



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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## Planning Commission Motion No. 18055

HEARING DATE: MARCH 25, 2010

*Date:* March 18, 2010  
*Case No.:* **2008.0992C**  
*Project Address:* **200 DOLORES STREET**  
*Zoning:* RTO (Residential, Transit-Oriented)  
 40-X Height and Bulk District  
*Block/Lot:* 3557/063  
*Project Sponsor:* David Silverman  
 Reuben & Junius  
 One Bush Street, Suite 600  
 San Francisco, CA 94104  
*Staff Contact:* Sophie Hayward – (415) 558-6372  
[sophie.hayward@sfgov.org](mailto:sophie.hayward@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 151.1, 157, AND 303 OF THE PLANNING CODE TO ALLOW THE CONSTRUCTION OF THIRTEEN DWELLING UNITS WITH THIRTEEN OFF-STREET PARKING SPACES, AND TO REPLACE THREE PARKING SPACES FOR THE ADJACENT LOT (LOT 062, ASSESSOR'S BLOCK 3557) WITHIN AN RTO (RESIDENTIAL, TRANSIT-ORIENTED) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

### PREAMBLE

On January 15, 2009, David Silverman, on behalf of Covorn, LLC (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 151.1, 157, and 303 of the Planning Code to allow a proposal to construct thirteen dwelling units with thirteen off-street parking spaces, and to replace, on-site, the three parking spaces for the adjacent property (Lot 062, Assessor's Block 3557) that would be lost as a result of the project, within an RTO (Residential, Transit-Oriented) District and a 40-X Height and Bulk District.

On January 28, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0992C. The Commission President closed the public hearing, and continued the item to the regularly scheduled public hearing on March 25, 2010.

On September 23, 2009, a Notice of Availability and Intent to Adopt a Mitigated Negative Declaration (MND) for the Project was prepared and published for public review; and

The Draft MND was available for public comment until October 13, 2009; and

On October 27, 2009, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

The Planning Department found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning and the Planning 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. 2008.0992E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2008.0992C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the southwest corner of Dolores and 15<sup>th</sup> Streets, Block 3557, Lot 063. The property is located within an RTO (Residential, Transit-

Oriented) District with 40-X height and bulk district. The property is developed with one structure on the south end of the lot. The existing structure on the lot is a fire-damaged residential structure with three vacant dwelling units. The subject property is a corner lot, with approximately 71 feet of frontage on Dolores Street and 114 feet of frontage on 15<sup>th</sup> Street. The lot is approximately 16% covered by the subject building, with the rear yard extending west toward Lot 062, along 15<sup>th</sup> Street.

3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of 15<sup>th</sup> and Dolores Streets, within the Market-Octavia Plan Area. The subject property is located within the Upper Market neighborhood, and is most closely associated with the Mission Dolores and Castro-Market neighborhoods. The adjacent property to the south, located at 214 Dolores, is San Francisco Landmark No. 67, the Tanforan Cottages. The Project site is located in an RTO District, which is primarily residential. Surrounding properties are located within the RTO District.
4. **Project Description.** The Project comprises two separate buildings, each described below:

**Building 1: Existing Building, at 200 Dolores Street:** The existing vacant fire-damaged building located on the subject property contains three residential units and will be restored and each of the units will be renovated. The renovated structure will contain three, two-bedroom residential units. The existing interior gross building area measures approximately 4,400 square feet and the renovated gross building area remain approximately the same, 4,200 square feet.

**Building 2: New Building on the Corner of Dolores and 15<sup>th</sup> Street:** Construction of 10 dwelling units on four floors comprising approximately 12,905 square feet of residential space, with an underground garage for 1:1 parking comprising approximately 7,900 gross square feet. One of the new dwelling units will be a one-bedroom unit, and the other nine units will be two-bedroom dwellings. All of the parking spaces will be accessed from 15<sup>th</sup> Street. The underground garage will also include three parking spaces that are being shifted from adjacent Lot 62 to Lot 63 as part of the lot line adjustment. The four-story structure will be 40 feet tall and located on a rectangular shaped lot with frontage that measures approximately 114 feet in length along 15<sup>th</sup> Street, and secondary frontage of approximately 71 feet on Dolores Street (Assessors Block 3557, Lot 63).

In addition to the Conditional Use Authorization, the proposed project also requires Variances from the Rear Yard and Front Setback requirements of Planning Code Sections 132 and 134. As a result of the Lot Line Adjustment, the proposed project will also require a Variance from the Open Space requirements of the Planning Code for the adjacent parcel (Lot 062).

5. **Public Comment.** The Department has received one letter in support of the proposal, from Peter Lewis on behalf of the Mission Dolores Neighborhood Association, and one letter of opposition to the proposed project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Parking.** Planning Code Section 151.1 states Off-street accessory parking shall not be required for any use. Parking may be provided for up to three cars for each four dwelling units. Providing one car for each dwelling unit requires Conditional Use authorization.

*The Project Sponsor is seeking a Conditional Use Authorization in order to provide 1 parking space for each of the thirteen dwelling units, and to replace the three existing parking spaces for the adjacent parcel that will be lost as a result of the proposed project's lot line adjustment. Pursuant to the requirements of Planning Code Section 151.1, the Planning Commission finds:*

- i. Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;*
  - ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal; and*
  - iii. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.*
- B. **Rear Yard.** Planning Code Section 134 requires that the subject property maintain a rear yard that measures 51' in length for the full 71' of width of the property, which fronts on Dolores Street.

*As proposed, the new building will front on 15<sup>th</sup> Street and will share a rear yard with the existing structure on the subject property. The west portion of the proposed new building, measuring approximately 51' in length along 15<sup>th</sup> Street, would be located within the required rear yard. The Project Sponsor is requesting a variance from the Planning Code's rear yard requirements in order to provide a shared open space as a courtyard for all thirteen units at ground level. The proposed courtyard would measure approximately 1,580 square feet, with a width of approximately 31' and a depth that measures 51' in length. The Zoning Administrator will hear the Variance at a public hearing scheduled for March 25, 2010.*

- C. **Front Setback.** Planning Code Section 132 requires that the proposed new building maintain a front setback that measures 13'8" in length. The northeast corner of the proposed new building extends to the property line and does not provide a front setback.

*The lot configuration results in an unusually deep front setback requirement for a corner building. The Project Sponsor is requesting a variance from the Planning Code's front setback requirement in order to construct a residential building with a strong corner element to help define the character of the block. The Zoning Administrator will concurrently hear the Variance at a public hearing scheduled for March 25, 2010.*

- D. **Open Space.** Section 135 of the Planning Code requires that open space be provided for each dwelling unit. 100 square feet of private open space for each unit, or 1,729 feet of common open space is required for the subject property in the RTO Zoning District.

*Open space for the subject property will be provided as common open space at the rear yard and the roof decks. The rear yard will provide approximately 1,580 square feet of usable open space which is accessible by all units. The roof decks will provide an additional 900 square feet of common open space.*

- E. **Street Trees.** Planning Code Section 143(b) requires the installation by the owner or developer of street trees in the case of construction of a new building. The street trees installed shall be a minimum of one 24-inch box tree for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located either within a setback area on the lot or within the public right-of-way along such lot. Six street trees are required for the 114' 15<sup>th</sup> Street frontage.

*The requirement for the installation of five of the six street trees has been met by the presence of the existing street trees on the 15<sup>th</sup> Street frontage of the subject property. One additional street tree will be planted on 15<sup>th</sup> Street pursuant to Planning Code Section 143(b).*

7. **Residential Inclusionary Affordable Housing Program.** Planning Code Section 315 sets forth the requirements and procedures for the Residential Inclusionary Affordable Housing Program. Under Planning Code Section 315.3, these requirements would apply to projects that consist of ten or more units, where the first application (EE or BPA) application was applied for before July 18, 2006. Pursuant to Planning Code Section 315.6, the Project has elected to pay an in-lieu fee. This fee is made payable to the Treasurer for use by the Mayor's Office of Housing for the purpose of constructing the required housing at an alternate site providing .17 times the total number of units as affordable off-site units.

*The Project Sponsor has submitted a Declaration of Intent to satisfy the requirements of the Residential Inclusionary Housing Ordinance through payment of an in-lieu fee, in an amount to be established by the Mayor's Office of Housing. The EE application was submitted on December 17, 2003.*

8. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The proposed Project is desirable because it will contribute residential units to the City's housing supply. The immediate neighborhood is surrounded by residential buildings. The project will result in the addition of ten new dwelling units, in a manner that is consistent with the prevailing pattern of neighborhood development.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The subject property is well suited for multi-unit residential development. The subject property is located on a corner lot with two street frontages on Dolores and 15<sup>th</sup> Streets. The proposed density at one unit per 474 square feet of lot area, and the proposed 40-foot height are appropriate for the Site location and size.*

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

*The Planning Code does not require parking or loading for a residential project. For residential uses, the RTO District principally permits 0.75 parking spaces per unit, and 1:1 parking as a conditional use. Thus, 10 residential spaces are principally permitted for 13 units with 1:1 parking. The Project provides a total of 16 independent residential parking spaces, including 3 spaces for Lot 62. All parking spaces will be underground.*

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

*The proposed project will consist of high quality residential units. The proposed residential use will not generate noxious or offensive emissions, noise, glare, dust, or odor.*

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

*The proposed Project is intended to produce an environment where residents can enjoy an attractive, safe and comfortable environment. The Project will provide sufficient open space through the use of the rear yard and the roof decks. Lighting along the building façade and at the street level, and installation of street trees, will be consistent with the neighborhood character.*

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

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

9. **Planning Code Section 157.** Planning Code Section 157 establishes criteria to consider in evaluating any application for conditional use where the amount of parking exceeds the amount classified in Section 204.5 as accessory parking, that the Planning Commission must in addition to those set forth in Section 303(c):

- A. Demonstration that trips to the use or uses to be served, and the apparent demand for additional parking, cannot be satisfied by the amount of parking classified by this Code as

accessory, by transit service which exists or is likely to be provided in the foreseeable future, by car pool arrangements, by more efficient use of existing on-street and off-street parking available in the area, and by other means;

*The proposed 13 dwelling units for the proposed project will generate a parking demand of 13 spaces, plus three spaces for the three adjacent units at Lot 62, which will lose their existing off-street parking as a result of the proposed project. During the week, it is anticipated that most residents will travel to work by walking, taking public transit such as BART or MUNI, or using taxicabs. However, the residents will require additional parking beyond that which is normally allowed as accessory parking because it is anticipated that each household will desire to own a vehicle primarily for non-commuter purposes and generate a parking demand of at least one parking space. Existing on-street parking in this area is limited.*

- B. Demonstration that the apparent demand for additional parking cannot be satisfied by the provision by the applicant of one or more car-share parking spaces in addition to those that may already be required by Section 166 of this Code;

*While it is anticipated that the majority of residents will take public transit for commuter purposes, it is likely that each household will maintain one car for use outside of commuting hours. This demand will not decrease with the provision of car-share parking spaces.*

- C. The absence of potential detrimental effects of the proposed parking upon the surrounding area, especially through unnecessary demolition of sound structures, contribution to traffic congestion, or disruption of or conflict with transit services;

*The additional parking will not have any detrimental effect on the surrounding area. All parking will be provided in an underground parking garage accessed through a single garage entrance on 15<sup>th</sup> Street.*

- D. In the case of uses other than housing, limitation of the proposed parking to short-term occupancy by visitors rather than long-term occupancy by employees;

*The Project Sponsor will limit the proposed residential parking to residents. There are no commercial uses in the Project.*

- E. Availability of the proposed parking to the general public at times when such parking is not needed to serve the use or uses for which it is primarily intended.

*The proposed new parking is associated with a residential use, and will not be available for the use by the general public.*

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

## HOUSING ELEMENT OBJECTIVES AND POLICIES

### Objectives and Policies

#### **OBJECTIVE 1:**

PROVIDE NEW 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 proposed project will provide quality, new family housing in an appropriate location.*

#### **Policy 11.2:**

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

*The proposed new housing will provide adequate improvements, services, and amenities.*

## URBAN DESIGN

### 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 1.2:**

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

#### **Policy 1.3:**

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

*The Project will enhance the neighborhood by reinforcing the urban nature of the street pattern. The Project will result in a better utilization of the Project Site than that of the existing vacant lot and fire-damaged building. The Project Site is located in an established residential neighborhood.*

#### **OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.



**Policy 4.12:**

Install, promote and maintain landscaping in public and private areas.

*The Project will improve neighborhood safety by rehabilitating the existing vacant, fire-damaged building on the subject property and by the improvement of a largely vacant lot.*

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*There are no retail or commercial uses existing or proposed for the subject property. The proposed project could enhance nearby neighborhood-serving retail uses by increasing the number of residents in the area.*

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

*The existing vacant, fire-damaged building will be rehabilitated, and the three existing units will be renovated. In addition, ten new units will be added to the site and the vacant portion of the lot will be utilized in a manner consistent with the existing neighborhood pattern.*

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

*No housing is removed for this Project. The proposed project will provide ten new dwelling units, and will rehabilitate three existing, fire-damaged and vacant dwelling units for a project total of thirteen units. The proposed project will pay an in-lieu fee in a manner consistent with Planning Code Section 315.*

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

*The proposed residential project will not impede MUNI transit. The addition of ten new and the renovation of three existing dwelling units will not overburden streets or neighborhood parking. As proposed, the project includes a single curb cut on 15<sup>th</sup> Street.*

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

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

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

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

- G. That landmarks and historic buildings be preserved.

*The proposed project includes the preservation and restoration of the existing building on the subject property. The proposed project includes the construction of a new building adjacent to the existing building.*

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

*The project will have no negative impact on existing parks and open spaces.*

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

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2008.0992C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on January 15, 2009 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

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

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.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18055. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

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

Linda D. Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Lee and Miguel

NAYES: Commissioners Olague, Moore and Sugaya

ABSENT: None

ADOPTED: March 25, 2010

## Exhibit A

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 151.1, 157, and 303 of the Planning Code to allow to allow a proposal to construct thirteen dwelling units with thirteen off-street parking spaces, and to replace, on-site, the three parking spaces for the adjacent property (Lot 062, Assessor's Block 3557) that would be lost as a result of the project, within an RTO (Residential, Transit-Oriented) District and a 40-X Height and Bulk District in general conformance with plans filed with the Application as received on January 15, 2009 and stamped "EXHIBIT B" included in the docket for **Case No. 2008.0992C**, reviewed and approved by the Commission on March 25, 2010.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's 3557, Lot 063), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. **Below Market Rate Units (BMR Units)**
  - a. **Requirement.** Pursuant to Planning Code 315.6, the Project Sponsor has elected to pay a fee in-lieu of providing seventeen percent (17%) off-site affordable below-market-rate units ("BMR units") to satisfy its Inclusionary Requirement.
  - b. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Residential Inclusionary Affordable Housing Monitoring and Procedures Manual (hereinafter "Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 315 (collectively the "Inclusionary Housing Ordinance"). Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:  
[http://www.sfgov.org/site/uploadedfiles/planning/inclusionaryhousingproceduresmanual6\\_28\\_07.pdf](http://www.sfgov.org/site/uploadedfiles/planning/inclusionaryhousingproceduresmanual6_28_07.pdf).
  - i. The in-lieu fee must be paid in full sum prior to the issuance of the first site or building permit by the Department of Building Inspection (DBI).

- ii. Prior to the issuance of the first site or building permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).
  - iii. If project applicant fails to comply with the Inclusionary Housing requirement, the Director of Building Inspection shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A project applicant's failure to comply with the requirements of Planning Code Sections 315 to 315.9 shall constitute cause for the City to record a lien against the development project.
  - iv. **Future Applicable Controls:** If the Interim Controls contained in Board of Supervisors Resolution No. 100047 entitled "Planning Code - Interim Controls Related to Affordable Housing Requirements" or permanent controls in substantially similar form to those contained in Ordinance No. 100046 entitled "Planning Code - Amending Inclusionary Housing Ordinance" proposing amendments to Planning Code Section 315 et seq. (collectively "applicable future controls") are approved by the Board of Supervisors prior to issuance of the first certificate of occupancy for the Project, the Project shall be subject to the applicable future controls and not the current provisions of Planning Code Section 315 et seq. Specifically, the Project shall pay the affordable housing fee as provided in the applicable future controls unless it is eligible to meet the requirements of Section 315 et seq. through an alternative method. The affordable housing fee currently designated in the draft applicable future controls is set at the same amount as the current in lieu fee in Planning Code Section 315.6 and the Planning Commission does not anticipate, except for standard indexing provided for by ordinance, that it shall increase as a result of the future permanent controls.
4. **Mitigation Measures**
    - a. Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval
  5. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. 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.