



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: FEBRUARY 23, 2012

Date: February 16, 2012
Case No.: **2011.1403C**
Project Address: **3500 19TH STREET**
Zoning: Valencia Street NCT (Neighborhood Commercial Transit) District
Mission Alcoholic Beverage Special Use District
55-X Height and Bulk District
Block/Lot: 3588/012
Project Sponsor: David Silverman
Reuben & Junius LLP
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Corey Teague – (415) 575-9081
corey.teague@sfgov.org
Recommendation: **Approval with Conditions**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

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415.558.6409

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415.558.6377

PROJECT DESCRIPTION

The project proposes to modify Condition Nos. 11-14 of Motion No. 17560 to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units.

On February 21, 2008, the Planning Commission approved the mixed use project, per Motion No. 17560, with the following description. The proposal is to construct a 17-unit mixed-use development that will be divided into two separate structures linked by the ground floor podium and separated at the first habitable level by an inner courtyard. The ground floor facing Valencia Street will reserve 2,900 square feet for commercial space. This space is configured in a manner that it can be used by a single tenant or divided for smaller establishments. The residential units above will be a mixture of one and two bedroom units in a townhouse configuration. The proposal shall provide 13 unbundled off-street parking spaces, 2 city care share spaces, secured storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street, and storage for 7 bicycles within the garage.

SITE DESCRIPTION AND PRESENT USE

The project is located on the northwest corner of the intersection of Valencia and 19th Street, Block 3588, Lot 012. The property is located within the Valencia Street NCT (Neighborhood Commercial Transit) District and a 55-X Height and Bulk District. The subject property is currently a surface parking lot with approximately 100-feet of frontage on 19th Street and 100-feet of frontage on Valencia Street.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located at the intersection of Valencia and 19th Streets. The Valencia Street corridor includes a variety of neighborhood-serving uses. A mixture of food establishments, entertainment venues, personal services, and small retail establishments define the District. The surrounding properties to the west are located within the RTO-Mission District. Corner properties within the immediate neighborhood tend to be larger in height, massing, and scale than other buildings. Of note, one block south at the northwest and southeast corners of Valencia and 20th Streets, are two mixed-use structures constructed in the early part of the 20th-century that exceed 5-stories in height.

ENVIRONMENTAL REVIEW

On June 30, 2007, the Preliminary Mitigated Negative Declaration for the Project was prepared and published for public review. On July 20, 2007, an appeal of the Preliminary Negative Mitigated Negative Declaration was appealed to the Planning Commission ("Commission"). On January 10, 2008, the Commission considered the Appeal and upheld the Preliminary Mitigated Negative Declaration. Since the FND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FND.

HEARING NOTIFICATION*

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	February 3, 2012	February 1, 2012	22 days
Posted Notice	20 days	February 3, 2012	February 3, 2012	20 days
Mailed Notice	20 days	February 3, 2012	February 2, 2012	21 days

PUBLIC COMMENT

The Department received several calls requesting general information about the proposal, but no written public comments for the project.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow the modification of Motion No. 17560 to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units.

BASIS FOR RECOMMENDATION

- Allowing the Project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units will not modify the design of the originally approved project or impact its consistency with the Planning Code.

- The affordable housing in-lieu fee is currently the first option for new developments. The in-lieu fee pays an important role in funding the construction of permanently affordable housing in the City.
- The Project meets all applicable requirements of the Planning Code and is consistent with the Mission Area Plan and the General Plan.

RECOMMENDATION: Approval with Conditions
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Attachments:

Draft Motion
Parcel Map
Sanborn Map
Aerial Photographs
Zoning Map
Site Photos
Project Sponsor Submittal

Attachment Checklist

- | | |
|---|---|
| <input type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Site Photo |
| <input checked="" type="checkbox"/> Draft Motion | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input type="checkbox"/> Environmental Determination | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Zoning District Map | <input type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Height & Bulk Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report |
| <input type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |

Exhibits above marked with an "X" are included in this packet

Planner's Initials

CT: G:\Documents\Cl\2011\3500 19th St\Executive Summary.doc



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 Draft Motion

HEARING DATE: FEBRUARY 23, 2012

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Staff Contact: Corey Teague – (415) 575-9081
corey.teague@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATING TO THE MODIFICATION OF CONDITIONS OF A CONDITIONAL USE AUTHORIZATION APPROVED BY PLANNING COMMISSION MOTION NO. 17560, PURSUANT TO PLANNING CODE SECTION 303(E), TO ALLOW THE PROJECT TO PAY THE AFFORDABLE HOUSING IN-LIEU FEE INSTEAD OF PROVIDING THREE ON-SITE AFFORDABLE HOUSING UNITS IN THE VALENCIA STREET NCT (NEIGHBORHOOD COMMERCIAL TRANSIT) ZONING DISTRICT, THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT, AND 55-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On December 15, 2011 David Silverman (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section 303(e) to modify Condition Nos. 11-14 of Motion No. 17560 to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units in the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District, Mission Alcoholic Beverage Special Use Subdistrict, and 55-X Height and Bulk District.

On June 30, 2007, the Preliminary Mitigated Negative Declaration for the Project was prepared and published for public review. On July 20, 2007, an appeal of the Preliminary Negative Mitigated Negative Declaration was appealed to the Planning Commission ("Commission"). On January 10, 2008, the Commission considered the Appeal and upheld the Preliminary Mitigated Negative Declaration. The Commission found that the contents of said report and the procedures through which the FND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2005.0490E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting Program, which material was made available to the public and the Commission for the Commission's review, consideration, and action. Since the FND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FND.

On February 21, 2008 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2005.0490C and approved the project per Motion No. 17560.

On February 23, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.1403C.

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. 2011.1403C, 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 northwest corner of the intersection of Valencia and 19th Street, Block 3588, Lot 012. The property is located within the Valencia Street NCT (Neighborhood Commercial Transit) District and a 55-X Height and Bulk

District. The subject property is currently a surface parking lot with approximately 100-feet of frontage on 19th Street and 100-feet of frontage on Valencia Street.

3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Valencia and 19th Streets. The Valencia Street corridor includes a variety of neighborhood-serving uses. A mixture of food establishments, entertainment venues, personal services, and small retail establishments define the District. The surrounding properties to the west are located within the RTO-Mission District. Corner properties within the immediate neighborhood tend to be larger in height, massing, and scale than other buildings. Of note, one block south at the northwest and southeast corners of Valencia and 20th Streets, are two mixed-use structures constructed in the early part of the 20th-century that exceed 5-stories in height.
4. **Original Project Description.** On February 21, 2008, the Planning Commission approved a mixed use project, per Motion No. 17560, that meets the following description. The proposal is to construct a 17-unit mixed-use development. The development will be divided into two separate structures linked by the ground floor podium and separated at the first habitable level by an inner courtyard. The ground floor facing Valencia Street will reserve 2,900 square feet for commercial space. This space is configured in a manner that it can be used by a single tenant or divided for smaller establishments. The residential units above will be a mixture of one and two bedroom units in a townhouse configuration. The proposal shall provide 13 unbundled off-street parking spaces, 2 city care share spaces, secured storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street, and storage for 7 bicycles within the garage.
5. **Proposal.** The project proposes to modify Condition Nos. 11-14 of Motion No. 17560 to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units.
6. **Public Comment.** The Department received several calls requesting general information about the proposal, but no written public comments for the project.
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 original project approved per Motion No. 17560 met this criterion. The proposal to pay the affordable housing in-lieu fee will have no physical impact on the project design.
 - 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 original project approved per Motion No. 17560 met this criterion. The proposal to pay the affordable housing in-lieu fee will have no physical impact on the project design.

- 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;

The original project approved per Motion No. 17560 met this criterion. The proposal to pay the affordable housing in-lieu fee will have no physical impact on traffic patterns, traffic volumes, or off-street parking and loading.

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

The original project approved per Motion No. 17560 met this criterion. The proposal to pay the affordable housing in-lieu fee will have no physical impact on the project design and therefore will not increase any emissions from the building.

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

The original project approved per Motion No. 17560 met this criterion. The proposal to pay the affordable housing in-lieu fee will have no physical impact on the project design and therefore will have no impact on landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.

- 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 proposal will continue to be consistent with the Planning Code and General Plan because Section 415 allows a project to elect to pay the in-lieu fee as an equal option to providing the units on-site.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed affordable housing modification will not cause any physical change to the project, and it will continue to be consistent with the Valencia Street Neighborhood Commercial Transit District.

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

HOUSING

Objectives and Policies

OBJECTIVE 7:

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.1:

Expand the financial resources available for permanently affordable housing, especially permanent sources.

Local programs such as HOPE-SF, *inclusionary housing* and 50% set asides of Redevelopment Areas' Tax Increment Financing dollars demonstrate a strong dedication to providing local funding to affordable housing.

The affordable housing in-lieu fee is currently the first option for new developments. The in-lieu fee pays an important role in funding the construction of permanently affordable housing in the City.

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 original project approved per Motion No. 17560 met this criterion and the proposal to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units will have no physical impact on the project and therefore will have no impact on neighborhood serving retail uses.

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

The original project approved per Motion No. 17560 met this criterion and the proposal to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units will have no impact on existing housing and neighborhood character.

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

The proposal will not increase or decrease the amount of affordable housing provided by the project. The affordable housing in-lieu fee is currently the first option for new developments, and it plays an important role in funding the construction of permanently affordable housing in the City.

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

The original project approved per Motion No. 17560 met this criterion and the proposal to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units will have no impact on traffic or transit services.

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

The proposal will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

The original project approved per Motion No. 17560 met this criterion and the proposal to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units will have no impact on the project's ability meet this criterion.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The proposal will have no negative impact on existing parks and open spaces. The proposal does not have an impact on open spaces.

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. 2011.1403C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

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. XXXXX. 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 February 23, 2012.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: February 23, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to modify Condition Nos. 11-14 of Motion No. 17560 for the project at 3500 19th Street, Block 3588, Lot 012, to allow the project to pay the affordable housing in-lieu fee instead of providing three on-site affordable housing units in the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District, Mission Alcoholic Beverage Special Use Subdistrict, and 55-X Height and Bulk District., and subject to conditions of approval reviewed and approved by the Commission on **February 23, 2012** under Motion No **XXXXXX**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **February 23, 2012** under Motion No **XXXXXX**.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

The following conditions shall supersede Condition Nos. 11-14 outlined in Motion No. 17560. The conditions of approval for Motion No. 17560 are attached as Exhibit B for reference.

AFFORDABLE UNITS

11. **Requirement.** Pursuant to Planning Code 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%).
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>
12. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing ("MOH") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.
As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, <http://sf-moh.org/index.aspx?page=321>
 - a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOH prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Inclusionary Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

- b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOH or its successor.

- c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

13. Intentionally left blank.

14. Intentionally left blank.

Exhibit A

Conditions of Approval

- 1) This authorization is for a Conditional Use Authorization under Planning Code Sections, 121.1, 161(j) and 726.11 of the Planning Code to allow for the construction of a 17-unit mixed-use structure on a 10,000 square foot lot at 3500 19th Street within the Valencia Neighborhood Commercial District (and a 50-X Height and Bulk District, in general conformance with plans filed with the Application as received on February 13, 2008, and stamped "EXHIBIT B" included in the docket for **Case No. 2005.0490C**, reviewed and approved by the Commission on November 15, 2007.
- 2) This authorization is for the construction of a new building that would contain 17-dwelling units, approximately 2,900 gross square feet of retail use, 13 unbundled off-street parking spaces, 2 city car share spaces, storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street, and storage for 7 bicycles within the garage at 3500 19th Street, Lot 012 in Assessor's Block 3588.
- 3) The project sponsor shall continue to work with staff to refine the design, primarily the 19th Street elevation, and assure that all building materials, including finishes, windows, entries, storefronts, and detailing are appropriate for the site and neighborhood.
- 4) The project is subject to all First-Source Hiring requirements.
- 5) The project is subject to the Mitigation Monitoring Program as identified under **Exhibit C** of this document.
- 6) All applicable City Codes and standards shall be met.
- 7) No general advertising signs shall be permitted anywhere on the building.
- 8) All signs and exterior lighting for the businesses shall be reviewed and approved by the Planning Department before they are installed.
- 9) The Project Sponsor shall require that the tenants maintain storefronts that maximize the visibility of the interior through the storefront windows.
- 10) The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

EXHIBIT B

Motion No. 17560
February 21, 2008

CASE NO. 2005.0490 C
3500 19th Street

CONDITIONS OF APPROVAL -- AFFORDABLE UNITS

- 11) The Project Sponsor shall designate a total of three units as affordable [Below Market Rate (BMR)] rental units to be constructed on the site of the principal project. This total represents 18 percent of all units in the project.
- 12) The subject BMR units shall reflect the unit size mix of the market rate units and shall be distributed in the following range of unit sizes: 1 two-bedroom units and 2 one-bedroom units.
- 13) The Project Sponsor shall record a Notice of Special Restriction on the property which records a copy of this Motion and identifies the BMR units satisfying the requirements of this Motion.
- 14) The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"), incorporated herein by reference, as published and adopted by Resolution No. 13405 on September 10, 1992 by the Planning Commission, and as required by Planning Code Section 315 (collectively the "Inclusionary Requirement"). The Project Sponsor has elected to provide three on-site affordable below-market-rate units ("BMR units") to satisfy its Inclusionary Requirement, 1 more unit than required by the Inclusionary Affordable Housing Program.
 - a) The BMR units shall be designated on the building plans prior to approval of any building permit. The BMR units shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, and ready for occupancy no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal Project. The Project proposes 17 dwelling units to include 2 one-bedroom, 12 two-bedroom and 3 one-bedroom units with den. The subject on-site BMR units shall be distributed proportionately across all such unit types.
 - b) If the units in the building are offered for sale, the BMR units shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA). The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for a fifty (50) year period from the date of the initial sale of the BMR unit.
 - c) The Applicant shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such fees are authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.

EXHIBIT B

**Motion No. 17560
February 21, 2008**

**CASE NO. 2005.0490 C
3500 19th Street**

- d) The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
- e) Prior to issuance of any building permit for the Project (including any building permit issued for any partial phase of the Project), the Project Sponsor shall have designated the BMR units in accordance with Items a, b and c above.
- f) Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit

CONDITIONS OF APPROVAL – MONITORING AND VIOLATIONS

- 15) Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
- 16) An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
- 17) The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
- 18) The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued 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 thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization 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. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.
- 19) Prior to the issuance of the Building Permit 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 premises (Assessor's 3588, Lot 012), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall

EXHIBIT B

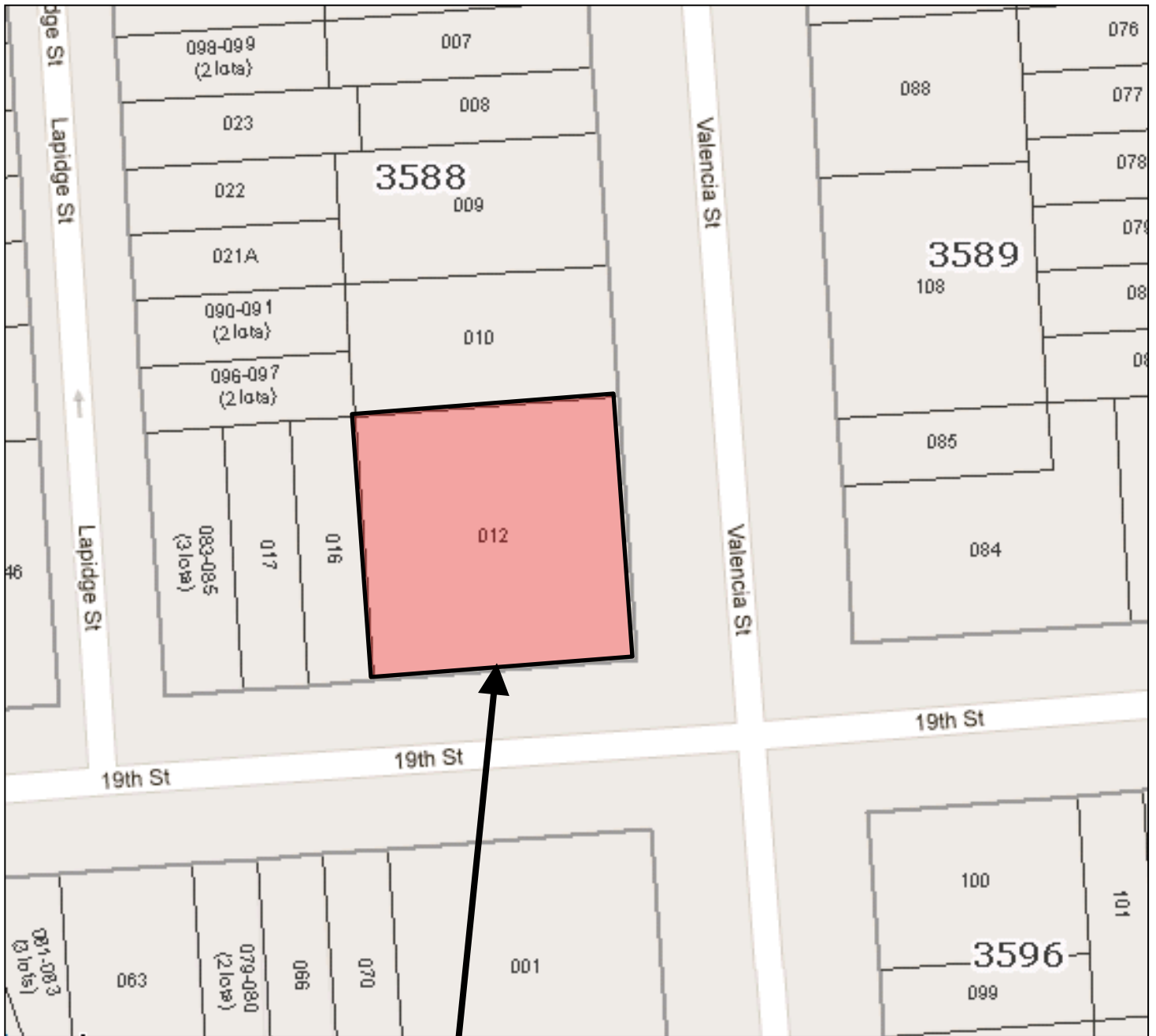
Motion No. 17560
February 21, 2008

CASE NO. 2005.0490 C
3500 19th Street

affirm in writing the extent to which the conditions of this Motion have been satisfied.

- 20) Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.
- 21) Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).

Parcel Map

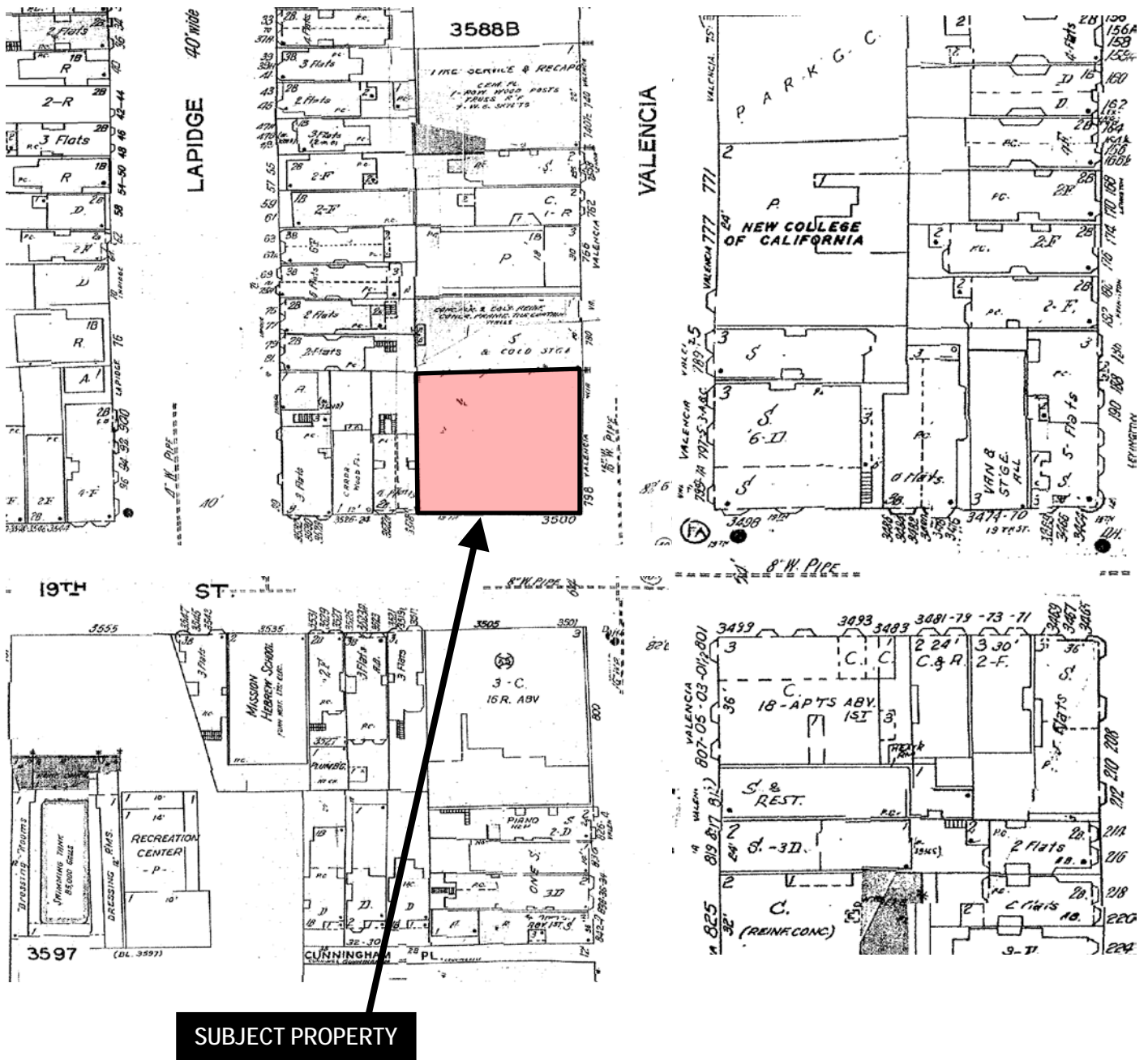


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.1403C
Motion Modification
3500 19th Street

Sanborn Map*



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
 Case Number 2011.1403C
 Motion Modification
 3500 19th Street

Aerial Photo

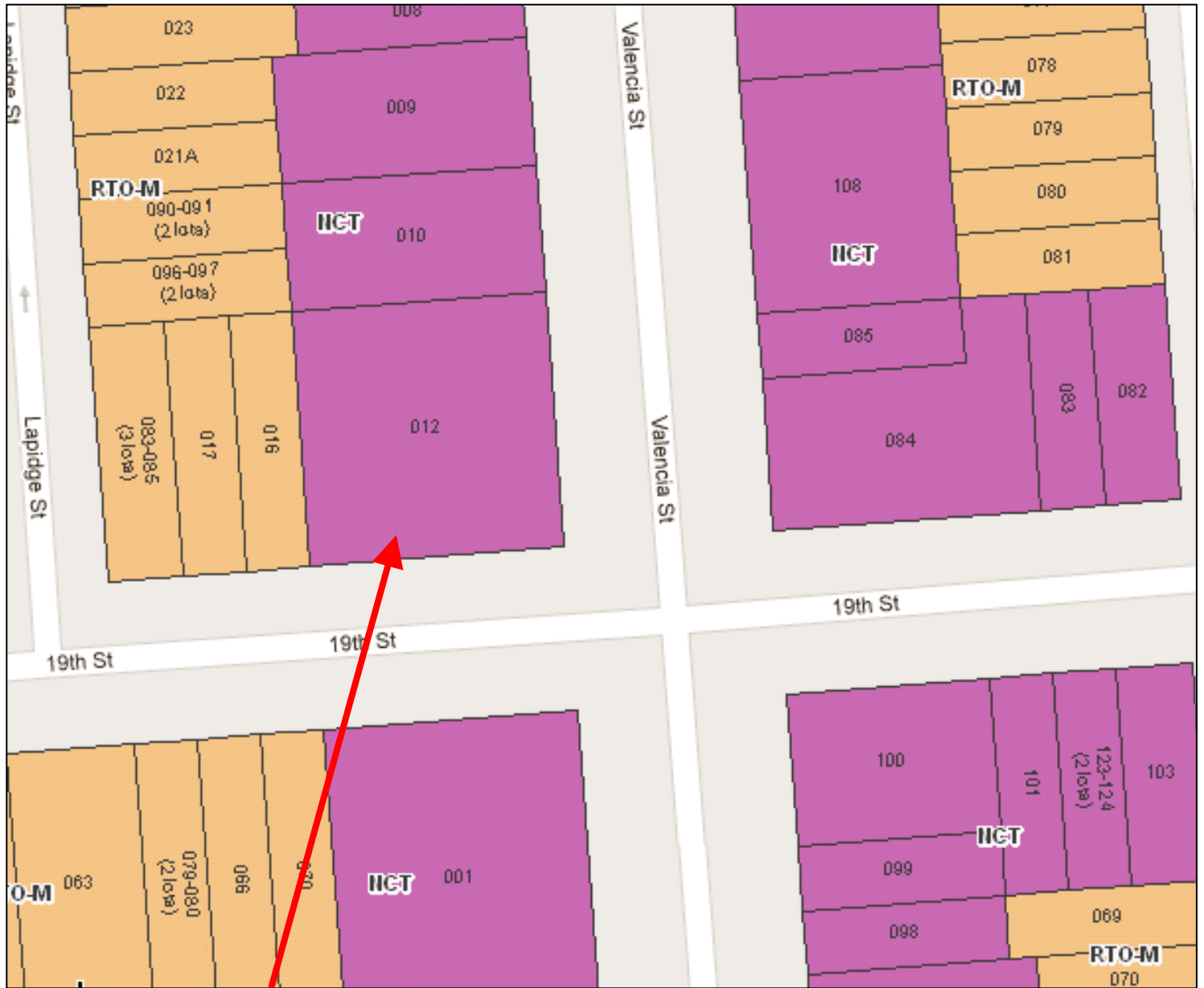


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.1403C
Motion Modification
3500 19th Street

Zoning Map



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2011.1403C
Motion Modification
3500 19th Street

Site Photo



Conditional Use Hearing
Case Number 2011.1403C
Motion Modification
3500 19th Street

**Before the
San Francisco Planning Commission**

**PROJECT SPONSOR'S SUBMITTAL IN SUPPORT OF
AMENDMENT TO CONDITIONAL USE APPROVAL**

Planning Code Section 303(e)

for

**RESIDENTIAL PROJECT LOCATED AT 3500-19TH STREET
BLOCK 3588, LOT 012**

**PROPERTY OWNER:
3500-19th Street LLC**

**PLANNING DEPARTMENT CASE NO. 2005.0490C
Hearing Date: February 23, 2012**

Attorneys for Project Sponsor:



One Bush Street, Suite 600, San Francisco, CA 94104
t] 415 567 9000 f] 415 399 9480

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A. INTRODUCTION AND BACKGROUND

3500-19th Street LLC (“Owner” or “Project Sponsor”) is the owner of the property and entitlements for a residential project located at 3500-19th Street, Block 3588, Lot 012 (the “Property”).

On October 12, 2006, the Carlos Barrios Family (the “Previous Project Sponsor”) filed a Conditional Use Application pursuant to Planning Code Sections 303 and 121.1, proposing construction of a mixed-use development containing up to 17 dwelling units, up to 2,900 of ground floor retail space, and up to 13 parking spaces, and 2 City car share spaces (the “Project”). On February 21, 2008, the San Francisco Planning Commission approved the Project by a vote of 5-0 pursuant to Motion No. 17560 (attached as **Exhibit A**).

Owner acquired the Property from the Carlos Barrios Family on December 24, 2010. By this application, and for the reasons set forth below, Owner requests that the Planning Commission approve an amendment to Performance Condition No. 11-14 to allow payment of an in-lieu affordable housing fee as discussed below.

B. SITE INFORMATION

Street Address: 3500 – 19th Street

Cross Streets: Northwest corner of Valencia and 19th Streets

Assessor's Block/Lots: Block 3588, 012

Zoning District: Valencia NCD

Lot Area: 10,000 s.f.

C. EXISTING SITE AND SURROUNDING AREA CONDITIONS

The Project Site is currently a parking lot.

The surrounding area includes retail, service, office, and residential uses.

D. PROJECT SUMMARY

The current Project has been revised with the support of the Planning Department staff in a manner that will better serve the public interest by changing the approved loft units to two-bedroom units. The Project Sponsor is an experienced builder of long standing in San Francisco who has constructed many similar family-style residential buildings in the City.

Present Use: Parking Lot
Approved Use: 17 Residential units over ground-floor retail
Retail Space: Up to 2,900 square feet on the ground floor
Parking Spaces: Up to 13 off-street parking spaces plus 2 City car share spaces

E. PROPOSED ACTION

Owner seeks amendment of performance condition no. 11-14 of Planning Commission Motion No. 17560 relative to payment of an in-lieu affordable housing fee.

Approval Motion No. 17560, condition nos. 11-14, confirmed the following:

1. What the Planning Code required

17 Dwelling Units (5 – 1 Bedroom; 12 – 2 Bedrooms)
Planning Code Required 12% BMRs = 2 units
If on-site, BMRs would be 1-1 bedroom and 1 – 2 bedrooms
If in lieu fee = \$893,314 at 17%

2. What the Project Sponsor Voluntarily Agreed To Do

The Previous Project Sponsor agreed to provide one extra one-bedroom BMR unit for a total of 3 BMR units.

If on-site, 2 -1 bedroom and 1- 2 bedroom
If in lieu fee = \$924,843 at 17%

* * *

What the Project Sponsor would be required to do as of today if the revised Project were before the Commission (17 dwelling units, 1-1 bedroom and 16-2 bedrooms) today at 15% on-site BMRs, and 20% in lieu fee:

If On-site: 2 – 2 bedrooms and 1 – 1 bedroom
If In lieu fee = \$1,050,950 at 20%

The Planning Code at the time of the 2006 Planning Commission approval did not require an election of a method of compliance with affordable housing requirements prior

to the Planning Commission hearing, as it does now. Nevertheless, an unsophisticated Previous Project Sponsor agreed to 3 onsite BMR units.

After the current Owner purchased the Property, the Project was revised primarily to modify the units from single-bed lofts to more traditional two-bedroom units.

This application requests only one narrow amendment from the Planning Commission: to allow payment of an in-lieu fee to satisfy the affordable housing requirements. The in-lieu fee will exceed the amount that the Planning Commission could have imposed at the time of the Project approval in 2006. The Owner has discussed this proposed amendment with the Mayor's Office of Housing, Supervisor Scott Wiener, and Planning Department staff.

The Planning Department, Supervisor Wiener, and the Mayor's Office all appear comfortable with a payment of \$1,050,950 by the Project Sponsor to the Mayor's Office of Housing as a BMR in-lieu fee, which would include a \$157,636 premium over the in-lieu fee that could have been imposed at the time of Project approval, is an appropriate and acceptable contribution to affordable housing in the City, and represents a significant and substantial benefit to the City. Such benefit advances the general welfare of the City and contributes substantially to the expansion of affordable housing opportunities in the City.

F. CONCLUSION

For the reasons set forth above, we respectfully request that the Planning Commission approve the payment of \$1,050,950 by the Project Sponsor to the City for affordable housing, as an amendment to Performance Condition No. 11-14, which includes a substantial premium over the affordable housing fees that could have been imposed at the time of Project approval in 2006.

Respectfully submitted,

REUBEN & JUNIUS, LLP

By:



James A. Reuben
Attorneys for 3500-19th Street LLC

Dated: February 7, 2012

LIST OF EXHIBITS

- Exhibit A - Planning Commission Approval Resolution No. 17560
- Exhibit B - Project Plans and Elevations

EXHIBIT A



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning
Information:
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Planning Commission Motion No. 17560

Hearing Date: February 21, 2008
 Case No.: 2005.0490 C
 Project Address: 3500 19TH STREET
 Zoning: Valencia Neighborhood Commercial District
 50-X Height and Bulk District
 Block/Lot: 3588/012
 Project Sponsor: Fred Pollack, agent for Barrios, Inc.
 18 De Boom Street, First Floor
 San Francisco, CA 94107
 Staff Contact: Tim Frye – (415) 575-6822
tim.frye@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121.1, 726.11, and 161(j) OF THE PLANNING CODE TO ALLOW DEVELOPMENT ON A LOT IN EXCESS OF 9,999 SQUARE FEET, FOR THE CONSTRUCTION OF A 50-FOOT TALL MIXED-USE BUILDING, CONTAINING UP TO 17 DWELLING UNITS WITH A REDUCED PARKING REQUIREMENT, IN THE VALENCIA NEIGHBORHOOD COMMERCIAL DISTRICT, AND A 50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On October 12, 2006 Fred Pollack hereinafter "Project Sponsor" filed an application with the Department for Conditional Use Authorization under Planning Code Sections 121.1 and 726.11 of the Planning Code to allow for the construction of a 17-unit mixed-use development within the Valencia Neighborhood Commercial District and a 50-X Height and Bulk District.

On February 13, 2008, the project sponsor revised the project for a parking reduction pursuant to Planning Code Section 161(j).

On February 21, 2008, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2005.0490C.

The Project was determined by the San Francisco Planning Department (hereinafter "Department") to have a significant effect on the environment. However, with the Mitigation Measures included as part of the Project, the Project will not have a significant effect on the environment. The Planning Commission (hereinafter "Commission") has reviewed the information and data contained in the Negative Declaration and concurs with the findings of the Department.

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.

FINDINGS

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

1. The above recitals are accurate and also constitute findings of this Commission.
2. **Site Description.** The project is located on the northwest corner of the intersection of Valencia and 19th Street, Block 3588, Lot 012. The property is located within the Valencia Neighborhood Commercial District with 50-X Height and Bulk district. The property is currently a surface parking lot. The subject property is a corner lot, with approximately 100-feet of frontage on 19th Street and 100-feet of frontage on Valencia Street.
3. **Surrounding Neighborhood.** The project site is located at the intersection of Valencia and 19th Streets. The Project site is located in the Valencia Neighborhood Commercial District with a variety of neighborhood-serving uses. A mixture of food establishments, entertainment venues, personal services, and small retail establishments define the District. The surrounding properties to the west are located within the RH-2 (Residential House, Two-Family) and RM-1 (Residential Mixed, Low Density) Districts. Corner properties within the immediate neighborhood tend to be larger in height, massing, and scale than other buildings. Of note, one block south at the northwest and southeast corners of Valencia and 20th Streets, are two mixed-use structures constructed in the early part of the 20th-century that exceed 5-stories in height.
4. **Project Description.** The applicant proposes to construct a 17-unit mixed-use development. The development will be divided into two separate structures linked by the ground floor podium and separated at the first habitable level by an inner courtyard.

The ground floor facing Valencia Street will reserve 2,900 square feet for commercial space. This space is configured in a manner that it can be used by a single tenant or divided for smaller establishments. The residential units above will be a mixture of one and two bedroom units in a townhouse configuration. The average size of a proposed unit will be approximately 1,150 square feet.

The subject site is well served by public transit. The proposal shall provide 13 unbundled off-street parking spaces, 2 city care share spaces, secured storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street, and storage for 7 bicycles within the garage.

5. **Public Comment.** The Department has received two (one by phone and one by mail) comments expressing concern over the proposed development's impact on the pedestrian quality of the neighborhood and its overall height and massing.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code.
 - A. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 50-X height and bulk district, with a 50-foot height limit.

The building would be approximately 50 feet in height at Valencia and 19th Street, and thus complies with the height limit.

- B. **Bulk.** Planning Code Section 270 limits the bulk of buildings and structures, and assigns maximum plan dimensions. The proposed Project is located in a 50-X height and bulk district, with an "X" bulk control.

Planning Code Section 270 does not regulate bulk dimensions for sites with "X" controls.

- C. **Floor Area Ratio (FAR)** Planning Code Section 124 limits the building square footage to 3.6 square feet of building area for every 1 square foot of lot area, or approximately 36,000 square feet of building area for the subject site.

The FAR limits do not apply to dwellings or to other residential uses in NC Districts, nor do they apply to non-accessory off-street parking. The proposed FAR for the building will be approximately .53, which is allowable under the Code.

- D. **Open Space.** Section 135 of the Planning Code requires a minimum of 80 square feet of private open space for each residential unit or approximately 106 square feet of common open space per unit within the Valencia NCD.

The project will create 2,578 square feet of common open space, exceeding the minimum required amount of common open space of 1,802 square feet.

- E. **Exposure.** Planning Section 140(a)(2) of the Planning Code requires each unit to face directly an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The Project is compliant with the above-cited requirement of the Planning Code.

F. **Rear Yard.** Section 134(e)(2) of the Planning Code states that a corner lot at the intersection of a street or alley may substitute the required rear yard with an open area equal to 25 percent of the lot area which is located at the same levels as the required rear yard in an interior corner of the lot, an open area between two or more buildings on the lot or an inner court, provided that the following criteria are met:

1. Each horizontal dimension of the open area shall be a minimum of 15 feet.
2. The open area shall be wholly or partially contiguous to the existing mid-block open space formed by the rear yards of adjacent properties.
3. The open area will provide for the access to light and air to and views from adjacent properties.
4. The proposed new or expanding structure will provide for access to light and air from any existing or new residential uses on the subject property.

The Project meets the criteria as listed above by providing a rear yard between the two proposed structures beginning at the first habitable level. Sheet A-09 shows the existing mid-block open space in relation to the proposed rear yard of the Project. As indicated, most structures along the Valencia NCD do not possess rear yards that contribute to the mid-block open space, while the structures along Lapidge Street do have rear yards. The Project proposes to connect the rear yard, reconfigured in compliance with the above-cited Planning Code requirement, and connecting to the existing mid-block open space.

G. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The subject commercial space has approximately 100-feet of frontage on Valencia Street with approximately 70-feet devoted to either the retail entrance or window space. The windows are clear and unobstructed.

H. **Parking.** Section 151 of the Planning Code requires one off-street parking for every unit.

The proposal shall provide 13 unbundled off-street parking spaces, 2 city car share spaces. This requirement allows the project to meet the proposed parking maximum as required by the Mission Area Plan re-zoning for NC-T Districts. A parking reduction pursuant to section 161(j) is being sought.

- I. **Bicycle Parking.** Section 155.2(c)(1) of the Planning Code requires every garage to supply a minimum of six bicycle parking spaces regardless of the number of automobile spaces available.

The Project will provide secured storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street for bicycle parking and storage for 7 bicycles within the garage.

- J. **Street Trees.** Section 143 of the Planning Code requires that a minimum of one tree of 15-gallon size for each 20 feet of frontage of the property along each street or alley shall be installed in the case of the construction of a new building.

The existing street trees will be protected during construction, and where required, new street trees will be planted, further enhancing the greening of the Valencia Neighborhood Commercial District and in compliance with this Code requirement.

- K. **Shadow.** Planning Code Section 295 generally does not permit new buildings over 40-feet in height to cast new shadows on a property owned and operated by the Recreation and Park Commission.

A shadow fan analysis concluded that the Project would not create any new shade on any Recreation and Park Commission properties protected under Section 295.

- L. **Affordable Housing.** Adopted by the City in July 2006, Ordinance Numbers 213-06 and 219-06 amended the requirements of the Residential Inclusionary Affordable Housing Program contained in Sections 315 of the Planning Code. The Amendments modify requirements for below market rate (BMR) housing in new residential projects.

As the Project was filed before the July 18, 2006 deadline (Environmental Evaluation Application filed on May 20, 2005), it is subject to the previous inclusionary housing controls that requires a BMR set-aside of 12% of the total number of on-site units or 15% of off-site units or an equivalent in-lieu fee.

The Project Sponsor has opted to comply with the new inclusionary housing requirements and provide 15% of on-site units to be devoted to BMR units. This translates to a total of 3 on-site BMR units.

- M. **Resolution No. 16727.** On February 12, 2004, the Commission adopted Resolution No. 16727, establishing interim policies and procedures for development proposals in sections of Showplace Square, the South of Market, and the Mission, including the Project site. The site is designated under these polices as a Housing/Mixed Use Overlay District.

The Project is consistent with these policies in the following ways:

1. *It would be consistent with the Overlay District Design Guidelines:*

2. *It would not provide new curb cuts on a major transit or retail corridor and the parking would not be visible from Valencia Street.*
 3. *The site would enhance physical scale and character of the district with façade articulation and variation in planes, colors and textures.*
 4. *It would enhance the pedestrian scale of Valencia Street and 19^h Street by providing commercial frontage with active retail that opens directly to the streets.*
 5. *It would enhance the sidewalks with well-designed, transparent storefronts on Valencia Street and 19th Street.*
 6. *It provides 70 percent of all units as two-bedroom units and the proposal would exceed it's required number of BMR units.*
 7. *The site is not adjacent to any public open space.*
 8. *The Project provides less than one off-street parking space per residential unit to take advantage of Valencia as a transit preferential street.*
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 Project will compliment the streetscape and contribute to the economic vitality of the neighborhood by developing a vacant corner lot. The commercial storefronts proposed along the base of the Valencia Street elevation will rejoin a gap in the commercial street frontage at this location. The Project is consistent in its massing and its treatment of the corner projecting bay in designing buildings at intersections in a manner that they create a visual anchor for the neighborhood. The project will create 17 new units of housing within the Mission District, including more than the required on-site BMR units.

- 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 size of the proposed use is in keeping with other storefronts on the block face. In addition, the Project proposes to construct a building that complies with the current height requirements of the Planning Code and is consistent with the scale of other mixed-use corner buildings within the immediate neighborhood. The Project is broken into two distinct volumes. The structure along Valencia which returns at the corner of 19th Street provides a strong anchor for the mixed-use character of Valencia Street. The structure along 19th Street has a stronger relationship to the residential character of 19th Street; the building has a narrower footprint, the last bay at the top floor is setback, and the last projecting bay relates to the size and scale of the adjacent residential building.

- 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;

The Project will provide approximately .75 off-street parking spaces per unit. Egress is provided off of 19th Street through an existing curb cut. No additional street parking will be eliminated as part of this proposal. The Project addresses the parking concerns associated with the neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

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

The Project is primarily residential in nature and therefore will not involve noxious or offensive emissions such as noise, glare, dust and odor. These issues were also addressed in the Mitigated Negative Declaration document. The applicant will comply with applicable City codes to control these issues.

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

Parking will be enclosed, screened from view, and accessed on the 19th Street side of the subject property. The Project proposes to develop a parcel that has remained vacant for a considerable period of time. The existing street trees will be protected during construction, and where required, new street trees will be planted, further enhancing the greening of the Valencia Neighborhood Commercial District. The Project proposes a sign program for the ground-floor commercial spaces along Valencia (Sheet A-11) in order to create a uniform appearance for the building and the tenants.

- 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.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The Project is consistent with the stated purposes of Valencia Neighborhood Commercial District in that the Valencia NCD has a pattern of large lots and businesses, as well as a sizable number of upper-story residential units. New neighborhood-serving commercial development is encouraged, protecting rear yards above the ground story and at each residential level, as well as providing housing in new buildings above the ground story. The proposed Project is consistent and compatible with the intent and purpose of the Valencia Neighborhood Commercial District.

8. **Lot Size Conditional Use Findings.** The Project meets the required findings for the development of lots greater than 9,999 square feet in the Valencia Neighborhood Commercial District pursuant to Planning Code Section 121.1:

1. The mass and façade of the proposed structure are compatible with the existing scale of the district.

The mass and the scale of the proposed building are compatible with the district. The district has a pattern of large lots and residential units above ground-floor businesses. The Project is proposed at a corner lot, which are generally occupied by larger structures. The buildings located at the three other corners of Valencia and 19th Street are all three stories in height, however as older structures, they boast taller commercial space which makes them closer to 3 ½ stories in height.

There are a number of mixed-use buildings within the Valencia NCD that exceed the height of the Project. For instance, one block south at the southeast and northwest corners of Valencia and 20th Street are two structures constructed during the early part of the 20th-Century that exceed 5-stories in height.

The massing of the Project has been broken down into two buildings, one that responds to the mixed-use character of Valencia Street and a narrower structure that relates to the residential nature of 19th Street. The main entrance to the residential portion of the Project is on 19th Street.

2. The façade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

The Project is compatible in design and character with the adjacent structures and the Valencia Neighborhood Commercial District. The design possesses a similar tripartite arrangement with a base shaft and capital articulated by changes in color, texture, and material. The fenestration pattern and projecting bays are consistent with other mixed-use buildings within the district. The details are compatible with the mixed variety of styles and buildings within the immediate neighborhood and do not create a false sense of history, rather they express the existing environment in a contemporary idiom.

9. **Parking Section 161(j)**

The Planning Code allows off-street parking requirements for dwelling units in NC Districts to be reduced by the Planning Commission pursuant to the procedures for conditional use authorization set forth in Section 303 of this Code, provided that the criteria set forth below are considered in lieu of the criteria set forth in Section 303(c):

- (1) The reduction in the parking requirement is justified by the reasonably anticipated auto usage by residents of and visitors to the project;
- (2) The reduction in the parking requirement will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;
- (3) The project is consistent with the existing character and pattern of development in the area; and
- (4) The project is consistent with the description and intent of the neighborhood commercial district in which it is located.

The Project is located at the intersection of 19th and Valencia Streets, an area well-served by public transportation that also experiences a significant amount of automobile, foot, and bicycle traffic throughout the day. A reduction in parking will require residents and visitors to rely on other options for transportation to the area. The Project complies with the currently proposed parking maximum under the proposed Mission Area Plan and also provides 2 city car share spaces, making it consistent with the intent of the rezoning effort and the continued development of the Valencia corridor as a transit preferential street.

10. **Eastern Neighborhoods – Mission Area Plan.** The Mission Area Plan as part of the Eastern neighborhoods rezoning effort proposes to change the current zoning at the subject lot from NC to NC-T. The purpose of this zoning re-classification is to encourage mixed-use development near transit. The rezoning effort also proposes to re-classify the maximum height along Valencia within the Mission Area Plan to 55-feet in order to allow for taller ground story commercial spaces in-keeping with the character of the older established commercial storefronts within the Valencia NCD which often display a height of 12-to-15-feet in height.

The site has been identified for Neighborhood Commercial Transit under the proposed permanent Eastern Neighborhoods Zoning Controls. The proposed project is consistent with these controls and the Department has determined that it would not have a significant land use impact in relation to pending Eastern Neighborhoods Community Plan requirements.

1. *Parking.* The NC-T zoning (Neighborhood Commercial Transit) as part of the Mission Area Plan, will change the current 1 to 1 off-street parking ratio to a parking maximum. The project proposes to comply with the proposed maximum parking requirement and provide 2 city car spaces.
2. *Height.* The height of the Project complies with current zoning at 50-feet.

3. *Unit Mix.* Under the Mission Area Plan re-zoning effort, the NC-T District will require all new developments to allocate 40% of their new units as two-bedroom units and will encourage 10% of units to have three-bedrooms. The Project proposes two one-bedroom units, three one-bedroom units with a den, and twelve two-bedroom units. This mix of units results in approximately 70% of the proposed units to have two bedrooms and exceeds the requirements of the new zoning.
 4. *BMR.* The Project Sponsor has opted to comply with the new inclusionary housing requirements and provide 15% of on-site units to be devoted to BMR units. This translates to a total of 3 on-site BMR units.
11. **General Plan Conformity.** The Project meets the criteria in Section 303(c)(3) by complying with applicable provisions of the Planning Code as established in the Findings and affirmatively promoting the objectives and policies of the General Plan.

RESIDENCE ELEMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH.

Policy 1.4:

Locate infill housing opportunities on appropriate sites in established neighborhoods.

The Project shall provide more than the required BMR units on site. Approximately 70% of the units proposed will be larger 2-bedrooms units. The Project is within the Valencia Neighborhood Commercial District, which has a diverse and thriving variety of neighborhood-serving businesses and destination venues.

OBJECTIVE 2:

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

Policy 2.3:

Allow flexibility in the number and size of units with permitted volumes of larger multi-unit structures, especially if the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.

The Valencia Neighborhood Commercial District is well served by a variety of forms of public transportation and is located near many neighborhood-serving establishments. Corner properties along important commercial and transit corridors, such as this Project, shall provide units that can accommodate larger households, including the required BMR on-site unit.

OBJECTIVE 12:

PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 12.1:

Assure housing is provided with adequate public improvements, services and amenities.

The Project will provide additional street trees along Valencia and 19th Streets, pursuant to Section 143 of the Planning Code. The Project is located within a vibrant and diverse neighborhood commercial district that provides a variety of required services and amenities.

Policy 12.4:

Promote the development of well designed housing.

The Project design is well-suited for the site and the neighborhood. The design respects the existing neighborhood's mixed-use character and provides an interesting mix of materials in a contemporary style.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The Project will provide an additional 2,900 square feet of commercial space where a surface parking lot currently exists. The space is adaptable for a single tenant or may be divided for use by smaller establishments.

Policy 1.2:

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

The Project is located in an ideal location for a mixed-use structure. It is located within a thriving commercial area that is well served by public transit and experiences a high level of foot traffic.

Policy 1.3:

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

The proposed ground-floor commercial space shall provide goods and services to the neighborhood and shall provide resident employment opportunities to those in the community. Further, the Project Site is located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will increase the amount of commercial activity and will enhance the diverse economic base of the City.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

The space is adaptable for a single tenant or may be divided for use by smaller establishments. The square footage of the proposed commercial space is appropriate for an independent entrepreneur or division into smaller spaces for multiple tenants.

URBAN DESIGN ELEMENT OBJECTIVES AND POLICIES

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The Project proposes a well-designed structure that captures the character and vitality of the Valencia Neighborhood Commercial District in a contemporary idiom through its use of materials, massing, scale, and details similar to those adjacent buildings that characterize the district.

Policy 1.3:

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

The Project design expresses the character of the overall district and the City; it is consistent with the historical pattern of development which is dictated by larger mixed-use buildings located at intersections along major transit corridors.

Policy 1.6:

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

The bulk of the Project is consistent with the prevailing scale of development in the immediate neighborhood. There are several buildings of similar scale along Valencia Street, including those at the southeast and northwest corners of Valencia and 20th Streets. The 19th Street elevation relates to the residential scale of the immediate area through setbacks, materials, and massing.

NEIGHBORHOOD ENVIRONMENT

Objectives and Policies

OBJECTIVE 1:

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

Policy 1.2:

Allow appropriate neighborhood-serving commercial activities in residential areas.

The Project has the potential to bolster the vitality of the Valencia Neighborhood Commercial District by linking two parts of the district where the commercial space has been separated by the existing surface parking lot. It is located within a thriving commercial area that is well served by public transit and experiences a high level of foot traffic.

Policy 1.4:

Promote construction of well designed housing that conserves existing neighborhood character.

The Project proposes a well-designed structure that captures the character and vitality of the Valencia NCD in a contemporary idiom through its use of materials, massing, scale, and details similar to those adjacent buildings that characterize the District.

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 Project will create additional commercial space where no retail currently exists. This additional commercial space has the potential to provide employment and entrepreneurial opportunities to residents of the immediate area. The creation of new commercial space also has the potential to bolster the vitality of the Valencia Neighborhood Commercial District by linking two parts of the district where the commercial space has been separated by the existing surface parking lot.

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

The Project will create 17 new residential units where no housing currently exists. The Project will comply with the new inclusionary housing requirements by providing the required 3 BMR units on-site. The overall design of the Project is consistent with the character of the Valencia Neighborhood Commercial District.

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

No housing shall be removed for this Project and the Project shall designate three on-site BMR units.

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

The Valencia Neighborhood Commercial District is well served by transit. The Project will provide off-street parking. The parking is accessed off of 19th Street through an existing curb cut. No additional street parking will be eliminated as part of this proposal. The Project addresses the parking concerns associated with the neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

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

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

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

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

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The Project will have no negative impact on existing parks and open spaces. The Project does not have an impact on any public open spaces.

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. 2005.0490C subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

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. 17560. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 21, 2008.

Linda Avery
Commission Secretary

AYES: M. Antonini; M. Sue Lee; K. Moore; C. Olague; H. Sugaya

NAYS: None

ABSENT: W. Lee

ADOPTED: February 21, 2008

Exhibit A

Conditions of Approval

- 1) This authorization is for a Conditional Use Authorization under Planning Code Sections, 121.1, 161(j) and 726.11 of the Planning Code to allow for the construction of a 17-unit mixed-use structure on a 10,000 square foot lot at 3500 19th Street within the Valencia Neighborhood Commercial District (and a 50-X Height and Bulk District, in general conformance with plans filed with the Application as received on February 13, 2008, and stamped "EXHIBIT B" included in the docket for Case No. 2005.0490C, reviewed and approved by the Commission on November 15, 2007.
- 2) This authorization is for the construction of a new building that would contain 17-dwelling units, approximately 2,900 gross square feet of retail use, 13 unbundled off-street parking spaces, 2 city car share spaces, storage for 6 bicycles adjacent to the residential lobby entrance on 19th Street, and storage for 7 bicycles within the garage at 3500 19th Street, Lot 012 in Assessor's Block 3588.
- 3) The project sponsor shall continue to work with staff to refine the design, primarily the 19th Street elevation, and assure that all building materials, including finishes, windows, entries, storefronts, and detailing are appropriate for the site and neighborhood.
- 4) The project is subject to all First-Source Hiring requirements.
- 5) The project is subject to the Mitigation Monitoring Program as identified under Exhibit C of this document.
- 6) All applicable City Codes and standards shall be met.
- 7) No general advertising signs shall be permitted anywhere on the building.
- 8) All signs and exterior lighting for the businesses shall be reviewed and approved by the Planning Department before they are installed.
- 9) The Project Sponsor shall require that the tenants maintain storefronts that maximize the visibility of the interior through the storefront windows.
- 10) The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

CONDITIONS OF APPROVAL -- AFFORDABLE UNITS

- 11) The Project Sponsor shall designate a total of three units as affordable [Below Market Rate (BMR)] rental units to be constructed on the site of the principal project. This total represents 18 percent of all units in the project.
- 12) The subject BMR units shall reflect the unit size mix of the market rate units and shall be distributed in the following range of unit sizes: 1 two-bedroom units and 2 one-bedroom units.
- 13) The Project Sponsor shall record a Notice of Special Restriction on the property which records a copy of this Motion and identifies the BMR units satisfying the requirements of this Motion.
- 14) The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"), incorporated herein by reference, as published and adopted by Resolution No. 13405 on September 10, 1992 by the Planning Commission, and as required by Planning Code Section 315 (collectively the "Inclusionary Requirement"). The Project Sponsor has elected to provide three on-site affordable below-market-rate units ("BMR units") to satisfy its Inclusionary Requirement, 1 more unit than required by the Inclusionary Affordable Housing Program.
 - a) The BMR units shall be designated on the building plans prior to approval of any building permit. The BMR units shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, and ready for occupancy no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal Project. The Project proposes 17 dwelling units to include 2 one-bedroom, 12 two-bedroom and 3 one-bedroom units with den. The subject on-site BMR units shall be distributed proportionately across all such unit types.
 - b) If the units in the building are offered for sale, the BMR units shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the San Francisco Principal Metropolitan Statistical Area (PMSA). The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for a fifty (50) year period from the date of the initial sale of the BMR unit.
 - c) The Applicant shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such fees are authorized by ordinance, according to the procedures established in the Procedures Manual or as otherwise provided by law.

- d) The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
- e) Prior to issuance of any building permit for the Project (including any building permit issued for any partial phase of the Project), the Project Sponsor shall have designated the BMR units in accordance with Items a, b and c above.
- f) Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit

CONDITIONS OF APPROVAL - MONITORING AND VIOLATIONS

- 15) Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
- 16) An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
- 17) The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.
- 18) The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued 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 thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization 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. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.
- 19) Prior to the issuance of the Building Permit 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 premises (Assessor's 3588, Lot 012), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.

- 20) Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.
- 21) Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).