit lines including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, 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 Planning Code does not require any off-street loading. However, ease of passenger loading and unloading at the Project site would be promoted by a proposed 44-foot white zone on the south side of Mission Street near the primary residential entrance. Because the building has very little vehicular circulation, the quality of the street space is inviting to pedestrians.*

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

*The proposed Project is primarily for residential use with a ground floor commercial component. Noxious or offensive emissions such as noise, glare, dust and odor are typically not associated with residential and small commercial uses. Trash, recycling and composting receptacles are located within the interior of the building, to contain such any related odors.*

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

*The Project proposes street trees, landscaping, and other streetscape elements along Mission, Ninth and Washburn Streets as part of a streetscape plan designed by the Project's landscape architect. Features include a bulb out along Washburn Street with bike parking and at least 72 sf of public open space. The open spaces within the building, located in a second floor courtyard and roof deck, also feature high-quality landscaping and other design features which makes them inviting to building residents. One garage door serves both the car share vehicle and trash collection for the building.*

*The Department will review all lighting in accordance with Conditions 21 and 37 of Exhibit A of Motion No. 18788, which are incorporated hereby by reference thereto. All signage will be reviewed against and shall comply with Article 6 of the Planning Code.*

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

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with Objectives and Policies of the General Plan as detailed below.*

8. **General Plan Compliance.** The Project is, on balance, consistent with the Objectives and Policies of the General Plan. The findings set forth in Determination of Compliance Motion No. 18788 apply to this Motion, and are incorporated as though fully set forth herein.
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 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 existing building has been vacant for a couple of years and is temporarily leased to a furniture store until the proposed project is approved and construction begins. The proposed Project would not displace any neighborhood-serving retail uses as it will add approximately 3,359 sf of new commercial space that will serve residents in the building and likely draw a wider range of new neighborhood-serving retail businesses than it does today. Moreover, the project will bring new residents and their guests to the neighborhood, increasing the number of customers for existing and new neighborhood-serving retail uses, thereby prompting creation of more employment opportunities.*

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

*The proposed Project would not remove any existing housing, and would create 160 new dwelling units in a downtown high-density district. The project is primarily intended to be Student Housing, which will provide the opportunity for groups of students to live near their schools, and add to the cultural and economic diversity and the vitality of the neighborhood. Creating Student Housing and/or efficiency units with reduced square footage will also serve to provide students and one or two-person households an alternative to living in groups in existing family-sized units in the area, freeing these units in the neighborhood for non-student households.*

*The existing building has been significantly modified over the years, and retains little of its original design. The building regularly draws graffiti and other unattractive activities and does not contribute to the neighborhood character or its cultural diversity. The proposed Project is a high-quality design and is of similar height, scale and massing to Mercy Housing's affordable family housing building on the northeast corner of tenth and Mission Street, one block west of the project site.*

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

*The Project would preserve and enhance the City's supply of affordable housing. The existing commercial building on the site does not provide any affordable housing. The Project will provide housing for students, many of whom are low-income and/or qualify for need-based financial aid. Because 120 of the units will be "efficiency units with reduced square footage", they are also "affordable by design." Finally, any portion of the Project that is not operated as Student Housing would be subject to the Inclusionary Housing Program and affordable units would be provided on-site.*



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

*The proposed Project is car-free and because the residents will be primarily students they will most often walk, use public transit, bicycles, or car-sharing alternatives to travel to classes, places of entertainment, recreation, and elsewhere. The site's prime location close to transit, shops, services and schools make it an ideal location for this type of development.*

*A car share vehicle will be located in the building, and the building will provide ample, secure bicycle parking. Within a two block distance, the project site is served by local and regional transit lines including MUNI bus lines 6, 9, 12, 14, 19, 21, 47, 71, all six MUNI Metro rail lines, BART, and by SAMTrans. Additionally these transit lines also provide access to AC Transit (Transbay Terminal) and CalTrain. This type of development adds no commuter traffic to the city and serves to support existing public transit systems by adding additional riders to the neighborhood.*

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

*The proposed Project would be constructed to meet all applicable 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 a seismically safe structure.*

- 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. While the proposed Project is adjacent to a historic district to the south—the Western SOMA Light Industrial and Residential Historic District—it does not directly affect any historic resources.*

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

*The Project will have no negative effect on existing parks and open spaces, as there will be no net new shadows cast on any park or open space.*

10. 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.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

## DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2011.0312CEKVX!** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 24, 2013, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

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 MND and the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the IS/MND and contained in the MMRP are included as conditions of approval.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18789. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 24, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Antonini, Borden, Hillis, Moore, Sugaya, Wu

NAYS:

ABSENT: Commissioner Fong

ADOPTED: January 24, 2013

## EXHIBIT A

### AUTHORIZATION

1. This authorization is for a Conditional Use to allow the construction of a new, 11-story-over-basement, approximately 120-foot tall building containing approximately 3,359 gsf of commercial space and approximately 78,040 gsf of residential space, comprised of up to 160 dwelling units (including up to 120 efficiency dwelling units with reduced square footage), which may be used for Student Housing as defined in Section 102.36, with an FAR over the 5:1 base FAR for Student Housing and/or housing affordable to households earning up to 150 percent of median income, with a density greater than 74 units, located at 1321 Mission Street (aka 104 – 9<sup>th</sup> Street), Block 3509, and Lot 043 pursuant to Planning Code Sections 124(f), 124(k), 215(b), and 303, within the C-3-S District and a 120-F Height and Bulk District; in general conformance with plans, dated January 24, 2013, and stamped “EXHIBIT B” included in the docket for Case No. 2011.0312CEVX! and subject to conditions of approval reviewed and approved by the Commission on January 24, 2013, under Motion No. 18789. 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

2. 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 **January 24, 2013**, under Motion No. 18789.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

3. The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18789 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use Authorization and any subsequent amendments or modifications.

### SEVERABILITY

4. 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

5. 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

6. **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 Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the Project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained 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](http://www.sf-planning.org)*

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

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

8. **Proof of Student Housing.** Prior to the first Certificate of Occupancy, the Project Sponsor shall present a lease or other contractual arrangement demonstrating that the Project, or portion thereof, qualifies as Student Housing, or alternatively, the Project Sponsor shall comply with Condition of Approval No. 9, below, as well as all Inclusionary Affordable Housing Requirements and all other Planning Code Requirements.

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

9. **Conversion from Student Housing to Non-Student Residential Use.** If the residential project no longer qualifies as Student Housing as defined in Planning Code Section 102.36, the Zoning Administrator may allow the conversion of the Student Housing to any permitted residential use in the C-3-S Zoning District upon determination that the converted Student Housing has complied with any applicable Inclusionary Affordable Housing Requirements at the date of proposed conversion, as outlined in Planning Code Section 415.3(c)(5)(C)(iii), and that all other Planning Code requirements applicable to that residential use have been met or modified through appropriate procedures.

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

10. **Additional Project Authorization.** The Project Sponsor must obtain a Downtown Project Authorization under Section 309 and seek exceptions from Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148), Bulk Limits (Section 270), and Rear Yard Requirements (Section 134); and must obtain Variances from Sections 136, 140, and 145.1, to allow bay windows, architectural projections, and cornices that exceed the maximum dimensions allowed for projections over the sidewalk, to allow 30 units to face onto an inner court that does not comply with the dwelling-unit exposure requirements, and to allow ground floor common space facing Washburn Street without direct access to the street and with less fenestration transparency than required, and satisfy all the conditions thereof. The conditions set forth herein 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](http://www.sf-planning.org).*

11. **Mitigation Measures.** Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the Project Sponsor. Their implementation is a condition of project approval.

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

## MONITORING - AFTER ENTITLEMENT

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

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

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

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