



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. XXXXX HEARING DATE: DECEMBER 18, 2014

Date: December 18, 2014
Case No.: **2011.1374E**KX
Project Address: **800 Indiana Street**
Zoning: UMU (Urban Mixed-Use) Zoning District
58-X Height and Bulk District
Block/Lot: 4105/009
Project Sponsor: Joe Kirchofer, AvalonBay Communities, Inc.
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ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT IMPACTS AND SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO APPROVALS FOR THE PROJECT, LOCATED AT 800 INDIANA STREET, TO DEMOLISH THE EXISTING BUILDING AND CONSTRUCT A 5-STORY RESIDENTIAL BUILDING CONTAINING UP TO 338 RESIDENTIAL UNITS AND A BELOW-GRADE PARKING FOR 260 VEHICLES.

PREAMBLE

The Project Sponsor (AvalonBay Communities) submitted an application for a project located at 800 Indiana Street for a Large Project Authorization under Planning Code Section 329 and a Shadow Analysis under Planning Code Section 295 to demolish the existing building and construct a five-story, approximately 441,183 gross square foot residential building with 326 residential units and a below-grade parking area for 260 vehicles.

The Project is within the Eastern Neighborhoods Area Plan area, the environmental impacts of which were examined in the Eastern Neighborhoods Programmatic EIR (Eastern Neighborhoods PEIR). The Planning Commission (hereafter referred to as "Commission") certified the Eastern Neighborhoods PEIR on August 7, 2008.

Section 15183 of the CEQA Guidelines provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR has been certified, except as may be necessary to examine whether an project-specific effects are peculiar to the project or project site. Under this exemption, examination of

environmental effects shall be limited to those effects that: a) are peculiar to the project or parcel on which the project would be located; b) were not analyzed as significant effects in the prior EIR for the underlying zoning or plan; c) are potentially significant off-site or cumulative impacts that were not discussed in the underlying EIR; or d) were previously identified as significant effects in the underlying EIR, but that have been determined to have a more severe adverse impact than that discussed in the underlying EIR.

Because this Project is within the Eastern Neighborhoods Plan Area, a Community Plan Exemption (“CPE”) Checklist was prepared for the project to analyze whether it would result in an peculiar, project-specific environmental effects that were not sufficiently examined in the Eastern Neighborhoods PEIR. the CPE Checklist (Appendix A to the Draft EIR) concluded that with the exception of historic architectural resources and shadow, the proposed project would not result in any new significant environmental impacts or impacts of greater severity than were analyzed in the Eastern Neighborhoods PEIR. Thus, a focused EIR was prepared to examine the Project’s potential impacts on historic architectural resources and shadow.

The Commission reviewed and considered the Final Environmental Impact Report (FEIR) for the Project and found the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) (“CEQA”), the CEQA Guidelines (14 Cal. Code Reg. section 15000 *et seq.*), and Chapter 31 of the San Francisco Administrative Code.

The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Planning Commission, and that the summary of comments and responses contained no significant revisions to the Draft EIR, and certified the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31 by its Motion No. 19284.

The Commission, in certifying the FEIR, found that the project described in the FEIR will have the following significant and unavoidable environmental impacts: (1) the demolition of the existing building located at 800 Indiana Street will cause a substantial adverse change in the significance of historic architectural resources.

The Planning Department, Jonas P. Ionin, is the custodian of records for the Planning Department materials, located in the File for Case No. 2011.1374EKX, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On December 18, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2011.1374EKX to consider the approval of the Project. 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 Project, the Planning Department staff, expert consultants and other interested parties.

This Commission has reviewed the entire record of this proceeding, the Environmental Findings, attached to this Motion as Attachment A, regarding the alternatives, mitigation measures, environmental

impacts analyzed in the FEIR and overriding considerations for approving the Project, and the proposed MMRP attached as Attachment B, which material was made available to the public.

MOVED, that the Planning Commission hereby adopts findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, and adopts the MMRP attached as Attachment B, based on the findings attached to this Motion as Attachment A as though fully set forth in this Motion, and based on substantial evidence in the entire record of this proceeding.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of December 18, 2014.

Jonas Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

EXCUSED:

ACTION: Adoption of CEQA Findings

Attachment A

PREAMBLE

In determining to approve the project described in Section I, below, the ("Project"), the San Francisco Planning Commission (the "Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Section 15000 et seq. ("CEQA Guidelines"), Section 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA.

These findings are organized as follows:

Section I provides a description of the proposed project at 800 Indiana Street, the environmental review process for the Project, the City approval actions to be taken, and the location and custodian of the record.

Section II lists the Project's less-than-significant impacts that do not require mitigation.

Section III identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures.

Section IV identifies significant project-specific or cumulative impacts that would not be eliminated or reduced to a less-than-significant level and describes any applicable mitigation measures as well as the disposition of the mitigation measures. The Final EIR identified mitigation measures to address these impacts, but implementation of the mitigation measures will not reduce the impacts to a less than significant level.

Sections III and IV set forth findings as to the mitigation measures proposed in the Final EIR. (The Draft EIR and the Comments and Responses document together comprise the Final EIR, or "FEIR.") Attachment B to the Planning Commission Motion contains the Mitigation Monitoring and Reporting Program ("MMRP"), which provides a table setting forth each mitigation measure listed in the Final Environmental Impact Report that is required to reduce a significant adverse impact.

Section V identifies the project alternatives that were analyzed in the EIR and discusses the reasons for their rejection.

Section VI sets forth the Planning Commission's Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

The MMRP for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B** to this Motion. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. Attachment B provides a table setting forth each mitigation measure listed in the FEIR that is required to reduce a significant adverse impact. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in Attachment B.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the Draft Environmental Impact Report ("Draft EIR" or "DEIR") or the Comments and Responses document ("C&R") in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

I. PROJECT DESCRIPTION AND PROCEDURAL BACKGROUND

A. Project Description

The Project Sponsor proposes to demolish an existing 78,240-gsf, steel-frame industrial warehouse that is owned by the San Francisco Opera, and construct a five-story, approximately 58-foot-tall (excluding a 12-foot-tall mechanical penthouse), multi-family residential development at 800 Indiana Street in San Francisco, composed of three separate buildings (totaling 273,743 gsf of residential uses). The proposed project would include a maximum of 338 residential units, ground-floor residential amenities, and a one-level 11-foot-tall underground parking garage, for a total of approximately 441,183 gsf of development on the project site. The proposed project also includes two streetscape improvement variants as options that could be implemented by the City in cooperation with the Project Sponsor and other property owners along Indiana Street; these variants include the Hybrid Streetscape Plan, and the Linear Park Streetscape Plan. A third variant includes a plaza/dog park.

The project site is within the Urban Mixed-Use (UMU) Zoning District. Per the *San Francisco General Plan* (General Plan), UMU is a land use designation intended to promote a vibrant mix of uses while maintaining the characteristics of this formerly industrial-zoned area. This designation is also intended to serve as a buffer between residential uses and Production, Distribution, and Repair (PDR) uses in the Eastern Neighborhoods. The project site is located within the Central Waterfront Area of the *Eastern Neighborhoods Area Plan*.

The project site is a generally level and irregularly shaped parcel, measuring approximately 140 feet in width and 730 feet in length, with a less than 1 percent grade from north to south, and totaling approximately 2.49 acres (108,386 square feet), with a frontage of approximately 606 linear feet along Indiana Street. The site is fully developed, occupied primarily by a 78,240-gsf, approximately 50-foot-tall warehouse built in 1926, which consists of an eastern warehouse section, western warehouse section, and office that are all connected as one building. The warehouse is a steel-frame and metal clad structure that is used by the San Francisco War Memorial Opera House (Opera House) for storage and costume/stage design. One off-street Americans with Disabilities Act (ADA)-accessible parking space is on the project

site, four loading entrances for Opera House storage access are along Indiana Street, and five existing curb cuts are in front of the warehouse.

The southernmost curb cut/driveway also provides truck access to the rear of the building. There are approximately 27 trees along the Indiana Street frontage of the project site, mostly clusters of small trees (4 to 8 inches in diameter). Of these trees, five are larger in diameter (16 to 22 inches), including four Monterey pine trees and one river birch grove tree. Little to no vegetation and no open space exist on the project site. The property at 998 Indiana Street, the adjacent parcel to the south, has a fence line that encroaches onto the project site. The area inside this fence line is used as a driveway and parking spot for the triangular-shaped warehouse on the 998 Indiana site. The 998 Indiana Street property has its own vehicular access, via a curb cut and driveway; however, from time to time, vehicles accessing either 800 Indiana Street or 998 Indiana Street drive across the property line to access one of the properties, or to perform turning maneuvers.

B. Project Objectives

The Project Sponsor has developed the following objectives for the proposed project:

- ▶ Build high-quality, mainly market-rate apartments that would strongly tie into the existing contextual fabric of the Dogpatch neighborhood. Maximize residential density by building to the allowable zoning envelope and creating as many new residential units as reasonably possible within this envelope.
- ▶ Provide an economically feasible project that maximizes the utility of the land and increases the City's housing supply.
- ▶ Include future streetscape improvements and connections to open space that serves neighborhood residents and workers, and enlivens pedestrian activity in the Dogpatch neighborhood during both daytime and evening hours.
- ▶ Activate the neighborhood edge condition by connecting the residences at 800 Indiana Street with the immediate surroundings and broader Eastern Neighborhood community. The project envisions providing a strong connection to Esprit Park and enhancing 22nd Street by offering public amenity spaces in the form of upgraded public sidewalks and accessible plazas.
- ▶ Provide a project to meet Leadership in Energy and Environmental Design (LEED®) Silver standards to meet the requirements adopted by the City and County of San Francisco, thereby reducing the project's carbon footprint, maximizing the energy efficiency of the building and establishing a sustainable development in the neighborhood.

C. Project Approvals

The Project requires the following approvals:

- ▶ Findings of General Plan and Priority Policies consistency
- ▶ Large Project Authorization
- ▶ Exceptions to the following Planning Code standards:
 - Planning Code Section 134 for the required rear yard
 - Planning Code Section 135 for open space
 - Planning Code Section 136 for permitted obstructions over the street, yard or useable open space
 - Planning Code Section 140 for the required dwelling unit exposure
 - Planning Code Section 152.1 for the required loading zones
 - Planning Code Section 270.1 for the horizontal mass reduction

Actions by Other City Departments

- ▶ Planning Code Section 295 approval (San Francisco Recreation & Park Commission)
- ▶ Demolition and building permits (Department of Building Inspection)
- ▶ Approval of construction within the public right-of-way (e.g., bulbouts and sidewalk extensions) (San Francisco Department of Public Works and San Francisco Municipal Transportation Agency)

D. Environmental Review

The Project is within the Eastern Neighborhoods Area Plan area, the environmental impacts of which were examined in the Eastern Neighborhoods Programmatic EIR (Eastern Neighborhoods PEIR). The Planning Commission (hereafter referred to as "Commission") certified the Eastern Neighborhoods PEIR on August 7, 2008.

Section 15183 of the CEQA Guidelines provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR has been certified, except as may be necessary to examine whether an project-specific effects are peculiar to the project or project site. Under this exemption, examination of environmental effects shall be limited to those effects that: a) are peculiar to the project or parcel on which the project would be located; b) were not analyzed as significant effects in the prior EIR for the underlying zoning or plan; c) are potentially significant off-site or cumulative impacts that were not discussed in the underlying EIR; or d) were previously identified as significant effects in the underlying EIR, but that have been determined to have a more severe adverse impact than that discussed in the underlying EIR.

Because this Project is within the Eastern Neighborhoods Plan Area, a community plan exemption ("CPE") Checklist was prepared for the project to analyze whether it would result in an peculiar, project-specific environmental effects that were not sufficiently examined in the Eastern Neighborhoods PEIR. the CPE Checklist (Appendix A to the Draft EIR) concluded that, with the exception of historic architectural resources and shadow, the proposed project would not result in any new significant

environmental impacts or impacts of greater severity than were analyzed in the Eastern Neighborhoods PEIR.

Thus, the Department determined that a focused Environmental Impact Report (hereinafter "EIR") should be prepared with and published a NOP with a Community Plan Exemption (CPE) Checklist under the Eastern Neighborhoods PEIR on May 21, 2014. Topics analyzed in the EIR were Cultural and Paleontological Resources (Historic Architectural Resources only) and Shadow.

On August 13, 2014, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the Project Sponsor on August 13, 2014.

On August 13, 2014, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on August 13, 2014.

The Commission held a duly advertised public hearing on said DEIR on September 11, 2014, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 29, 2014.

The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45 day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Responses to Comments document, published on November 5, 2014, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Responses to Comments document all as required by law. Additionally, the CPE Checklist is included as Appendix A to the DEIR and is incorporated by reference thereto.

Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.

On December 4, 2014, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

E. Content and Location of Record

The record upon which all findings and determinations related to the adoption of the proposed project are based include the following:

- The FEIR, and all documents referenced in or relied upon by the FEIR, including the CPE Checklist prepared under the Eastern Neighborhoods PEIR;
- All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the FEIR, the proposed approvals and entitlements, the Project, and the alternatives set forth in the FEIR;
- All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the FEIR, or incorporated into reports presented to the Planning Commission;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the project or the FEIR;
- All applications, letters, testimony, and presentations presented to the City by the Project Sponsor and its consultants in connection with the project;
- All information (including written evidence and testimony) presented at any public hearing or workshop related to the project and the EIR;
- The MMRP; and,
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

The public hearing transcript, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, 4th Floor, San Francisco. The Planning Department, Jonas P. Ionin, is the custodian of these documents and materials.

F. Findings about Environmental Impacts and Mitigation Measures

The following Sections II, III and IV set forth the Commission's findings about the Final EIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Commission regarding

the environmental impacts of the Project and the mitigation measures included as part of the FEIR and adopted by the Commission as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the FEIR, these findings will not repeat the analysis and conclusions in the FEIR but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of staff and experts, other agencies, and members of the public. The Commission finds that (i) the determination of significance thresholds is a judgment decision within the discretion of the City and County of San Francisco; (ii) the significance thresholds used in the FEIR are supported by substantial evidence in the record, including the expert opinion of the FEIR preparers and City staff; and (iii) the significance thresholds used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Commission is not bound by the significance determinations in the FEIR (see Public Resources Code, Section 21082.2, subdivision (e)), the Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR, and these findings hereby incorporate by reference the discussion and analysis in the FEIR supporting the determination regarding the project impact and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts and incorporates in these findings the determinations and conclusions of the FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth below, the Commission adopts and incorporates the applicable mitigation measures found in the Eastern Neighborhoods PEIR and all of the mitigation measures set forth in the Project FEIR, which are set forth in the attached MMRP, to reduce the significant and unavoidable impacts of the Project. The Commission intends to adopt the mitigation measures proposed in the FEIR as well as the applicable mitigation measures proposed in the Eastern Neighborhoods PEIR. Accordingly, in the event a mitigation measure recommended in the FEIR or Eastern Neighborhoods PEIR has inadvertently been omitted in these findings or the MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the FEIR or Eastern Neighborhoods PEIR due to a clerical error, the language of the policies and implementation measures as set forth in the FEIR or Eastern Neighborhoods PEIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the FEIR and Eastern Neighborhoods PEIR.

In Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is

the Commission rejecting the conclusions of the FEIR or the Eastern Neighborhoods PEIR or the mitigation measures recommended in the FEIR or in the Eastern Neighborhoods PEIR for the Project.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

II. LESS-THAN-SIGNIFICANT IMPACTS

The CPE Checklist (Appendix A to the DEIR) and the Final EIR find that implementation of the Project would result in less-than-significant impacts in the following environmental topic areas: Land Use and Land Use Planning; Population and Housing; Transportation and Circulation; Air Quality; Greenhouse Gas Emissions; Wind and Shadow; Recreation; Utilities and Service Systems; Public Services; Biological Resources; Geology and Soils; Hydrology and Water Quality; Hazards and Hazardous Materials; Mineral Resource and Energy Resources; and Agricultural and Forestry Resources.

Note: Senate Bill (SB) 743 became effective on January 1, 2014. Among other things, SB 743 added §21099 to the Public Resources Code and eliminated the requirement to analyze aesthetics and parking impacts for certain urban infill projects under CEQA. The proposed project meets the definition of a mixed-use residential project on an infill site within a transit priority area as specified by Public Resources Code §21099. Accordingly, the FEIR did not discuss the topic of Aesthetics, which can no longer be considered in determining the significance of the proposed project's physical environmental effects under CEQA. The EIR nonetheless provided visual simulations for informational purposes. Similarly, the FEIR included a discussion of parking for informational purposes. This information, however, did not relate to the significance determinations in the FEIR.

III. FINDINGS OF SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. The findings in this section concern three potential impacts and mitigation measures proposed in the Eastern Neighborhoods PEIR and the CPE Checklist for this project. These mitigation measures are included in the MMRP. A copy of the MMRP is included as Attachment B to the Planning Commission Motion adopting these findings. The CPE Checklist found that three mitigation measures identified in the Eastern Neighborhoods PEIR would be required for this project to eliminate or reduce to a less-than-significant level potential noise impacts of the Project, as set forth below. The CPE Checklist also found that a mitigation measure proposed in the Eastern Neighborhoods PEIR would be required for this project to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a)(c). Finally, the CPE Checklist found that a mitigation measure proposed in the Eastern Neighborhoods PEIR would be

required for this project to reduce to a less than significant level a hazardous materials impact due to the demolition of the existing warehouse.

The Project Sponsor has agreed to implement the following mitigation measures to address a potential noise and archeological impacts identified in the CPE Checklist. As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the Planning Commission finds that, unless otherwise stated, the Project has been required to incorporate mitigation measures identified in the FEIR and the Eastern Neighborhoods PEIR into the project to mitigate or to avoid significant or potentially significant environmental impacts. Except as otherwise noted, these mitigation measures will reduce or avoid the potentially significant impacts described in the Final EIR, and the Commission finds that these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

Additionally, the required mitigation measures are fully enforceable and are included as conditions of approval in the Planning Commission's Planning Code Section 323 approval or will be enforced through inclusion as conditions of approval in any building permits issued for the Project by the San Francisco Department of Building Inspection. With the required mitigation measures, all potential project impacts, except for those associated with historical architecture resource impacts, would be avoided or reduced to a less-than-significant level (see Section IV, below). The Planning Commission finds that the mitigation measures presented in the MMRP are feasible and shall be adopted as conditions of project approval.

The following mitigation measures would be required to reduce noise impacts identified in the Eastern Neighborhoods PEIR to a less-than-significant level:

Project Mitigation M-NO-1: Construction Noise (Implementing Eastern Neighborhoods PEIR Mitigation Measure F-1)

The proposed project would be in proximity to noise-sensitive receptors and would include pile-driving and other particularly noisy construction procedures; therefore, Eastern Neighborhoods PEIR Mitigation Measure F2 Construction Noise is required to reduce this impact to a less than significant level.

Project Mitigation M-NO-2: Construction Noise (Implementing Eastern Neighborhoods PEIR Mitigation Measure F-2)

- ▶ The proposed project would be in proximity to noise-sensitive receptors and would include pile-driving and other particularly noisy construction procedures; therefore, Eastern Neighborhoods PEIR Mitigation Measure F2 Construction Noise is required to reduce this impact to a less than significant level.

Project Mitigation Measure M-NO-3: Open Space in Noise Environments (Implementing Eastern Neighborhoods PEIR Mitigation Measure F-6)

The proposed project would be located along streets with noise levels above 65 dBA (Ldn), which would be addressed by implementation of Eastern Neighborhoods PEIR Mitigation Measure F-6 Open Space in Noisy Environments.

The following mitigation measure would be required to reduce potential archeological impacts identified in the Eastern Neighborhoods PEIR to a less-than-significant level:

Project Mitigation Measure M-CP-1: Archeological Resources Accidental Discovery (Implementing Eastern Neighborhoods PEIR Mitigation Measure J-2: Properties with No Previous Studies)

Because the project would require excavation for a subterranean parking garage, Eastern Neighborhoods PEIR Mitigation Measure J-2, Properties with No Previous Studies, is applicable to the proposed project in the event of accidental discovery of archaeological resources.

The following mitigation measure would be required to reduce the potential hazardous building materials impact identified in the Eastern Neighborhoods PEIR to a less-than-significant level::

Project Mitigation Measure M-HZ-1 – Hazardous Building Materials (Implementing Eastern Neighborhoods PEIR Mitigation Measure L-1)

The proposed project would include demolition of the existing warehouse; therefore, Eastern Neighborhoods PEIR Mitigation Measure L-1 Hazardous Building Materials, addressing the removal of hazardous building materials prior to demolition is required.

IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that there are significant project-specific and cumulative impacts that would not be eliminated or reduced to an insignificant level by the mitigation measures listed in the MMRP. The FEIR identifies a significant and unavoidable impact on historical architectural resources related to the demolition of the building at 800 Indiana Street.

The Project would additionally result in a net loss of Production, Distribution, and Repair (PDR) uses, however, because the significant and unavoidable impact was identified previously in the Eastern Neighborhoods PEIR, the proposed project would not result in any significant individual cumulative impacts specific to the proposed project that were not identified previously. With regard to significant and unavoidable impacts related to traffic and transit, project-generated automobile and transit trips would not contribute considerably to significant and unavoidable traffic and transit impacts and would not constitute a substantial portion of the overall additional traffic and transit volumes anticipated to be generated by Eastern Neighborhoods Area Plan projects.

CEQA requires agencies to adopt mitigation measures that would lessen a project's identified significant impacts if such measures are feasible. The findings in this section concern mitigation measures discussed in the FEIR and presented in the MMRP, included as Attachment B to the Planning Commission Motion adopting these findings. The FEIR includes mitigation measures that have been identified that would reduce the significant and unavoidable environmental impacts of the Project listed in this section. All of the mitigation measures set forth in the FEIR that are needed to reduce these significant and unavoidable environmental impacts are contained in the MMRP.

As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the Planning Commission finds that these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

Additionally, the required mitigation measures are fully enforceable and are included as conditions of approval in the Planning Commission's Planning Code Section 329 proceeding or will be enforced through inclusion as conditions of approval in any building permits issued for the Project by the San Francisco Department of Building Inspection. With the required mitigation measures, the significant and unavoidable impacts associated with historical architecture resource impacts would be reduced but not eliminated. The Planning Commission finds that the mitigation measures presented in the MMRP are feasible and shall be adopted as conditions of project approval.

The FEIR identifies mitigation measures to address the impacts on historic resources, identified in the FEIR as:

Impact CP-1: Project construction would result in the removal of an existing building that is eligible for listing in the CRHR, and thus would cause a substantial adverse change in the significance of a historical resource, as defined in Section 15064.5 of the CEQA Guidelines.

Mitigation Measure M-CP-1a Complete HABS Documentation

To partially offset the loss of the historical resource onsite, the Project Sponsor shall prepare a Historic American Building Survey (HABS) before demolition of the structure onsite. Implementation of this mitigation measure would not reduce the impact to the historical resource to a less than significant level. Therefore, the impacts related to the demolition would remain significant and unavoidable even with the incorporation of mitigation.

Mitigation Measure M-CP-1b Salvage Program

The Project Sponsor shall undertake a salvage program to save and promote reuse of the on-site warehouse building's historically significant materials and features to the extent reasonably feasible. Implementation of this mitigation measure would not reduce the impact to the historical resource to a less than significant level. Therefore, the impacts related to the demolition would remain significant and unavoidable even with the incorporation of mitigation.

Mitigation Measure M-CP-1c Interpretive Program

The Project Sponsor shall install a permanent on-site interpretive display in a publicly-accessible outdoor location, such as in one of the plazas along Indiana Street or within the open space area of the variants. Implementation of this mitigation measure would not reduce the impact to the historical resource to a less than significant level. Therefore, the impacts related to the demolition would remain significant and unavoidable even with the incorporation of mitigation.

The Commission considers these mitigation measures feasible, but their implementation would not reduce the impacts to historical architectural resources to less-than-significant levels.

V. EVALUATION OF PROJECT ALTERNATIVES

A. Alternatives Analyzed in the FEIR

This section describes the alternatives analyzed in the Project FEIR and the reasons for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project or the Project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

The Planning Department considered a range of alternatives in Chapter 6 of the FEIR. The FEIR analyzed the No Project Alternative, a Full Preservation Alternative, and a Partial Preservation Alternative. Each alternative is discussed and analyzed in these findings, in addition to being analyzed in Chapter 6 of the FEIR. The Planning Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the FEIR and in the record. The FEIR reflects the Planning Commission’s and the City’s independent judgment as to the alternatives. The Planning Commission finds that the Project provides the best balance between satisfaction of Project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the FEIR, and adopts a statement of overriding considerations.

B. Reasons for Approving the Project

- To increase the City’s supply of housing in an area designated for higher density pursuant to the Eastern Neighborhoods Plan.
- To construct a high-quality project with superior design and a sufficient number of dwelling units to produce a reasonable return on investment for the Project Sponsor and investors and attract investment capital and construction financing.
- To construct streetscape improvements that encourage and enliven pedestrian activity.
- To improve the architectural and urban design character of the project site by replacing run-down structures with a high-quality residential project incorporating a superior design.
- To provide adequate parking and vehicular access to serve the needs of project residents and their visitors.

C. Evaluation of Project Alternatives

CEQA provides that alternatives analyzed in an EIR may be rejected if “specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible . . . the project alternatives identified in the EIR.” (CEQA Guidelines § 15091(a)(3).) The Commission has reviewed each of the alternatives to the Project as described in the

Final EIR that would reduce or avoid the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological and other considerations that make these Alternatives infeasible, for the reasons set forth below.

In making these determinations, the Planning Commission is aware that CEQA defines “feasibility” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” The Commission is also aware that under CEQA case law the concept of “feasibility” encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is “desirable” from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

1. No Project Alternative

Under the No Project Alternative, the Project Site would remain in its existing condition. The existing buildings would likely continue to remain in their current condition for the foreseeable future. Baseline conditions described in detail for each environmental topic in Chapter 4, Environmental Setting, Impacts and Mitigation Measures, would remain and none of the impacts associated with the Project would occur.

The existing use of the site (warehouse) would likely continue. Overall, this alternative would result in the development of no residential units and the retention of approximately 74,847 square feet of vacant or underutilized space.

The No Project Alternative would be inconsistent with key goals of the Eastern Neighborhood Plan with respect to housing production. With no new housing created here and no construction, the No Project Alternative would not increase the City’s housing stock of both market rate and affordable housing, would not create new job opportunities for construction workers, and would not expand the City’s property tax base. This alternative would also fail to serve any of the Project Objectives, as described in the EIR, including the construction of a preeminent building with a superior level of design in an area of San Francisco that is accessible to local and regional transit, as well as cultural amenities and attractions or the provision of housing in an urban infill location to help alleviate the effects of suburban sprawl.

For the foregoing reasons, the Planning Commission rejects the No Project Alternative as infeasible.

2. Full Preservation Alternative

The FEIR identified both the No Project Alternative and the Full Preservation Alternative as the environmentally superior alternatives.

The Full Preservation Alternative (Alternative B) would result in a 58-foot building, including three floors of residential uses over a one-level subterranean garage, as compared to the proposed project that would include five floors of residential uses over a one-level subterranean garage. The Full Preservation Alternative would include a total of 187 dwelling units, 131 vehicle parking spaces, and 122 bicycle parking spaces, compared to the proposed project’s 338 dwelling units, 230 vehicle parking spaces, and

177 bicycle parking spaces. The Full Preservation Alternative also would include 13,000 square feet of residential amenity space and 22,800 square feet of open space, compared to 15,660 square feet of amenity space and 34,900 square feet of open space under the proposed project.

Under this alternative, the existing warehouse would not be demolished and the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (Secretary of the Interior's Standards) would be implemented. This alternative would retain the existing parallel warehouse structure and two-story office portions of this building, which are both character-defining features. A self-supporting, fully insulated, three-story structure would be constructed within the shell of the existing warehouse sections of the building; and a three-story wood-frame addition would be constructed on the south end of the existing warehouse. The historic context of the existing structure would be retained by preserving as much of the exterior façade as possible, especially as viewed from Indiana Street. Similar to the proposed project, Variants 1, 2 and/or 3 could be included with this alternative.

The Planning Commission rejects the Preservation Alternatives as infeasible because it would fail to meet the Project Objectives for reasons including, but not limited to, the following:

- 1) The Preservation Alternative would limit the project to 187 dwelling units; whereas the proposed project would provide 338 units to the City's housing stock. The proposed density would be consistent with other mixed-use residential developments in the vicinity, and the proposed project will maximize the creation of new residential units, enliven the surrounding streets, contribute to a safe, active neighborhood, while meeting the demands of the expanding San Francisco economy and growth in the project area.
- 2) The Full Preservation Alternative would not activate the neighborhood edge condition or improve the urban and pedestrian fabric of the neighborhood. The Project connects the residences at 800 Indiana Street with the immediate surroundings and broader Eastern Neighborhood community. The project envisions providing a strong connection to Esprit Park and enhancing 22nd Street by offering public amenity spaces in the form of upgraded public sidewalks and accessible plazas.
- 3) The Preservation Alternative would create a project that would not fully utilize this site for housing production, thereby not fully satisfying General Plan policies such as Housing Element Policies 1.1 and 1.4, among others. While the Preservation Alternative would preserve the existing historical resource, the alternative would not create a project that is consistent with and enhances the existing scale and urban design character of the area or furthers the City's housing policies to create more housing, particularly affordable housing opportunities.
- 4) The Full Preservation Alternative is also economically infeasible. Large development projects are capital-intensive and depend on obtaining financing from equity investors to cover a significant portion of the project's costs, obtain a construction loan for the bulk of construction costs, and provide significant costs out-of-pocket. Equity investors require a certain profit margin to finance

development projects and must achieve established targets for their internal rate of return and return multiple on the investment. Because the Preservation Alternative would result in a project that is significantly smaller than the Project, and contains 151 fewer residential units, the total potential for generating revenue is lower while the construction cost per square foot is higher due to restoration efforts, lower economies of scale and the impact of fixed project costs associated with development. The reduced unit count would not generate a sufficient economic return to obtain financing and allow development of the proposed project and therefore would not be built.

- 5) The Full Preservation Alternative would create a project with fewer housing units in an area well-served by transit, services and shopping as well adjacent to employment opportunities which would then push demand for residential development to other sites in the City or the Bay Area. This would result in the Preservation Alternative, not meeting, to the same degree, the City's *Strategies to Address Greenhouse Gas Emissions* or CEQA and the Bay Area Air Quality Management District's ("BAAQMD") requirements for a GHG reductions, by not maximizing housing development in an area with abundant local and region-serving transit options.

For the foregoing reasons, the Planning Commission rejects the Full Preservation Alternative as infeasible.

3. Partial Preservation Alternative

The Partial Preservation Alternative (Alternative C) would result in three floors of residential uses within the existing eastern section of the warehouse, and a 58-foot building, including five floors of residential uses over a podium-level garage on the remainder of the site, compared to five floors of residential uses over a one-level subterranean garage under the proposed project.

The Partial Preservation Alternative would include a total of 280 dwelling units, 196 vehicle parking spaces, and 145 bicycle parking spaces, compared to the proposed project's 338 dwelling units, 230 vehicle parking spaces, and 177 bicycle parking spaces. The Partial Preservation Alternative also would include 13,000 square feet of residential amenity space and 30,850 square feet of open space, compared to 15,660 square feet of amenity space and 34,900 square feet of open space under the proposed project.

Under this alternative, the first 200 feet of the southern portion of the eastern section of the warehouse would be retained, including the existing gable façade and some of the ribbon steel frame windows, both of which are character-defining features. The rest of the building would be demolished and a new five-story wood-frame building would be constructed over a raised parking podium on the remainder of the parcel. The two southern bays of the existing eastern warehouse section would be left open on the interior to preserve the open volume of the interior space, which is also a character-defining feature of the warehouse. The main entrance lobby, leasing office, and centralized mailroom would be located within this portion of the building. New façades at the northern gable end of the western building's line, facing the new courtyard would be necessary. The eastern warehouse section would be retained and a new three-story wood-frame residential structure would be constructed within the existing shell of this

section of the building. Similar to the proposed project, Variants 1, 2 and/or 3 could be included with this alternative.

- 1) The Partial Preservation Alternative would limit the project to 280 dwelling units; whereas the proposed project would provide 338 units to the City's housing stock. The proposed density would be consistent other mixed-use residential developments in the vicinity, and the proposed project will maximize the creation of new residential units, enliven the surrounding streets, contribute to a safe, active neighborhood, while meeting the demands of the expanding San Francisco economy and growth in the project area.
- 2) The Partial Preservation Alternative would not activate the neighborhood edge condition or improve the urban and pedestrian fabric of the neighborhood to the same degree as the Project. The Project connects the residences at 800 Indiana Street with the immediate surroundings and broader Eastern Neighborhood community. The project envisions providing a strong connection to Esprit Park and enhancing 22nd Street by offering public amenity spaces in the form of upgraded public sidewalks and accessible plazas.
- 3) The Partial Preservation Alternative is also economically infeasible. Large development projects are capital-intensive and depend on obtaining financing from equity investors to cover a significant portion of the project's costs, and obtain a construction loan for the bulk of construction costs. Equity investors require a certain profit margin to finance development projects and must achieve established targets for their internal rate of return and return multiple on the investment. Because the Partial Preservation Alternative would result in a project that includes less rentable or saleable floor area than the Project, and contains 58 fewer residential units, the total potential for generating revenue is lower while the construction cost per square foot is higher due to restoration efforts, lower economies of scale and the impact of fixed project costs associated with development. The reduced unit count would not generate a sufficient economic return to obtain financing and allow development of the proposed project and therefore would not be built.
- 4) The Partial Preservation Alternative would create a project with fewer housing units in an area well-served by transit, services and shopping as well adjacent to employment opportunities which would then push demand for residential development to other sites in the City or the Bay Area. This would result in the Preservation Alternative, not meeting, to the same degree, the City's *Strategies to Address Greenhouse Gas Emissions* or CEQA and the BAAQMD requirements for a GHG reductions, by not maximizing housing development in an area with abundant local and region-serving transit options.

For the foregoing reasons, the Planning Commission rejects the Partial Preservation Alternative as infeasible.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Planning Commission finds that, notwithstanding the imposition of all feasible mitigation measures and alternatives, significant impacts related to Historic Resources will remain significant and unavoidable. Pursuant to CEQA section 21081 and CEQA Guideline Section 15093, the Planning Commission hereby finds, after consideration of the Final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section, and in the documents found in the record, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Planning Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approval, significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures proposed in the EIR and MMRP are adopted as part of the Approval Actions described in Section I, above.

Furthermore, the Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technical, legal, social and other considerations.

The Project will have the following benefits:

1. The Project would add up to 338 dwelling units to the City's housing stock.
2. The project site is currently underused and the construction of up to 338 new housing units at this underutilized site will directly help to alleviate the City's housing shortage and lead to more affordable housing. A primary objective of the Eastern Neighborhood Area Plan is to increase housing locally through the build out of the plan area. The Project develops the project site in a manner envisioned by the Plan in its density and design.
3. The Project promotes a number of General Plan Objectives and Policies, including Housing Element Policy 1.1, which provides that "Future housing policy and planning efforts must take into account the diverse needs for housing; and policies 11.1, 11.3 and 11.6, which "Support and respect the diverse and distinct character of San Francisco's Neighborhoods." San Francisco's housing policies and programs should provide strategies that promote housing at each income level, and furthermore identify sub-groups, such as middle income and extremely low income households that require specific housing policy. In addition to planning for affordability, the City should plan for housing that serves a variety of household types and sizes." The Project will

provide a mix of housing types at this location, including 110 studios, 87 one bedroom, 120 two bedroom and 9 three bedroom units, increasing the diversity of housing types in this area of the City.

4. The Project meets the City's *Strategies to Address Greenhouse Gas Emissions* and the BAAQMD requirements for a GHG reductions by maximizing development on an infill site that is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile and is adjacent to employment opportunities, in an area with abundant local and region-serving transit options.
5. The Project's innovative design furthers Housing Element Policy 11.1, which provides that "The City should continue to improve design review to ensure that the review process results in good design that complements existing character."
6. The Project would construct a development that is in keeping with the scale, massing and density of other structures in the immediate vicinity.
7. The Conditions of Approval for the Project include all the mitigation and improvement measures that would mitigate the Project's potentially significant impact to insignificant levels, except for its impact on Historic Resources.
8. The Project will create temporary construction jobs and permanent jobs in the retail sector. These jobs will provide employment opportunities for San Francisco residents, promote the City's role as a commercial center, and provide additional payroll tax revenue to the City.
9. The Project will substantially increase the assessed value of the Project Site, resulting in corresponding increases in tax revenue to the City.

Having considered the above, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the Final EIR, and that those adverse environmental effects are therefore acceptable.