



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Extension of Performance Period

HEARING DATE: JULY 26, 2012

CONSENT CALENDAR

Date: July 16, 2012
Case No.: **2012.0456X**
Project Address: **1390 MARKET STREET**
Zoning: C-3-G (Downtown, General Commercial) District
120-X & 200-S Height and Bulk Districts
Block/Lot: 0813/006
Project Sponsor: Andrew Junius of
Reuben & Junius, LLP for
API Fox Plaza LLC
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Aaron Hollister – (415) 575-9078
aaron.hollister@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

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project sponsor requests an amendment to the conditions of approval for a previously approved project in order to extend the performance period for two years (to July 26, 2014). The project was originally approved by the Planning Commission on May 28, 2009, and would entail demolition of an existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor. There would be no change to the existing Fox Plaza mixed-use tower, and no new parking would be provided (18 existing spaces would be removed). Parking for the new residential units would be within the existing two-level basement garage at Fox Plaza.

SITE DESCRIPTION AND PRESENT USE

The 63,977-square-foot project site is a triangular lot covering the entire block bounded by Hayes Street to the north, Polk Street to the west and Market Street to the southeast. The site is currently occupied by the existing Fox Plaza complex, which consists of two structures: a 29-story residential/office/retail building and a two-story retail/commercial building. The 29-story building is rectangular in footprint, with the longer dimension along Polk Street, and the two-story building is an irregularly shaped structure at the corner of Hayes and Market Streets.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The C-3-G District covers the western portions of downtown San Francisco and is composed of a variety of uses, including hotels, offices, entertainment, dwelling units, and retail establishments. The intensity of development is generally lower within the C-3-G District than within the downtown core. Residential uses are principally permitted within the C-3-G District.

The scale of development varies greatly in the vicinity of the project site, with the current height limits in the area ranging from 50 to 320 feet. Permitted heights and the prevailing scale of development generally decrease with distance from Market Street. Two buildings in the area, Fox Plaza (1390 Market Street) and the AAA Building (100 Van Ness Avenue), approach heights of 400 feet. Other taller buildings include the 17-story SCIF Building (1275 Market Street), the 23-story SOMA Grand (1160 Mission Street), the 18-story Federal Building (1100 Mission Street), and the 20-story Argenta (One Polk). Currently, office and retail uses predominate on Market Street, but substantial residential development is proposed or approved including 55 9th Street project and the 10th/Market Development, which will consist of approximately 754 dwelling units. Other uses near the project site include tourist and residential hotels, institutional and cultural uses, and government offices.

ENVIRONMENTAL REVIEW

On April 3, 2009 the Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration (PMND) in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

On April 24, 2009, the Preliminary Negative Declaration (PND) was appealed to the Planning Commission (Commission) by San Franciscans for Reasonable Growth and on May 28, 2009 following a duly noticed public hearing the Commission approved the issuance of the Final Negative Declaration (FND) as prepared by the Planning Department (Department) in compliance with CEQA, the State CEQA Guidelines and Chapter 31.

On September 23, 2009, the FND was appealed to the Board of Supervisors by San Franciscans for Reasonable Growth and on October 6, 2009, following a duly noticed public hearing the Board of Supervisors affirmed Planning Commission adoption of the FMD.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	N/A	N/A	N/A	N/A
Posted Notice	20 days	July 13, 2012	July 13, 2012	20 days
Mailed Notice	10 days	July 23, 2012	July 23, 2012	10 days

PUBLIC COMMENT

- As of the date of publication, staff has received no comments on the requested extension of entitlements.

ISSUES AND OTHER CONSIDERATIONS

- At the hearing on May 28, 2009, the Planning Commission granted exceptions for the project under Planning Code Section 309, including freight loading and ground-level wind currents.
- The project has not been constructed following the original 2009 approval due to the recent weakness in the real estate market and the associated difficulties in securing financing. The sponsor wishes to preserve the opportunity to construct the projects pending future improvements in the national and global economic outlook.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant an amendment to the conditions of approval for the original Section 309 Determination of Compliance (per Planning Code Section 309) for two years (to July 26, 2014).

BASIS FOR RECOMMENDATION

- The requested extension is appropriate given the recent economic downturn, which is beyond the control of the project sponsor.
- The project would bolster efforts to revitalize the Central Market Street area by adding residents and ground-floor retail services within an area that is well-served by transit.
- The project is desirable for, and compatible with the surrounding neighborhood.

RECOMMENDATION: Approval with Conditions
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Attachments:

Block Book Map
Sanborn Map
Aerial Photograph
Zoning Map
Draft Motion to Extend Performance Period
Project Sponsor Submittal Package:
- Project Sponsor Submittal Letter
- Previous Approval Motions
- Approved Plans

Attachment Checklist

- | | |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: Existing Conditions (11" by 17") |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: Proposed Project (11" by 17") |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Wireless Telecommunications Materials |
| <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 checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |

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

 AJH
Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Inclusionary Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion

HEARING DATE: JULY 26, 2012

Date: July 16, 2012
Case No.: **2012.0456X**
Project Address: **1390 MARKET STREET**
Zoning: C-3-G (Downtown, General Commercial) District
120-X & 200-S Height and Bulk Districts
Block/Lot: 0813/006
Project Sponsor: Andrew Junius of
Reuben & Junius, LLP for
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ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL FOR A DETERMINATION OF COMPLIANCE AND THE GRANTING OF EXCEPTIONS (FROM THE REQUIREMENTS SET FORTH IN THE PLANNING CODE FOR "FREIGHT LOADING" AND "GROUND LEVEL WIND CURRENTS") PURSUANT TO SECTION 309 OF THE PLANNING CODE TO EXTEND THE PERFORMANCE PERIOD FOR TWO YEARS FOR A PROPOSED PROJECT TO DEMOLISH AN EXISTING TWO-STORY RETAIL AND OFFICE BUILDING ADJACENT TO THE EXISTING FOX PLAZA OFFICE/RESIDENTIAL TOWER AND CONSTRUCTION OF A NEW 120-FOOT-TALL, 11-STORY BUILDING CONTAINING UP TO 250 RESIDENTIAL UNITS ABOVE APPROXIMATELY 19,880 GROSS SQUARE FEET OF RETAIL USE ON THE GROUND FLOOR WITHIN THE C-3-G ZONING DISTRICT AND THE 120-X/200-S HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On April 4, 2012, Andrew Junius of Reuben & Junius, LLP for API Fox Plaza LLC ("Project Sponsor"), submitted a request (Case No. 2012.0456X) with the City and County of San Francisco Planning Department ("Department") for an amendment to the conditions of approval for a previously approved project in order to extend the performance period for two years. The project was originally approved by

the Planning Commission ("Commission") on May 28, 2009 (Case No. 2005.0979EX), and would demolish the existing two-story retail and office building adjacent to the existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construct an 11-story building containing approximately 250 dwelling units, approximately 19,880 square feet of ground-floor retail uses, 98 off-street residential parking spaces, and 15 off-street commercial parking spaces, located at 1390 Market Street ("Project Site"), within the C-3-G Zoning District and the 200-S Height and Bulk District (collectively, "Project").

At the hearing on May 28, 2009, the Commission granted exceptions for the Project under Planning Code Section 309, including freight loading and ground-level wind currents.

On April 3, 2009 the Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration (PMND) in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

On April 24, 2009, the Preliminary Negative Declaration (PND) was appealed to the Planning Commission (Commission) by San Franciscans for Reasonable Growth and on May 28, 2009 following a duly noticed public hearing the Commission approved the issuance of the Final Negative Declaration (FND) as prepared by the Planning Department (Department) in compliance with CEQA, the State CEQA Guidelines and Chapter 31.

On September 23, 2009, the FND was appealed to the Board of Supervisors by San Franciscans for Reasonable Growth and on October 6, 2009, following a duly noticed public hearing the Board of Supervisors affirmed Planning Commission adoption of the FND.

Since the FND was issued, 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 July 26, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2012.0456X.

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

MOVED, that the Commission hereby approves the two-year extension of the performance period requested in Application No. 2012.0456X, subject to the conditions of Motion No. 17893 and the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The project sponsor requests an amendment to the conditions of approval for a previously approved project in order to extend the performance period for two years (to July 26, 2014). The project was originally approved by the Planning Commission on May 28, 2009, and would entail demolition of an existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor. There would be no change to the existing Fox Plaza mixed-use tower, and no new parking would be provided (18 existing spaces would be removed). Parking for the new residential units would be within the existing two-level basement garage at Fox Plaza.
3. **Site Description and Present Use.** The 63,977-square-foot project site is a triangular lot covering the entire block bounded by Hayes Street to the north, Polk Street to the west and Market Street to the southeast. The site is currently occupied by the existing Fox Plaza complex, which consists of two structures: a 29-story residential/office/retail building and a two-story retail/commercial building. The 29-story building is rectangular in footprint, with the longer dimension along Polk Street, and the two-story building is an irregularly shaped structure at the corner of Hayes and Market Streets.
4. **Surrounding Properties and Neighborhood.** The C-3-G District covers the western portions of downtown San Francisco and is composed of a variety of uses, including hotels, offices, entertainment, dwelling units, and retail establishments. The intensity of development is generally lower within the C-3-G District than within the downtown core. Residential uses are principally permitted within the C-3-G District.

The scale of development varies greatly in the vicinity of the project site, with the current height limits in the area ranging from 50 to 320 feet. Permitted heights and the prevailing scale of development generally decrease with distance from Market Street. Two buildings in the area, Fox Plaza (1390 Market Street) and the AAA Building (100 Van Ness Avenue), approach heights of 400 feet. Other taller buildings include the 17-story SCIF Building (1275 Market Street), the 23-story SOMA Grand (1160 Mission Street), the 18-story Federal Building (1100 Mission Street), and the 20-story Argenta (One Polk). Currently, office and retail uses predominate on Market Street, but substantial residential development is proposed or approved including 55 9th Street project and the 10th/Market Development, which will consist of approximately 754 dwelling units. Other uses near the project site include tourist and residential hotels, institutional and cultural uses, and government offices

5. **Public Comment.** To date, the Department has received no correspondence regarding the requested extension.
6. This Commission adopts the findings of the previous Planning Commission Motion No. 17893, as though fully set forth herein.
7. 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.
8. The Commission finds that, given the continuing weakness in the real estate market and the associated difficulties in securing financing, which is beyond the control of the Project Sponsor, and given the merits of the proposed Project, it is appropriate to amend condition of approval No. G(1) of Planning Commission Motion No. 17893 to extend the performance period of the Project to July 26, 2014.
9. On balance, the Commission hereby finds that approval of the proposed amendment to condition of approval No. G(1) of Planning Commission Motion No. 17893 in this case 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 Section 309 Determination of Compliance and Request for Exceptions Application No. 2012.0456X** subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 17893, as amended by this approval to modify Condition G(1) to extend the performance period of the project to July 26, 2014.

The Planning Commission further finds that since the FND was issued, 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.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 26, 2012

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 26, 2012

EXHIBIT A

AUTHORIZATION

This authorization is to extend the performance period under Motion No. 17893 until July 26, 2014, for a project located at 1390 Market Street, Block 0813, Lot 006, within the C-3-G District and the 120-X & 200-S Height and Bulk Districts for the demolition of an existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor with parking for the new residential units within the existing two-level basement garage at Fox Plaza, and subject to conditions of approval reviewed and approved by the Commission on May 28, 2009, under Motion No. 17893, as amended by the Planning Commission on July 26, 2012, under Motion No. XXXXX. 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 May 28, 2009 under Motion No. 17893, as amended by the Planning Commission on July 26, 2012 under Motion No. XXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Section 309 Determination of Compliance and Request for Exceptions and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Section 309 Determination of Compliance and Request for Exceptions.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for two years from the effective date of the Motion, amending the expiration date of the performance specified the approval granted per Motion No. 17893 (until July 26, 2014). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Section 309 Determination of Compliance and Request for Exceptions is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within two (2) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than two (2) years have passed since the Motion was approved.

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

Parcel Map

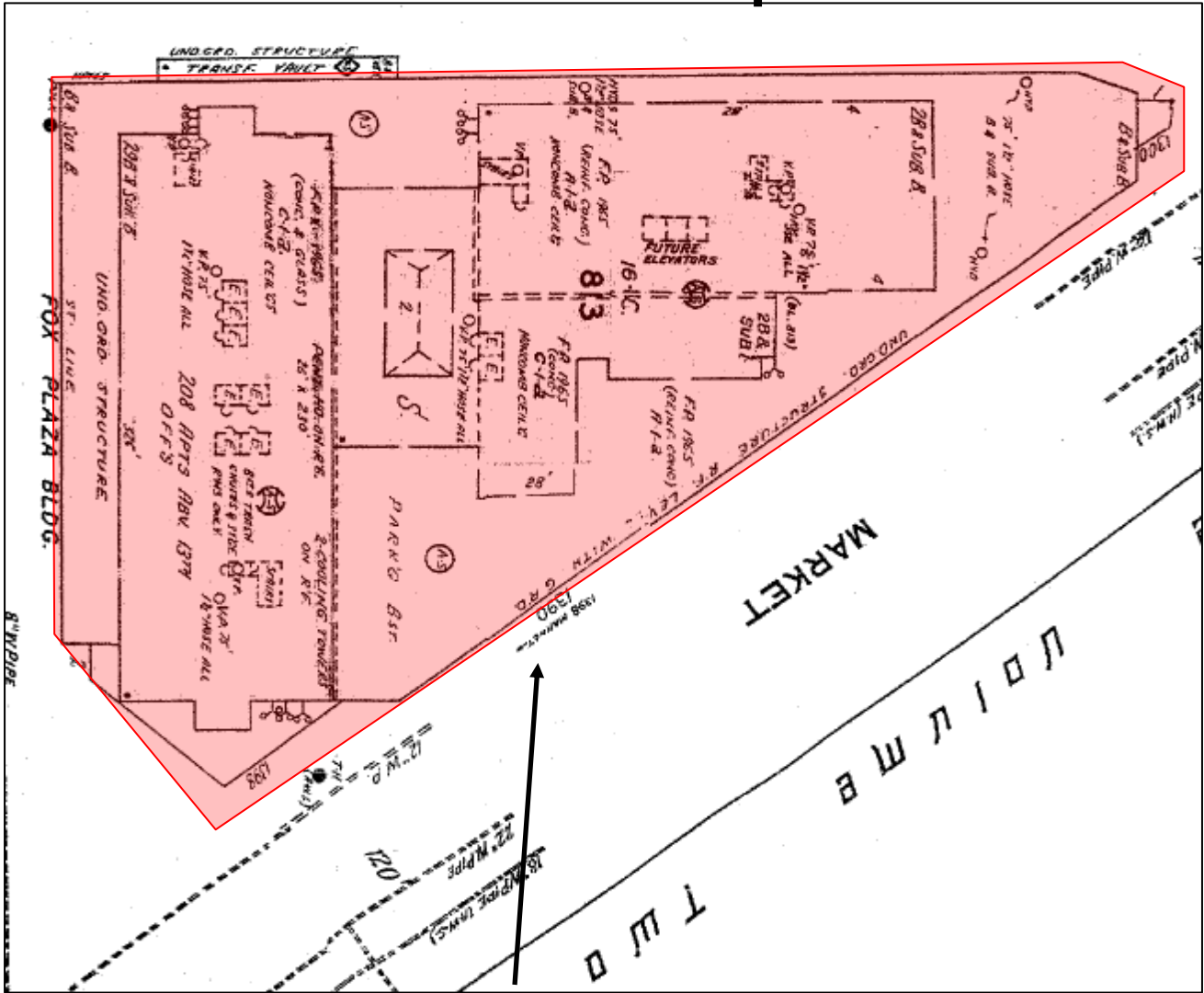


SUBJECT PROPERTY



Case Number 2012.0456X
Entitlement Extension
1390 Market Street

Sanborn Map*



SUBJECT PROPERTY

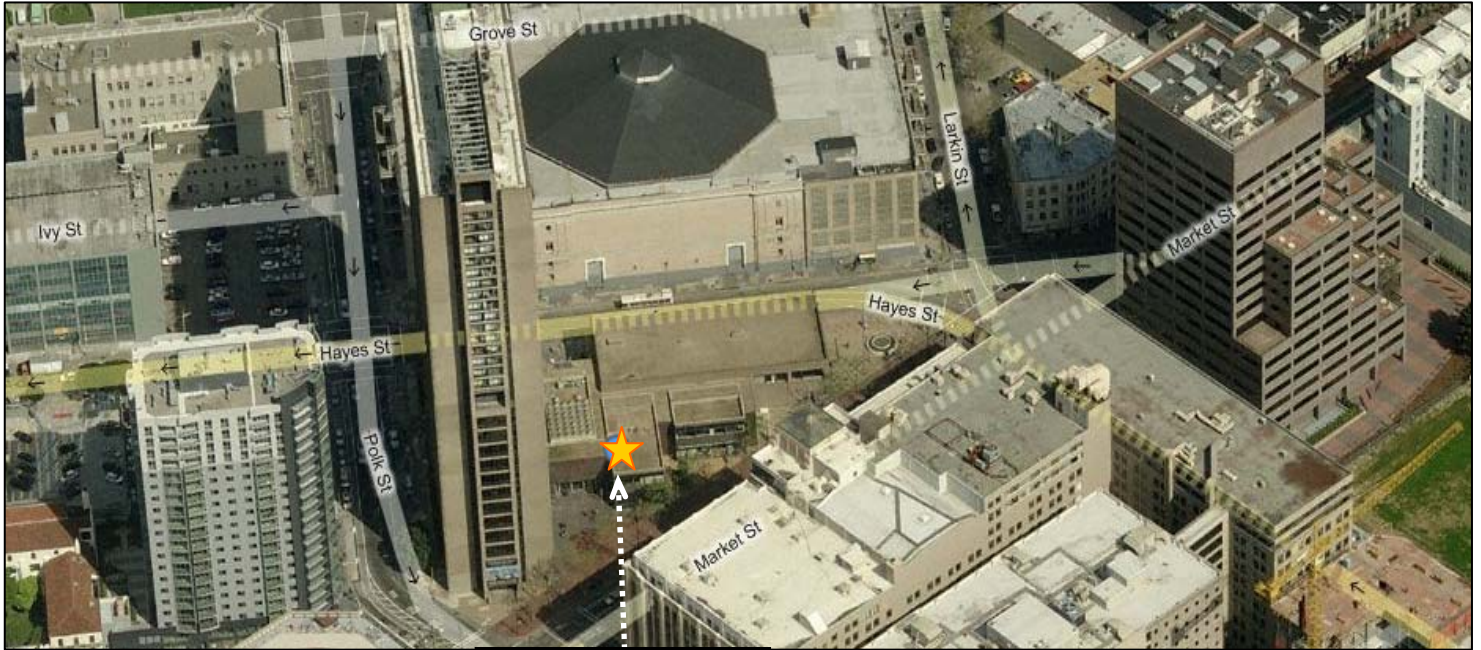


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

Case Number 2012.0456X
Entitlement Extension
1390 Market Street

Aerial Photo

North-Facing



SUBJECT PROPERTY



Aerial Photo

South-Facing



SUBJECT PROPERTY



Aerial Photo

West-Facing



SUBJECT PROPERTY



Case Number 2012.0456X
Entitlement Extension
1390 Market Street

Zoning Map



SUBJECT PROPERTY



Case Number 2012.0456X
Entitlement Extension
1390 Market Street

REUBEN & JUNIUS_{LLP}

July 12, 2012

By Hand Delivery

Mr. Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Case No. 2012.0456C
Application for Extension of Performance Condition
1390 Market Street
Our file: 1069.06

Dear President Fong and Commissioners:

We represent API Fox Plaza, LLC, the "Project Sponsor" of an approved 250-unit residential tower at 1390 Market Street (aka, Fox Plaza, the "Project"). We respectfully request your approval of a two-year extension of the performance condition of the Project's original approvals. The Project Sponsor is the related successor entity of Archstone Smith, which was the ownership entity at the time the original application for approvals. Archstone's local team remains in place and looks forward to starting construction in a timely manner. The Project Sponsor remains very committed to expanding the successful Fox Plaza community with this proposed addition of residential units, and is firmly committed to the San Francisco market as demonstrated by their acquisition of the Daggett Place property at the foot of Potrero Hill.

The Project will demolish the existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower, and construct a new 120-foot-tall, 11-story building with up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor. A key issue for the Project is resolving the complex engineering and construction issues presented by constructing the residential tower atop the existing underground garage and foundation system designed to seismic standards of the 1960's.

The Planning Commission originally granted a Determination of Compliance pursuant to Section 309 with requested Exceptions from Section 148 (Reduction of Ground Level Wind Currents) and Section 152.1 (Off Street Loading) pursuant to Motion No. 17893 (the "Project Approval"). The Project Approval included a performance condition (Condition 1.G, the "Performance Condition") requiring that construction of the Project commence within three years from May 28, 2009, the date of the Project Approval.

Although the economy has improved over the last twelve months, capital markets remain difficult. Securing financing is further complicated by the unique challenges associated with the design of the residential tower to be built upon the existing parking garage and foundation system. The Project Sponsor has engaged a San Francisco structural engineering firm to evaluate the original Fox Plaza plans and geotechnical reports in order to provide a conceptual foundation system design that will meet today's seismic requirement. Their work on the balance of the design must of necessity await the conclusion of this analysis and conceptual design as the foundation system will greatly impact the design details of the new tower's structural system.

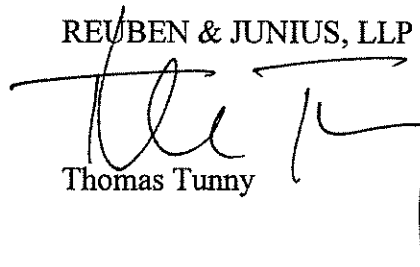
Upon resolution of the foundation retrofit issues, the Project Sponsor will be positioned to update its economic analysis of the Project with costs that reflect the Project's unique challenges. In turn, this analysis will assure the allocation of the additional capital required to proceed with preparation of construction plans and ultimately construction of the Project.

Accordingly, the Project Sponsor requests that the Planning Commission grant a two-year extension of the Performance Condition, with the extension period commencing on the date of the Commission action. No changes to the Project are being requested at this time.

Thank you for your consideration of this matter.

Very truly yours,

REUBEN & JUNIUS, LLP



Thomas Tunny

Enclosures

cc: Commission Vice-President, Cindy Wu
Commissioner Michael Antonini
Commissioner Gwyneth Borden
Commissioner Ron Miguel
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
Linda Avery, Commission Secretary
John Rahaim, Planning Director
Aaron Hollister, Planner
API Fox Plaza, LLC

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REUBEN & JUNIUS^{LLP}

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

Inclusionary Housing (Sec. 315)

First Source Hiring (Admin. Code 83)

Jobs Housing Linkage Program (Sec. 313)

Child Care Requirement (Sec. 314)

Downtown Park Fee (Sec. 139)

Other

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Planning Commission Motion No. 17893

Section 309

HEARING DATE: MAY 28, 2009

Date: April 30, 2009
Case No.: 2005.0979EX
Project Address: 1390 MARKET STREET (AKA FOX PLAZA)
Zoning: Downtown General Commercial (C-3-G)
120-X and 200-S Height and Bulk Districts
Block/Lot: 0813/006
Applicant: Andrew Junius, Reuben & Junius
for Archstone Smith
235 Pine Street #1600
San Francisco, CA 94104
Staff Contact Rick Crawford - (415) 558-6358
rick.crawford@sfgov.org

ADOPTING FINDINGS AUTHORIZING A DETERMINATION OF COMPLIANCE AND THE GRANTING OF EXCEPTIONS (FROM THE REQUIREMENTS SET FORTH IN THE PLANNING CODE FOR "FREIGHT LOADING" AND "GROUND LEVEL WIND CURRENTS") PURSUANT TO SECTION 309 OF THE PLANNING CODE, FOR A PROPOSED PROJECT TO DEMOLISH OF AN EXISTING TWO-STORY RETAIL AND OFFICE BUILDING ADJACENT TO THE EXISTING FOX PLAZA OFFICE/RESIDENTIAL TOWER AND CONSTRUCTION OF A NEW 120-FOOT-TALL, 11-STORY BUILDING CONTAINING UP TO 250 RESIDENTIAL UNITS ABOVE APPROXIMATELY 19,880 GROSS SQUARE FEET OF RETAIL USE ON THE GROUND FLOOR AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AS DESCRIBED IN A FINAL MITIGATED NEGATIVE DECLARATION DATED MAY 28, 2009 AND ADOPTING THE FINAL MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM FOR THE PROPERTY AT 1390 MARKET STREET (ASSESSOR'S BLOCK 0813, LOT 006). THE SUBJECT PROPERTY IS IN A C-3-G (DOWNTOWN GENERAL COMMERCIAL) ZONING DISTRICT AND 120-X AND 200-S HEIGHT AND BULK DISTRICTS.

PREAMBLE

On October 19, 2005, Andrew Junius of Reuben and Junius ("Project Sponsor"), authorized agent for Archstone Smith, the owners of 1390 Market Street filed with the City and County of San Francisco Planning Department ("Department") Environmental Evaluation Application No. 2005.0979E. An Initial Study/Preliminary Mitigated Negative Declaration ("MND") was published on April 8, 2009. The Commission has reviewed and concurs with said determination.

On August 30, 2006, Andrew Junius of Reuben and Junius ("Project Sponsor"), authorized agent for Archstone Smith, the owners of 1390 Market Street, submitted an application (20057.0979EX) for a Determination of Compliance pursuant to Section 309 with requested Exceptions from Section 148, Reduction of Ground Level Wind Currents, and Section 152.1, Off Street Loading for the proposed Project to demolish the existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor (the "Project").

On May 7, 2009, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing on application No. 2005.0979EX.

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.

On April 3, 2009 the Department determined that the proposed Project could not have a significant effect on the environment and published a Preliminary Mitigated Negative Declaration (PMND) in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

On April 24, 2009, the Preliminary Negative Declaration (PND) was appealed to the Planning Commission (Commission) by San Franciscans for Reasonable Growth and on May 28, 2009 following a duly noticed public hearing the Commission approved the issuance of the Final Negative Declaration (FND) as prepared by the Planning Department (Department) in compliance with CEQA, the State CEQA Guidelines and Chapter 31.

MOVED, that the Commission hereby authorizes the Determination of Compliance and exceptions to Section 309 requested in Application No. 2005.0979X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.

2. **Site Description and Present Use.** The 63,977-square-foot Project site (Assessor's Block 813; Lot 6) is a triangular lot covering the entire block bounded by Hayes Street to the north, Polk Street to the west and Market Street to the southeast. The site is currently occupied by the existing Fox Plaza complex, which consists of two structures: a 29-story residential/office/retail building and a two-story retail/commercial building. The 29-story building is rectangular in footprint, with the longer dimension along Polk Street, and the two-story building is an irregularly shaped structure at the corner of Hayes and Market Streets.
3. **Surrounding Properties and Neighborhood.** Land uses in the surrounding neighborhood consist of a variety of retail uses and office uses, hotels, entertainment venues, and institutions, as well as high-density residential units. Many of these uses have a citywide or regional function. For example, adjacent land uses include the Bill Graham Civic Auditorium to the north (across Hayes Street), and the San Francisco Mart, a nine-story building containing wholesale furnishings showroom and offices, to the south (across Market Street). Also within a block of the Project site are the San Francisco Main Library, the headquarters of the State Compensation Insurance Fund, the former California State Automobile Association building, San Francisco City Hall and the Civic Center and the Civic Center Historic District. To the east of the Project site, beyond the intersection of Market and Larkin Streets, are a four-story apartment building and a sixteen-story office building. Two parking lots, a three-story office building, a four-story apartment building, and a restaurant are located west of the Project site, across Polk Street, where a new 20-story, 179 unit, residential tower has recently been built at One Polk Street. Additionally, a 35-story residential building has been approved at the southwest corner of 10th and Market Streets, across Market Street from the Project site, while immediately to the south, an affordable housing Project is approved at 10th and Mission Streets. Another new residential project is under construction in the vicinity at Van Ness Avenue and Fell Street.
4. **Project Description.** The proposed Project would entail demolition of an existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor. There would be no change to the existing Fox Plaza mixed-use tower, and no new parking would be provided (18 existing spaces would be removed). Parking for the new residential units would be within the existing two-level basement garage at Fox Plaza.
5. **Findings under the California Environmental Quality Act (CEQA).** In accordance with the provisions of CEQA, the State CEQA Guidelines and Chapter 31, the Department and the Planning Commission have reviewed and considered the information contained in the FMND and all information pertaining to the project in the Department's case file. Any and all documents referenced in this Motion are either attached to this Motion or may be found in the files of the City Planning Department, as the custodian of records, at 1660 Mission Street in San Francisco. The proposed Project as reflected in Application No. 2005.0979XE is consistent with the project as described in the FMND and would not result in any significant impacts not identified in the FMND nor cause significant effects identified in the FMND to be substantially more severe.

6. **Public Comment.** At the time of issuance of this report, the Department had not received any public comment relating to the construction of the Project or the granting of exceptions under Planning Code Section 309.
7. **Compliance with C-3 District Code Requirements – Section 309.** Section 309 of the San Francisco Planning Code provides that substantial alterations and new construction located in a C-3 District is subject to Planning Commission review with respect to the Project's compliance with applicable Planning Code requirements. Because the proposed Project exceeds 75 feet in height and 50,000 square feet in area and requires two exceptions under Section 309, a public hearing is required before the Planning Commission. In determining if the Project would comply with applicable Planning Code Sections, the Commission has reviewed the Project in reference to the Code Sections listed below. The Commission hereby finds as follows:
 - A. **Floor Area Ratio (Sections 123, 124 and 249.33):** In the C-3-G district, a base Floor Area Ratio ("FAR") of 6:1 and a maximum FAR of 9:1 are allowable, subject to height and building bulk limitations. A FAR of greater than 9:1 is may be granted by the Planning Commission in exchange for public improvements or for an in-lieu contribution to the Van Ness and Market Neighborhood Infrastructure Fund.

The Project site is located at the easternmost boundary of the Market & Octavia Plan Area. Under the Plan, the area around the intersection of Market Street and Van Ness Avenue, including the Project site, remains in the C-3-G Use District, but a new Van Ness & Market Downtown Residential Special Use District was created. This special use district is intended to encourage the development of a transit-oriented, high-density, mixed-use neighborhood while still maintaining an intensive mix of office and other commercial uses. The special use district will permit residential towers of greater heights than previously allowed around the intersection of Market Street and Van Ness Avenue, at heights from 160 – 400 feet. The Project would generally be consistent with the Market & Octavia Plan and would comply with the land use and height regulations established in the accompanying zoning changes, including the newly created Van Ness & Market Downtown Residential Special Use District (Van Ness–Market SUD), which is an overlay zone on top of the site's C-3-G use district. As described above, the Project site would have a floor area ratio (FAR) of approximately 10.32 to 1 with implementation of the proposed Project, which would exceed the maximum permitted FAR of 9.0 in the Van Ness–Market SUD. Therefore, the Project would require a floor area bonus in accordance with Planning Code Section 249.33(e) (2). Such a bonus may be granted by the Planning Commission in exchange for public improvements or for in-lieu contributions to the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fund. Pursuant to Planning Code Section 249.33 (b)(6)(B)(ii) the required Affordable Housing Fee is \$30 per gross square foot of floor area exceeding the FAR limit. Pursuant to Planning Code Section 249.33(b)(76)(C)(i) the required Neighborhood Infrastructure fee is \$15.00 per gross square foot of floor area exceeding the FAR limit.

- B. **Open Space (Sections 135 and 138):** Because this is a mixed use project with retail and residential uses, the retail portion of the Project must comply with the Public Open Space requirements of 138(b). In addition the residential component must comply with the Usable Open Space requirement of Section 135. The requirements of Section 135 may be

satisfied by providing either common usable open space at a ratio of 48 square feet per unit or private usable open space at a ratio of 36 square feet per unit.

Planning Code Section 135(d) requires 36 square feet of private open space per dwelling unit; common open space may satisfy all or part of the requirement, at a rate of 48 square feet per unit. With approximately 17,690 square feet of common open space, the Project would exceed the residential open space requirement of 11,664 square feet. Planning Code Section 138(b) requires 50 square feet of open space per gross square foot of retail space. With approximately 19,880 gsf of retail space (a net increase of approximately 8,891 gsf), the Project would require approximately 398 square feet of open space. The Project sponsor would provide 850 gsf of open space for the net new retail space in the form of improvements to the existing entry plaza on Market Street. The plaza is of sufficient area to provide for the public open space requirements of both the office component in the existing Fox Plaza tower as well as the retail in the proposed building.

- C. Dwelling Unit Exposure (Section 140):** For dwelling units in any use district, the required windows (as defined by Section 501.4 of the San Francisco Housing Code) shall face directly on an open area of a public street, public alley at least 25 feet in width, side yard at least 25 feet in width, rear yard meeting the requirements of Section 134, or an open area meets dimensional requirements of the Code.

All proposed residential units would have at least one window (as defined by the Housing Code) that faces directly onto Market or Hayes Streets or on an inner courtyard, all meeting the minimum dimensional widths. Therefore, the Project would meet the requirements of Planning Code Section 140.

- D. Shadows on Certain Publicly Accessible Open Spaces (Section 147):** New buildings and additions to existing buildings in C-3 Districts where the building height exceeds 50 feet shall be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Section 295.

The Project would not cause any new shadow impacts on any public plazas and other publicly accessible spaces protected by Section 295 or otherwise. Because there are no new net shadows on publicly accessible spaces created by the Project, the Project complies with Section 147.

- E. Pedestrian Streetscape Improvements (Section 138.1)** This Section requires Project sponsors to make streetscape improvements where the proposed Project includes the construction of a new building, substantial alterations to an existing building, or the addition of floor area equal to 20 percent or more of an existing building.

The Project will comply with this provision by making public sidewalk improvements as required by the Planning Department and the Department of Public Works.

- F. Public Art (Section 149):** In the case of a new addition of floor area in excess of 25,000 gross square feet to an existing building in a C-3 District, works of art costing an amount

equal to one percent of the construction cost of the addition shall be installed and maintained.

The requirements of Section 149 will be met with one or more commissioned art pieces that will be placed at the intersection of Hayes Market and Larkin Streets and/or on the reconfigured entry plaza off Market Street.

- G. Off-Street Auto and Bicycle Parking (Sections 151.1 and 155(j)):** No minimum amount of off-street parking is required for residential uses in the C-3 district. The maximum amount of accessory parking permitted as of right is one car per four dwelling units. For projects with over 50 dwelling units, 25 Class I bicycle spaces plus one space for every four dwelling units over 50 are required.

The Project site is in a C-3-G (Downtown General Commercial) Use District, in which provision of off-street parking spaces is not required and the amount of parking that may be provided is limited. No new off-street parking would be provided as part of the proposed Project, and 18 existing spaces would be lost under the Project to make space for a utility room in the garage. The proposed Project would have access to all of the remaining approximately 390 parking spaces (which are currently available for public parking), which would be shared with the existing 446 dwelling units and 256,000 gsf of office and retail space in the existing Fox Plaza tower. With approximately 0.6 parking spaces per unit for the proposed total of 696 dwelling units in the Fox Plaza complex as a whole, the complex would not exceed the maximum permitted ratio of 0.75 spaces per unit (of fewer than two bedrooms) permitted with review under Planning Code Section 309, per the criteria of Section 151.1(e), even without accounting for the permitted office parking (7 percent of office gross floor area). Moreover, as noted, the Project would reduce the number of parking spaces from existing conditions. Therefore, the Project would comply with Planning Code parking regulations. The existing parking garage includes 7 parking spaces for car-share vehicles. The Project would provide one new parking space for a car-share operation for a total 8 car share spaces.

The existing parking garage includes 8 bicycle parking spaces. The Project would include provisions for 76 additional bicycle parking spaces on the first floor of the parking garage for a total of 84 spaces which would meet the current Planning Code requirement (Section 155.5) of 75 bicycle parking spaces for the 250 new dwelling units.

- H. Off-Street Loading (Section 152.1):** Section 152.1 would require the Project to provide two off-street loading spaces for the residential uses. Since the proposed Project would result in a net increase of less than 10,000 square feet of commercial space, no retail loading spaces would be required.

The Project will have access to the existing loading dock with access to Polk Street. In addition to the existing facility, the Project proposes an additional metered yellow loading space on Hayes Street. The proposed curbside loading zone does not count towards meeting the off-street freight loading requirement. Therefore, the Project sponsor seeks an exception to the Planning Code requirements for the provision of two off-street loading spaces, in accordance with the provisions of Section 309 approval process for a Project within the C-3 districts (Section 309(a)).

- I. **Residential Inclusionary Affordable Housing Program (Section 315):** Sections 315.1 through 315.9 set forth requirements for the Residential Inclusionary Affordable Housing Program for new residential projects, wherein Section 315.6 permits an applicant to pay an in lieu fee to satisfy the requirements.

The Project would comply with the provisions of Planning Code Section 315 et. seq., the Residential Inclusionary Affordable Housing Program and the Market & Octavia Plan, which require that affordable units constitute 15 percent of the total Project units, being 38 units, and one half of all affordable units are required to be built on site that number being 19 units. The Project will comply with the program through payment of an in-lieu fee for use by the Mayor's Office of Housing for construction of 19 affordable housing units at an alternate site, but would construct the required 19 affordable units on site. The size, distribution and type of units to be dedicated under Section 315 are comparable to the size, distribution and type of market rate units in the Project.

- J. **Lot Coverage (Section 249.33(b)(5)):** The C-3-G District requires 25 percent rear yard or a lot coverage of no more than 80% at the first level of residential use.

The Project complies with the lot coverage requirement by covering less than 80% of the lot at all residential levels.

- K. **Street Frontages, Downtown and Mixed Use Districts (Section 145(b)):** Section 145(b) requires active, pedestrian-oriented commercial uses to be developed on the ground floor for the Market Street frontage.

The Project proposes to develop active, pedestrian-oriented commercial uses on the ground floor for both the Market Street and Hayes Street frontages.

- L. **On-Site Housing Requirement and Benefits, Market and Octavia Area Plan (Section 315.4(a)(1)(i)):** Section 315.4(a)(1)(i): requires that projects within both the Market and Octavia Area Plan area and the Van Ness Market Special Use District pay an additional affordable housing fee of \$8.00 per square foot of residential floor area, excluding the floor area dedicated to below market rate units within the project

The Project includes approximately 186,055 square feet of usable residential floor of which 12,645 square feet represent inclusionary housing units under Planning Code Section 315. The Project would be required to pay approximately \$1,387,280.00 to comply with this Section.

- M. **Market and Octavia Community Improvements Fund (Section 326)** Section 326 requires that projects within both the Market and Octavia Area Plan area and the Van Ness Market Special Use District pay an additional Community Improvement Fee of \$10.00 per square foot of usable floor area in residential units and \$4.00 per square foot of usable commercial space. Required affordable units provided in compliance with Planning Code Section 317 are exempt from this fee.

The Project includes approximately 186,055 square feet of usable residential floor area and approximately 8,891 square feet of net new retail space (19,880 square feet of new retail space less 10,989 square feet demolished retail). The Project would be required to pay approximately \$1,860,550 for the residential portion of the Project and approximately \$35,464 for the retail portion of the Project for a total of approximately \$1,896,014 to comply with this Section.

8. **Exceptions Requested Pursuant to Section 309.** The proposed Project is required to meet all applicable Code requirements or request exceptions as permitted by Section 309(a) (1)-(9). The Project Sponsor is seeking exceptions from Section 148 requirements for wind load and Sections 152.1 and 154(b) requirements for off-street freight loading.

- A. **Ground-Level Wind Currents (Section 148):** In C-3 Districts, additions to existing buildings must be shaped, or other wind-baffling measures adopted, so that the additions will not cause ground-level wind currents to exceed, more than 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 m.p.h. equivalent wind speed in areas of substantial pedestrian use and seven m.p.h. equivalent wind speed in public seating areas.

The Planning Code Section 148 wind hazard criterion is currently exceeded at 11 of 33 test points. Of the existing exceedances, four are on the Hayes Street Project frontage; three are on Fell Street west of the site; one is at Polk and Market Streets, at the southwest corner of the Project site; one is at Larkin and Market Streets, at the eastern corner of the Project site; and one is across Market Street from the Project site, at the southwest corner of Tenth and Market Streets. In total, wind speeds exceed the hazard criterion for 438 hours per year at the 11 points. The west-northwest wind direction is primarily responsible for these exceedances, as these winds accelerate westward down Fell and Hayes Streets and become blocked and redirected as they reach Market Street.

The proposed Project would not result in any new exceedances of the wind hazard criterion, would eliminate three existing exceedances, and would result in an overall decrease in the number of hours during which the hazard criterion would be exceeded. A further decrease in the number of hours exceeded and the elimination of one additional hazard exceedance would occur under cumulative conditions. Additionally, although the Project area would remain windy to very windy, the Project would decrease average wind speeds by more than 0.5 mph at the 33 test locations. Thus, the proposed Project would not result in significant impacts, either individually or cumulatively, in regard to pedestrian-level wind conditions. Nevertheless, because the proposed Project would not eliminate all pre-existing exceedances of the comfort criterion as required by Planning Code Section 148, the Project sponsor seeks an exception to the requirements of Section 148.

The analysis of wind effects shows that the pedestrian level winds at this site will be more hazardous without this project than with it. Additional tall towers around this exceptionally windy area of the City will help reduce the number of hazard exceedances. Both wind tunnel and qualitative analysis of this project come to that conclusion.

The project seeks an exception under Section 309(a)(2) of the Planning Code, because it does not eliminate the pre-existing comfort level exceedances. Wind tunnel testing for the project identified 27 points where that level is exceeded. With the project, the comfort level exceedances are 26. No new comfort exceedances are produced by the project and one exceedance will be eliminated.

The past twenty-five years of wind analysis have demonstrated that there is no feasible way that a project in a highly windy area can be designed to eliminate all pre-existing comfort level exceedances. That is why the exception process was written into the Code, and this project meets the required findings, that 1) the project cannot be shaped to meet the requirement, and 2) the limited amount of comfort exceedances, and the location, are insubstantial.

- B. Freight Loading (Section 152.1).** Section 152.1 would require the Project to provide two off-street loading spaces for the residential uses. Since the proposed Project would result in a net increase of less than 10,000 square feet of commercial space, no retail loading spaces would be required.

The Project will have access to the existing loading dock with access to Polk Street. In addition to the existing facility, the Project proposes an additional metered yellow loading space on Hayes Street. The proposed curbside loading zone does not count towards meeting the off-street freight loading requirement therefore, the Project sponsor seeks an exception to the Planning Code requirements for the provision of two off-street loading spaces, in accordance with the provisions of Section 309.

The retail loading trips would be accommodated within the existing Fox Plaza Tower loading dock (which has interior connections to the new retail space), and by the existing on-street loading spaces along Hayes and Polk Streets. The proposed loading configuration of four garage spaces, the curb-side loading zone, and the sharing of the existing loading dock would be expected to meet loading demand.

The above-described loading zone on Hayes Street directly east of the parking garage driveway, along with three proposed short-term (green) metered parking spaces, would provide space for vehicles to actively load and unload passengers and small freight, and would allow for direct access into the residential lobby. It is anticipated that the majority of the residential move-in and move-out activities would occur from the existing loading dock, which includes a direct connection to the residential lobby and freight elevator. In addition, short-term moving activities could also occur from the curb-side loading/unloading zone.

- 9. Priority Planning Policies.** Section 101.1(b) (1)-(8) establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies.

The Commission finds that the Project is consistent with the eight priority policies, for the reasons set forth below.

- (1) That existing neighborhood-serving retail uses be preserved and protected and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The Project would demolish 10,989 square feet of existing neighborhood serving retail and develop 19,880 square feet of new retail for a net gain of 8,891 square feet of neighborhood serving retail. The increased retail floor area will increase business and employment opportunities. The Project would bring new employees to the site, which would strengthen existing neighborhood retail operations and encourage expansion of new retail opportunities near the Project site.

- (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project would preserve the existing housing on the property and expand the City's housing supply by 250 units. Ground floor retail has been established on the subject property for many years and the Project will preserve and strengthen the character of the neighborhood.

- (3) That the City's supply of affordable housing be preserved and enhanced;

The Project would preserve and enhance the City's supply of affordable housing by providing 19 new affordable housing units and by providing an in-lieu fee for the development of an additional 19 new affordable units pursuant to the City's Inclusionary Affordable Housing Program.

- (4) That commuter traffic not impede Muni Transit service or overburden our streets or neighborhood parking;

The estimated Project-generated increase of 95 vehicle trips during the p.m. peak hour would not change the level of service at the intersections in the Project vicinity, and would not be considered a substantial traffic increase relative to the existing capacity of the local street system.

The estimated 221 p.m. peak-hour Project trips utilizing public transit (chiefly Muni) would be distributed among the public transit lines providing service to the vicinity of the Project site. Currently 15 Muni bus and streetcar lines (5-Fulton, 6-Parnassus, 7-Haight, 9-San Bruno, 14-Mission, 14L-Mission Limited, 14X-Mission Express, 19-Polk, 21-Hayes, 26-Valencia, 47-Van Ness, 49-Van Ness-Mission, 71-Haight/Noriega, 71L-Haight/Noriega Limited, and F-Market/Wharves), and six Muni Metro subway lines (J-Church, K-Ingleside, L-Taraval, M-Ocean View, and N-Judah), serve the Project vicinity. BART service to the East Bay and northern Peninsula is available at Civic Center Station, one block east of the Project site. SamTrans service to the Peninsula operates on Mission Street, one block south of the site; Golden Gate Transit to the North Bay is available on Mission Street and on the one-way couplet streets of McAllister Street and Golden Gate Avenue. Connections to other regional transit carriers (AC Transit and Caltrain) are provided via Muni bus lines to the Transbay Terminal and Caltrain station, respectively. Although 221 Project-generated riders would marginally increase absolute capacity utilization on the affected transit lines, the effect would be spread among the various lines. The proposed Project would contribute to crowding at some times, and an individual's experience on certain lines and at certain times could be in apparent conflict with the overall conditions described above. The Project's retail component may be subject to a Transit Impact Development Fee (TIDF-2). The increase in transit demand associated with the proposed Project would not have a significant or noticeable impact upon transit services in the Project area or affect transit operations.

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

There are no current industrial services located in the Project site, nor is the Project a new office Project. Thus, the Project would not displace industrial service sector businesses or space.

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Project will conform with current seismic and building codes.

- (7) That landmarks and historic buildings be preserved;

The existing building is not a landmark or historically significant and is not located within a district and thus will have no impact.

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

The Project would not cast any new shadows on, or affect vistas from, any public parks or open space.

10. **General Plan Compliance.** The commission hereby finds that the Project would comply with or affirmatively promote the following Objectives and Policies of the General Plan:

HOUSING ELEMENT:

Objectives and Policies

OBJECTIVE 1: OBJECTIVE 1: (SAME AS OBJECTIVE 1 IN THE RESIDENCE ELEMENT)

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 DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

The C-3-G District principally permits dwellings at a density of up to one unit per 125 square feet of lot area, with greater density upon conditional use authorization by the Planning Commission, however the Code amendments relating to the adopted Market and Octavia Neighborhood Plan have eliminated the density restrictions for the subject property. The Project proposes 250 dwelling units which is comparable with surrounding development. The proposed development will contribute to the existing pattern of mid- and high-rise building in the immediate area promoting compatibility with the prevailing neighborhood scale and character. The Project site, occupied by a two story commercial building, is underdeveloped and underutilized in relation to surrounding properties and provides an excellent opportunity for needed

housing development. The Project sponsor will provide affordable housing as required under the Planning Code. While a small number of jobs will be displaced, the Project will increase the retail floor area on the property and will create new blue-collar jobs in the fields of retail, cleaning, maintenance and security.

OBJECTIVE 4:

SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY

Policy 4.2:

Include affordable housing units in larger housing Projects.

The Project will provide both on-site and in lieu funds for off-site affordable housing in compliance with Planning Code Section 315 and will affirmatively support this policy.

OBJECTIVE 11:

IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACEMAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS

Policy 11.1:

Use new housing development as a means to enhance neighborhood vitality and diversity.

Policy 11.2:

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

Policy 11.5:

Promote the construction of well-designed housing that enhances existing neighborhood character.

The Project will replace a mixed use office/retail building with a new mixed use residential/retail building that will create a sense of neighborhood that currently does not exist at the site and will be consistent in design with the urban character of the area. The Project will include a mix of housing unit sizes and provide modern residential amenities including security service and common open spaces at the rooftop and second levels. The Project will provide a quality living environment that compliments and revitalizes the surrounding neighborhood

COMMERCE AND INDUSTRY ELEMENT:

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH 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 which has substantial undesirable consequences that cannot be mitigated. (Note: This Objective and Policy are repeated as Objective 1 and Policy 1.1 of the Downtown Plan Element)

The ground floor retail component of the Project will provide net benefits in the form of job creation and efficient use of retail space. The Project will result in increased tax revenue and will increase retail activity in the immediate neighborhood.

Policy 1.3:

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

The Project encourages transition from Downtown Core to residential areas by creation of a mixed-use building that will modestly intensify retail use in the area and provide much needed housing within the Core. The Project is also located in the Market and Octavia Neighborhood Plan area which encourages this transition.

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 to attract new activity to the City

Located within the downtown core area, the Project is expected to easily attract and retain retail businesses. The Project's central location places it close to job and service centers and will enhance the existing business climate by offering modern retail space in a state-of-the-art building.

URBAN DESIGN ELEMENT:

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

The Project serves as a transitional link between the commercial Downtown Core and the Civic Center areas to the north and east; and the residential Western SoMa, Market and Octavia and Western Addition neighborhoods to the south and west. Providing retail use of moderate intensity and higher density housing at the western edge of the Core, the Project recognizes the boundaries between neighborhoods and promotes smooth transition and connections between them.

OBJECTIVE 3:

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

Policy 3.2:

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

Policy 3.3:

Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

Policy 3.6:

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

The Project proposes a structure which is sympathetic to the scale of development in the area. The Project is well below the height limitations for which the property is zoned and picks up characteristics of other buildings in the area such as the rhythm of the windows in the Western Furniture Mart building across Market Street. The Project site is an exposed location as the intersection of three major thoroughfares, and the high quality, dramatic design of the building takes advantage of the existing urban topography.

DOWNTOWN PLAN:

Objectives and Policies

OBJECTIVE 3:

IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

Policy 3.2:

Encourage the retail businesses which serve the shopping needs of less affluent downtown workers and residents

Policy 3.5:

Meet the convenience needs of downtown workers.

The Project proposes approximately 19,880 square feet of new retail space on the ground floor. The sponsor anticipates retail tenants that offer lower priced merchandise, easily accessible to many workers in the immediate area who have limited shopping time during their work day.

OBJECTIVE 5:

RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.

Policy 5.1:

Provide space for support commercial activities within the downtown and in adjacent areas.

The Project provides opportunities for support commercial businesses within the Project's 19,880 square feet of new retail space.

OBJECTIVE 7:

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.1:

Promote the inclusion of housing in downtown commercial Projects

Policy 7.2:

Facilitate conversion of unused industrial and commercial areas to residential use.

The Project will construct a mixed use residential/retail development in the Downtown Core and will add vitality to an area that lacks interest and activity at night and on weekends. The Project will supply up to 250 units of new housing on an underutilized site without significant displacement of commercial activity and will result in a more efficient use of the property.

OBJECTIVE 16:

CREATE AND MAINTAIN ATTRACTIVE URBAN LANDSCAPES

Policy 16.1:

Conserve the traditional street to building relationship that characterizes downtown San Francisco.

Policy 16.4:

Use designs and materials and include activities on the ground floor to create pedestrian interest.

The Project will construct a building to the property lines along the entire frontages of Market and Hayes Streets at a height sufficient to define the street space. The Project includes retail use on the ground floor, creating visual and pedestrian interest. The Project features clear, untinted, glass for the entire height of the building at the corner and for the first two stories along both frontages, further enhancing the sense of liveliness of the streetscape.

TRANSPORTATION ELEMENT:

Objectives and Policies

OBJECTIVE 2:

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

Policy 2.1:

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

The Project is located in an existing high density downtown neighborhood. The Civic Center area is rich in transit options including BART and Muni streetcar, subway and bus lines. Because the neighborhood is well established and densely developed, the Project, which proposes no additional parking, would make good use of the existing transit services available in this area and would assist in maintaining the desirable urban characteristics and services in the area.

MARKET AND OCTAVIA AREA PLAN:

Objectives and Policies

OBJECTIVE 1.1:

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

The new land use and special use districts, along with revisions to several existing districts, implement this concept. These land use districts provide a flexible framework that encourages new housing and neighborhood services that build on and enhance the area's urban character. Several planning controls are introduced, including carefully prescribed building envelopes and the elimination of housing density limits, as well as the replacement of parking requirements with parking maximums, based on accessibility to transit.

The Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD) will encourage the development of a transit-oriented, high-density, mixed-use neighborhood around the intersection of Van Ness Avenue and Market Street, adjacent to downtown. This district will still have the area's most intensive commercial uses, including offices, but balances those with a new residential presence. Residential towers will be permitted along the Market / Mission Street corridor, provided they meet urban design standards. Residential towers, if built, would be clustered around the intersection of Market Street and Van Ness Avenue, with heights ranging from 160 – 400 feet.

The Project is consistent with the VNMDR-SUD and represents the type of mixed use development the City wishes to encourage at this site.

Policy 1.1.2:

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

The Project is located on Market Street in an area well served by transit from various transit service providers including BART and MUNI and is convenient to other employment and commercial centers promoting walking and transit as alternatives to automobile use.

DECISION

Therefore, the Commission, after carefully balancing the competing public and private interests, both environmental and otherwise, hereby finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Commission and there is no substantial evidence that the proposed Project, given the implementation of the mitigation measures as stated in the Mitigated Negative Declaration could have a significant effect on the environment as shown in the analysis of the Negative Declaration. The Commission hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program attached as conditions of approval in Exhibit C and the Commission furthermore hereby approves Application No. 2005.0979XE, and determines that the Project complies with the standards of Section 309, 135, 138.1, 146, 147, and 149, and grants exceptions to the off-street freight loading requirements (Sections 152.1 and 154(b)) and ground level wind currents (Section 148) subject to the following conditions attached hereto as Exhibit A (Conditions of Approval) which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. 2005.0979X.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 28, 2008.

Linda Avery
Commission Secretary

AYES: Antonini, Bordon, Lee, Olague, Miguel, Moore, Sugaya

NAYS: None

ABSENT: None

ADOPTED: May 28, 2009

Exhibit A

Conditions of Approval

Wherever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

The authorization contained herein is a Determination of Compliance and exceptions under the Planning Code (Section 148: reduction of ground-level wind currents and Section 152.1: off-street freight loading) for the demolition of an existing two-story retail and office building adjacent to the existing Fox Plaza office/residential tower and construction of a new 120-foot-tall, 11-story building containing up to 250 residential units above approximately 19,880 gross square feet of retail use on the ground floor with parking for the new residential units within the existing two-level basement garage at Fox Plaza. Within a C-3-G (Downtown General) District and the 120-X and 200-S Height and Bulk District, in general conformity with the plans identified as Exhibit B, and reviewed by the Commission on May 7, 2009.

1. GENERAL CONDITIONS

- A. This decision conveys no right to construct, or to receive or apply for a building permit. The Project shall be subject to, and the Project Sponsor shall implement and otherwise comply with the Conditions set forth in Exhibit A of this motion included herein by reference as though fully set forth. If these conditions conflict with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.
- B. Mitigation Measures. Measures within the Commission's jurisdiction proposed as part of the Project, as outlined in Exhibit C – Mitigation Monitoring and Reporting Program (MMRP) shall be a condition of approval and is accepted by the Project Sponsor or its successor in interest. If said measures are less restrictive than the other conditions herein, the more restrictive and protective control as determined by the Zoning Administrator, shall govern.
- C. Recordation. Prior to the issuance of any building permit application for the construction of 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, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after 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, and record said writing if requested.
- D. Community Liaison. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Project. Prior to the commencement of construction activities, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the Project site written notice of the name, business address, and telephone number of

the community liaison.

- E. Should implementation of this Project result in complaints from neighborhood residents or business owners and tenants, which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the City Planning Code and/or the specific Conditions of Approval for the Project, the Zoning Administrator shall report such complaints to the City Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174 and Section 309 of the Code to consider revocation of the approvals.
- F. Reporting. The Project Sponsor shall submit two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy.
- G. Performance
- (1) A site permit or building permit for the herein-authorized Project shall be obtained within three (3) years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization may become null and void.
 - (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s) or by any legal challenge. The Project Sponsor shall obtain required site or building permits within 18 months (per Code Sections 321 and 322) of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.
- H. Revocation. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted 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 the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. 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.
- I. Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code, enforceable by the Zoning Administrator. Should the monitoring of the Conditions of Approval be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(f) (2).

- J. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Code Section 176.
- K. Severability. 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 remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not included herein.
- L. 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.
- M. All residential parking spaces shall be unbundled from sale or rental of the dwelling units in compliance with Planning Code Section 167. Renters or buyers of on-site inclusionary affordable units provided pursuant to Section 315 shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units, and at a price determined by the Mayor's Office of Housing, subject to procedures adopted by the Planning Commission notwithstanding any other provision of Section 315 et seq.

2. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING (OR SITE) PERMIT

- A. Except as otherwise provided in this Motion, the Project shall be completed in compliance with all applicable City Codes and standards, and in general conformity with the plans labeled "Exhibit B" on file in Case Docket 2005.0979X.
- B. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code. The Project sponsor has provided a "Declaration of Intent" electing to provide 19 units on site and pay an in lieu fee to satisfy the remainder of the Inclusionary Housing requirement and the terms required by Planning Code Section 315.6.
- C. The Project sponsor shall pay all fees required under Planning Code Sections 315, 326 and 249.33.
- D. Design. The Project Sponsor and architects shall continue to work on aspects of the design development with the Department, including, but not limited to the following:
- Configuration of retail units,
 - Retail storefront treatments,
 - Design and configuration of the public plaza at the main entry to the Fox Plaza complex.
 - Pedestrian level detailing
 - Reducing the amount of glass and refining the inverted form on the corner of Market and Hayes Streets.
 - The revised design shall be presented to the Planning Commission as an informational

item.

3. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF ARCHITECTURAL ADDENDUM

- A. No general advertising signs shall be permitted anywhere on the building.
- B. The Project shall include the residential open spaces, both private and common, as described generally in this Motion. Prior to the issuance of the architectural addendum to the building permit for the Project, the final residential open space design shall be submitted for review by, and shall be satisfactory to the Planning staff.
- C. The Project Sponsor shall submit a pedestrian streetscape improvement plan to be approved by Planning Staff, in consultation with the Department of Public Works.
- D. Design.
 - 1. Final detailed building plans shall be reviewed and approved by the Department. Detailed building plans shall include a final site plan, floor plans, elevations, sections, landscape plan, specification of finish materials and colors, and details of construction.
 - 2. Final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Planning Director.
 - 3. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
 - 4. Per Code Section 141, rooftop mechanical equipment, if any, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
- E. Public Artwork.
 - 1. The Project shall include work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.
 - 2. The Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, type and location of the art. The final art concept and location shall be submitted for review by, and shall be satisfactory to the Director of the Department in consultation with the Commission.
- F. Publicly -Accessible Open Space
 - 1. The Project shall include the open space generally described in this Motion.

D. Public Artwork

- (1) The Applicant shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
- (2) The Project Sponsor shall comply with Code Section 149(b) by providing a plaque or cornerstone identifying the architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.

E. Garbage and Recycling. The Project Sponsor shall provide the garbage and recycling areas as outlined above and contract for recycling pickup.

F. Emergency Preparedness Plan. An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Project's plan and to provide for building occupants in the event of an emergency. The Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

**EXHIBIT C:
 MITIGATION MONITORING AND REPORTING PROGRAM
 (Including the Text of the Mitigation Measures Adopted as Conditions of Approval)**

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
1. Archeological Resources				
The following mitigation measure is required to avoid any potential adverse effect from the project on accidentally discovered buried historical resources as defined in CEQA Guidelines Sections 15064.5(a) and (c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the	Project Sponsor.	Prior to any soil-disturbing activities.	See individual components below.	See individual components below.

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractors), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p>				
<p>Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p>	<p>Project Sponsor and Construction Foreman.</p>	<p>During all soil-disturbing activities.</p>	<p>ERO to review information presented by sponsor and/or foreman.</p>	<p>Considered complete upon notification of ERO.</p>
<p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall</p>	<p>Project Sponsor and Archeological Consultant.</p>	<p>Upon direction of ERO to retain archeological consultant.</p>	<p>ERO to review report and determine presence or absence of significant archeological resource(s), and to identify subsequent measures, if any.</p>	<p>Considered complete upon ERO notification of project sponsor and/or archeological consultant as to further measures to be taken.</p>

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p>				
<p>Archeological Resources (cont'd.)</p>				
<p>Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p>	<p>Project Sponsor and Archeological Consultant.</p>	<p>Upon consultation between ERO and archeological consultant.</p>	<p>Archeological consultant to report to ERO regarding subsequent measures taken, if any.</p>	<p>Considered complete upon archeological consultant's report to ERO.</p>
<p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	<p>Project sponsor and archeological consultant.</p>	<p>Following completion of any archeological field program.</p>	<p>ERO to review Draft FARR.</p>	<p>Considered complete upon ERO approval of Draft FARR.</p>
<p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved</p>	<p>Project sponsor</p>	<p>Upon ERO approval of Draft FARR.</p>	<p>Project sponsor to provide ERO with copies of transmittals of</p>	<p>Considered complete upon receipt by ERO of evidence of</p>

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p>			FARR distribution.	distribution, and three copies of the FARR.
<p>2. Construction Noise</p>				
<p>2a. The construction contract would require that the project contractor muffle and shield intakes and exhausts, shroud or shield impact tools, and use electric-powered rather than diesel-powered construction equipment, as feasible, so that noise would not exceed limits stated in the City's Noise Ordinance (Article 29, San Francisco Police Code).</p>	Project Sponsor and Project Contractor	During construction	The project sponsor or construction contractor shall make available a contact number for noise complaints during	Considered complete upon receipt of final monitoring report at completion of construction.
<p>2b. The project sponsor would require the general contractor to construct barriers around the site, and around stationary equipment such as compressors, as feasible, which would reduce construction noise by as much as five dBA, and to locate stationary equipment</p>			the construction period and shall file a report with the Planning Department at the conclusion of construction as to the number and nature of such complaints received and the means of resolving each such complaint.	

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>as far from adjacent or nearby sensitive receptors as possible or in pit areas or excavated areas, as these areas would serve as noise barriers, and to muffle such noise sources.</p> <p>2c. The project sponsor would include noise control requirements in specifications provided to construction contractors. Such requirements could include, but not be limited to, performing all work in a manner that minimizes noise to the extent feasible; use of equipment with effective mufflers; undertaking the most noisy activities during times of least disturbance to surrounding residents and occupants, as feasible; and selecting haul routes that avoid residential buildings inasmuch as such routes are otherwise feasible.</p> <p>2d. The project sponsor would require that the project contractor pre-drill holes (if feasible based on soils) for piles to the maximum feasible depth to minimize noise and vibration from pile driving.</p> <p>2e. The project sponsor would require that the construction contractor limit pile driving activity to result in least disturbance to neighboring uses. Any nighttime work would require a work permit from the Director of Public Works or the Director of Building Inspection pursuant to San Francisco Noise Ordinance Section 2908.</p>				
<p>3. Hazardous Building Materials</p>				
<p>The project sponsor shall ensure that PCB-containing</p>	<p>Project Sponsor,</p>	<p>During all building</p>	<p>Project sponsor or demolition contractor to</p>	<p>Considered complete upon</p>

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>equipment such as fluorescent light ballasts are removed and properly disposed of prior to the start of renovation. Old light ballasts that would be removed during renovation would be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast could not be verified, then they would be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous materials identified either before or during renovation would be abated according to federal, state, and local laws and regulations.</p>	<p>Contractor</p>	<p>demolition activities</p>	<p>provide ERO with report on removal of hazardous building materials at the completion of demolition.</p>	<p>receipt by ERO of sponsor's / contractor's report.</p>

G:\DOCUMENTS\NE Cases\1390 Market Fox Plaza\0979x motion.doc

JULY 03, 2008

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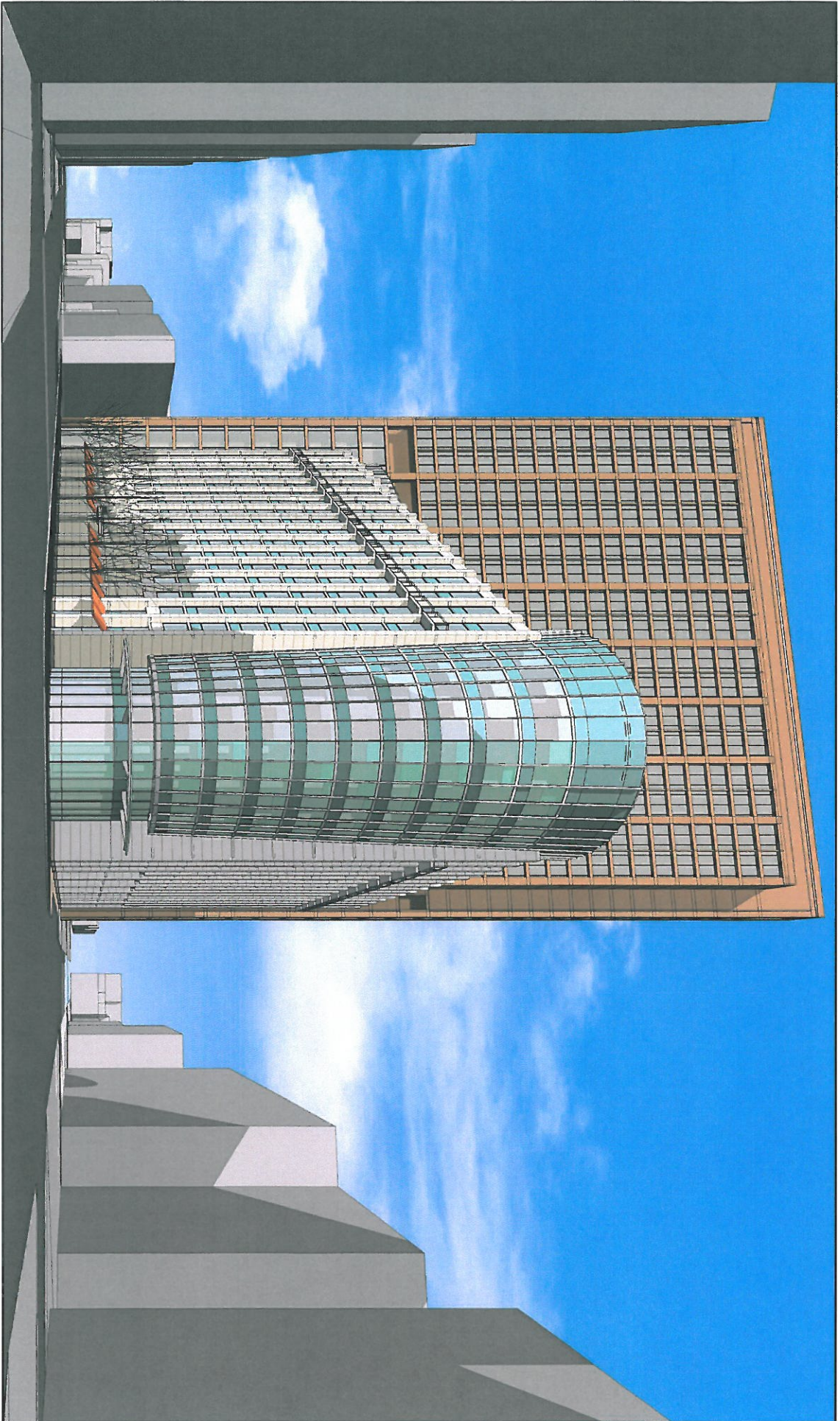
PRESIDIO DEVELOPMENT PARTNERS, LLC

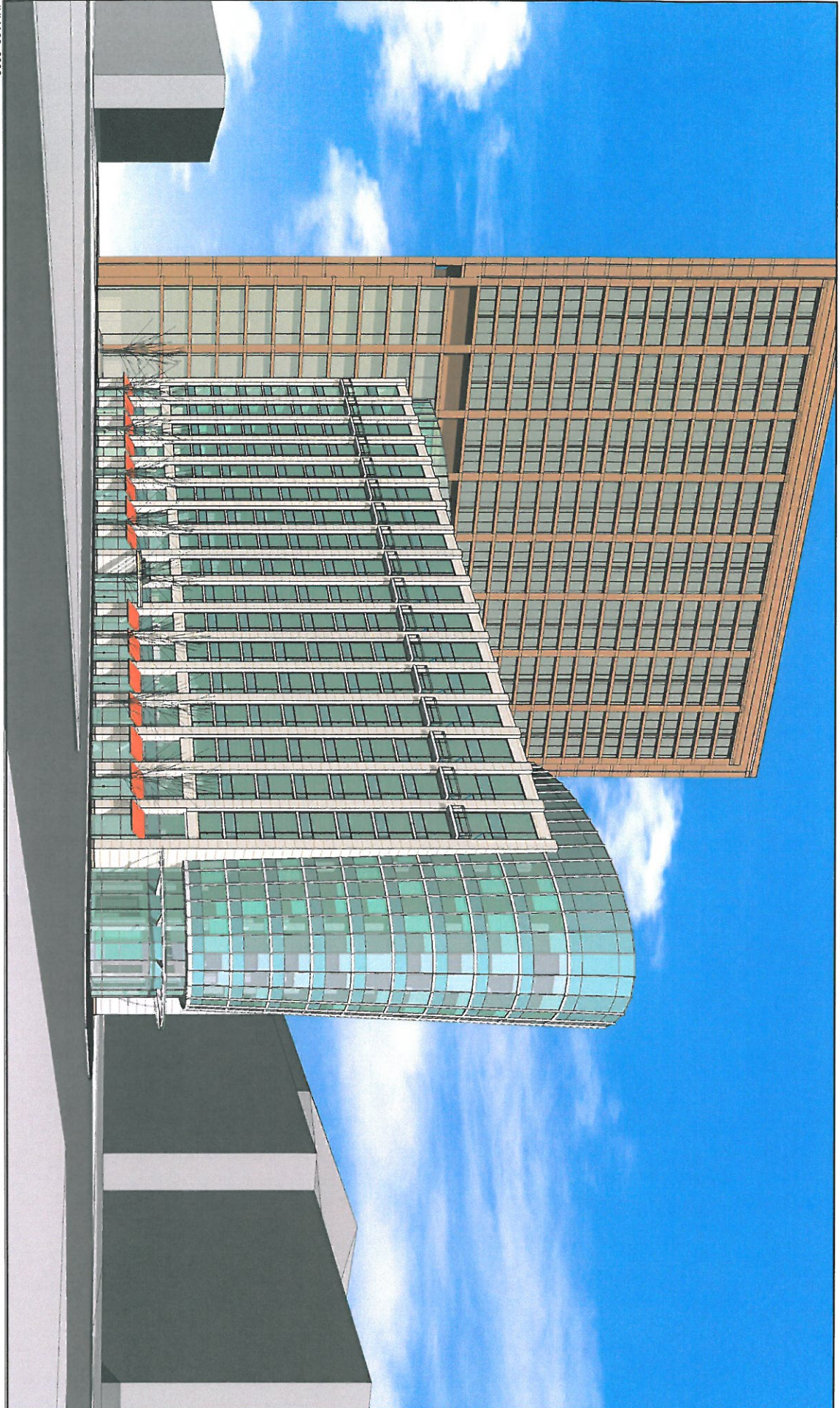
FOX PLAZA

SAN FRANCISCO, CA

MARKET & HAYES CORNER VIEW

HELLER MANUS
ARCHITECTS
HM





JULY 03, 2008

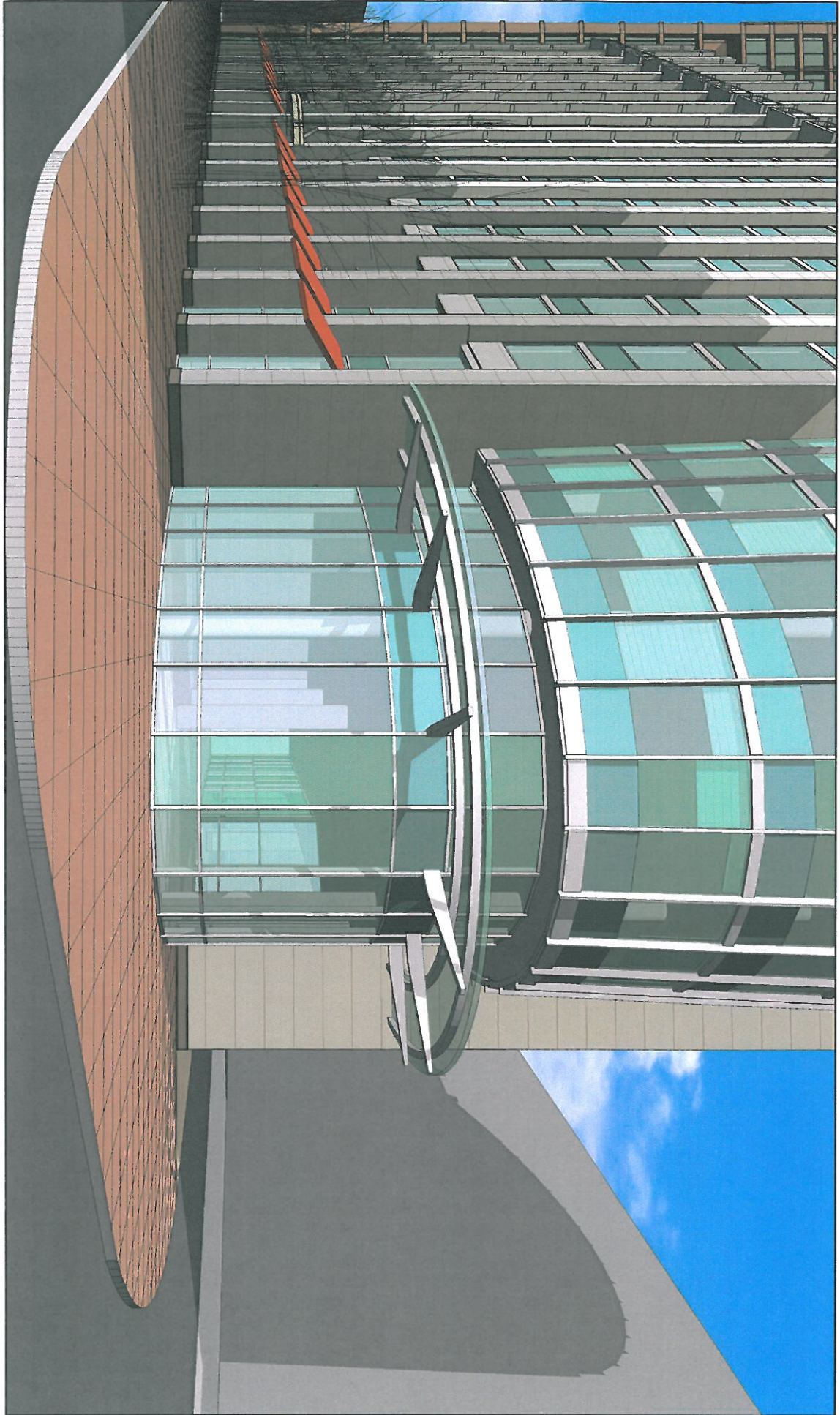
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PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA
SAN FRANCISCO, CA

MARKET STREET VIEW
HELLER MANUS ARCHITECTS **HM**



JULY 03, 2008

Scale:

0 1" 2"

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA

SAN FRANCISCO, CA

CORNER RETAIL VIEW

HELLER MANUS
ARCHITECTS **HM**

JULY 03, 2008

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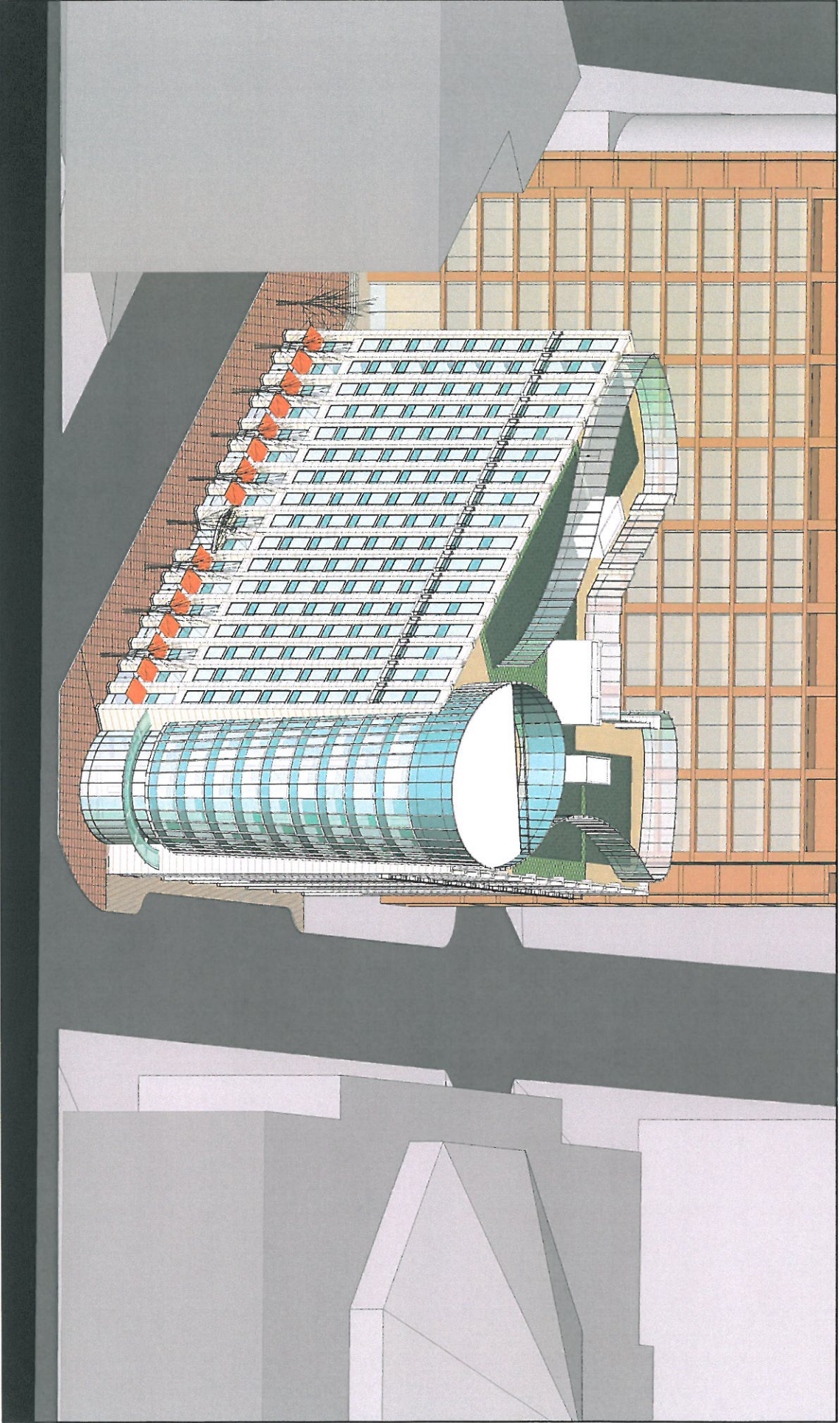
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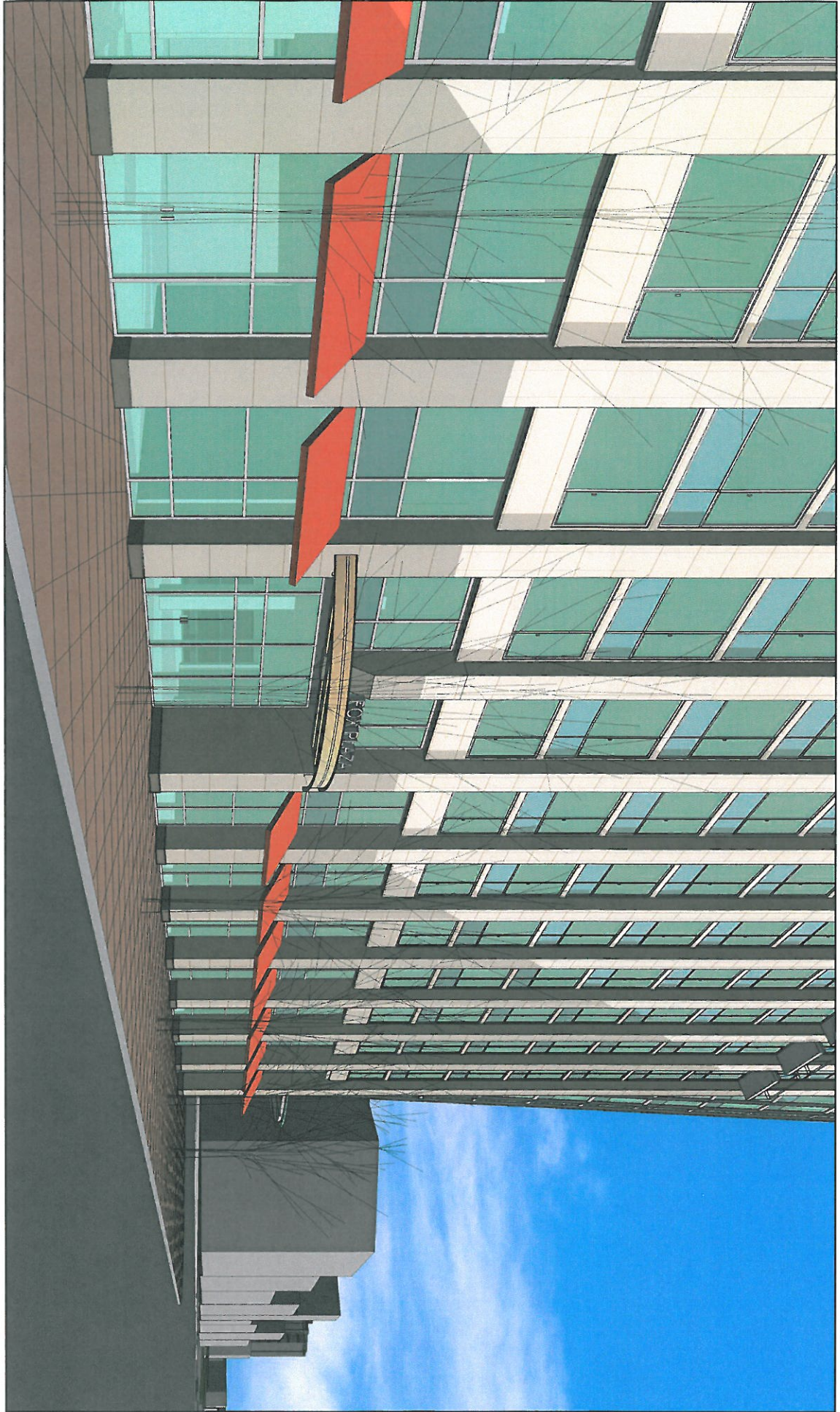
FOX PLAZA

SAN FRANCISCO, CA

AXON - MARKET & HAYES

HELLER MANUS
ARCHITECTS **HM**





JULY 03, 2008

Scale:

0 1" 2"

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA

SAN FRANCISCO, CA

RESIDENTIAL MAIN ENTRANCE

HELLER MANUS **HM**
ARCHITECTS



JULY 03, 2008

Scale:

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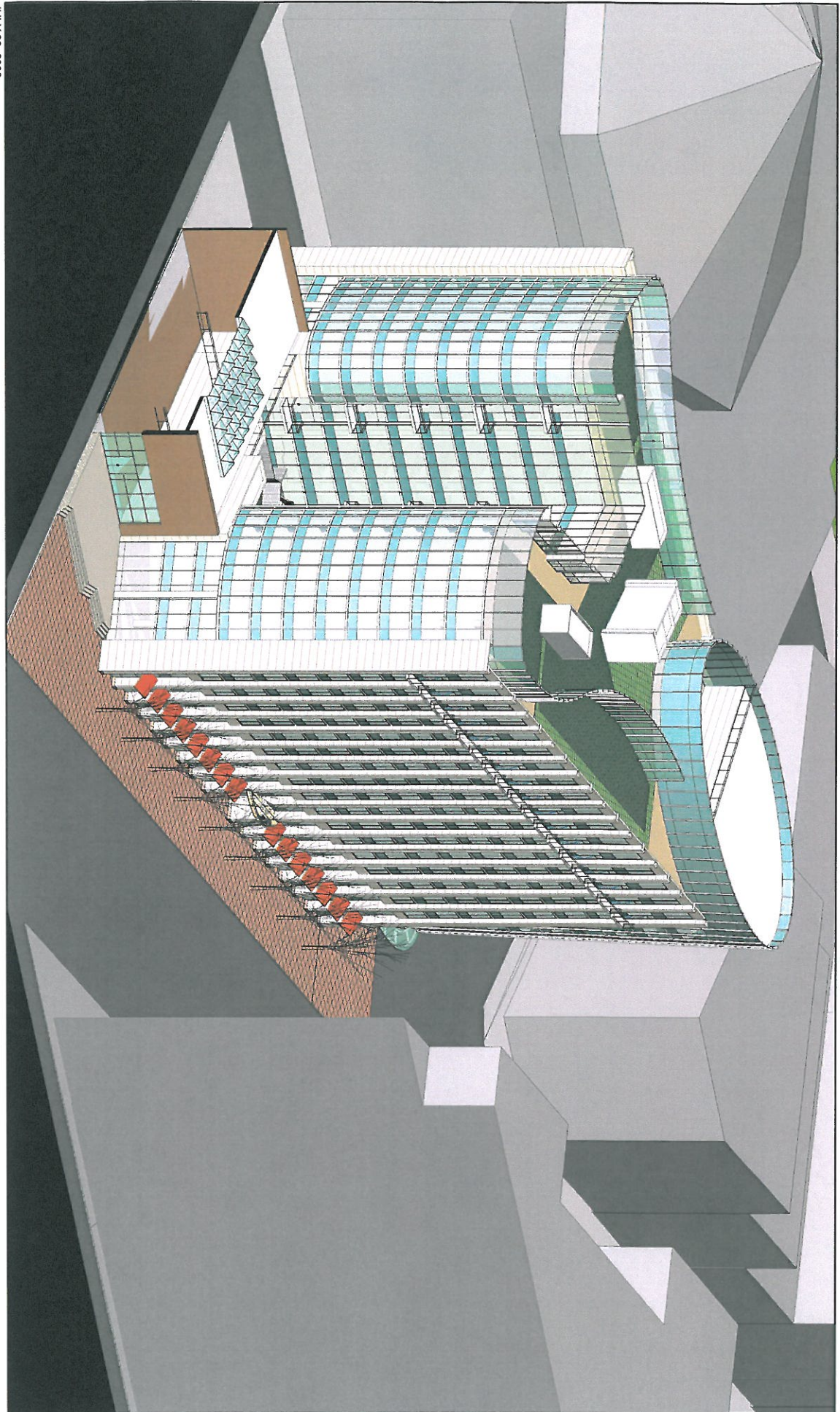
PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA

SAN FRANCISCO, CA

PLAZA ENTRANCE VIEW

HELLER MANUS
ARCHITECTS
HM



JULY 03, 2008

Scale:

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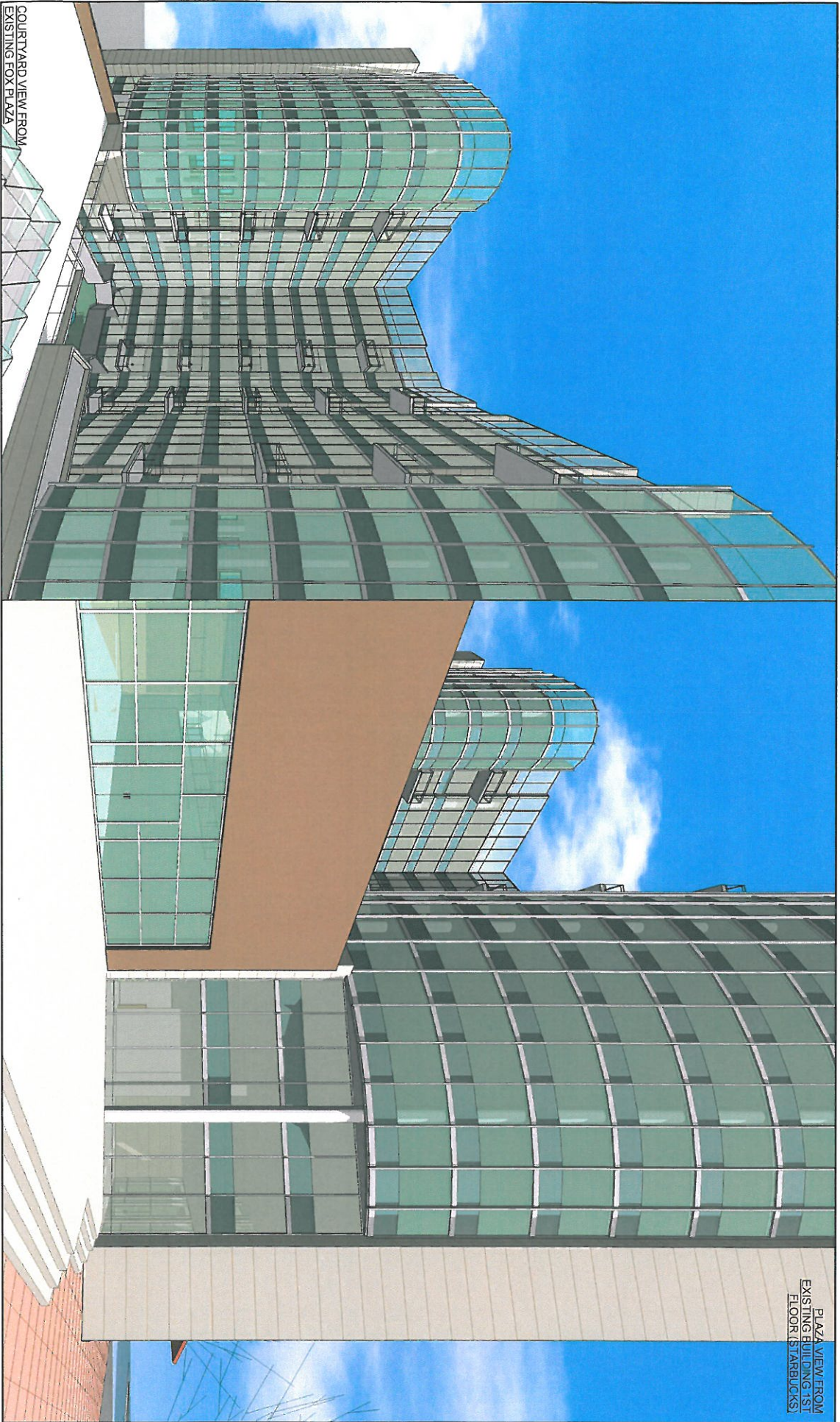
PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA

SAN FRANCISCO, CA

AXON - COURTYARD & PLAZA

HELLER MANUS
ARCHITECTS **HM**



COURTYARD VIEW FROM EXISTING FOX PLAZA

PLAZA VIEW FROM EXISTING BUILDING 1ST FLOOR (STARBUCKS)

Scale: 0 1" 2"

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA
SAN FRANCISCO, CA

PERSPECTIVES
HELLER MANUS ARCHITECTS HM

JULY 03, 2008
Scale: 3/64" = 1'-0"
0 1' 2'

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA

SAN FRANCISCO, CA

MARKET STREET ELEVATION

HELLER MANUS
ARCHITECTS



SEPTEMBER 24, 2008

Scale: 3/64" = 1'-0"

2"

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA
SAN FRANCISCO, CA

HAYES STREET ELEVATION

HELLER MANUS
ARCHITECTS



FOX PLAZA

San Francisco, CA
 Archstone Smith / Presidio Development Partners, LLC
 Heller Mannus Architects
 October 3, 2008
 Updated February 24, 2009

OPTION A3

NEW AREA SUMMARY										
Level	Building FAR Excl. GFA	Resid. Unit NSF	Resid. Unit GSF	Resid. Circ. Mail GSF	Retail GSF	Stalls GSF	Stair & Elev. Pkts GSF	Mech. GSF	Total GSF	
MP	0	4,530	22,470	22,470	490	560	3,870	4,530	4,530	
11	22,470	1,350	18,910	18,910	490	880	23,820	23,820	23,820	
10	22,435	1,350	18,965	18,965	490	880	23,785	23,785	23,785	
9	22,400	1,350	18,915	18,915	490	880	23,750	23,750	23,750	
8	22,365	1,350	18,775	18,775	490	880	23,715	23,715	23,715	
7	22,330	1,350	18,735	18,735	490	880	23,680	23,680	23,680	
6	22,295	1,350	18,695	18,695	490	880	23,645	23,645	23,645	
5	22,260	1,350	18,655	18,655	490	880	23,610	23,610	23,610	
4	22,225	1,350	18,625	18,625	490	880	23,575	23,575	23,575	
3	21,980	1,350	18,335	18,335	490	880	23,310	23,310	23,310	
2	21,400	1,350	17,855	17,855	490	880	22,750	22,750	22,750	
1	0	25,490	0	0	0	0	0	25,490	25,490	
B1*	0	0	0	0	0	0	0	0	0	
B2*	0	0	0	0	0	0	0	0	0	
TOTAL	222,140	43,520	186,055	222,140	5,910	19,890	4,900	690	12,570	265,660

11 6,380 4th-7th
 4 2,915 3rd
 4 3,185 2nd
 19 BMR units
 12,480 Total BMR's
 173,575 Total Net Unit SF less BMR's

EXISTING PARKING*			OPEN SPACE		
Parking Spaces	Tandem Spaces	Res. Private	Res. Common	Res. Retail	Res. Total
254	139	17,690	850	850	850

UNIT MIX					
ST. J/R-1	1 BR	2 BR	# Units	Level	
32.0%	48.0%	20.0%	100.0%	MP	
6	9	4	19	11	
				10	
				9	
				8	
				7	
				6	
				5	
				4	
				3	
				2	
				1	
				B1	
				B2	

FAR CALCULATIONS:

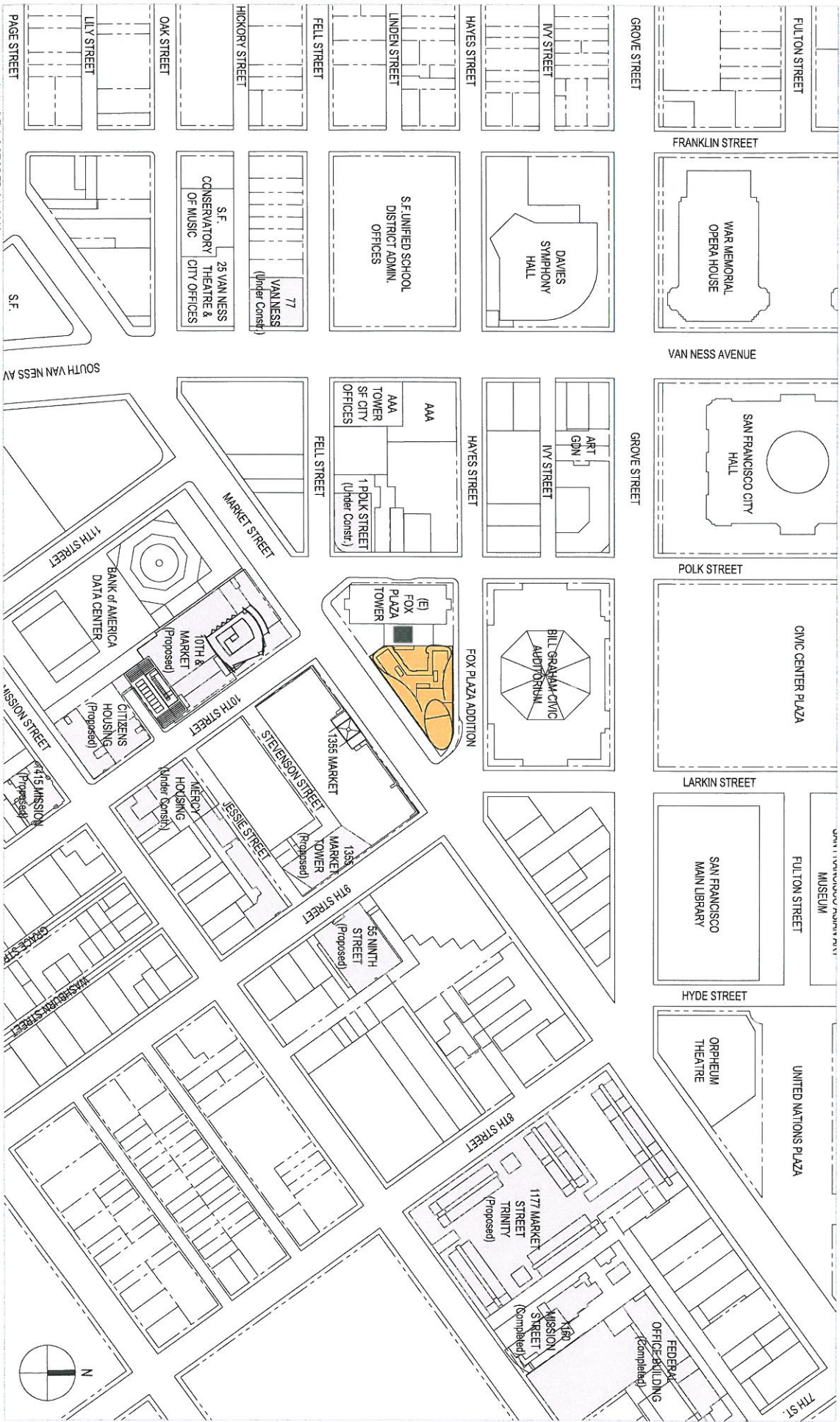
Existing Apartments =	232,323 GSF ²	444 Units
Existing Apartment Lobby =	-2,014 GSF ²	(Ground Floor Circulation)
Existing remaining Office =	216,901 GSF ²	
Existing Office Atrium & Lobby =	-5,240 GSF ^{1,2}	(Ground Floor Circulation)
Existing remaining Retail =	-3,880 GSF ¹	(Ground Floor Retail <5,000 GSF)
Total Existing to remain	438,290 GFA	
Total new building GFA	222,140 GFA	
FAR 10.32	680,430 GFA	(Total GSF - FAR exclusions)
Max FAR 9	575,793 GFA	63977 sf lot x 9
Additional Bonus GFA needed	84,637 GSF	
Existing Demol' Office =	20,595 GSF	
Existing Demol' Ground floor =	20,665 GSF	
Existing Demol' Retail <5000 GSF & circ. =	-0,900 GSF ¹	
Total Demolished	34,360 GFA	
Total Existing	472,650 GFA	

*Existing Parking in B1 (71,720 GSF) and B2 (71,600 GSF) to remain, no new parking provided.
 4.11 original spaces. Some of parking for existing users will be re-allocated for the new residential units.
 Maximum Parking is .5 space per unit = 125 max spaces to be reallocated for the new units.
 16 spaces + 2 tandem spaces lost to xrt room, elevators, column, 1 car-share space, and 4 service loading stalls
Total parking provided = 393
Total Bike parking provided = 76 (75 required)

OPEN SPACE CALCULATIONS:

Residential:			
Total Units =	250		
Units with Private Balconies >6'x6' =	7		
Common Open Space Required =	17,690 sf		
Common Open Space Provided =	17,690 sf		
Retail:			
Retail Open Space Required =	19,890	/	50
Retail Open Space Provided =	850 sf	=	398 sf
Existing remaining Open Space Plaza =	4,750 GSF		
Existing remaining Open Space Park St =	4,870 GSF		
Total Mechanical enclosed Penthouses	4,530 GSF		
Total Roof Area	23,870 GSF		
Penthouse percentage ratio	19.0%	Max is 20%	
(E) Office/Adj Tower	18,590 GSF		
(E) Atrium & Office	5,920 GSF		
(M) Residential Tower	22,750 GSF		
Total	45,250 GSF		
Lot size =	63,977 GSF		
Lot coverage ratio =	70.73%		

1. Exempt from FAR
 2. Figure from Condominium Plan recorded June 28, 2007
 3. Below Grade Parking Exempt from FAR, above Grade hidden parking and ramp to be clarified, exempt.
 4. Per Market Octavia Plan, 50% of the required BMR's will be on site, 50% off site. All on site BMR's count towards FAR



PAGE STREET
OCTOBER 03, 2008 - REV. OCTOBER 24, 2008
SCALE: 1" = 200'-0"

200
400'

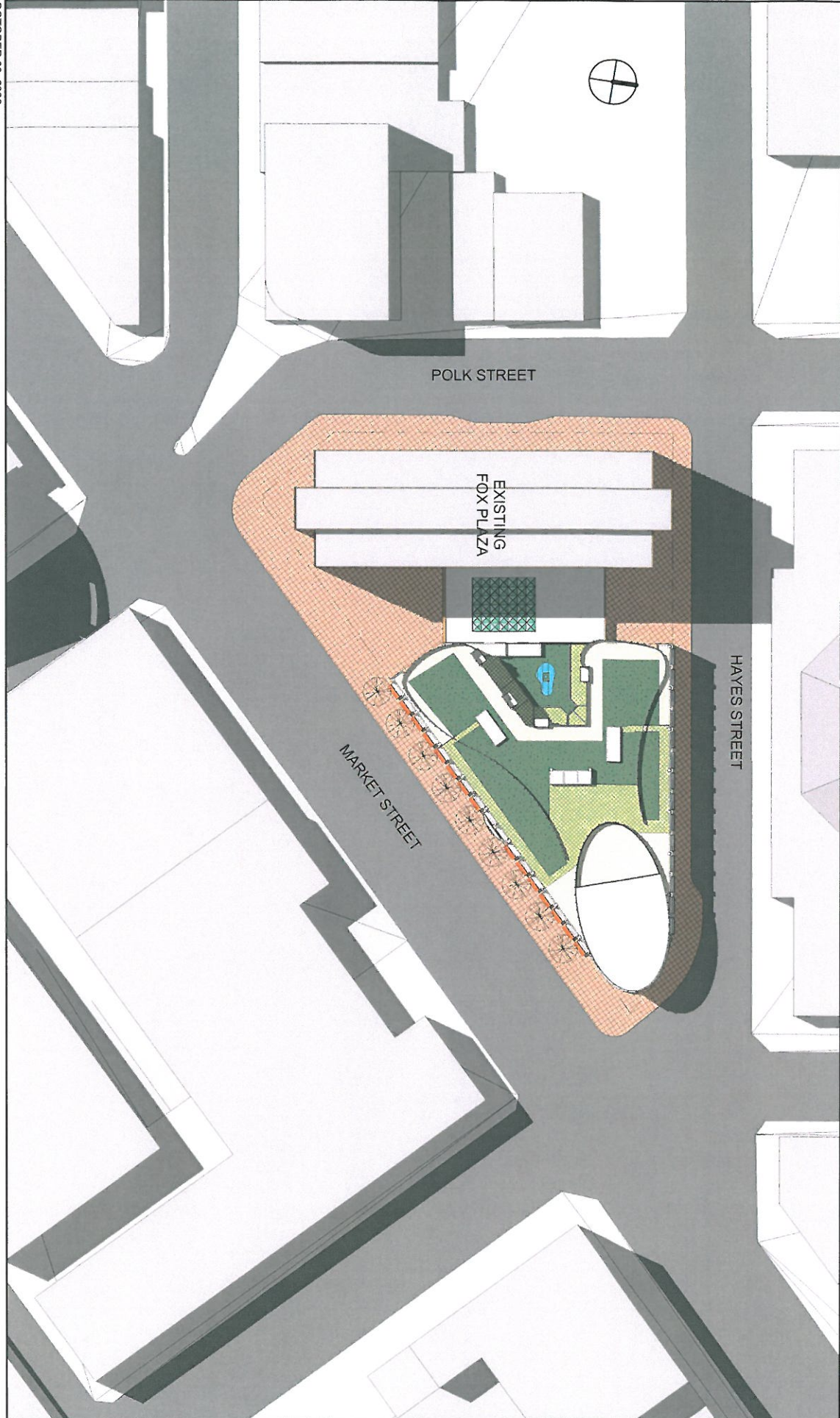
FOX PLAZA

ARCHSTONE SMITH / CONROE VENTURES, LLC

SAN FRANCISCO, CA

VICINITY PLAN



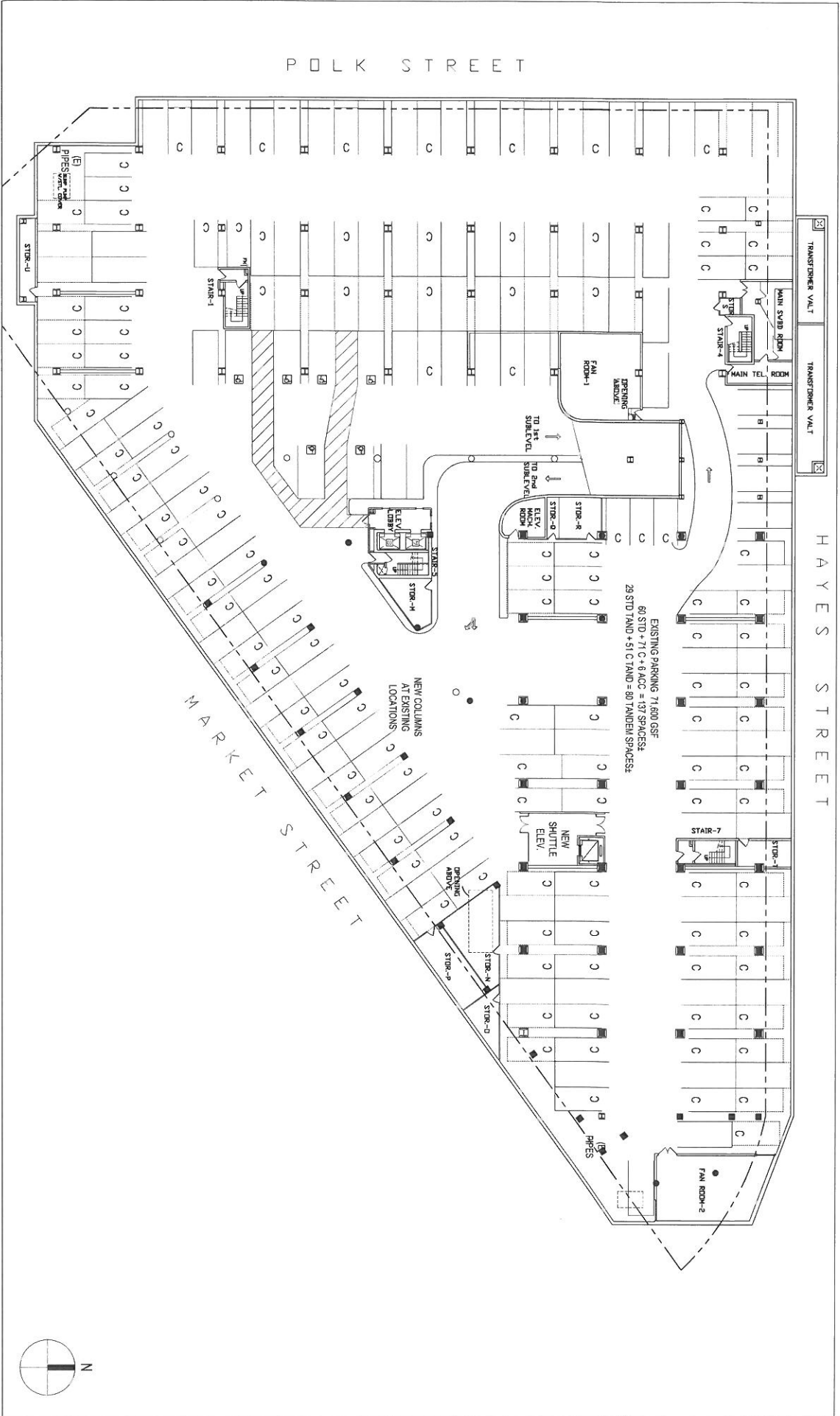


OCTOBER 03, 2008
Scale: 1" = 60'-0"
0 1" 2"

PRESIDIO DEVELOPMENT PARTNERS, LLC

FOX PLAZA
SAN FRANCISCO, CA

SITE PLAN
HELLER MANUS HM
ARCHITECTS



POLK STREET

TRANSFER VALT

HAYES STREET

MARKET STREET

JULY 03, 2008
SCALE: 1"=30'-0"
0' 30' 60'

FOX PLAZA

B2 LEVEL PLAN

ARCHSTONE SMITH / CONROE VENTURES, LLC

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HELLER MANUS ARCHITECTS

© 2008 HELLER MANUS

SEPTEMBER 03, 2008
SCALE: 1"=30'-0"
0" 30' 60'

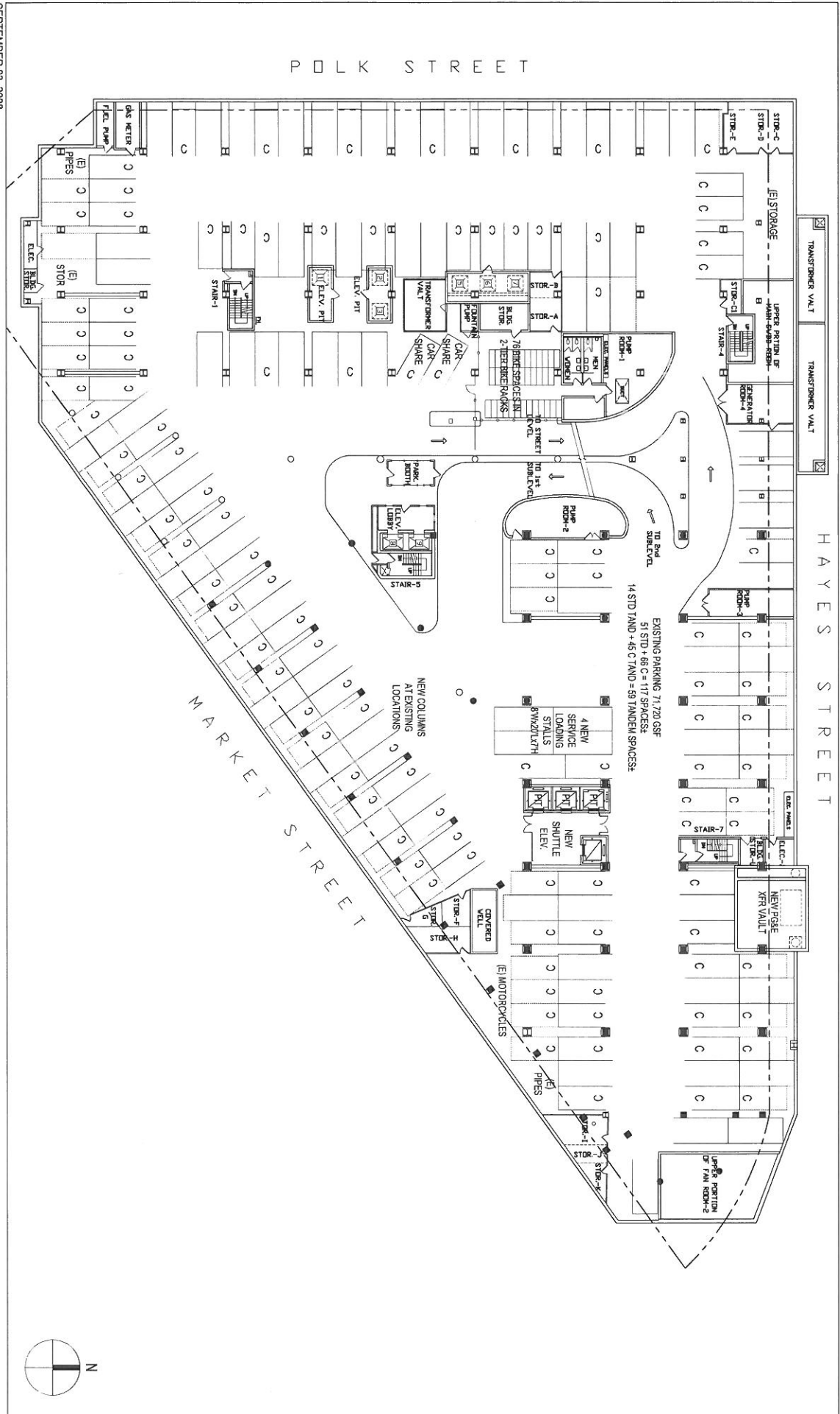
ARCHSTONE SMITH / CONROE VENTURES, LLC

SAN FRANCISCO, CA

FOX PLAZA

B1 LEVEL PLAN

HELLER MANUS ARCHITECTS



POLK STREET

HAYES STREET

MARKET STREET



EXISTING PARKING 71,720 GSF
51 STD + 66 C = 117 SPACES
14 STD TAND + 45 C TAND = 59 TANDEM SPACES

NEW COLUMNS
AT EXISTING
LOCATIONS

4 NEW
SERVICE
LOADING
STALLS
BWZLXVTH

NEW
SHUTTLE
ELEV.

UPPER PORTION
OF FAN ROOM-2

NEW/EXIST
XFR VALLT

(E) MOTORCYCLES

COVERED
VALLT

STAIR-4

STAIR-5

STAIR-7

STAIR-1

STAIR-2

STAIR-3

STAIR-4

STAIR-5

STAIR-6

STAIR-7

STAIR-8

STAIR-9

STAIR-10

STAIR-11

STAIR-12

STAIR-13

STAIR-14

STAIR-15

STAIR-16

STAIR-17

STAIR-18

STAIR-19

STAIR-20

STAIR-21

STAIR-22

STAIR-23

STAIR-24

STAIR-25

STAIR-26

STAIR-27

STAIR-28

STAIR-29

OCTOBER 03, 2008 - REV. APRIL 09, 2009
 SCALE: 1"=30'-0"
 0 30'

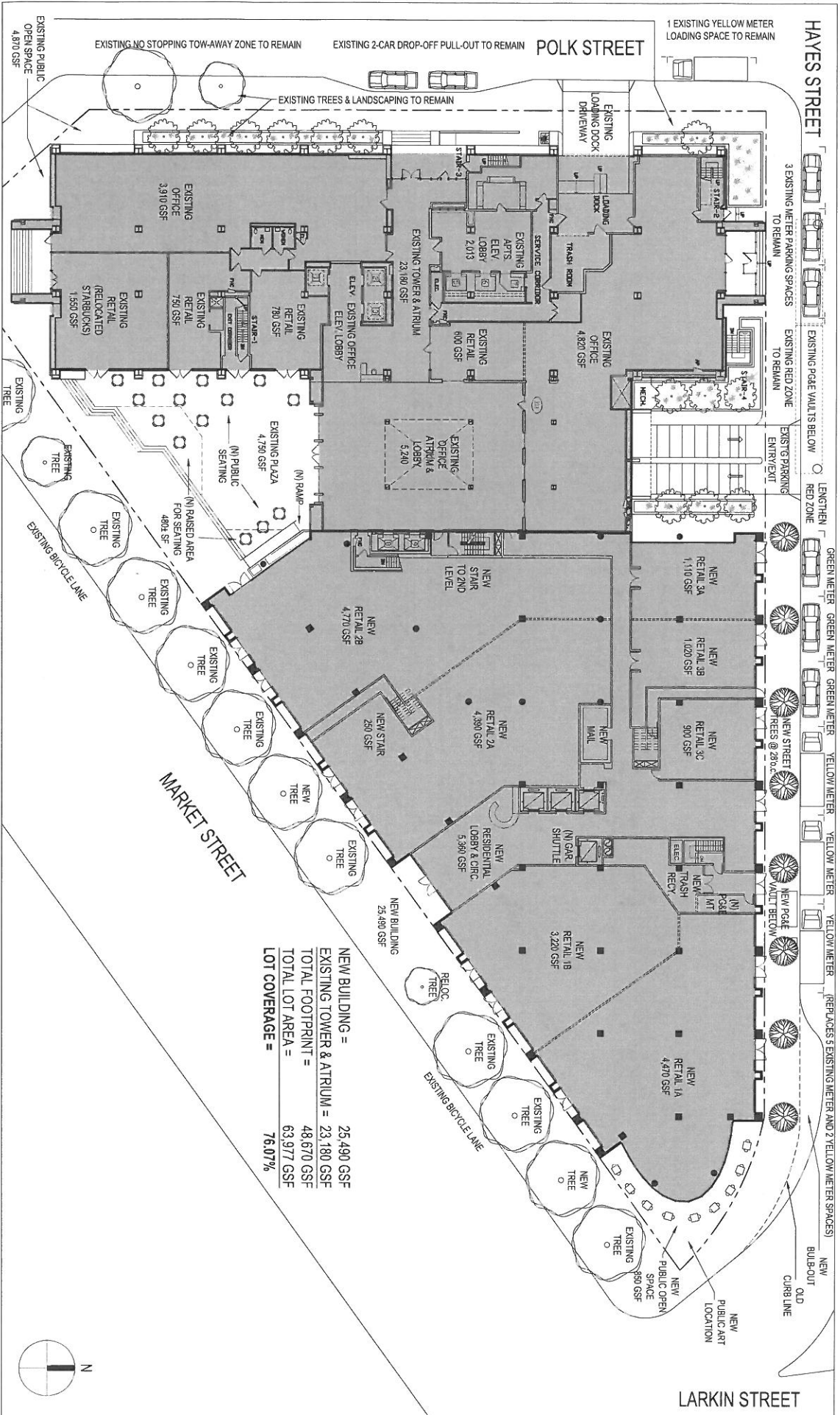
ARCHSTONE SMITH / PRESIDIO DEVELOPMENT PARTNERS, LLC

SAN FRANCISCO, CA

FOX PLAZA

GROUND LEVEL PLAN - NO PULL-OUT - PLAZA ALT 1 REV.

HELLER MANUS ARCHITECTS



NEW BUILDING =	25,490 GSF
EXISTING TOWER & ATRIUM =	23,180 GSF
TOTAL FOOTPRINT =	48,670 GSF
TOTAL LOT AREA =	63,977 GSF
LOT COVERAGE =	76.07%



OCTOBER 03, 2008 - REV. FEBRUARY 24, 2009
 SCALE: 1"=30'-0"
 0' 30' 60'

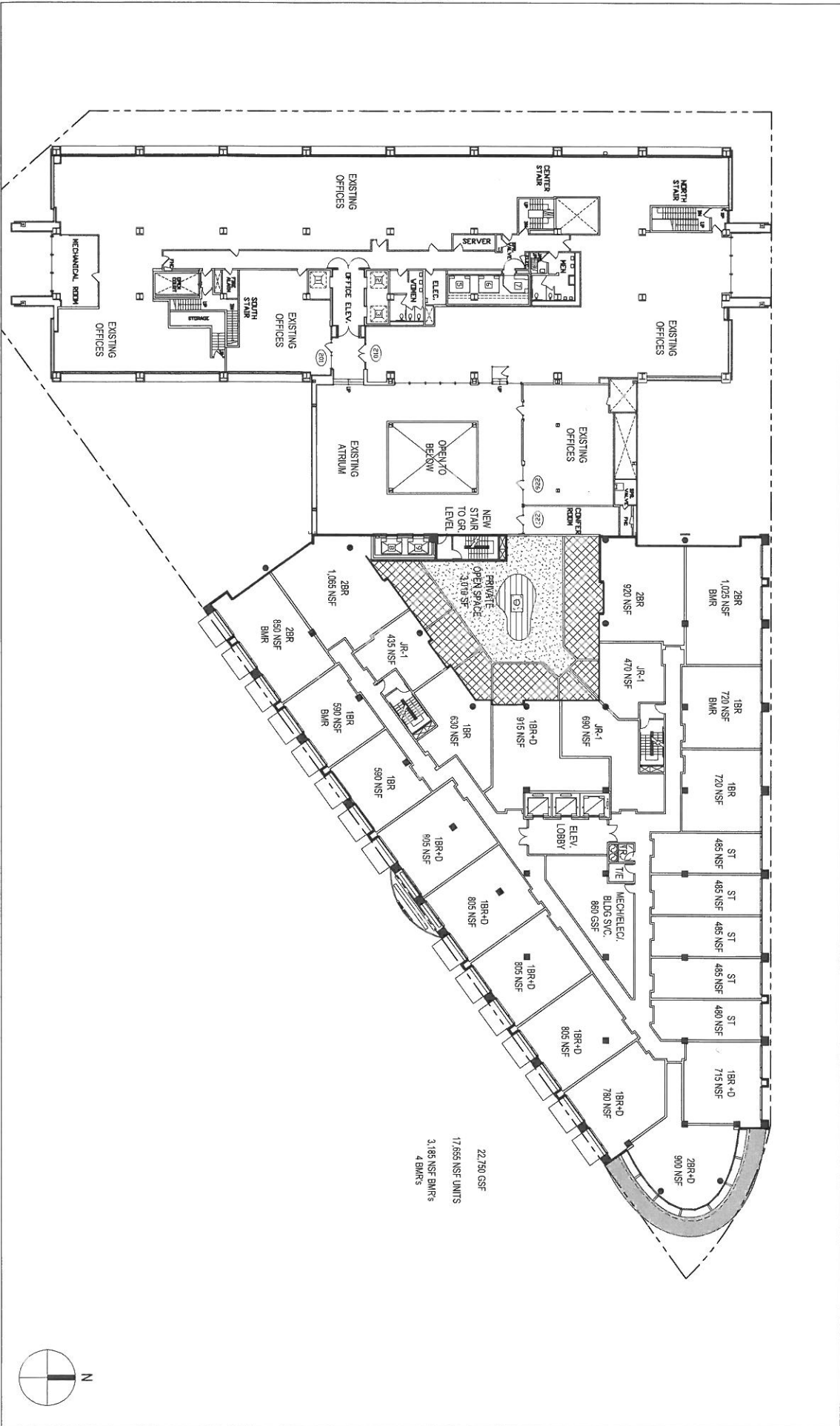
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SAN FRANCISCO, CA

FOX PLAZA

2ND LEVEL PLAN

HELLER MANUS ARCHITECTS



OCTOBER 03, 2008 - REV. FEBRUARY 24, 2009
 SCALE: 1"=30'-0"
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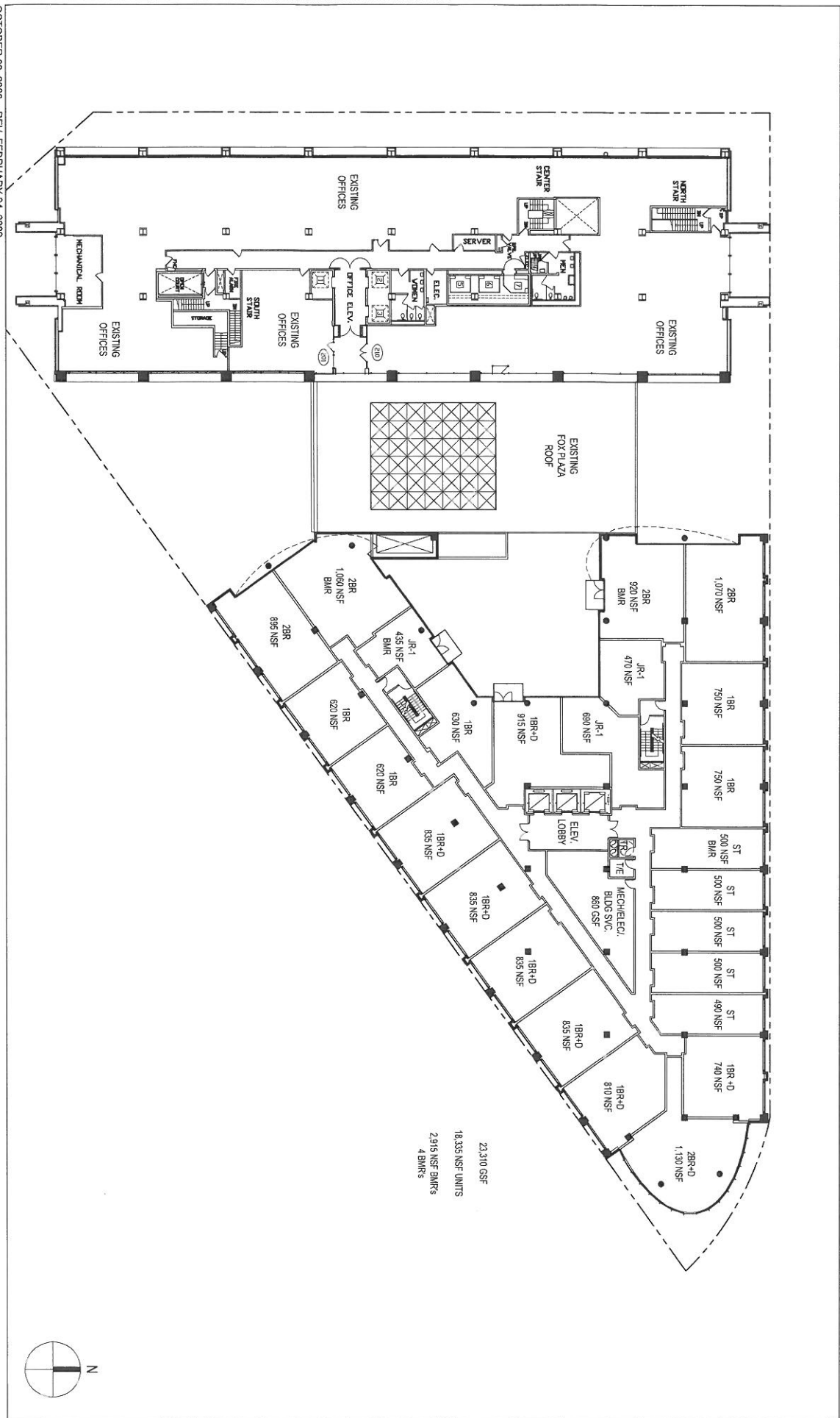
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SAN FRANCISCO, CA

FOX PLAZA

3RD LEVEL PLAN

HELLER MANUS ARCHITECTS **HM**



OCTOBER 03, 2008 - REV. APRIL 08, 2009
 SCALE: 1"=30'-0"
 0' 30' 60'

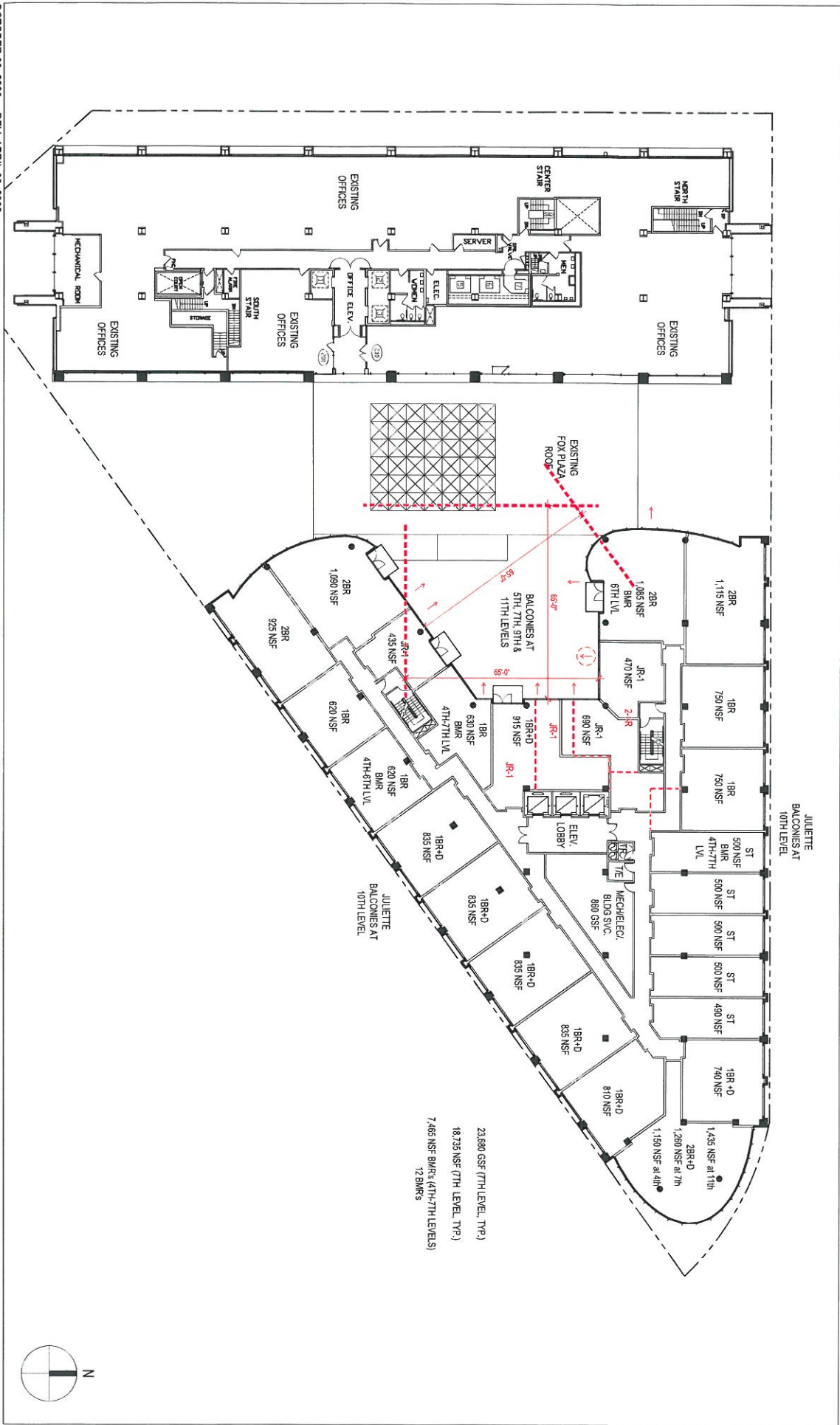
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SAN FRANCISCO, CA

FOX PLAZA

4TH-11TH LEVEL PLAN

HELLER MANUS ARCHITECTS HM



23,890 GSF (7TH LEVEL, TYP.)
 18,735 NSF (7TH LEVEL, TYP.)
 7,465 NSF BMRs (4TH-7TH LEVELS)
 12 BMRs

JULY 03, 2008
 SCALE: 1"=30'-0"
 0 30' 60'

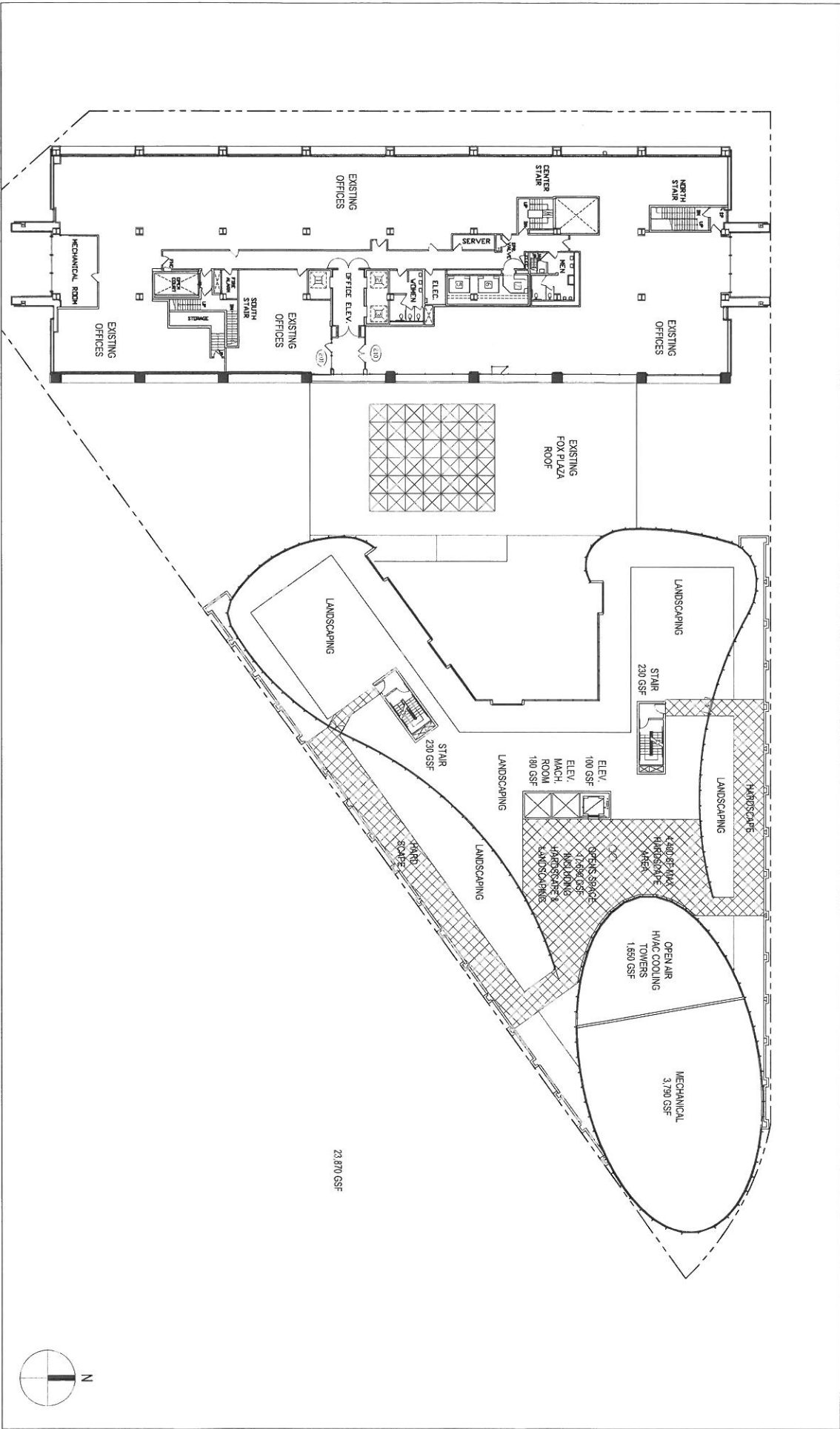
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FOX PLAZA

SAN FRANCISCO, CA

ROOF LEVEL PLAN

HELLER MANUS ARCHITECTS



23,870 GSF

OCTOBER 03, 2008 - REV. APRIL 08, 2009
SCALE: 1"=40'-0"
40' 0"

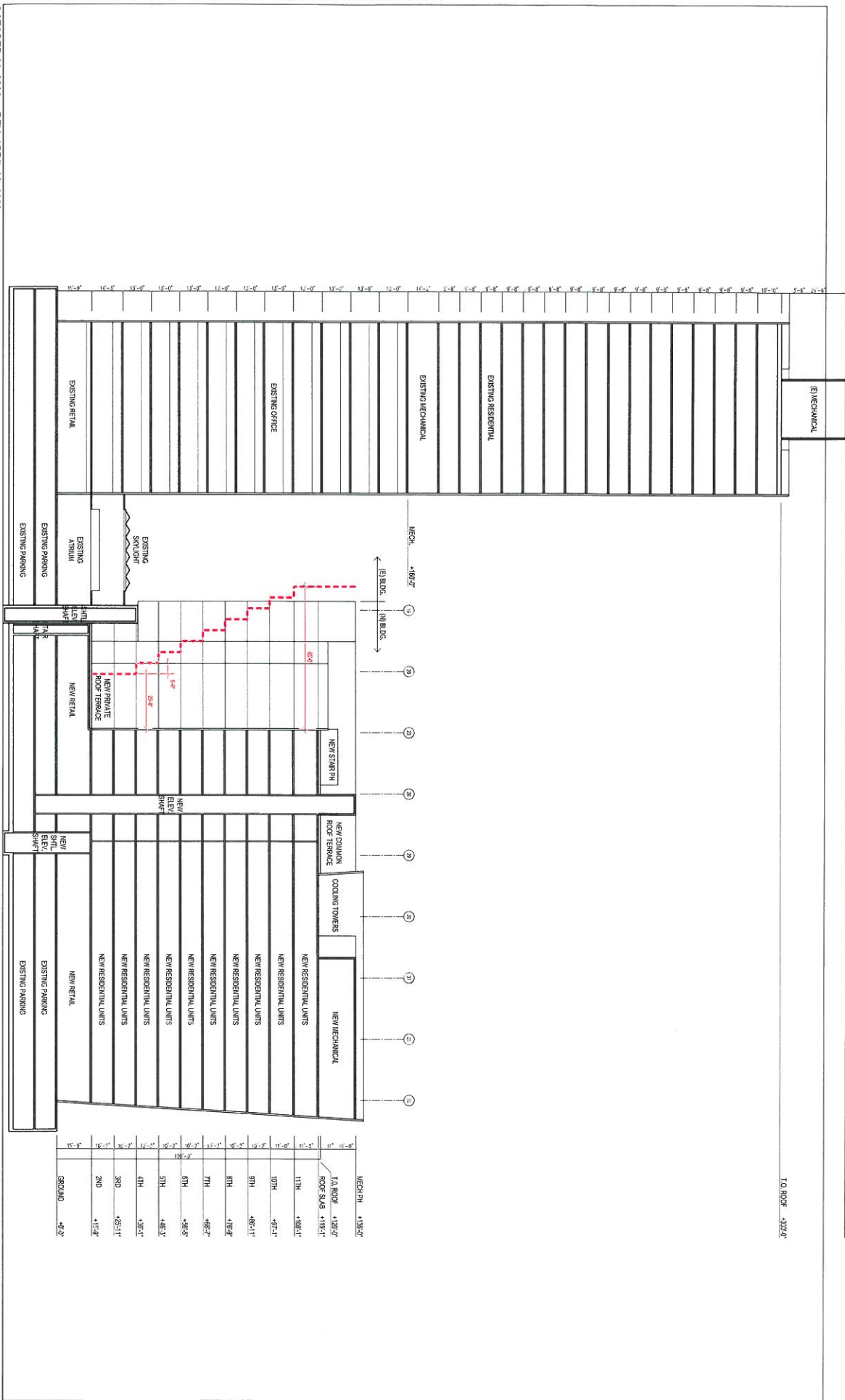
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SAN FRANCISCO, CA

FOX PLAZA

SECTION

HELLER MANUS ARCHITECTS



MECH PH	+182.0'
1A ROOF	+178.0'
ROOF SLAB	+178.1'
11TH	+168.1'
10TH	+97.1'
9TH	+87.1'
8TH	+78.2'
7TH	+68.2'
6TH	+58.5'
5TH	+48.3'
4TH	+38.1'
3RD	+25.1'
2ND	+17.2'
GROUND	+0.0'

MECH PH +182.0'
1A ROOF +178.0'