



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

Inclusionary Housing (Sec. 315)

First Source Hiring (Admin. Code)

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. 18054

HEARING DATE: MARCH 25, 2010

Date: March 19, 2010
Case No.: **2009.1105CX**
Project Address: **72 ELLIS STREET**
Zoning: C-3-R (Downtown, Retail) Zoning District
80-130-F Height and Bulk District
Kearny-Market-Mason-Sutter Conservation District
Block/Lot: 0327/011
Project Sponsor: Jorge Castillo
461 2nd Street, Ste 335
San Francisco, CA 94107
Staff Contact: Kevin Guy- (415) 558-6163
kevin.guy@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS TO AMEND THE CONDITIONS OF APPROVAL ON A DETERMINATION OF COMPLIANCE TO EXTEND THE PERFORMANCE PERIOD FOR THREE YEARS FOR A PREVIOUSLY APPROVED PROJECT, REQUIRING DETERMINATIONS OF COMPLIANCE AND EXCEPTIONS UNDER PLANNING CODE SECTION 309, INCLUDING A HEIGHT EXCEPTION IN THE 80-130-F HEIGHT AND BULK DISTRICT, A BULK EXCEPTION, AND A HEIGHT EXTENSION FOR A VERTICAL EXTENSION TO ALLOW CONSTRUCTION OF AN 11-STORY, 125-FOOT TALL HOTEL CONTAINING APPROXIMATELY 156 ROOMS, LOBBY, ACCESSORY MEETING ROOMS, AND A RESTAURANT ON A SITE CURRENTLY USED AS A SURFACE PARKING LOT AT 72 ELLIS STREET, WITHIN ASSESSOR'S BLOCK 0327, LOT 011, LOCATED WITHIN THE C-3-R ZONING DISTRICT, THE 80-130-F HEIGHT AND BULK DISTRICT, AND THE KEARNY-MARKET, MASON, SUTTER CONSERVATION DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

RECITALS

1. On December 2, 2009, Jorge Castillo ("Project Sponsor"), acting on behalf of Personality Hotels, Inc. (the owner of the subject property) submitted a request (Case No. 2009.1105CX) 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 three years. The project was originally approved by the Planning Commission on November 15, 2001 (Case No. 2000.383CX), and would demolish an existing surface parking lot and construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant, located at 72 Ellis Street ("Project Site"), within the C-3-R Zoning District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District (collectively, "Project"). The Project was granted exceptions under Planning Code Section 309, including a height exception in the 80-130-F Height And Bulk District, a bulk exception, and a height extension for a vertical extension. No modifications are proposed to the design or intensity of the project as originally approved.

2. On October 31, 2001, the Draft Initial Study/Mitigated Negative Declaration for the Project was prepared and published for public review. On November 15, 2001, the Planning Commission ("Commission") reviewed and considered the Final Mitigated Negative Declaration ("FMND") and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2000.383E, at 1650 Mission Street, Fourth Floor, San Francisco, California. Department staff prepared a Mitigation Monitoring and Reporting program, which material was made available to the public and the Commission for the Commission's review, consideration, and action. Since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND 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 MND.
3. On December 9, 2004, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2004.1047CX, a request to extend the performance period of the Project for three years. The Commission reviewed and discussed the findings for approval prepared for its review by Department staff, and approved the extension of the performance period for three years (Motions 16919 and 16920), subject to the conditions of the original approval of the Project. This extension expired on December 9, 2007.
4. On March 25, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2009.1105CX, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.
5. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

6. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.
7. **MOVED**, that the Commission hereby approves the three-year extension of the performance period requested in Application No. 2009.1105CX, subject to the conditions of Motion No. 16284 and the conditions attached hereto as Exhibit A, 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 three years (to March 13, 2013). The project was originally approved by the Planning Commission on November 15, 2001, and would demolish an existing surface parking lot and construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant, located at 72 Ellis Street. No modifications are proposed to the design or intensity of the project as originally approved.
3. **Site Description and Present Use.** The Project Site is located on the north side of Ellis Street, between Powell and Market Streets, Assessor's Block 0327, Lot 011. The property is located within the C-3-R Zoning District, the 80-130-F Height and Bulk District, and the Kearny-Market-Mason-Sutter Conservation District. The Project Site is currently developed with a surface parking lot.

The Project Site is situated within the Union Square area, a destination retail and entertainment district that draws a considerable number of visitors and serves as the retail core of San Francisco. Ground floor storefronts are typically occupied by retail stores or restaurants, while upper floors of building are generally occupied by tourist-hotels, offices, or upper floors of multi-story retail establishments. Prominent uses and attractions in the area include Union Square (located two blocks to the north), Halladie Plaza and the cable-car turnaround (located one block to the south), and the San Francisco Centre (located one block to the south). The project site is also located with the Kearny-Market-Mason-Sutter Conservation District. This District hosts a substantial number of historically significant buildings, most of which were built following the 1906 earthquake, measure four to height stories in height, and exhibit rich detailing and ornamentation.

4. **Public Comment.** To date, the Department has received no correspondence regarding the requested extension.
5. This Commission adopts the findings of the previous Planning Commission Motion No. 16284, as though fully set forth herein.

6. 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.
7. The Commission finds that, given the continuing weakness in the hotel market due to the downturn of the national and global economy, 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. 2. E. of Planning Commission Motion No. 16284 to extend the performance period of the Project to March 25, 2013.
8. On balance, the Commission hereby finds that approval of the proposed amendment to condition of approval No. 2. E. of Planning Commission Motion No. 16284 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 Application No. 2009.1105CX**, subject to the following conditions attached hereto as Exhibit A (Conditions of Approval), which is incorporated herein by reference as though fully set forth, and subject to the Conditions of Approval of Planning Commission Motion No 16284, as amended by this approval to modify Condition 2.E. to extend the performance period of the project to March 25, 2013.

The Planning Commission further finds that since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND 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 MND. The Commission hereby adopts the MND and the Mitigation Monitoring and Reporting Program attached as Exhibit B.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this determination of compliance to the Board of Appeals within thirty (15) days after the date of this Motion No. 18054. The effective date of this Motion shall be the date of this Motion if not appealed (After the 15-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Appeals. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 25, 2010.

Linda Avery
Commission Secretary

Motion 18054
March 25, 2010

CASE NO. 2009.1105CX
72 Ellis Street

AYES: Miguel, Antonini, Borden, Lee, Moore, Sugaya,

NAYS: Olague

ABSENT:

ADOPTED: March 25, 2010

Exhibit A

Conditions of Approval

Whenever "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.

This approval is pursuant to Section 309(j) to extend the performance period under Motion No. 16284 until March 25, 2013. The approved proposal is to demolish an existing surface parking lot and construct an 11-story, 125-foot hotel consisting of approximately 156 rooms, a lobby, accessory meeting rooms, and a restaurant. No other changes to the project are proposed with this request. All previously granted exceptions and Conditions of Approval of Motion No. 16284 would remain, except as amended herein.

GENERAL CONDITIONS

1. **Performance.** This authorization is valid for a period of three years from the date of approval of the requested extension (until March 25, 2013), amending the expiration date of the performance specified the approval granted per Motion No. 16284. Specific procedures regarding the performance requirement follow Planning Code Section 309(j).
2. **Recordation.** Prior to the issuance of any building or site permit 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 the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
3. **Informational Hearing prior to Building Permit Issuance.** Prior to the issuance of the first site or building permit, the Project Sponsor shall make an informational presentation to the Planning Commission describing any refinements to the details of the Project that have occurred during the review of the first site or building permit by the Planning Department.
4. **Informational Hearing upon Expiration of Performance Period.** If construction of the Project has not commenced by the expiration of this extension of the performance period (on March 25, 2013), the Planning Department shall calendar an informational item at a hearing before the Planning Commission for the Planning Commission to consider revocation of the approvals for the Project.

EXHIBIT B

Mitigation Measures

72 Ellis Street

Case No. 2000.383E

Mitigation Measure 1: Construction Air Quality

The Project Sponsor shall require the contractor(s) to spray the site with water during demolition, excavation, and construction activities; spray unpaved construction areas with water at least twice per day; cover stockpiles of soil, and, and other material; cover trucks hauling debris, soils, sand or other such material; and sweep surrounding streets during demolition, excavation, and construction at least once per day to reduce particulate emissions. Ordinance 75-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the Project Sponsor would require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose. The Project Sponsors would require the project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period. [NOTE: Since the adoption of this Mitigated Negative Declaration, Ordinance 176-08 has been adopted by the Board of Supervisor's and supersedes this Construction Air Quality Mitigation Measure]

Mitigation Measure 2: Archaeological Resources

The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in *CEQA Guidelines* Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the 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, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

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.

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 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.

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.

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.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved 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.

MONITORING PROGRAM

Mitigation Measures Certified in Final MND	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
A. MITIGATION MEASURES:					
ARCHAEOLOGICAL RESOURCES					
<p>The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in <i>CEQA Guidelines</i> Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource “ALERT” sheet to the 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, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p>	Project sponsor	Prior to any soil disturbing activities	Distribute Planning Department Archeological Resource “ALERT” sheet to Prime Contractor, sub-contractors and utilities firms.	Project sponsor, archaeologist and Environmental Review Officer (ERO)	Prior to any soil disturbing activities.
<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>	Project Sponsor			Submit signed affidavit of distribution to ERO.	Following distribution of “ALERT” sheet but prior to any soils disturbing activities.
<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 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>	Head Foreman and/or project sponsor	Accidental discovery	Suspend any soils disturbing activity.	Notify ERO of accidental discovery.	
	Project Sponsor	In case of accidental discovery	If ERO determines an archeological resource may be present, services of a qualified archeological consultant to be retained.		
	Archeological consultant		Identify and evaluate archeological resources.	Make recommendation to the ERO	

MONITORING PROGRAM

Mitigation Measures Certified in Final MND	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>Measures might include: preservation in situ of the archeological resource; an archeological 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>	Project Sponsor	<p>After determination by the ERO of appropriate action to be implemented following evaluation of accidental discovery.</p>	<p>Implementation of Archeological measure required by 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 describes 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>	Project Sponsor	<p>Following completion of any* archeological field program. (* required.)</p>	<p>Submittal of Draft/Final FARR to ERO.</p>		
<p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved 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 MEA 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>	Project Sponsor		<p>Distribution of Final FARR.</p>		

SAN FRANCISCO

PLANNING COMMISSION

MOTION NO. 16284

ADOPTING FINDINGS RELATING TO THE APPROVAL BY THE PLANNING COMMISSION OF CITY PLANNING CODE SECTION 309 DETERMINATIONS OF COMPLIANCE AND EXCEPTIONS FROM HEIGHT AND BULK LIMITS, AND COMPLIANCE WITH SECTION 7 OF APPENDIX E TO ARTICLE 11, FOR PROPERTY IN A C-3-R (DOWNTOWN, RETAIL) DISTRICT AND A 80-130-F HEIGHT AND BULK DISTRICT, ASSESSOR'S BLOCK 0327, LOT 011.

RECITALS

1. On April 26, 2000, Lawrence Chambers, Del Campo and Maru, on behalf of Personality Hotels, Inc. ("Project Sponsor"), filed with the City and County of San Francisco Planning Department ("Department"), an Application for Review of a C-3 (Downtown) Project Under Section 309 of the Planning Code ("Project").
2. On August 7, 2001, Marie Zeller, Patri Merker Architects, on behalf of the Project Sponsor, filed with the Department an amendment to the Application for Review of a C-3 (Downtown) Project Under Section 309 of the Planning Code ("Project").
3. A Preliminary Negative Declaration of Environmental Impact, Case No. 2000.383E, was released in October 13, 2001. No appeal was filed and a final Negative Declaration was adopted and issued on November 5, 2001. By the adoption of the Final Negative Declaration, the Department, in accordance with the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, determined that the proposed project on the subject property could have no significant effect on the environment.
4. On October 25, 2001, notice of the hearing on the Application was posted.
5. On November 15, 2001, the Commission conducted a duly noticed public hearing on the Application.
6. The Department and the Commission have reviewed and considered the information contained in the Final Negative Declaration in accordance with the requirements of CEQA, the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.
7. The Commission has also had available to it for its review and consideration the Case Report, studies, letters, plans and other materials pertaining to the Project in the Department's case files, has reviewed and heard testimony and has received materials from interested parties during the public hearings on the Project.

FINDINGS

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

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

2. **Project Site/Present Use**

The project site is two blocks south of Union Square and one block north of the cable car turn-around at Powell and Market Streets, just east of the intersection of Ellis and Powell Streets. The project site occupies Assessor's Block 327, Lot 11, with an area of about 8,400 sq. ft.

The existing use of the project site is an attendant-operated surface parking lot with one level of underground parking, with an overall capacity of 75 spaces. About 22 spaces are currently allocated for overnight use by the Hotel Union Square. About 13 spaces are used for hotel guest parking during the daytime, and the remaining 62 spaces are open to public use during the day. The parking lot would be demolished to accommodate the proposed hotel.

3. **Nature of Project**

The proposed project would consist of the demolition of the existing parking lot with basement and the construction of a hotel, which will be called the M31 Hotel. The façade of the M31 comprises a base of light-colored stone topped by a series of glass and masonry window divisions, each two stories in height. Its architects, designer Michael Gabellini in association with local architect Piero Patri, have designed a forward-looking, completely modern structure that consciously and effectively responds to the design guidelines of the Kearny-Market-Mason-Sutter Conservation District by combining classic architectural elements with a new modern design. The project will enhance the overall streetscape while making a refined and distinguished architectural statement. Dramatic lighting will illuminate the interior and exterior of the hotel, highlighting the restaurant, lobby, lounge areas, the rooftop view terrace, and the guest rooms themselves. The M31 Hotel will utilize natural elements such as water, landscaping, wood, and stone on the interior of the building in areas that will be visible from the exterior, adding warmth and interest to the streetscape.

The proposed 11-story, 125-ft.-tall structure would have 156 rooms, and a semi-enclosed trellis structure on the roof would rise to 146 feet. A basement level, of approximately 5,730 sq. ft., would contain service and mechanical rooms, storage areas, and a restaurant kitchen. The ground floor (first floor) would contain about 2,400 sq. ft. of restaurant space and a lobby/salon area of approximately 1,940 sq. ft. The main lobby would be double height. The ground floor would also include a meeting room/lounge of approximately 600 sq. ft. and a reception area/office space of approximately 380 sq. ft. A business center of

about 400 sq. ft would be on the second floor. Both the conference room and the business center would be for guest use. Floors 2 through 11 would contain 156 hotel rooms; 131 standard rooms ranging from 280 to 310 sq. ft.; 21 executive rooms ranging from 340 to 370 sq. ft.; and four business suites of approximately 450 sq. ft. Executive rooms would be similar to standard hotel rooms, but slightly larger with additional desk space. Business suites would be larger still, with separate sitting and bedroom areas.

The roof would contain a publicly accessible view terrace of approximately 2,780 sq. ft. near the south-facing facade. A semi-enclosed trellis structure would surround the rooftop terrace. In conformance with the General Plan guidelines for publicly accessible rooftop view terrace open spaces, the proposed terrace would also include some form of food service to enliven the space. The rooftop would also contain mechanical equipment screened from view.

The building would be built out to the sidewalk to match the prevailing street wall along Ellis Street (see Figure 5, Front Elevation, and Figure 6, East Elevation). The front elevation would have two-story masonry (most likely Indiana or French limestone) and glass wall divisions above the ground floor. Windows would be recessed 1'-0" to 3'-0" behind the masonry frame. A masonry cornice would project approximately three feet from the façade at the 83-foot elevation level, continuing the cornice line of the adjacent buildings. To further accentuate the cornice line, windows above the 83-ft. elevation (8th to 11th floors) would be recessed further behind the structural frame than those windows below. The ground floor façade walls would be clad in a light-colored stone or similar material, possibly with a granite base. Window and doorway glazing along the length of the building at ground level would be nearly continuous. A canopy would extend over the sidewalk at the hotel entrance.

A 70.5-ft.-long loading zone on the 73-ft.-wide Ellis Street frontage is proposed to provide for passenger and freight loading. With approval from the Department of Parking and Traffic (DPT), most of the existing red zone along the site frontage would be redesignated a white zone to accommodate passenger and freight loading. Approximately 2.5 ft of the curb at the eastern edge of the site frontage would remain red to facilitate vehicles exiting from the Ellis/O'Farrell garage. In addition, pavement markers, such as reflective "dots," would be placed between the garage and the proposed loading zone to discourage drivers leaving the garage from entering the loading area.

An existing sidewalk elevator on Ellis Street within the Hotel Union Square frontage, just west of the project site frontage, is proposed by the project sponsor to be relocated approximately eight feet to the east to provide direct service access to the M-31 Hotel basement. The Hotel Union Square is also owned and operated by the M-31 Hotel Project Sponsor. The sidewalk elevator would be linked within the basement of the M-31 Hotel. After relocation, the elevator opening in front of the Hotel Union Square would be sealed with concrete to match the surrounding sidewalk. In the event that the relocated sidewalk elevator is not permitted by the Department of Parking and Traffic, the Department of Public Works, or the Planning Department, the existing sidewalk

elevator would be reused, with a basement level connection to the M-31 Hotel. This option is complicated by the fact that it would require a grade change at the basement level due to the location of an existing underground sewer line which runs perpendicular to the front property line between the M-31 Hotel site and the Hotel Union Square, and thus may be cost-prohibitive. As a final option, the Project Sponsor is investigating the feasibility of the hotel being serviced through an entrance on the ground floor on the west side of the building frontage. An internal lift would access the hotel basement in this location. However, this last option is not optimal for the aesthetic or functional considerations of the ground floor street frontage, as it would detract from the clean and consistent composition of masonry and glass material, and could cause conflicts between pedestrians entering the restaurant, as well as delivery activities which would then have to cross the main path of pedestrian travel along the sidewalk. The street elevator as it is currently positioned at the curbside minimizes pedestrian conflict by not forcing deliveries to cross the entire width of the public sidewalk.

The total floor area of the project would be 76,554 sq. ft. and the FAR would be 9.0 to 1. Achieving this 9.0 FAR would require the use of approximately 25,000 square feet of transferrable development rights. Construction of the project is anticipated to begin in Spring 2002. The construction period, including demolition, would take approximately 15 months.

The Project Sponsor, Personality Hotels, Inc., has agreed to implement the following measures as part of the project: (1) hire a full-time staff person (valet) to manage the curbside passenger and freight loading activities (seven days a week from 7:00 AM to 11:00 PM), such that no vehicles would be allowed to park or stop at the Ellis Street passenger loading zone unless they are actively involved in loading and unloading activities, and (2) during project construction, limit construction truck traffic between 9:00 AM and 3:00 PM to minimize disruption of the general traffic flow on adjacent streets during peak hours.

A Shadow Analysis under Planning Code Section 295 (Proposition K) has found that no new shadows would be cast on any property under the jurisdiction of the Recreation and Parks Commission.

With respect to hazardous materials, as referred in the Preliminary Negative Declaration, a Phase I Environmental Site Assessment of the property concluded that there were no conditions existing on the site which could be considered hazardous.

The Landmarks Preservation Advisory Board ("Landmarks Board") has reviewed the Project on an informational basis and is in support of the proposed Project.

San Francisco Heritage reviewed the Project on September 4, 2001, and supported the design as presented to them at that time.

A Preliminary Negative Declaration was released on October 13, 2001. No appeal was filed, and a final Negative Declaration was adopted and issued on November 5, 2001.

4. **Section 309 –Permit Review in C-3 Districts**

Because of its location in a C-3 district, the Project is subject to the requirements of Section 309, which requires determination of compliance and allows for exceptions to the City Planning Code.

Compliance

(a) **Section 138 – Open Space**

Code Section 138 requires that, in the C-3-R District, when a project results in the construction of a new building, the project shall provide one square foot of open space for every 100 gross square feet of space. The open space must consist of usable public space open and accessible to the public during daylight hours. Section 138 provides a number of examples of the types of improvements that will satisfy this requirement, including view and sun terraces.

- The Project proposes approximately 76,554 gross square feet of total construction. Therefore, the Project must provide approximately 766 square feet of open space at the required 1:100 ratio for the C-3-R District.
- The Project Sponsor proposes to provide approximately 2,782 square feet of open space on a rooftop view terrace. The minimum space requirement for a view terrace according to the San Francisco Master Plan is 800 square feet. The sun terrace therefore meets the open space requirement and the criteria applicable to a sun terrace.
- The sun terrace will be accessed from the building elevator lobby. The hours during which the sun terrace will be accessible to the public will be concurrent with the hours of the normal operation of the public meeting spaces of the hotel, but at least from 10am to 5pm, Monday through Friday, as required by the San Francisco Master Plan.

*Based on the proposed plans submitted by the project sponsor for the rooftop view terrace, the Commission finds that the Project complies with the requirements of **Section 138**.*

(b) **Section 138.1 - Pedestrian Streetscape Improvements**

Section 138.1(b) requires that when an addition of floor area equal to 20 percent or more of an existing new building is constructed in the C-3 District, street trees and sidewalk paving must be provided. Under **Section 138.1(c)**, the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

- The Project will satisfy the requirements of **Section 138.1** by providing one or more of the following types of streetscape improvements: paving treatments, trees and plantings depending on site constraints and potential impediments to pedestrian movement.

Draft Motion 2000.986X includes a Condition of Approval which provides that, prior to issuance of the final addendum to the site permit, "[a] final pedestrian streetscape improvement plan including landscaping and paving materials and patterns shall be submitted for review by, and shall be satisfactory to the Director of the Department, in consultation with the Director of the Department of Public Works."

*As so conditioned, the Commission finds that the Project complies with the requirements of **Section 138.1**.*

(c) Section 139 – Downtown Park Fund

New downtown office developments are required to pay a \$2.00 per square foot fee for the net addition of office space to mitigate the increased demand on existing public parks in the Downtown Area.

- The Project Sponsor is not proposing an office development project and therefore this requirement does not apply.

(d) Section 146 – Shadows on Streets

Section 146 provides that in order to maintain direct sunlight on public sidewalks in C-3 Districts, new structures must be shaped, if it can be done without creating an unattractive design and without unduly restricting the development potential of the site in question, so as to reduce substantial shadow impacts on public sidewalks in those areas.

- Although Ellis Street is listed on Table 146, between Cyril Magnin and Stockton Streets, and Cyril Magnin and Grant Streets, the reference is to the south side of the street. The proposed Project is on the north side of Ellis Street. Therefore, this section does not apply.

(e) Section 147 – Shadows on Publicly Accessible Open Spaces

Section 147 sets forth certain requirements and determinations regarding shadows being cast on public or publicly accessible open space. Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Section 295.

- A shadow study was conducted for the Project. This study indicated that there would be no net new shadow on publicly accessible open space.

*Therefore, the Commission finds that the Project complies with **Section 147.***

(f) Section 149 – Public Art

In the case of construction of a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District, Section 149 requires a project to include works of art costing an amount equal to one percent of the cost of construction of the building and requires the Commission to approve the type and location of the art work, but not the artistic merits of the specific art work proposed. The types of permitted artwork include sculptures, bas-reliefs, murals, mosaics, decorative water features, or other work permanently affixed to the building.

- The Project proposes new construction of floor area in excess of 25,000 square feet and therefore is subject to the public artwork requirement. The Project's estimated construction cost is \$10,500,000. The Project will provide artwork in the form of a sculpture and/or painting equal in value to \$105,000. The specific type of art is to be determined. It will be located in the lobby at the ground level, at publicly visible sidewalls, or on the sun terrace.

The Commission finds that the project complies with Section 149 subject to a Condition of Approval requiring the project sponsor to return to the Commission within six (6) months of any approval date of a motion determining compliance under Section 309, to present more developed plans for the proposed public art.

(g) Section 102.9(b)(16) – Replacement of Short Term Parking

Section 102.9(b)(16) provides that "gross floor area" shall not include, in C-3 Districts, floor space used for short-term parking and aisles incidental thereto when required pursuant to Section 309 in order to replace short-term parking spaces displaced by the building.

- The existing private surface parking lot is not being replaced and therefore this section does not apply.

(h) Section 313 – Jobs Housing Linkage Program

Section 313.3 provides that the housing requirements for hotel development projects applies to "any hotel development project proposing the net addition of 25,000 or more gross square feet of hotel space." The current fee for hotel space is \$8.50 per square foot.

- The Project Sponsor proposes to add approximately 76,554 gross square feet of new hotel space, resulting in an affordable housing in lieu fee of approximately \$650,709. The Project Sponsor may also provide the actual housing units at the rate of 0.0001 10 time the gross square

footage, or 8 units of housing. The Project Sponsor is investigating these options, but will probably opt for paying the in lieu fee.

(i) Section 314 – Child Care

Section 314.3 provides that the childcare requirement for hotel development projects applies to “office and hotel development projects proposing the net addition of 50,000 or more gross square feet of office or hotel space.”

- The Project involves the net addition of more than 50,000 square feet of hotel use. Hotel projects must provide a child care facility which square footage equal 0.1 times the net addition of square feet of hotel space (which is 766 square feet) or 3,000 square feet, whichever is greater. Therefore, if the Project Sponsor were to comply by providing a childcare facility, it must provide a child care facility of at least 3,000 square feet
- As an alternative, hotel projects may pay an in lieu fee equal to \$1.00 per each additional square foot of hotel space. Therefore, the Project Sponsor may pay a fee equal to \$76,554 in lieu of providing a 3,000 square foot child care facility. The Project Sponsor is opting to pay the in lieu fee.

(j) Section 1113 - New Construction in Conservation District

Section 1113 of the Planning Code requires that, “No person shall construct or cause to be constructed any new or replacement structure or add to any existing structure in a Conservation District unless it is found that such construction is compatible in scale and design with the District as set forth in Sections 6 and 7 of the Appendix which describes the District [in this case, Appendix E].”

Section 7(a) of Article E includes Section 6 by reference and requires that new construction be compatible with the District in general with respect to the building’s composition and massing, scale, materials, and colors, and detailing, and ornamentation, including those features described Section 6.

Conformance With Article 11, Appendix E, Section 7

Since the building is located in the Kearny-Market-Mason-Sutter Conservation District, all construction of new buildings shall be compatible with the District in general with respect to the building’s composition and massing, scale, materials and colors, and detailing and ornamentation. Emphasis shall be placed on compatibility with those buildings in the area in which the new or altered building is located.

(1) **Composition and Massing**

The Project maintains the District’s essential character by relating to the prevailing height, mass, proportions, rhythm and composition of existing Significant and Contributory Buildings. The height and massing of the Project

does not alter the traditional scale of existing buildings, streets and open spaces. The Project includes an appropriate street wall height established by reference to the prevailing height of the buildings on the block and especially that of adjacent buildings.

The Project is built to the property line in order to maintain the continuity of building rhythms and the definition of the street.

The standard proportions of the Project are established by the prevailing street wall height and width of lots. The Project's design is geared toward it relating the Project's rhythm with those of historic buildings in the area.

The Project's design repeats the prevailing pattern of two- and three-part vertical compositions. A base element is included to define the pedestrian environment. Above the base is a ten-story shaft element, capped by an architectural roof top element that provides partial spatial containment and weather protection for the publicly accessible view terrace. This top element will be appropriately lighted to emphasize the top element of the building.

(2) Scale

The Project's scale is broken into smaller parts by detailing and fenestration, which relate to human scale. The existing scale of the buildings in the vicinity is maintained through continuance of the existing street wall height and incorporation of a base element to maintain the pedestrian environment. The street frontage of the pedestrian level includes a both a lobby entrance and restaurant with large windows and glass doors to create visual entrance by revealing the activity going on within the building.

The Project repeats existing fenestration rhythms and proportions that have been established in the area with a classical deep-set fenestration pattern, and quality, well-detailed materials.

(3) Materials and Colors

The Project uses like materials, such as granite, limestone and glass, which relate it to surrounding buildings. Traditional light colors are used in order to blend in with the character of the district.

(4) Detailing and Ornamentation

The Project relates to the surrounding area by picking up elements from surrounding buildings and developing them. The Project incorporates prevailing cornice lines through a simple 3'-0" projecting cornice designed in the modern vernacular instead of a more ornate traditional style.

*The Project meets the criteria of Appendix E of Article 11. Therefore, Commission finds that the Project complies with **Section 1113** of the Planning Code.*

5. **Exceptions Requested Pursuant to Section 309**

Height

Section 263.8 – Exceptions to Height Limits in 80-130-F and 80-130-X Height and Bulk Districts

Pursuant to Section 309(a)(8) of the Planning Code, exceptions to the 80-foot height limits in the 80-130-F Height and Bulk District may be granted as permitted in Section 263.8. Section 263.8 provides that in the 80-130-F Height and Bulk District, exceptions to the 80-foot height limit up to 130 feet may be approved in appropriate cases in accordance with the provisions of Section 309. The purpose of allowing additional height above 80 feet only as an exception is to ensure that height above 80 feet will not adversely affect the scale of the affected area or block sunlight access to public sidewalks and parks. Such height exceptions may be permitted provided that:

- (1) **The height of the building or structure does not exceed 130 feet.**

The resulting structure, excluding the mechanical penthouse, will have a finished roof height of 125 feet, well within the maximum 130-foot height limit. (The rooftop view terrace and structure as well as the mechanical penthouse are exempted from the height limit under Section 260(b)(1)(B and E).)

- (2) **The additional height will not add significant shadows on public sidewalks or parks.**

A shadow study conducted for the Project found that the resulting structure would add no significant shadows on public sidewalks. The Project's location on the north side of Ellis Street limits the amount of shadow cast on the sidewalk. There are no parks near the Project Site that would be affected by any shadows cast by the Project building.

- (3) **The structure provides an appropriate transition to adjacent higher or lower buildings.**

The windows on the upper levels of the building are inset 3 feet 6 inches from the street wall and a simple 3'-0" projecting cornice is provided, both of which occur at the existing street wall height, thereby emphasizing the prevailing street wall height along the Ellis Street frontage. Therefore, the Project provides an appropriate transition to the adjacent buildings. Although the Project will be somewhat higher than the immediately adjacent buildings (Hotel Union Square, Ellis-O'Farrell Garage), the height differential will not be extreme or unusual given the mix of building heights in the Project block. This proposed increase in height above the prevailing street wall is also a typical historic pattern for hotels within the Kearny-Market-Mason-Sutter Conservation District.

- (4) The additional height of the structure is set back an appropriate distance from the street frontage to maintain continuity of the predominant street wall on the block.

While the proposed hotel building is higher than the neighboring buildings on the block face, it is no taller than the James Flood Building across the street, which forms a substantial portion of the Ellis Street street wall. Furthermore, the variation in height is not out of scale per se, but is typical of block faces throughout the district that maintain their historic scale and character. This being the case, a substantial literal setback is not necessary. However, as stated above in item (3), the windows on the upper levels of the building are inset from the street wall and a simple projecting cornice is provided, both of which occur at the existing street wall height, thereby emphasizing the prevailing street wall height along the Ellis Street frontage.

*The Project meets the provisions of **Section 263.8** for granting exceptions to the Height Limit in an 80-130-F Height and Bulk District. Therefore, the Commission hereby grants the requested exception to the Height Limit requirements for the proposed Project.*

Bulk

Section 272 – Bulk Limits: Special Exceptions in C-3 Districts

Pursuant to Section 309(a)(9) of the Planning Code, exceptions to the bulk requirements may be granted as permitted in Sections 270 and 272. Section 272 of the Code states that exceptions to the bulk limits may be approved in the manner provided in Section 309, provided that at least one of the five criteria listed in Section 272 is met. The Project meets the following criterion listed in Section 272:

Criterion #3: The added bulk does not significantly affect light and air to adjacent buildings.

The bulk limit, which applies above 80 feet, is 110 feet in length and 140 feet in diagonal. At the 80-foot line, the building length is 110 feet 7 inches, which exceeds the maximum permitted length by 7 inches. The additional bulk resulting from the 7 inches is minor, and therefore will not significantly affect light and air to adjacent buildings. Moreover, it should be noted that the windows above the 83-foot elevation level will be recessed further behind from the structural frame than those windows below, which is only 3 feet over the height at which the bulk limits begin. The bulk decreases at that point and the maximum length dimension is no longer exceeded. Therefore, the maximum length dimension is only exceeded by 7 inches for three vertical feet.

The building diagonal is 127 feet 10 inches, which is within the Code limit.

Because the project meets at least one criterium under Section 272, the Commission hereby grants the requested exception to the Bulk Limits for the proposed Project.

6. **Section 101.1 Priority Policy Findings**

Section 101.1 requires the Project to be consistent with the eight priority policies listed below. The Commission finds that the Project is consistent with these findings as stated below:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment and ownership of such businesses be enhanced.
 - The project does not displace any existing retail use. The proposed project will provide a ground floor restaurant, and will hire local residents to the extent possible, thereby enhancing opportunities for resident employment.

- (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
 - The proposed hotel project will include a restaurant, and will not reduce existing housing; indeed, it will provide a restaurant that will create an active street frontage along the block face, replacing an unattractive surface parking. The proposed hotel restaurant use is completely consistent with the neighborhood character, which consists primarily of a mix of retail and hotel uses.
 - The building's design would help maintain elements of the existing character of the area, such as a consistent street wall, as well as hotel and restaurant uses common to the neighborhood. The Project is designed to add economic diversity to the area by providing a smaller, yet modern, state-of-the-art hotel facility that still fits in with the scale and architectural character of the neighborhood, thereby broadening the range of choices of accommodations for visitors to the city.

- (3) That the City's supply of affordable housing be preserved and enhanced.
 - The Project would not diminish the City's supply of affordable housing. There is no affordable or other housing on the site.
 - The proposed project will participate in the City's Jobs-Housing Linkage Program. This would mean that for hotel, the amount would be \$8.50 per square foot, or \$650,709 (76,554 X \$8.50). The project sponsor may also provide the actual housing units at the rate of .000110 times the gross square footage, or 8 units of

housing. The project sponsor is investigating these options, but is likely to opt for paying the in lieu fee.

- (4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.
 - The proposed project is well served by public transit, and includes the type of uses that would be less dependent on the private automobile. As a result, the project will not adversely impact Muni transit or overburden local streets or neighborhood parking. In addition, there is off-site valet parking nearby. The loading zone proposed at the curbside in front of the proposed hotel will be operated and restricted so as to not interfere with Muni Bus service.
- (5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.
 - A private surface parking lot will be displaced. The proposed mixed-use project will provide significant new jobs for the local residential neighborhood.
- (6) That the City achieve the greatest possible preparedness against injury and loss of life in an earthquake.
 - The proposed project will fully comply with the seismic standards in the Building Code.
- (7) That landmarks and historic buildings be preserved.
 - There are no landmarks or historic buildings on the site. The Project will be consistent with the policies for new construction in the Kearny-Market-Mason-Sutter Conservation District. While a clearly modern and cutting-edge design, the proposed building respects the design guidelines established for the conservation district. This is accomplished by using rich materials common to the district such as granite and limestone, recessing windows, and using a classical symmetrical fenestration pattern that reflects the basic patterns and scale of the district. Furthermore, a clearly delineated a base, shaft and top within the façade design relates the building design to other taller buildings in the district.
- (8) That our parks and open space and their access to sunlight and vistas be protected from development.
 - A Shadow Study has been conducted as part of the program planning process for this proposed project. It indicated that there

is no net new shadow on any property under the jurisdiction of the Recreation and Park Department. The proposed project is an infill project that will not significantly affect any scenic vistas.

7. **Consistency with the General Plan**

The project will not adversely affect the General Plan, and will specifically advance the following objectives of the Commerce and Industry Element, the Downtown Area Plan, and the Urban Design Plan, as discussed throughout this report:

COMMERCE AND INDUSTRY ELEMENT

Visitor Trade

OBJECTIVE 8: ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

Comment: The proposed hotel will fit a niche currently unmet in Downtown San Francisco, in that it is a smaller intimate hotel, but yet it is a cutting edge, ultra modern facility providing state-of-the-art accommodations usually only found in the larger modern hotels, which themselves do not often provide such facilities with the high style and attention to detailing proposed to be provided in this facility.

DOWNTOWN AREA PLAN

Space for Commerce

OBJECTIVE 4: ENHANCE SAN FRANCISCO'S ROLE AS A TOURIST AND VISITOR CENTER.

Policy 1: Guide the location of new hotels to minimize their adverse impacts on circulation, existing uses, and scale of development.

Comment: The proposed hotel project is located in the primary location for hotels and retail/restaurant uses in the Union Square area. The hotel is designed to be compatible with the scale of the immediate neighborhood.

Urban Form

Height and Bulk

OBJECTIVE 13: CREATE AN URBAN FORM FOR DOWNTOWN THAT ENHANCES SAN FRANCISCO'S STATURE AS ONE OF THE WORLD'S MOST VISUALLY ATTRACTIVE CITIES.

Policy 1: Relate the height of buildings to important attributes of the city pattern and to the height and character of existing and proposed development.

Policy 3: Create visually interesting terminations to building towers.

Comment: The hotel is designed to relate appropriately to the height of neighboring buildings through the use of cornice lines and window insets. The top of the building is designed to create visual interest through materials and lighting.

Building Appearance

OBJECTIVE 15: TO CREATE A BUILDING FORM THAT IS VISUALLY INTERESTING AND HARMONIZES WITH SURROUNDING BUILDINGS.

Policy 1: Ensure that new facades relate harmoniously with nearby façade patterns.

Policy 2: Assure that new buildings contribute to the visual unity of the city.

Policy 3: Encourage more variation in building facades and greater harmony with older buildings through use of architectural embellishments and bay or recessed windows.

Comment: The proposed building façade is designed to relate to the bay size of historic buildings throughout the district. The fenestration is deep set to reflect the depth, texture and character of the district. The façade is also embellished with simple, clean detailing to give the building a very rich and textured feel characteristic of the district, while not imitating past ornate styles.

Streetscape

OBJECTIVE 16: CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETSCAPES.

Policy 1: Conserve the traditional street to building relationship that characterizes downtown San Francisco.

Policy 2: Provide setbacks above a building base to maintain the continuity of the predominant streetwalls along the street.

Policy 3: Maintain and enhance the traditional downtown street pattern of projecting cornices on smaller buildings and projecting belt courses on taller buildings.

Policy 4: Use designs and materials that include activities at the ground floor to create pedestrian interest.

Policy 5: Encourage the incorporation of publicly visible art works in new private development and in various public spaces downtown.

Comment: The proposed building will be built to the street frontage in the downtown San Francisco tradition. The building, which is taller than its neighbors, is articulated with a projecting belt cornice at the prevailing street wall height of the block face, and window bays above this height are more deeply recessed. The ground floor façade is clad in rich materials including granite, limestone, glass, and stainless steel; contains a restaurant and public lobby; and is articulated with large windows that reveal the activity within the building to passers-by on the street. The project will include public art visible from a public space as required by the Planning Code.

8. **Modification Required By the Commission:** Section 309(b) of the Planning Code provides that the Commission may impose additional requirements and limitations in order to achieve the objectives and policies of the General Plan. The Commission does not impose any modifications on the project.
9. The Commission finds that granting the Project Authorization in this case will particularly promote the public welfare, convenience and necessity for the reasons set forth above.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department, the recommendation of the Landmarks Preservation Advisory Board, the support of San Francisco Architectural Heritage and other interested parties, the oral testimony presented to this Commission at the public hearing, and all other written materials submitted by all parties, the Commission hereby APPROVES Application for Review of Compliance and Exceptions Pursuant to Section 309, Application No. 2000.383X, subject to the conditions attached hereto as EXHIBIT A, which is incorporated herein by reference as though fully set forth.

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I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission on November 15, 2001.

Linda D. Avery
Planning Commission Secretary

AYES: Baltimore, Fay, Lim, Salinas, Theoharis

NOES: Chinchilla

ABSENT: Joe

ADOPTED: November 15, 2001

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.

This approval is for the construction of an approximately 76,554 square-foot, 11-story, 125-foot tall hotel containing approximately 156 rooms, lobby, small accessory meeting rooms, and a restaurant in a C-3-R (Downtown, Retail) zoning district, an 80-130-F height and bulk district, and the Kearny-Market-Mason-Sutter Conservation District. The project as described above is to be in general conformance with the plans dated November 15, 2001 and stamped Exhibit B.

1. COMPLIANCE WITH OTHER REQUIREMENTS

The conditions set forth below are conditions required in connection with the Project. The project is also subject to any conditions imposed by the companion Conditional Use Approval Motion No. 16283. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

2. GENERAL CONDITIONS.

A. Mitigation Measures

The Project shall be subject to, and the Project Sponsor shall implement and otherwise comply with the Mitigation Measures set forth in the final Negative Declaration for Application No. 2000.383E, which was adopted and issued on November 2, 2001, and is incorporated herein by this reference.

B. Community Liaison

The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties at all times during Project construction. Prior to the commencement of Project construction, the Project Sponsor shall give the Zoning Administrator and the owners of properties within 300 feet of the Project site boundaries written notice of the name, business address and telephone number of the community liaison.

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C. Recordation

Prior to the issuance of any new or amended building permit 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 the recordation of such notice, at the request of the Project Sponsor or the successor thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.

D. Reporting

The Project Sponsor shall submit to the Zoning Administrator 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. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

E. Performance

This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the bureau of 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). Construction of the project shall commence within three (3) years of the date the project is first approved. Failure to begin work within that period, or thereafter to carry the development diligently to completion, shall be grounds to revoke approval of the proposed development.

F. Advertising

No general advertising sign shall be permitted at any time, anywhere on the Project site or on any structure on the Project site.

G. First Source Hiring Program

The project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this Program.

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

A. Design

- (1) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. In no case shall visible daylight transmittance be less than 75 percent. Only clear glass shall be used at pedestrian levels.
- (2) The Project Sponsor and the Project architect shall continue to work on design development with the Planning Department staff to develop further and to refine the design of the proposed project in terms of materials and detailing.
- (3) The Project Sponsor shall develop a signage program for the project and submit it for staff approval before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program.
- (4) Space shall be included for antennae in the building's design to avoid unattractive appendages.
- (5) 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 Director of the Department. The Project architect shall submit dimensional design drawings for building details with specifications and samples of materials to insure a high design quality is maintained.
- (6) Except as otherwise provided in this motion, the Project shall be completed in general accordance with the plans identified as Exhibit B and submitted to the Commission on November 15, 2001.

B. Open Space

- (1) The Project shall include the open space described generally in this Motion.
- (2) The final open space design, including materials and their treatment, furniture, and planting plan including species shall be submitted for review by, and shall be satisfactory to the Director of the Department. The open space design shall be consistent with the provisions in the open space design guidelines for rooftop view terraces found in the Downtown Element of the General Plan.

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- (3) Pursuant to Section 138(h) of the Code, plaques which bear the Downtown Open Space logo which identify the publicly accessible rooftop view terrace open space, the right of the public use, the hours of availability to the public, and the name address of the owner or owner's agent responsible for maintenance shall be installed in publicly conspicuous locations at the main entrance to the building on Ellis Street, in the lobby, elevator(s) and adjacent to the rooftop terrace.
- (4) Also pursuant to Section 138, signage clearly indicating the location of public restrooms shall be installed along with the plaques described in condition (3) above, at the entrance to the building and adjacent to the rooftop terrace.

C. Pedestrian Streetscape Improvements

- (1) The Project shall include pedestrian streetscape improvements generally as described in this Motion and in conformance with Section 138.1.
- (2) A final pedestrian streetscape improvement plan including landscaping and paving materials and patterns shall be submitted for review by, and shall be satisfactory to the Director of the Department, in consultation with the Director of the Department of Public Works.

D. Artwork

- (1) The Project Sponsor and the Project artist shall consult with the Department during design development. 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. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept no later than 6 months after the date of this approval.
- (2) The proposed artwork shall meet the requirements of Section 149 of the Code and the *Fine Art Guidelines*, and shall be appropriately lit.

E. Jobs Housing Linkage Program

In compliance with Section 313 of the Planning Code, the Project Sponsor shall either construct or cause to be constructed the required number of housing units per Section 313.5, OR pay an in-lieu housing fee per Section 313.6, either option being commensurate with the square footage of gross floor area of the proposed hotel development as submitted for the Project site permit.

4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF TEMPORARY OR PERMANENT CERTIFICATION OF OCCUPANCY.

A. Open Space

- (1) The Project Sponsor shall complete the required rooftop view terrace public open space.
- (2) The Project Sponsor shall install in the Project open space and shall thereafter maintain a map or diagram that shows the connection between the space and the downtown pedestrian network in the general vicinity of the Project. The materials, content and location of the map or diagram shall be submitted to the Director for approval prior to installation.

B. Pedestrian Streetscape Improvements

The Project Sponsor shall complete the required pedestrian streetscape improvements. The Project Sponsor shall be responsible for the upkeep and maintenance of such improvements if they exceed City standards.

C. Childcare Requirement

The Project Sponsor shall pay an in-lieu fee per gross square foot of new office space as required pursuant to Planning Code Section 314.

D. On-Street Loading Zone Along the North Side of Ellis Street

- (1) The Project Sponsor must, in coordination with the Department of Parking and Traffic (DPT), Muni, and Planning Department staff, seek to establish a loading zone and along the Ellis Street frontage that provides unloading space for hotel guests and access to the existing adjacent in-sidewalk elevator doors. The Project Sponsor shall comply with requirements from DPT and Muni in any effort to establish the proposed loading zone in order to insure that any such loading zone does not result in serious Muni or traffic conflicts. This includes appropriate hours of operation and limitation of operation of the loading zone when such zone space is needed for Muni Bus queuing needed from time to time to replace cable car service. The Project Sponsor shall notify Planning staff of the regulations required by DPT and Muni for this specific loading zone when they are established and the loading zone is approved. Such limitations shall apply as a Condition of Approval of this motion as though fully set forth herein.

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- (2) The project sponsor shall provide an employee in the main lobby of the hotel as an attendant to monitor use of the Ellis Street curb-side loading area to ensure that no vehicles making deliveries or otherwise associated with the building and/or its operations utilize the loading area in a manner inconsistent with regulations established by DPT and Muni. The attendant shall also ensure that the street elevator is not in operation during normal times of heavy pedestrian activity. The attendant shall inform all operators of vehicles making deliveries, or involved in other activities associated with the operation or use of the building, of the loading regulations, and direct them to leave the loading area if they are in violation of any of these regulations. Such an attendant shall be on duty at all hours that are necessary to ensure proper operation of this curbside loading area. Should trucks or other vehicles that are not in any way associated with deliveries or activities specifically involving the Project site utilize the loading area, the attendant shall report any violations of the regulations of the loading area immediately to DPT. As to be determined by the Zoning Administrator in consultation with DPT, failure on the part of the project sponsor or any subsequent owner or manager of the Project site to ensure proper operation of the curb side loading area along O'Farrell Street will result in enforcement actions and may result in the removal of the curb side loading area and/or the sidewalk loading elevator.