



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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18083

HEARING DATE: MAY 13, 2010

Date: April 30, 2010
Case No.: **2005.1085C**
Project Address: **555 Fulton Street**
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
 Residential Transit-Oriented (RTO) District
 40-50-X Height and Bulk District
 Fulton Street Grocery Store Special Use District (SUD)
Block/Lot: 0794/015, 028
Project Sponsor: Trust for the Children of Henry Wong
 PO Box 391656
 Mountain View, CA 94039
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION FOR A PLANNED UNIT DEVELOPMENT, PURSUANT TO SECTIONS 303 AND 304 OF THE PLANNING CODE, WITH SPECIFIC MODIFICATIONS TO PLANNING CODE REGULATIONS RELATED TO REAR YARD, DWELLING UNIT EXPOSURE, AND CURB-CUTS ON STREETS WITH BICYCLE LANES, WITH RESPECT TO A PROPOSAL TO CONSTRUCT A NEW FIVE-STORY, MIXED-USE BUILDING CONTAINING APPROXIMATELY 136 DWELLING UNITS, 32,800 SQUARE FEET OF GROUND FLOOR COMMERCIAL USES (A GROCERY STORE), AND A MAXIMUM OF 148 OFF-STREET PARKING SPACES, LOCATED AT 555 FULTON STREET, LOTS 015 AND 028 IN ASSESSOR'S BLOCK 0794, WITHIN THE HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, THE RESIDENTIAL TRANSIT-ORIENTED DISTRICT, THE 40-50-X HEIGHT AND BULK DISTRICT, AND THE FULTON STREET GROCERY STORE SPECIAL USE DISTRICT.

RECITALS

1. On November 21, 2005, David Silverman, acting on behalf of the Trust for the Children of Henry Wong ("Project Sponsor"), submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2005.1085E. A Notification of Project

Receiving Environmental Review was sent on December 8, 2006 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

2. On August 29, 2008, the Project Sponsor filed an application with the Planning Department requesting, under Sections 303 and 304, Conditional Use Authorization to allow a Planned Unit Development ("PUD"), to allow development on a lot greater than 10,000 square feet, allow a non-residential use size greater than 3,000 square feet, and to allow off-street parking for residential and commercial uses beyond the amount principally permitted by the Planning Code, for a development on a 44,250 square-foot site (Lots 015 and 028 in Assessor's Block 0794) at 555 Fulton Street, south side between Laguna and Octavia Streets ("Project Site"). The project proposed to demolish the existing office/industrial building and construct a new five-story building containing 143 dwelling units, a 21,945 square-foot grocery store, and 217 off-street parking spaces. The application was subsequently amended to request specific modifications to Planning Code regulations regarding off-street parking, rear yard, open space, dwelling unit exposure, height limits for narrow streets, and curb-cuts on streets with bicycle lanes, and to modify the project to propose 136 dwelling units, a 32,800 square-foot grocery store, and 205 off-street parking spaces (Case No. 2005.1085C; collectively, "Project").
3. On October 18, 2006, the Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Planning Code Section ("Section") 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2005.1085K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project would have no impact to properties subject to Section 295.
4. On March 3, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review.
5. The Draft IS/MND was available for public comment until March 23, 2010.
6. On March 22, 2010, an appeal of the MND was filed with the Department.
7. On May 13, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use/Planned Unit Development Application No. 2005.1085C and the Appeal of the MND, 2005.1085E.
8. On May 13, 2010, the Commission upheld the PMND and approved the issuance of the Final Mitigated Negative Declaration (FMND) as prepared by the Department in compliance with CEQA, the State CEQA Guidelines and Chapter 31.
9. On May 13, 2010, the Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND 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").

10. The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.
11. The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2005.1085E, at 1650 Mission Street, Fourth Floor, San Francisco, California.
12. 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.
13. On May 13, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2005.1085C, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.
14. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.
15. 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.

MOVED, that the Commission hereby grants the approval requested in Application No. 2005.1085C, as modified herein, subject to the conditions contained in Exhibit A, attached hereto and incorporated herein by reference, 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 proposal is to demolish an existing commercial/industrial building and construct a new five-story, mixed-use building containing approximately 136 dwelling units, 32,800 square feet of ground floor commercial uses (a grocery store), and 205 off-street parking spaces within an underground garage. The mix of dwelling units includes 32 studio units, 48 one-bedroom units, and 56 two-bedroom units. The

project sponsor is seeking approval of a Planned Unit Development, including a number of specific modifications from the requirements of the Planning Code, as discussed herein.

3. **Site Description and Present Use.** The project site is bounded by Fulton, Laguna, Octavia, and Birch Streets, Assessor's Block 0794, Lots 015 and 028, within the Hayes-Gough NCT District, the Residential Transit-Oriented District, the 40-50-X Height and Bulk District, and the Fulton Street Grocery Store Special Use District (SUD). The site measures 44,250 square feet, and is nearly rectangular, with the exception of a separate parcel located at the northeast corner of Fulton and Octavia Streets. The site is currently developed with a two-story commercial/industrial building that measures approximately 19,620 square feet. The western portion of the site is a surface parking area, while the eastern portion of the site consists of surface parking and loading docks for the building.
4. **Surrounding Properties and Neighborhood.** The area surrounding the project site primarily consists of residential buildings of two to four stories in height. Ground floor retail and restaurant uses are found along Hayes Street two blocks south of the project site, while other isolated commercial establishments are scattered throughout the vicinity. The Civic Center district begins three blocks to the east of the project site, and includes various government buildings, museums, libraries, and performance spaces. Open spaces in the vicinity include Jefferson Square and Hayward Playground to the north, Patricia's Green and Koshland Park to the south, Buchanan Street Mall and Alamo Square to the west, and Civic Center Plaza to the east.
5. **Public Comment.** Staff has received several communications in opposition to the proposed project from residents in the area. These communications express concerns that the height, scale, and architectural character of the project are incompatible with the area and would detract from scenic views of City Hall, that light will be blocked to adjacent residential buildings, and that the grocery store would cause excessive traffic and noise from deliveries. Staff has also received letters from the Hayes Valley Neighborhood Association that express support for the proposed building design, but raise concerns that project proposes an excessive amount of parking that is incompatible with the goals of the Market and Octavia Plan.
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. **Use and Density.** The regulations of the Fulton Street Grocery Store SUD (Section 249.35A) apply to projects that include a grocery store measuring a minimum of 15,000 square feet, and residential uses meeting a minimum density of one dwelling unit per 600 square feet of lot area. Although the Residential Transit-Oriented District applies to the majority of the project site, a project meeting the cited criteria is subject to the controls of the Hayes-Gough NCT, thereby enabling a grocery store proposal. The SUD places further limitations on the type, size, and amount of parking of other commercial uses beyond a grocery store. The Hayes-Gough NCT

allows grocery stores (categorized as "Other Retail Sales and Service", per Sections 720.40 and 790.102) as a principally permitted use on the first story, and residential uses are principally permitted at all stories (Section 720.90). The NCT sets no specific limits on residential density (Section 720.91)

The Project proposes a ground floor grocery store measuring 32,800 square feet. The Project also proposes a total of 136 dwelling units for the subject property, at a density of one dwelling unit per each 325 square feet of the Project Site. The Project meets the specified SUD criteria for providing a grocery store and a minimum residential density, and is therefore subject to the use controls of the Hayes-Gough NCT. The Project conforms to the use and density regulations of both the Fulton Street Grocery Store SUD and the Hayes-Gough NCT.

- B. **Height and Bulk.** The subject property is located within a 40-50-X Height and Bulk District. Pursuant to Section 270, projects within "-X" Bulk Districts are not subject to specific bulk controls. Pursuant to Section 263.22, projects within this District that comply with the criteria of the Fulton Street Grocery Store SUD may seek Conditional Use Authorization for a height exception above the 40-foot base height limit up to a maximum of 50 feet. Pursuant to Section 263.20, projects within NCT Districts and within 40-X or 50-X Height and Bulk Districts are allowed an additional five feet of height if the project includes active ground floor commercial uses with elevated ceilings taller than 10 feet, and/or walk-up residential units that are elevated from the sidewalk. Pursuant to Section 261.1, upper portions of buildings that abut the northerly side of narrow streets, must be set back 10 feet from the property line above a height equivalent to 1.25 times the width of the abutting narrow street. This additional height restriction applies to the portion of the narrow street frontage that is located 60 feet away from an intersection with a street wider than 40 feet.

The Project complies with the criteria of the Fulton Street Grocery Store SUD, and is therefore requesting Conditional Use Authorization to reach a height of 50 feet. In addition, the Project is eligible for an additional five-foot increment of height, because the ceiling of the grocery store reaches a height of approximately 16 feet, and the store occupies more than 50% of the ground floor of the project.

The Project is situated along the northerly side of Birch Street, which qualifies as a "Narrow Street", pursuant to Section 261.1. Birch Street measures 35 feet in width, therefore, the additional height limits of Section 261.1 apply above a height of 43.75 feet, for the segment of the frontage located 60 feet away from Laguna and Octavia Streets. While Section 261.1 requires a 10-foot setback for this frontage, the fifth floor of the Project is set back only seven feet. Therefore, the Project does not comply with the regulations of Section 261.1.

The Project Sponsor has requested a PUD modification for these regulations, however, the height limitations of the Planning Code are not eligible for modification through the PUD

process. This modification is not granted, and a condition has been added requiring the project to comply with the setback described in Section 261.1.

- C. **Floor Area Ratio.** In the Hayes-Gough NCT District, Section 124 allows a Floor Area Ratio (FAR) of up to 3.0. The project site has an area of 44,250 square feet, therefore the allowable FAR would permit a building of up to 132,750 square feet of Gross Floor Area as defined in Section 102.9.

The Project would measure approximately 245,610 square feet. Pursuant to Section 124(b), within NC Districts, the cited Floor Area Ratio limits do not apply to residential uses. Subtracting the area of the residential uses, approximately 105,973 square feet of Gross Floor Area within the Project would be subject to the allowable FAR. The Project therefore complies with the maximum allowable FAR.

- D. **Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at every residential level.

At the second level and above, the Project is divided into two distinct masses fronting the length of Fulton and Birch Streets. These masses are separated by a central courtyard and are linked by two sets of catwalks that traverse this void at each level of the Project. The configuration of this courtyard does not meet the requirements for a rear yard, and thus the Project requires a modification of the rear yard requirement through the PUD process. Compliance with the PUD criteria is discussed under Item #11 .

Section 134(e)(1) identifies a process whereby the Zoning Administrator may reduce the rear yard requirements for a project within NC Districts. Because the Project is seeking a rear yard modification through the PUD, the process described by Section 134(e)(1) does not apply. It should be noted, however, that the project complies with the specified criteria of Section 134(e)(1), as follows:

- i. Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.*
- ii. The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.*

A code-complying rear yard would provide an open area of approximately 10,250 square feet. A common rooftop deck measures approximately 7,200 square feet. In addition, fifteen second-floor units that front onto the courtyard would have access to private decks with a total area of approximately 7,400 square feet. Seven of the fifth floor units facing Birch Street also have access to private decks with a total area of 2,900 square feet. In total, the Project provides a combination of private and common open spaces for the use of residents that measure approximately 17,500 square feet, exceeding the amount of open area that would be provided by a Code-complying rear yard. It should be noted, however, that not all of these open spaces meet the exposure requirements for usable open space (see Item #6E).

The Project occupies nearly the entire block bounded by Fulton, Laguna, Birch, and Octavia Streets. Therefore, providing a Code-complying rear yard for the Project would result in a configuration that does not reflect the traditional San Francisco development pattern, with buildings located at or near front property lines, creating an urban streetscape framing an interior core of mid-block open space. By using a courtyard, the project restores a traditional pattern of mid-block open space within the project site. In addition, the courtyard effectively serves as a lightwell for the abutting property located at the southwest corner of Fulton and Octavia Streets, providing a buffer approximately 13 feet in width along the entire southerly boundary of this property.

- E. **Usable Open Space.** Section 135 requires that a minimum of 60 square feet of private usable open space, or 79.8 square feet of common usable open space be provided for dwelling units within the Hayes-Gough NCT District. This Section specifies that the area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

The Project proposes private decks for seven of the fifth floor units that face Birch Street. The Project also proposes private decks for fifteen of the second-floor units, however, these decks do not comply with the exposure requirements of Section 135 and cannot be credited as usable open space. Therefore, the Project would need to provide a total of 10,294 square feet of common open space to serve 129 dwelling units that do not have complying private decks. The Project proposes 7,200 square feet of common open space (at a rooftop deck), and therefore does not comply with the requirements of Section 135. The Project therefore requires a modification of the usable open space requirements through the PUD process. Compliance with the PUD criteria is discussed under Item #11.

- F. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

The dwelling units are arranged along two separate double-loaded corridors. The units that face onto Fulton, Laguna, Octavia, and Birch Streets comply with the requirements of Section 140. Some units face onto the central courtyard. Section 140 specifies that an open area (such as the courtyard) must have minimum horizontal dimensions of 25 feet at the lowest floor containing a dwelling unit and floor immediately above, with an increase of five feet in horizontal dimensions for each subsequent floor above. According to this methodology, the open area above the courtyard would need to measure at least 30 feet in horizontal dimensions at the 4th floor, and 35 feet at the 5th floor of the Project.

The central open area of the courtyard measures approximately 26 feet in width for the majority of the length of the Project, narrowing to approximately 13 feet in width at the easterly end of the Project. Therefore, floors 4 and 5 intrude into the volume of open area required by Section 140(a)(2). In addition, there is a unit facing onto the narrow portion of the courtyard on each of floors two thorough five that fails to meet the exposure

requirements. The Project therefore requires a modification of the exposure requirements through the PUD process. Compliance with the PUD criteria is discussed under Item #11.

- G. **Off-Street Parking and Car Sharing.** Section 151.1 establishes the maximum amount of off-street parking that is permitted as accessory for uses within NCT Districts. Pursuant to these regulations, the Project would be principally permitted 66 off-street parking spaces to serve the commercial use, and 68 parking spaces to serve the residential use. Through Conditional Use authorization and subject to specific criteria, this Section allows this Project to seek up to 91 spaces to serve the commercial use, and 102 spaces to serve the residential use. Section 166 requires that three car-share parking spaces be provided for the Project.

The Project Sponsor has proposed a total of 205 off-street parking spaces (91 commercial spaces, 104 residential spaces, and 10 car share spaces), exceeding in total the maximum amount of parking that is permitted by Section 151.1. The sponsor has requested a modification of the parking limitations specified in Section 151.1 through the PUD process. This amount of off-street parking fails to meet the required Conditional Use Authorization criteria specified in Section 151.1 (see Item 10) and contradicts multiple policies of the General Plan (see Item #13). Therefore, this specific modification is not granted. A condition has been added to the motion that would limit the number of commercial parking spaces to a maximum of 77, and the number of residential parking spaces to 68.

Section 166 requires three car-share parking spaces to be provided for the Project. Section 166(d) specifies that the provision of these required spaces is not counted against the number of parking allowed by the Code as a principal, accessory, or conditional use. Accordingly, the Project Sponsor could opt to increase the number of car-share parking spaces within the Project beyond the number required by Section 166. However, this would require a commensurate reduction in the number of residential or commercial parking spaces, such that the total amount of off-street parking does not exceed 148 spaces.

- H. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market. Pursuant to this Section, residential uses measuring between 100,001 to 200,000 square feet require one off-street loading space. In addition, retail uses measuring between 10,001 to 60,000 square feet require one off-street loading space. The Project therefore requires two off-street loading spaces.

The Project provides one commercial loading space and one residential loading space, both of which meet the dimension requirements of Section 154. The Project therefore complies with the off-street loading requirements.

- I. **Curb Cuts.** Section 155(r)(4) prohibits the creation or use of curb cuts accessing off-street parking or loading on streets in NCT Districts that contain official City bicycle routes or bicycle lanes. A striped bicycle lane exists along the Fulton Street frontage

of the Project Site, and a shared bicycle route exists along the Octavia Street frontage of the Project Site.

The Project proposes two curb cuts on the Fulton Street frontage. The westerly curb cut is a combined access for the upper level of the parking garage and the residential loading space. The easterly curb cut provides access to the commercial loading space. A curb cut is also proposed on the Octavia Street frontage to provide access to the lower level of the parking garage. These curb cuts do not conform with the prohibitions of Section 155(r)(4), therefore, the Project Sponsor is requesting a modification of these regulations through the PUD process. Conformance with the PUD criteria is discussed under item #11.

The Project Sponsor also proposes a vehicular drop-off area along the Laguna Street frontage. This drop-off area is not a true curb cut, and Laguna Street is not subject to the prohibitions specified by Section 155(r)(4). However, this drop-off area would diminish the desirability pedestrian realm by reducing the width of the sidewalk and increasing vehicular activity directly in front of the entry to the grocery store, a focal point of pedestrian movement. This configuration would also preclude the planting of street trees along the majority of the Laguna Street frontage. Therefore, this drop-off area is not included in this Conditional Use Authorization, and a condition of approval has been added requiring that this feature be deleted from plans submitted for building permit review.

- J. **Dwelling Unit Mix.** Section 207.6 requires that, for projects creating five or more dwelling units within the Hayes-Gough NCT, a minimum of 40 percent of the dwelling units contain at least two bedrooms.

The Project proposes a total of 136 dwelling units. 56 of these units are two-bedroom units, constituting 41 percent of the overall dwelling units. The Project complies with the dwelling unit mix requirements.

- K. **Residential Affordable Housing Program.** Planning Code Section 315 sets forth the requirements and procedures for the Residential Affordable Housing Program. On February 2, 2010 the Board of Supervisors adopted Interim Controls contained in Board of Supervisors Resolution No. 100047 entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" (the "Affordable Housing Ordinance"). The requirements of the Interim Controls apply to this project. Under Planning Code Section 315.3, these requirements would apply to projects that consist of ten or more units, where the first application was applied for before July 18, 2006. Pursuant to prior Planning Code Section 315.4, the Project is required to provide 12% of the proposed dwelling units as affordable if the Project is eligible for and selects the on-site alternative.

The Project Sponsor has demonstrated that it is eligible for the on-site alternative under Planning Code Section 315.4(e), and has submitted a Declaration of Intent to satisfy the requirements of the Residential Affordable Housing Ordinance by providing the affordable housing on-site instead of payment of the Affordable Housing Fee. A condition of approval is

for the Project Sponsor to enter into this agreement with the City by submitting an affidavit to the Planning Department within 30 days of the date of this Authorization stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project. The EE application was submitted on November 21, 2005. 16 units (4 studios, 6 one-bedroom, and 6 two-bedroom) of the 136 units provided will be affordable units. If the Project becomes ineligible to meet its Residential Affordable Housing obligation on-site, it must pay the Affordable Housing Fee with interest, if applicable.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. Projects that proposed a Planned Unit Development through the Conditional Use authorization process must meet these criteria, in addition to the PUD criteria of Section 304, discussed under Item #11. On balance, the project complies with the criteria of Section 303, in that:
- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The Project will add significant housing opportunities at a density suitable for an urban context that is well served by public transit. In addition, the project will add a new grocery store that will provide employment opportunities, and will serve the residents of the Project and the larger neighborhood. By targeting infill, mixed-use development at such locations, residents of the Project will be able to walk, bicycle, or take transit to commute, shop, and meet other needs without reliance on private automobile use. The grocery store will create a vibrant focal point in an area that is predominantly characterized by residential uses, activating the streetscape and creating visual interest for pedestrians.

The existing development in the area surrounding the Project site is varied in scale and intensity. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the building expresses an alternating rhythm of bays and voids that creates texture and further breaks down the massing of the building. Each elevation exhibits a procession of recesses that divide the larger building into smaller modules. The fenestration pattern changes at each module to create greater diversity in the texture of the Project.

The Project, as proposed and as modified by the conditions of this approval, is necessary and desirable for, and is compatible with the neighborhood.

- B. The use or feature as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:

- i. The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.

The Project site is a regularly-shaped lot that is adequately sized to accommodate the development. In lieu of providing a Code-complying rear yard, the Project is arranged around a central courtyard that establishes a pattern of mid-block open space that is currently lacking on the subject block. Existing development in the vicinity varies in size and intensity, and the Project is generally compatible with the eclectic character of the area. The building is designed with recesses and varying fenestration patterns to reduce the apparent scale of the Project. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.

- 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 and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166.

The MND prepared for the project found that the project would not result in significant transportation and circulation impacts. The Project Site is located within an urban context, where convenience goods and services are available within walking distance. Residents of the project will be able to walk to such services in the vicinity, as well as the on-site grocery store. In addition, the area is served by ample public transit, so that residents do not need to solely rely on private automobile transportation. Improvement Measures have been incorporated into the MND to avoid traffic congestion and during construction of the Project and to encourage transit ridership by residents and grocery store employees.

The Project provides two off-street loading spaces, in conformance with the Planning Code requirements.

The Project Sponsor has proposed a total of 205 off-street parking spaces, exceeding the maximum amount of residential and commercial parking that is permitted by Section 151.1. The sponsor has requested a modification of the parking limitations specified in Section 151.1 through the PUD process. This amount of off-street parking fails to meet the required Conditional Use Authorization criteria specified in Section 151.1 (see Item #10) and contradicts multiple policies of the General Plan (see Item #13). Therefore, this specific modification is not granted, and this Conditional Use Authorization is subject to a condition of approval limiting the amount of parking for the Project. As proposed, and as modified by the conditions of approval, the traffic patterns, off-street loading, and the quantity of off-street parking will not be detrimental to persons or adjacent properties in the vicinity.

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

The Project includes residential and commercial uses that are typical of the Market and Octavia Plan area, and should not introduce operational noises or odors that are detrimental, excessive, or atypical for the area. While some temporary increase in noise can be expected during construction, this noise is limited in duration and will be regulated by the San Francisco Noise Ordinance which prohibits excessive noise levels from construction activity and limits the permitted hours of work. The Project Sponsor will be required to submit a Dust Control Plan to the Department of Public Health that specifies how airborne dust will be attenuated during construction. The requirements of this plan will ensure that demolition, excavation, and construction activities do not generate significant airborne dust. The building will not utilize mirrored glass or other highly reflective materials, therefore, the Project is not expected to cause offensive amounts of glare.

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

The Project provides open space in the form of private decks at the second and fifth story, a common rooftop deck, and an open plaza at the entry of the grocery store. A condition of approval has been added to further refine the location, configuration, and design of this plaza in order to create a successful public activity node. The conceptual plans show landscaping in the form of street trees along each project frontage. No parking is proposed for the project, but the area is well-served by transit and a variety of goods and services within walking distance. The proposed off-street loading spaces comply with the requirements of the Planning Code. As discussed elsewhere in this motion, Conditions of approval have been added to limit the overall amount of parking for the project. Conditions of approval also require that, as the Project proceeds through the review of building permits, the Project Sponsor will continue to work the Planning staff to refine lighting, signage, materials, street trees, and other details of the design.

- C. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan.

The Project generally complies with the applicable sections of the Code, with certain exceptions. The residential and commercial uses contemplated for the Project, and the proposed density are permitted within the Hayes-Gough NCT District and the Fulton Street Grocery Store SUD. The Project seeks a number of modifications to the requirements of the Planning Code through the PUD process. The purpose of the PUD process is to allow well-designed development on larger sites to request modifications from the strict requirements of the Planning Code, provided that the project generally meets the intent of these Planning Code requirements and will not adversely affect the General Plan. The requested modifications, and compliance with the PUD criteria are discussed under Items #11 and #12.

Considered as a whole, the Project would add housing and commercial goods and services to create an vibrant, active mixed-use node. The Project Site is well-served by transit and

commercial services, allowing residents to commute, shop, and reach amenities by walking, transit, and bicycling. The Project includes a mix of unit types, including 32 studio units, 48 one-bedroom units, and 56 two-bedroom units. This mix of units will ensure that the Project will serve a diversity of household sizes and people with varied housing needs. The Project conforms with multiple goals and policies of the General Plan, as described in further detail in Item #13.

8. **Planning Code Section 121.1** establishes criteria for the Planning Commission to consider when reviewing applications for projects within the Hayes-Gough NCT on lots that exceed 10,000 square feet, through the Conditional Use authorization process. On balance, the project complies with said criteria in that:

- A. The mass and facade of the proposed structure are compatible with the existing scale of the district.

The existing development in the area surrounding the Project site is varied in scale and intensity. The Project is somewhat taller than the other buildings in the vicinity, and occupies a relatively large lot. However, the Project uses offsetting planes, deep recesses, and changes in fenestration patterns to divide the elevations into discrete modules.

- B. The facade of the proposed structure is compatible with the design features of adjacent facades that contribute to the positive visual qualities of the district.

Existing buildings in the area exhibit an eclectic architectural character, with no prevailing style establishing a dominant visual pattern for the neighborhood. The scale of development also varies greatly in the vicinity. Existing development to the north and west of the Project Site was constructed in the mid- to late-20th century as part of the Western Addition Redevelopment area, and are comprised of large, linear multi-unit apartment buildings arranged in a "campus" across an entire block. Existing development to the south was primarily constructed in the late 19th and early 20th Century in a finer-grained pattern of individual buildings situated on narrow lots.

While no single architectural style or development pattern predominates, the Project reflects the disparate elements of this context while establishing its own contemporary language. Although the Project occupies a relatively large lot, the building is articulated as a series of smaller buildings across the site, separated by a procession of deep voids. Within an overall architectural vocabulary, variations in fenestration patterns throughout the Project reinforce this articulation. The building therefore relates to the larger scale and forms of the newer developments in the area, while also breaking down massing to acknowledge the narrower lot pattern of older development to the south.

9. **Planning Code Section 121.2** establishes criteria for the Planning Commission to consider when reviewing applications for non-residential uses within the Hayes-Gough NCT that exceed 3,000 square feet, through the Conditional Use authorization process. On balance, the proposed grocery store complies with said criteria in that:

- A. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

Small-scale, neighborhood-serving retail and restaurant uses are located along Hayes Street to the south, as well as at scattered locations in the area. However, there are no full-service grocery stores in the immediate vicinity that provide a wide spectrum of food products, personal items, and household goods. The grocery store is expected to complement and expand the retail offering that exist in the neighborhood, allowing residents to fulfill a wider variety of shopping needs within close proximity.

- B. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

The Fulton Street Grocery Store SUD was established with the express purpose of "consideration of a neighborhood-serving grocery store of moderate size in a location accessible to the Hayes Valley and Western Addition neighborhoods." The size of the proposed grocery store is necessary in order to offer patrons a wide selection of goods that may not be readily available in the area. The store is not excessively sized to an excessive degree that would draw patrons from a broad area and overwhelm the character of the surrounding neighborhood.

- C. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

As discussed under Item #7A and #8A above, a number of aspects of the design help to divide the building into smaller, discrete elements, such as alternating rhythms of projections and voids, deep recesses, and changes in fenestration patterns across each elevation.

10. **Planning Code Section 151.1(f)** establishes criteria for the Planning Commission to consider when reviewing applications for residential and commercial off-street parking that exceed the principally permitted amount within an NCT District. On balance, the project complies with some, but not all of the said criteria in that:

- A. Parking for all uses
- 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.

The Project Sponsor proposes a quantity of parking beyond the amount that may be sought through Conditional Use authorization, pursuant to Section 151.1, and is therefore requesting a modification of these limitations through the PUD process. The MND prepared for the project does not identify transportation or circulation impacts that rise to the level of a significant impact under CEQA. However, the ready availability

of excessive parking for the project may serve as a disincentive for residents and grocery store patrons to travel by means other than the private automobile. The resulting movement of additional vehicles around the Project Site and in the vicinity may degrade the experience of pedestrians and bicyclists.

Excessive parking to this degree also conflicts with multiple policies in the General Plan, and specifically the Market and Octavia Plan, to contribute to a built environment that encourages a variety of transportation options and discourages private automobile use as a primary mode of travel in walkable, transit-rich neighborhoods.

Therefore, this specific PUD modification is not granted, and this Conditional Use Authorization is subject to a condition of approval limiting the amount of parking permitted for the project. The residential parking is limited to the amount principally permitted by Section 151.1 for NCT Districts, not to exceed 68 spaces (equal to one car for each two dwelling units). By the nature of the use, the grocery store merits additional parking beyond that which is principally permitted by Section 151.1. Therefore, the condition of approval limits the number of commercial parking spaces to 77.

Section 166 requires three car-share parking spaces to be provided for the Project. Section 166(d) specifies that the provision of these required spaces is not counted against the number of parking allowed by the Code as a principal, accessory, or conditional use. Providing additional car share parking would require a commensurate reduction in the number of residential or commercial parking spaces, such that the total amount of off-street parking does not exceed 148 spaces.

- ii. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal.
- iii. All above-grade parking is architecturally screened and, where appropriate, lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code.
- iv. Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

The additional off-street parking requested by the Project Sponsor is located within an underground garage, and is not readily visible from the public right-of-way.

B. Parking for Residential Uses

- i. For projects with 50 dwelling units or more, all residential accessory parking in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts, valet, or other space-efficient means that reduces space used for parking and maneuvering, and maximizes other uses.

The residential accessory parking proposed for the project is proposed in a "valet", tandem configuration in the lower level of the parking garage. However, this configuration also proposes a wider drive aisle serving the tandem spaces, and does not meet the goal of providing "space-efficient means" that reduce the aggregate area used for parking and maneuvering. The Project proposes no mechanical stackers or lifts for the residential accessory parking.

C. Parking for Non-Residential Uses

- i. Projects that provide more than 10 spaces for non-residential uses must dedicate 5% of these spaces, rounded down to the nearest whole number, to short-term, transient use by vehicles from certified car sharing organizations per Section 166, vanpool, rideshare, taxis, or other co-operative auto programs. These spaces shall not be used for long-term storage nor satisfy the requirement of Section 166, but rather to park them during trips to commercial uses. These spaces may be used by shuttle or delivery vehicles used to satisfy subsection (B).

A condition of approval has been added requiring that 5% of the commercial parking spaces will be dedicated to transient use by co-operative auto programs, and that such spaces will be indicated on plans associated with the building permit.

- ii. Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service. This is encouraged, but not required, for retail uses less than 20,000 square feet.

The proposed grocery store measures 32,800 square feet, and is therefore subject to this requirement. A condition of approval has been added requiring that the grocery store offer delivery and/or shuttle service.

- iii. Parking shall be limited to short-term use only.
- iv. Parking shall be available to the general public at times when such parking is not needed to serve the use or uses to which it is accessory.

A condition of approval has been added requiring that parking be limited to short-term use only, and be available to the general public outside of the hours of operation for the grocery store.

11. **Planned Unit Development.** Section 304 establishes criteria and limitations for the authorization of PUD's over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects that exhibit

outstanding overall design and are complementary to the design and values of the surrounding area, such projects may merit modification of certain Code requirements. On balance, the Project complies with said criteria in that it:

A. Affirmatively promotes applicable objectives and policies of the General Plan;

See discussion under Item #13.

B. Provides off-street parking adequate for the occupancy proposed.

As proposed, the Project includes a quantity of parking beyond the amount that may be sought through Conditional Use authorization, pursuant to Section 151.1, and is therefore requesting a modification of these limitations through the PUD process. Because the proposed parking does not meet the criteria of Section 151.1(f), and conflicts with multiple policies of the General Plan, and specifically the Market and Octavia Plan, the PUD modification is not granted. Conditions of approval have been added to reduce the amount of parking approved for the project. See further discussion under Item #10.

C. Provides open space usable by the occupants and, where appropriate, by the general public, at least equal to the open space required by this Code;

The project includes a common rooftop deck measuring approximately 7,200 square feet, private decks for units on the second floor with a total area of approximately 7,400 square feet, and seven private decks for units on the fifth floor with a total area of 2,900 square feet. The project also includes an entry plaza adjacent to the grocery store entrance measuring approximately 1,340 square feet. In total, the Project provides a combination of private and common open spaces for the use of residents and the general public that measure approximately 18,840 square feet. While the entry plaza and second-floor decks do not strictly comply with the exposure requirements of Section 135, the Project includes a substantial amount of open space that exceeds the area required by the Code.

D. Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of the Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property.

As discussed under Item #6A, the Project complies with the specific density provisions of the Fulton Street Grocery Store SUD and the Hayes-Gough NCT. The PUD will not be substantially equivalent to a reclassification of property.

E. Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections.

As discussed under Item #6B, the Project, as conditioned, complies with all relevant height limitations of the Planning Code, and does not request any deviations from the height measurement provisions of Sections 260 and 261.

12. **Planned Unit Development Modifications.** The Project Sponsor requests a number of modifications from the requirements of the Planning Code. These modifications are listed below, along with a reference to the relevant discussion for each modification. Where indicated, certain requested PUD modifications are not granted by this approval, and conditions have been added such that the Project will comply with the applicable provisions of the Planning Code.

- i. Height Limits for Narrow Streets: #6B (PUD MODIFICATION NOT GRANTED)*
- ii. Rear Yard Configuration: Item #6D*
- iii. Usable Open Space: Item #6E*
- iv. Dwelling Unit Exposure: Item #6F*
- v. Off-Street Parking: Item #6G, #10 (PUD MODIFICATION NOT GRANTED)*
- vi. Curb Cuts: Item #6I*

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

COMMERCE AND INDUSTRY ELEMENT:

Objectives and Policies

OBJECTIVE 6

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

Policy 6.4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

Policy 6.10:

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The Project would replace an existing office/industrial building and surface parking areas with an intense, mixed-use development suited to an urban context. The Project includes 136 dwelling units. Residents of these units would shop for goods and services in the area, bolstering the viability of the existing businesses. In addition, the Project would provide a 32,800 square-foot grocery store in an area that is currently underserved by such a use. The presence of the ground floor commercial space will contribute to the economic vitality of the area, fulfill shopping needs for residents, and will activate the streetscape.

HOUSING ELEMENT:

Objectives and Policies

OBJECTIVE 1

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

Policy 1.3

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

Policy 1.4:

Locate in-fill housing on appropriate sites in established residential neighborhoods.

The Project will add residential units to an area that is well-served by transit, services, and shopping opportunities. The site is suited for dense, mixed-use development, where residents can commute and satisfy convenience needs without frequent use of a private automobile. The Project Site is located within walking distance of the employment cluster of the Civic Center, and is in an area with abundant transit options routes that travel to the South of Market and Financial District areas. The Project includes a mix of studio, one-bedroom, and two-bedroom units in a range of sizes, to provide housing opportunities for various household types and socioeconomic groups within the neighborhood.

MARKET AND OCTAVIA PLAN:

Objectives and Policies

OBJECTIVE 1.1

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

Policy 1.1.2:

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

Policy 1.1.3:

Encourage housing and retail infill to support the vitality of the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts.

The Project Site is situated in an area that is well-served by transit, and has amenities and convenience goods and services within walking distance. The grocery store will diversify the mix of retail offerings in the area, and will serve as a complement to the small-scale retail uses along Hayes Street to the south.

OBJECTIVE 2.2

ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.2:

Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4:

Encourage new housing above ground-floor commercial uses in new development and in expansion of existing commercial buildings.

The Project is a mixed-use infill development that includes a variety of dwelling unit types, including studios, one-bedroom, and two-bedroom units. The residential uses are situated over a grocery store, providing convenient access to retail goods for residents of the proposed project and the surrounding neighborhood.

OBJECTIVE 5.2

DEVELOP AND IMPLEMENT PARKING POLICIES FOR AREAS WELL SERVED BY PUBLIC TRANSIT THAT ENCOURAGE TRAVEL BY PUBLIC TRANSIT AND ALTERNATIVE TRANSPORTATION MODES AND REDUCE TRAFFIC CONGESTION.

Policy 5.2.1:

Eliminate minimum off-street parking requirements and establish parking caps for residential and commercial parking.

Policy 5.2.3:

Minimize the negative impacts of parking on neighborhood quality.

Conditions of approval have been added to reduce the amount of parking included in the Project below the levels proposed by the Project Sponsor. Excessive parking for the Project would serve as a disincentive for residents and grocery store patrons to travel by means other than the private automobile. The resulting movement of additional vehicles around the Project Site and in the vicinity may degrade the experience of pedestrians and bicyclists. Limiting the amount of parking will contribute to a built environment that encourages a variety of transportation options and discourages private automobile use as a primary mode of travel in walkable and transit-rich neighborhoods such as the Market and Octavia Plan Area.

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

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

The new residents in the Project will patronize area businesses, bolstering the viability of surrounding commercial establishments. In addition, the Project would include a grocery store to provide goods and services to residents in the area, contribute to the economic vitality of the area, and will define and activate the streetscape.

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

The project will not diminish existing housing stock, and will add dwelling units in a manner that enhances the vitality of the neighborhood.

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

The Project shall be required to comply with the requirements of Planning Code Section 315 regarding the Residential Affordable Housing Program..

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

A wide variety of goods and services are available within walking distance of the Project Site without reliance on private automobile use. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. Conditions have been added to limit the total amount of parking for the project, helping to encourage transit usage, deemphasize reliance on the private automobile, and retain a desirable environment for pedestrian and bicycle activity.

- 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 does not propose any office development. Several office and industrial tenants would be displaced by the demolition of the existing building. However, the Project will include a grocery store that will provide employment opportunities for area residents.

- 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.

- G. That landmarks and historic buildings be preserved.

The existing building that would be demolished by the Project is not considered to be a historic resource. While the architecture of the Project is contemporary, the massing and exterior treatment has been designed in a manner that will not adversely off-site historic resources.

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

The Project will not cast shadows or impede views for parks and open spaces in the area, nor have any negative impact on existing public parks and open spaces.

15. 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.

16. 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 Project Sponsor, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2005.1085C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the IS/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 Resolution/Motion by this reference thereto. All required mitigation measures identified in the IS/MND and contained in the MMRP are included as conditions of approval.

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. 18083. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 13, 2010.

Linda Avery
Commission Secretary

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

NAYS:

ABSENT:

ADOPTED: May 13, 2010

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 Conditional Use Authorization is for a proposed Planned Unit Development, a mixed-use Project with residential and commercial uses located at 555 Fulton Street, Lots 015 and 028 in Assessor's Block 0794, within the Hayes Gough Neighborhood Commercial Transit District, The Residential Transit-Oriented District, the 40-50-X Height and Bulk District, and the Fulton Street Grocery Store Special Use District, in general conformance with the plans dated May 13, 2010, and marked "Exhibit B", except as modified herein. As approved herein, the project would demolish the existing office/industrial building on the site, and construct a five-story mixed use building containing approximately 136 dwelling units, a grocery store measuring approximately 32,800 square feet, and a maximum of 148 off-street parking spaces.

1. MITIGATION MEASURES

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.

2. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. The conditions set forth below are additional conditions required in connection with the Project. 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. The conditions set forth below shall remain in effect for the life of the Project, unless specifically noted otherwise

3. GENERAL CONDITIONS

A. Recordation. Prior to the issuance of any 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, 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.

- B. 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.
- C. Construction.
- (1). The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby Projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
- (2). The contractor(s) shall arrange for off-street parking for construction workers.
- D. Performance. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.
- E. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.
- F. First Source. 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.
- G. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Sections 176 and 176.1 of the Planning Code and actions to abate violations of this conditional use authorization in accordance with Section 303(f).
- H. Should monitoring of these Conditions of Approval be required, the Project Sponsor or successors shall pay fees as established in Section 351(e)(1) of the Planning Code.

- I. The Property Owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week
 - J. Signs and exterior lighting for ground floor commercial uses shall be consistent with the approved signage program and shall be reviewed and approved by the Planning Department before they are installed.
 - K. Ground level storefronts in general conformity with Exhibit B shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The Property Owner shall ensure that this condition of approval is incorporated into all commercial leases.
 - L. An enclosed garbage area shall be provided within the Project. All garbage containers shall be kept within the building until pick-up by the disposal company.
4. BELOW MARKET RATE UNITS (BMR UNITS)
- A. Number of Required Units. Pursuant to prior Planning Code Section 315.4, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households ("BMR Units"). The Project contains 136 units; therefore, 16 BMR units are required. The Project Sponsor will fulfill this requirement by providing the 16 BMR units on-site
 - B. Unit Mix. The Project contains 32 studios, 48 one-bedroom, and 56 two-bedroom units; therefore, the required BMR unit mix is 4 studios, 6 one-bedroom, and 6 two-bedroom units. If the market-rate unit mix changes, the BMR unit mix will be modified accordingly.
 - C. Duration. Under Planning Code Section 315.7, all units constructed pursuant to Sections 315.6 must remain affordable to qualifying households for the life of the project.

D. Other Conditions. The Project is subject to the requirements of the Affordable Housing Ordinance 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 and the Interim Controls adopted February 2, 2010 by the Board of Supervisors in Resolution No. 100047 entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" (collectively the "Affordable 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://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>

As provided in the Affordable Housing Ordinance, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

The BMR unit(s) shall be designated on the building plans prior to the issuance of the first site or building permit by the Department of Building Inspection (DBI). The BMR unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project.

(1). Unless the project sponsor has entered into an agreement with the City, the units in the building must be offered for sale, and the BMR unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average of one hundred (100) percent of the median income for the City and County of San Francisco as defined in the Affordable Housing Ordinance, Section 315.1. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) marketing; (ii) renting; (iii) recouping capital improvements and (iv) procedures for inheritance apply and are set forth in the Affordable Housing Ordinance and the Procedures Manual.

(2). If the Project Sponsor has entered into an agreement with the City permitting the on-site units to be rental, the BMR unit(s) shall be rented to a household of low income, as defined in the Affordable Housing Ordinance and as further defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed sixty (60) percent of the median income for the City and County of San Francisco as defined in the Affordable Housing Ordinance, Section 315.1. The qualifying household income limits and maximum monthly rent for BMR units shall be calculated by Mayor's Office of Housing (MOH.).

(3). The Applicant is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. The Mayor's Office of Housing shall be responsible for overseeing and monitoring the marketing of affordable units.

(4). Required parking spaces shall be made available to initial buyers or renters of BMR units according to the Procedures Manual.

(5). Prior to the issuance of the first site or building permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the BMR units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).

(6). The Project Sponsor has demonstrated that it is eligible for the on-site alternative under Planning Code Section 315.4(e) instead of payment of the Affordable Housing Fee, and shall submit an affidavit to the Planning Department within 30 days of the date of this Authorization stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.

(7). If project applicant fails to comply with the Affordable 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.

(8). If the Project becomes ineligible at any time for the on-site alternative, the Project Sponsor or its successor in interest shall pay the Affordable Housing Fee prior to issuance of the first site or building permit. If the Project becomes ineligible after issuance of its first site or building permit, the Project Sponsor shall pay interest on the Affordable Housing Fee.

(9). **Future Applicable Controls:** Interim Controls contained in Board of Supervisors Resolution No. 100047 approved by the Board on February 2, 2010 entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" apply to this project. The Board of Supervisors is currently considering permanent controls in Ordinance No. 100046 entitled "Planning Code – Amending Inclusionary Housing Ordinance" proposing amendments to Planning Code Section 315 et seq. ("applicable future controls"). If Ordinance No. 100046 is approved by the Board 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 Interim Controls. The affordable housing

fee currently designated in the draft applicable future controls is set at the same amount as the current Interim Controls and the former 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.

5. PARKING

- A. Amount of Parking. This amount of parking shall be reduced from the 205 spaces shown on "Exhibit B" such that the total amount of off-street parking does not exceed 148 spaces. A maximum of 77 spaces may be provided for the commercial use, and a maximum of 68 spaces may be provided for the residential use. Any reduction in the number of dwelling units or the area of the grocery store shall require a proportionate reduction in the maximum number of allowable parking spaces. A minimum of three car-share parking spaces shall be required. The Project Sponsor may elect to provide additional car-share parking spaces beyond the required car-share parking spaces, however, a commensurate reduction in the number of commercial and residential parking spaces would be required.
- B. Parking Costs Separated from Housing Costs. Pursuant to Section 167, all off-street parking spaces accessory to the residential units shall be sold or leased separately from the rental or purchase fees of the dwelling units.
- C. Commercial Parking for Co-Operative Auto Programs. Pursuant to Section 151.1(f)(3)(A), 5% of the commercial parking spaces shall be dedicated to short-term, transient use by car-share vehicles, vanpool, rideshare, taxis, or other co-operative vehicle programs. These spaces may be used by shuttle or delivery vehicles used to satisfy condition #5D. The locations of the spaces required by this condition shall be indicated on plans for the site and building permits.
- D. Shuttle or Delivery Service. Pursuant to Section 151.1(f)(3)(B), the grocery store shall offer, at minimal or no charge to its customers, door-to-door delivery or shuttle service.
- E. Short-Term Use. Pursuant to Section 151.1 (f)(3)(C) and (D), all commercial parking spaces shall be limited to short-term use only, and shall be available to the general public when such commercial parking spaces are not needed to serve the grocery store.

6. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FIRST SITE OR BUILDING PERMIT

- A. Design. The Project Sponsor and the Project architects shall continue to work on design development with the Department, with particular attention given to the following:
- (1). The upper portion of the building along Birch Street shall be set back ten feet from the property line, in a manner that complies with Section 261.1. This set back shall be depicted on future submittals for the site and building permits.
 - (2). The "vehicular drop off" area (shown at the westerly portion of the site on Exhibit "B") shall be deleted. For future submittals for the site and building permits, this area shall be depicted with a full-width sidewalk and street trees in conformance with Section 143.
 - (4). The location and configuration of the "common entry court" (shown at the westerly portion of the site on "Exhibit B") should be evaluated to maximize usability, access to sunlight, and activation to and relationship with adjacent sidewalks. In particular, shifting the entry court to the corner of Laguna and Birch Streets should be considered.
 - (5). Future submittals shall include details regarding reveal dimensions at all windows, moldings, and other details, as well as building materials and colors.
- B. Market and Octavia Community Improvements Fund. The Project Sponsor shall satisfy the requirements of Planning Code Section 326 either through a payment to the Fund or through the provision of in-lieu improvement, as specified within this Section.
- C. 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 Planning Director, in consultation with staff from the Department of Public Works, the Department of Parking and Traffic, and the Bureau of Urban Forestry. Other agencies shall be contacted as appropriate. The Project shall include street trees in conformance with Section 143. The street trees planted pursuant to this condition shall be maintained in perpetuity by the Project Sponsor.
7. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM TO A BUILDING (OR SITE) PERMIT
- A. Except as otherwise provided in this Motion, the Project shall be completed in compliance with the Planning Code and in general conformity with plans dated May 13, 2010, labeled "Exhibit B".
 - B. Final detailed building plans shall be reviewed and approved by the Planning Department. Detailed building plans shall include a final site plan, elevations,

sections, and a landscape plan, and shall specify final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes, and details of construction.

- C. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
 - D. Pursuant to Planning Code Section 141, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
 - E. Signage. The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.
 - F. Lighting. The Project Sponsor shall develop a lighting program for the Project which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the Project.
 - G. 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 Planning Director, in consultation with staff from the Department of Public Works, the Department of Parking and Traffic, and the Bureau of Urban Forestry. Other agencies shall be contacted as appropriate. The Project shall include street trees in conformance with Section 143. Relocation of some existing underground utilities may be necessary to accommodate the required street trees. The street trees planted pursuant to this condition shall be maintained in perpetuity by the Project Sponsor.
8. CONDITIONS TO BE MET PRIOR TO ISSUANCE OF ANY CERTIFICATES OF OCCUPANCY FOR THE PROJECT.
- A. Market and Octavia, Additional Affordable Housing Fee. The Project Sponsor shall satisfy the requirements of Planning Code Section 315.4 through a payment to the Citywide Affordable Housing Fund.
 - B. All usable open spaces shall be completed and available for use.

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

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MITIGATION MONITORING AND REPORTING PROGRAM

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MITIGATION MEASURE M-CP-1 Archeology (Monitoring)				
<p>Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>Prior to soil-disturbing activities.</p>	<p>Archeological consultant shall report to the ERO.</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p><i>Archeological Monitoring Program (AMP)</i>. The archeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soil-disturbing activities, 	<p>Project sponsor/ archeological consultant./ archeological monitor/ contractor(s), at the direction of the</p>	<p>Monitor throughout all soil-disturbing activities.</p>	<p>Project sponsor/ archeological consultant./ archeological monitor/ Contractor(s), and the ERO. Monitor</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final</p>

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<p>such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;</p> <ul style="list-style-type: none"> • The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; • The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits; • The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; • If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered temporarily to redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. 	<p>ERO.</p>		<p>throughout all soils-disturbing activities.</p>	<p>monitoring report at completion of construction.</p>

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<p>The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.</p>				
<p>If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:</p> <ul style="list-style-type: none"> A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible. 	Project sponsor	If a significant archeological resource is present	Project sponsor/ archeological consultant/ archeological monitor/ contractor(s), and the ERO. Monitor throughout all soils-disturbing activities.	During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.
<p>If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable</p>	Archeological consultant at the direction of the ERO	If there is a determination that an ADRP program is required	Project sponsor/ archeological consultant/ archeological monitor/ contractor(s), and the ERO. Monitor throughout all soils-disturbing activities.	During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of

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<p>research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> • <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations. • <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures. • <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies. • <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program. • <i>Security Measures.</i> Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. • <i>Final Report.</i> Description of proposed report format and distribution of results. • <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities. 				<p>construction.</p>

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<p><i>Human Remains and Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.</p>	<p>Project sponsor / archeological consultant in consultation with the San Francisco Coroner, NAHC, and MDL.</p>	<p>In the event human remains and/or funerary objects are found.</p>	<p>Project sponsor/ archeological consultant/ San Francisco Coroner/ NAHC/ MDL. Monitor throughout all soils-disturbing activities</p>	<p>During excavation, demolition and construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p><i>Final Archeological Resources Report.</i> The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/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 draft final report.</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 Archeological 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</p>	<p>Project sponsor/ archeological consultant at the direction of the ERO.</p>	<p>After completion of the archeological data recovery, inventorying, analysis and interpretation.</p>	<p>Project sponsor/ archeological consultant/ ERO</p>	<p>Following completion of soil disturbing activities. Considered complete upon Planning Department receipt of final monitoring report at completion of</p>

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<p>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>				<p>construction.</p>
<p>MITIGATION MEASURE M-AQ-1 Short-term Construction Exhaust Emissions</p>				
<p>To reduce project-related short-term exhaust emissions from construction equipment, the project sponsor and its contractors shall implement the following mitigation measures:</p> <ul style="list-style-type: none"> • Confine idle time of combustion engine construction equipment at construction sites to five minutes. • Maintain and properly tune construction equipment in accordance with manufacture’s specifications. • Use alternative fueled or electrical construction equipment at the subject property when feasible. • Use the minimum practical engine size for construction equipment. • Equip gasoline-powered construction equipment with catalytic converters when feasible. 	<p>Project sponsor and its contractors</p>	<p>Throughout excavation and all construction activities</p>	<p>Project sponsor / contractors to report compliance to ERO</p>	<p>Considered complete at completion of building construction</p>

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<p>MITIGATION MEASURE M-NOI-1 Noise (Construction Phase)</p>				
<p>To reduce daytime noise impacts due to construction to the maximum feasible extent, the following measures shall be implemented in addition to all measures set forth in the Noise Ordinance:</p> <ul style="list-style-type: none"> • At least 10 days prior to the start of construction, the project sponsor shall notify occupants of properties within 100 feet of the project site’s lot line. Notification shall include an estimation of the duration of construction activities including anticipated start and completion dates and the daily construction times. • Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible). • Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible. • Stationary noise sources shall be located as far from sensitive receptors as 	<p>Project sponsor and construction contractor</p>	<p>Prior to and during demolition, excavation and construction</p>	<p>Project sponsor / contractors to report compliance to ERO</p>	<p>Considered complete at completion of building construction</p>

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<p>possible, and they shall be muffled and enclosed within temporary sheds, insulation barriers, or other measures shall be incorporated to the extent feasible.</p> <p>Ground clearing, excavation, foundation, building erection and exterior finishing activities shall be limited to Monday through Friday between the hours of 7:00 a.m. to 8:00 p.m. All other work occurring on Saturday and Sunday shall be limited to the hours of 9:00 a.m. to 6:00 p.m.</p>				
<p>MITIGATION MEASURE M-HZ-1 Hazards (Contaminated Soil)</p>				
<p><i>Step 1: Soil Testing</i></p> <p>If required by the San Francisco Department of Public Health (SFDPH), the project sponsor shall, prior to approval of a building permit for the proposed project, hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the samples for total lead and petroleum hydrocarbons. The consultant shall analyze the samples as discrete, not composite samples. The consultant shall prepare a report on the testing for petroleum hydrocarbons that includes the results of the testing and a map that shows the locations samples collected.</p> <p>The project sponsor shall submit the report on the testing for petroleum hydrocarbons and a fee in the form of a check payable to the San Francisco Department of Public Health (SFDPH), to the Hazardous Waste Program, Department of Public Health, 101 Grove Street, Room 214, San Francisco, California 94102. The fee shall cover staff time for report review and administrative handling. If additional review is necessary, DPH shall bill the</p>	<p>Project sponsor</p>	<p>Prior to issuance of a building permit.</p>	<p>Project sponsor shall hire a consultant to collect soil samples and prepare a report for the DPH including the results of the testing for total lead and petroleum hydrocarbons.</p>	<p>Prior to any demolition or construction. Considered complete on issuance of building permit.</p>

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<p>project sponsor. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the testing report to determine to whether soils the project site are contaminated with petroleum hydrocarbons at or above potentially hazardous levels.</p>				
<p><i>Step 2: Preparation of Site Mitigation Plan</i></p> <p>If, based on the results of the tests conducted, the San Francisco Department of Public Health (DPH) determines that the soils or on the project site are contaminated with contaminants at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.</p>	Project sponsor	Prior to excavation.	The DPH shall determine if preparation of an SMP is warranted. If so, the SMP should be prepared according to certain guidelines, and is subject to approval by the DPH.	Prior to excavation. Considered complete upon DPH review and approval of plans.
<p><i>Step 3: Handling, Hauling, and Disposal of Contaminated Soils</i></p> <p>(a) <u>Specific Work Practices</u>: If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and</p>	Project sponsor and construction contractor	Prior to excavation; or prior to excavation and during demolition, excavation, and	If SMP indicates no contaminants in the soil and DPH concurs, then no monitoring required. If DPH determines presence	Prior to excavation; or prior to excavation and during demolition, excavation, and

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<p>dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations) when such soils are encountered on the site. If there are excavated materials containing over one percent friable asbestos, they would be treated as hazardous waste, and would be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site.</p> <p>(b) <u>Dust Suppression</u>: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.</p> <p>(c) <u>Surface Water Runoff Control</u>: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.</p> <p>(d) <u>Soils Replacement</u>: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.</p> <p>(e) <u>Hauling and Disposal</u>: Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.</p>		construction.	of contaminants or if project sponsor assumes presence of contaminants, then contractor shall take the indicated mitigation action, and shall provide DPH weekly reports during the construction period.	construction. Considered complete if DPH determines the absence of contaminants and if project sponsor assumes the same. Otherwise, considered complete upon receipt by DPH of final monitoring plan.
<p><i>Step 4: Preparation of Closure/Certification Report</i></p> <p>After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH</p>	Project sponsor and construction contractor	During demolition, excavation, and	Project sponsor to provide DPH with final	During demolition, excavation, and

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<p>for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.</p>		<p>construction.</p>	<p>closure/certification report.</p>	<p>construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p>MITIGATION MEASURE M-HZ-2</p> <p>Hazardous Building Materials (PCBs, Mercury, Lead and others)</p>				
<p>The project sponsor would ensure that pre-construction building surveys for PCB- and mercury-containing equipment (including elevator equipment), hydraulic oils, fluorescent lights, lead, mercury and other potentially toxic building materials are performed prior to the start of renovation. Any hazardous building materials so discovered would be abated according to federal, state, and local laws and regulations.</p>	<p>Project sponsor.</p>	<p>Prior to demolition and construction activities.</p>	<p>San Francisco Planning Department to review building materials surveys and monitor abatement compliance</p>	<p>Considered complete upon receipt by the San Francisco Planning Department of final abatement compliance report.</p>

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IMPROVEMENT MEASURE I-TR-1 Transportation (Parking)				
<p>As an improvement measures to reduce the proposed project’s residential parking demand and parking shortfall and to encourage use of alternative modes, the project sponsor could provide a transportation insert for the move-in packet that would provide information on transit service (Muni and BART lines, schedules and fares), information on where FastPasses could be purchased, and information on the 511 Regional Rideshare Program. It should be noted that the project sponsor would provide a car-share parking space and would “unbundle” the sale of parking spaces from the sale of residential units to provide a financial incentive for car-free living.</p>	Project sponsor	Ongoing when new residents move into building	Project sponsor to report to MTA	Ongoing
<p>As an improvement measure to reduce the proposed project’s residential parking shortfall during the overnight hours, residents could be permitted to park within the grocery store component of the garage.</p>	Project sponsor	Ongoing	Project sponsor to report to Planning Department Northeast Quadrant	Ongoing
<p>As improvement measures to reduce the impact of the parking shortfall for the grocery store use, the following improvement measures have been identified:</p>				
<ul style="list-style-type: none"> To ensure that parking spaces in the garage are available for shopping patrons, employees could be required to park off-site and encouraged to take transit. The grocery store operator could provide TransitChecks to employees to encourage use of transit. 	Project sponsor / grocery tenant	Ongoing	Project sponsor / grocery tenant to report to Planning Department Northeast Quadrant	Ongoing

EXHIBIT C

MITIGATION MONITORING AND REPORTING PROGRAM

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Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Implementation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<ul style="list-style-type: none"> To reduce the number of employees that drive to work, the grocery store operator could recruit employees from the neighborhood. 	Project sponsor / grocery tenant	Ongoing	N/A	Ongoing
<ul style="list-style-type: none"> The website for the grocery store could include information on transit access to the project site. 	Grocery tenant	Ongoing. Initial implementation prior to grocery store opening.	Grocery tenant to report to Planning Department Northeast Quadrant	Ongoing
<ul style="list-style-type: none"> To ensure that patrons actively shopping at the grocery store are parking in the project garage, the garage could be monitored. 	Project sponsor / grocery tenant	Ongoing	Project sponsor / grocery tenant to report to Planning Department Northeast Quadrant	Ongoing
<ul style="list-style-type: none"> To facilitate traffic flow within the garage and reduce potential for traffic queues spilling out onto Fulton or Octavia Street, an electronic "FULL" sign could be installed outside the project garage. The supermarket operator could be required to develop a plan to address overflow parking or queuing outside either the Fulton Street or Octavia Street entrances. 	Project sponsor	During project construction	Project sponsor to report to Planning Department Northeast Quadrant	Completed after project construction
IMPROVEMENT MEASURE I-TR-2 Transportation (Loading)				
As an improvement measure to reduce the potential for delivery vehicles to double-park on Fulton Street, an on-site loading dock manager could be hired for the grocery store use to manage the delivery demand, provide assistance for truck maneuvers into and out of the on-site loading area, schedule deliveries by 60 foot trucks and reserve the proposed on-street loading zone	Project sponsor	Prior to opening of grocery tenant for ongoing implementation	Project sponsor to report to Planning Department Northeast Quadrant	Ongoing

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Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Implementation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
for larger vehicles (through the use of cones), and coordinate trash collection activities.				
Additionally, the curb on Fulton Street to the west of the proposed on-site loading area could be designated as short-term commercial vehicle loading/unloading spaces, as proposed by the project sponsor. The designation of the two new spaces (about 80 linear feet) as commercial vehicle loading/unloading spaces would need to be approved by the Board of Supervisors at a public hearing through the MTA.	Project sponsor	During project construction	MTA	Prior to completion of construction
IMPROVEMENT MEASURE I-TR-3 Transportation (Construction)				
Any construction traffic occurring between 7:00 and 9:00 a.m. or between 3:30 and 6:00 p.m. would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. An improvement measure limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by DPT) would minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods.	Project sponsor	During project construction	DBI	Considered complete upon issuance of building permit.