



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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| <input checked="" type="checkbox"/> Inclusionary Housing (Sec. 315) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313)    | <input type="checkbox"/> Child Care Requirement (Sec. 314)            |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)               | <input checked="" type="checkbox"/> Other (EN Impact Fee – Sec. 327)  |

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## Planning Commission Motion No. 18088

HEARING DATE: MAY 20, 2010

*Date:* May 6, 2010  
*Case No.:* **2007.0689EKX**  
*Project Address:* **900 Folsom Street**  
*Zoning:* MUR (Mixed Use Residential)  
85/45-X Height and Bulk District  
*Block/Lot:* 3732/009, 018, 048, and 147  
*Project Sponsor:* Eric Tao  
AGI Capital  
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**ADOPTING FINDINGS RELATING TO LARGE PROJECT AUTHORIZATION PURSUANT TO SECTION 329 OF THE PLANNING CODE TO ALLOW A NINE-STORY, 85 FEET TALL MIXED USE BUILDING INCLUDING UP TO 269 DWELLING UNITS, APPROXIMATELY 4,146 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE, AND UP TO 221 PARKING SPACES ON THE GROUND FLOOR AND IN A BASEMENT LEVEL GARAGE, AND TO: (1) ALLOW EXCEPTIONS TO THE REAR YARD REQUIREMENTS OF PLANNING CODE SECTIONS 134 AND 134(f); (2) ALLOW EXCEPTIONS TO OBSTRUCTIONS PERMITTED OVER A SIDEWALK PER PLANNING CODE SECTION 136; (3) ALLOW EXCEPTIONS TO GROUND FLOOR PARKING SETBACK PER PLANNING CODE SECTION 145.1; (4) PROVIDE OFF-STREET PARKING PURSUANT TO PLANNING CODE SECTIONS 151.1 AND 151.1(f); (5) ALLOW EXCEPTIONS TO VERTICAL NON-HABITABLE ARCHITECTURAL ELEMENTS PER PLANNING CODE SECTION 263.21; (6) ALLOW EXCEPTIONS TO HORIZONTAL MASS REDUCTION REQUIREMENTS OF PLANNING CODE SECTION 270.1; AND, (7) ADOPTING FINDINGS AND MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, WITHIN THE MUR (MIXED USE RESIDENTIAL) DISTRICT, SOMA YOUTH AND FAMILY SPECIAL USE DISTRICT, SOUTH OF MARKET EARTHQUAKE REDEVELOPMENT AREA, AND AN 85/45-X HEIGHT AND BULK DISTRICT.**

## **PREAMBLE**

On July 6, 2007, Eric Tao (hereinafter "Project Sponsor") filed Environmental Review Application No. 2007.0689E with the Planning Department (hereinafter "Department"), and on January 24, 2008, filed Conditional Use Application No. 2007.0689C that was subsequently updated to Large Project Authorization Application No. 2007.0689X (hereinafter "Application") per Planning Code Section 329 to create a Large Project to allow the construction of a nine-story, 85 feet tall mixed use building including up to 269 dwelling units, approximately 4,146 square feet of ground floor commercial space, and up to 221 parking spaces and including the following exceptions: (1) rear yard; (2) obstructions over a sidewalk; (3) ground floor parking setback; (4) off-street parking spaces; (5) vertical non-habitable architectural elements; and (6) horizontal mass reduction.

On February 11, 2008, Project Sponsor filed a Review of Shadow Impacts on Public Park (2007.0689K) with the Department.

The Department determined that an Environmental Impact Report ("EIR") was required and the Department printed and circulated a Notice of Preparation on June 11, 2008, that solicited comments regarding the content of the proposed EIR for the Project. The Department accepted comments on the EIR content through July 11, 2008. Subsequently, the Department published the Draft EIR on July 29, 2009, on which comments were accepted until September 15, 2009. A public hearing on the Draft EIR was held on September 10, 2009. Following the close of the public review and comment period, the Department prepared written responses that addressed all of the substantive written and oral comments on the Draft EIR, and the EIR was revised accordingly.

Several comments on the Draft EIR were made both in writing and at a public hearing in front of the Planning Commission (hereinafter "Commission") on September 10, 2009, and those comments were incorporated in the Final EIR with a response. The comment and response did not substantially revise the Draft EIR and therefore no recirculation was required under the State CEQA Guidelines Section 15073.3.

On May 20, 2010, the Commission certified the final EIR (FEIR) for the Project. This Motion, including Exhibit C attached hereto, sets forth the necessary California Environmental Quality Act (CEQA) findings, and said Exhibit C is hereby incorporated in this Motion by reference as if set forth in full.

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

On May 20, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Application No. 2007.0689EKX.

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

**MOVED**, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2007.0689EKX, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site fronts Folsom Street to the south, 5<sup>th</sup> Street to the west, and Clementina Street (a one-way eastbound alley) to the north. The project site is comprised of four contiguous lots that form a 56,000 square foot rectangle. The project site is currently occupied by a 270-space surface parking lot divided into two parts: a private area with parking spaces leased to neighborhood businesses, and a public parking area where drivers can pay to park. The entire parking area is surrounded by a chain-link fence. The site also contains two 40-foot tall billboards. There are no trees, open space, or other vegetation on the site.
3. **Surrounding Properties and Neighborhood.** The project site falls in the East SoMa neighborhood, which is characterized by a mixture of light industrial, residential, and commercial uses. The project site is about five blocks west of the Transbay Terminal and three blocks south of Market Street. The recently completed Intercontinental Hotel at 5<sup>th</sup> and Howard Streets is one block to the north. Land uses in the immediate vicinity of the site are a mix of residential, retail, office, parking, hotel, and light industrial warehouse uses. The area is currently transitioning to a more mixed use and residential neighborhood, with numerous mixed use and residential developments being built or approved over the last fifteen years.
4. **Project Description.** The Project proposes to construct a 9-story, 85-foot tall building with ground and basement level parking, creating up to 269 dwelling units, approximately 4,146 square feet of ground floor commercial space along 5<sup>th</sup> Street, and up to 221 off-street parking spaces (including stackers) on the ground and basement levels. The eight units on the ground floor fronting Folsom Street are designed to be "Flexible-Occupancy units" that may contain certain commercial uses on the ground floor, as limited in the Conditions of Approval, while the remainder of the unit is residential.

Open space is provided on private balconies, an inner courtyard, rooftop decks, and a new publicly accessible mid-block pedestrian pathway connecting Folsom and Clementina Streets that will be more than 30 feet wide and will serve as a park. The building will have a rectangular footprint with four functioning facades. The 5<sup>th</sup> Street façade includes ground floor commercial space with 7 stories of residential use above. The Folsom Street façade includes the "Flexible-Occupancy units" on the ground and 2<sup>nd</sup> floor, with 7 floors of residential above. The Clementina Street façade includes a four story building element containing a combination of dwelling units, including townhouse units that directly access the street. The remaining façade will face the newly created park connecting Folsom and Clementina Streets, and will include townhouse units that directly access the park.

The Project will seek a Leadership in Energy and Environmental Design (LEED) Gold certification or equivalent as determined by the San Francisco Planning Department. It will include the following features in order to achieve the certification:

- Vegetated roof to reduce stormwater runoff and decrease the urban heat island effect;
  - Water-efficient landscaping;
  - Optimized energy performance;
  - Low VOC-emitting adhesives, sealants, paints, coatings and carpet to limit off-gassing and promote high air quality within the residential units;
  - Potentially on-site renewable energy (solar and/or wind); and
  - Preferred parking for low-emitting and fuel-efficient vehicles.
5. **Public Comment.** The Department received letters of endorsement the Yerba Buena Alliance, San Francisco Housing Action Coalition, Clementina Cares, United Brotherhood of Carpenters and Joiners of America (Local 22), San Francisco Planning + Urban Research Center (SPUR), and the South of Market Project Area Committee (SOMPAC). The Department also received one letter of support from an adjacent neighbor.
6. **Mixed Use Residential (MUR) Zoning District.** The Mixed Use — Residential District (MUR) serves as a buffer between the higher-density, predominantly commercial area of Yerba Buena Center to the east and the lower-scale, mixed use service/industrial and housing area west of Sixth Street. The MUR serves as a major housing opportunity area within the eastern portion of the South of Market. The district controls are intended to facilitate the development of high-density, mid-rise housing, including family-sized housing and residential hotels. The district is also designed to encourage the expansion of retail, business service and commercial and cultural arts activities. Continuous ground floor commercial frontage with pedestrian-oriented retail activities along major thoroughfares is encouraged. Hotels, nighttime entertainment, movie theaters, adult entertainment and heavy industrial uses are not permitted.
7. **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.** Planning Code Section 841 identifies residential use and various nonresidential uses as principally permitted uses in the Mixed Use Office (MUR) Zoning District within a minimum residential to nonresidential ratio of at least 3 to 1.
- The Project includes residential units on the 2nd story and above with ground floor commercial space, resulting in a residential to nonresidential ratio well above 3 to 1.*
- B. **Residential Open Space.** Planning Code Section 135 requires that usable open space be located on the same lot as the dwelling units it serves. At least 80 square feet of usable open space per dwelling unit, or 54 square feet per dwelling unit of publicly accessible open space, is required. Up to 50 percent of the publicly accessible open space may be provided off-site. The Project has a residential open space requirement of up to 21,520 square feet of usable open space.

*The Project includes 18 private decks that meet the minimum open space requirements for their respective units. While additional decks are provided, they do not meet the minimum requirements for useable open space. An "L" shaped roof deck will provide 12,326 square feet of useable open space for 154 units. The proposed publicly accessible park connecting Folsom and Clementina Streets will provide 5,465 square feet of useable open space for 101 units. These open spaces combine to exceed the minimum useable open space required for the project.*

- C. **Commercial Open Space.** Planning Code Section 135.3 requires usable open space for uses other than dwelling units. For retail use, one square foot per 250 square feet of occupied floor area of usable open space is required. In Eastern Neighborhoods Mixed Use Districts, this open space requirement may be satisfied through payment of a fee of \$76 for each square foot of usable square footage not provided pursuant to this Code section.

*The Project is required to provide at least 17 feet of commercial open space, and it will meet the requirement by establishing the publicly accessible park connecting Folsom and Clementina Streets. After accounting for required residential open space, the park provides an additional 227 square feet, which exceeds the required 17 feet of commercial open space.*

- D. **Street Trees.** Planning Code Section 143 requires the owner or developer of a new building in this District to install street trees. Each street tree must be a minimum of 24-inch box for 20 feet of frontage of the property along each street or public alley.

*The project meets the requirement by providing 18 trees on Clementina Street, 8 trees on 5<sup>th</sup> Street, and 18 trees on Folsom Street.*

- E. **Street Frontages.** Planning Code Section 145.1 requires the following for street frontages in Eastern Neighborhood Mixed Use Districts: (1) not more than 1/3 the width of the building facing the street may be devoted to ingress/egress to parking; (2) off-street parking at street grade must be set back at least 25 feet; (3) "active" use shall be provided within the first 25 feet of building depth at the ground floor; (4) ground floor non-residential uses in MUR zoning district shall have a floor-to-floor height of 14-feet; (5) frontages with active uses shall be fenestrated with transparent windows; and, (6) decorative railings or grillwork placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular views.

*The project meets the requirements of Section 145.1 as follows: (1) providing an approximately 20-foot wide garage opening, which is less than 1/3 the width of the approximately 310-foot wide building; (2) incorporating an approximately 4,146 square foot ground floor commercial ("active" use) space within the first 25 feet of the building depth at ground floor along 5<sup>th</sup> Street, residential lobbies and "Flexible-Occupancy" units along Folsom Street, and residential units along Clementina Street; (3) providing a floor-to-floor ground floor height of 18 feet 11 inches for the commercial frontage; and, (4) providing transparent windows at the ground floor active use. The required 25-foot off-street parking setback at the ground floor is met for the vast majority of the project. However, an approximately 40-foot section adjacent to the garage entrance on Clementina Street is only 20 feet deep in order to permit acceptable vehicular maneuverability within the ground floor parking area. An exception for this area is detailed in 9C below.*

- F. **Shadow.** Planning Code Section 147 requires reduction of substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Planning Code Section 295. Section 295 restricts new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission.

*The Shadow Analysis conducted for the Project indicates that the Project will not cast shadow upon Public, Publicly Accessible or Publicly Financed or Subsidized Open Space. Additionally, the project meets the alley setback requirements of Section 261.1 in regard to the proposed publicly accessible park connecting Folsom and Clementina Streets.*

- G. **Bicycle parking.** Planning Code Section 155.5 requires projects with more than 50 dwelling units to provide at least 25 bicycle parking spaces plus 1 additional space for every 4 dwelling units above 50. Therefore, the project requires 80 bicycle parking spaces.

*The project meets, and exceeds, this requirement with 109 bicycle spaces on the ground floor.*

- H. **Car Sharing.** Planning Code Section 166 requires developments creating more than 200 dwelling units to provide at least two car share spaces, plus 1 for every 200 dwelling units over 200, to be made available, at no cost, to a certified car-share organization for purposes of providing car-share services for its car-share service subscribers.

*The Project will provide 3 car share spaces in the ground floor parking area.*

- I. **Dwelling unit mix.** Planning Code Section 207.6 requires at least 40 percent of the total number of proposed dwelling units to contain two bedrooms or more bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units.

*The Project will provide 41.3 percent of the dwelling units as 2-bedroom units or larger.*

- J. **Height.** Lots 009, 018, and the front half of 147 fronting on Folsom Street are located in an 85-X height and bulk district. Lots 048 and the rear half of 147 fronting on Clementina Street are located in a 45-X height and bulk district.

*The height of the finished roof on lots 009 018, and the front half of 147 fronting on Folsom Street will be 85-feet. The height of the finished roof on lots 048 and the rear half of 147 fronting on Clementina Street will be 45-feet or less. Mechanical and elevator and stair penthouses will meet the requirements of Section 260(b) for height exceptions. The Project also requests an exception for a vertical non-habitable architectural element per Section 263.21, discussed in 9E below.*

- K. **SoMa Youth and Family Special Use District.** The project site is located in the SoMa Youth and Family Special Use District. This District requires Conditional Use Authorization for certain land uses and increased affordable housing requirements for properties that front only on smaller streets within the District.

*The Project does not propose any land use restricted by this District. Lot 048 only fronts on Clementina Street, and as such, is subject to the additional affordability requirements of the District, as discussed in 8L below.*

- L. **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 five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 315.6, the Project is required to provide 15% 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. In order for the project sponsor to be eligible for the on-site option under the Interim Controls, the project sponsor must submit an Affidavit to the **Planning Department 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.** 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. The EE application was submitted on July 6, 2007. Forty units of the 269 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.*

- M. **Eastern Neighborhoods Public Benefit Fund.** The Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions of Planning Code Section 327 through payment of an Impact Fee to the Treasurer, the execution of a Waiver Agreement or In-Kind agreement approved as described per Planning Code Section 327 prior to the issuance by Department of Building Inspection of the first site or building permit for the development project.

8. **General Compliance with the Large Project Authorization in Eastern Neighborhoods Mixed Use District Objectives.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

- A. Overall building massing and scale;

*The Project conforms to the applicable height and bulk requirements. The community in the vicinity of the Project is constantly evolving with development in the entire South of Market region and the recent Eastern Neighborhoods Area Plans, and contains a range of building masses. The project, with residential and commercial uses, will be consistent with the evolving character of the area. The Project*

*massing will improve the character of the neighborhood and general pedestrian accessibility by providing a midblock park that allows pedestrian access from Folsom Street to Clementina Street, breaking up the existing South of Market block layout that is not conducive to pedestrian walkability. Additionally, the Project steps down in height as it approaches Clementina Street, providing light and air access to the alleyway.*

*The most substantial structure in the vicinity is the Intercontinental Hotel (888 Howard St.), which rises 32-stories (340 feet) above the northeast corner of the intersection of Fifth and Howard Streets, one-half block north of the project site. There are several residential loft or condominium buildings within the surrounding blocks, including a new 65-foot residential building (436 Clementina Street) to the immediate northwest of the site, and a new 85 foot residential building (829 Folsom Street) one half-block to the east on Folsom Street. The Project will replace a surface parking lot with a new residential building with ground floor commercial space along 5<sup>th</sup> Street. A defining trend in the area has been redevelopment and adaptive reuse of underutilized parcels to meet the increased demand for housing and service-based businesses. The project falls within this trend and will be compatible with its surroundings. The proposed buildings will be approximately 85-feet in height, with lot number 48 and a portion of lot 147 approximately 45 feet in height. The buildings will fall within height restrictions set in the Planning Code and will be similar in scale to uses within a block of the project site, such as the aforementioned recently constructed projects. In addition, the Yerba Buena Lofts building (885 Folsom Street), one half-block east of the project site across Folsom Street, is approximately 85-feet in height, and the 14-story Alexis Towers apartment building directly across from the project site on Fifth Street, is approximately 120 feet in height.*

B. Architectural treatments, facade design and building materials;

*The architecture of this Project responds to the site's location at an axis between the traditional warehouse aesthetic of West Soma, and the contemporary architecture of the Yerba Buena District to the east. The Project's facades along Folsom Street and 5<sup>th</sup> Street present a fenestration pattern and scale similar to the expressed frame of an industrial warehouse common in the area, expressed through modern materials including white and grey composite panel rainscreens and painted fiber cement siding. White aluminum framed window openings slide behind the expressed frame and meet at the corner of 5<sup>th</sup> and Folsom Streets in a dynamic expression of the coming together of two districts with distinct architectural styles. This intersection is expressed through multi-directional cantilevered balconies with glass and aluminum railings, colored glass panels and white composite panels. Variations in fenestration and treatment of the cornice line at the building's roof allow the architecture to read as distinct pieces of a whole.*

*Architectural treatments along Clementina Street and at the mid-block park are of a more residential character and specifically pedestrian scale. The building steps down to Clementina Street, creating architecture of an appropriate scale for the narrow alley. A stone base, planters, decorative fencing, gates and plant material, define and screen residential entries. Details including individual address numbers, lighting and change in paving pattern signify each residential entry. Privacy is achieved through use of materials including patterned glass, plant material, setbacks, and fenced patios at the Park.*



- C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

*The ground floor character of the building is two-fold; active, commercially oriented and viable space along Folsom and 5<sup>th</sup> Streets, and an equally active—yet smaller scaled—residential character along the Park and at the Clementina alleyway. Two residential entries along Folsom Street are indicated by the architecture of the building via recessed entries with canopies, signage, and a change in paving material. The Project's commercial space is located along 5<sup>th</sup> Street, with "Flexible-Occupancy" units located along Folsom Street. Townhomes are located immediately off the park and along Clementina Street. Townhouses also flank the mid-block park with patios opening directly onto park space, making it a more active open space. The park is open to the public and provides public seating, shade, trees, and green space, and serves as a pedestrian connection between Folsom Street and Clementina Street. "Flexible-Occupancy" unit entries are recessed with a planter, and individual blade signage demarcates each space. The commercial corner at 5<sup>th</sup> and Folsom is carved out at the ground floor, inviting pedestrians, and providing an opportunity for outdoor seating. Along 5<sup>th</sup> Street, commercial space has 19 ft clear ceiling height at the ground floor. Curb cuts are minimized to one parking access point for entire project. Street trees along all street frontages are proposed per the Planning Code, in most cases below the prescribed 20' spacing with the exception of building entries, corners and at the vehicular access point. Utility access will be from Clementina Street, adjacent to the parking entry and the stair tower. Superior outdoor open space will be provided by roof terraces and an inner courtyard in lieu of a rear yard.*

- D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

*The Project provides adequate open space, all on-site. The open spaces are provided in the form of private balconies and a large roof deck, and a publicly accessible park connecting Folsom and Clementina Streets. The total open spaces provided exceed the amount required.*

- E. The provision of mid-block alleys and pathways on frontages as required by the criteria set forth in Section 270, and the design of mid-block alleys and pathways as required by and pursuant to the criteria set forth in Section 270.2, as follows;

1. Generally be located as close to the middle portion of the subject block face as possible, perpendicular to the subject frontage and connect to existing adjacent streets and alleys;

*The proposed mid-block pathway is perpendicular to and connects Folsom and Clementina Streets, and is located at the far end of the Project site, which is as close to the middle portion of the subject block as possible.*

2. Provide pedestrian access;

*The proposed mid-block pathway will provide direct pedestrian access from Folsom and Clementina Streets, and will provide direct access to ground floor townhouse units.*

3. Provide no, limited or full vehicular access, as specific conditions warrant;

*The proposed mid-block pathway will provide no vehicular access.*

4. Have a minimum width of 20 feet from building face to building face, exclusive of those obstructions allowed pursuant to Section 136, and a minimum clearance height from grade of 15 feet at all points;

*The proposed mid-block pathway has a width of 39 feet 10 inches along Folsom Street, and a width of 32 feet 10 inches for the majority of its length where it fronts the ground floor patios of townhouse units. The pathway is completely open, with no obstructions pursuant to Section 136 or otherwise.*

5. Have a minimum clear walking width of 10 feet free of any obstructions in the case of a pedestrian-only right-of-way, and dual sidewalks each of not less than 6 feet in width with not less than 4 feet minimum clear walking width in the case of an alley with vehicular access;

*The proposed mid-block pathway will act as a park and include a cleared walking width in excess of 10 feet.*

6. In the Eastern Neighborhoods Mixed Use Districts, be at least 60% open to the sky, including those encroachments permitted in front setbacks by Section 136 of this Code;

*The proposed mid-block pathway will be 100 percent open to the sky.*

7. Provide such ingress and egress as will make the area easily accessible to the general public;

*The proposed mid-block pathway will have a frontage of nearly 40 feet along Folsom Street, and nearly 33 feet along Clementina Street. Additionally, the sponsor and Planning Department will coordinate with the Municipal Transportation Agency (MTA) to add bulb-outs at each entry to provide a more inviting entry at each end of the pathway.*

8. Be protected from uncomfortable wind, as called for elsewhere in this Code;

*The proposed mid-block pathway will not be significantly impacted by uncomfortable wind.*

9. Be ungated and publicly accessible 24 hours per day, as defined elsewhere in this Section;

*The proposed mid-block pathway will be ungated and publicly accessible 24 hours per day.*

10. Be provided with appropriate paving, furniture, and other amenities that encourage pedestrian use, and be landscaped to greatest extent feasible;

*A line of trees will buffer the pathway from the immediately adjacent building to the southwest. A forked pedestrian seating wall will run nearly the length of the pathway and encase a grassed open space.*

11. Be provided with ample pedestrian lighting to ensure pedestrian comfort and safety;

*The proposed mid-block pathway will have ample lighting to ensure pedestrians' and townhouse occupants' comfort and safety.*

12. Be free of any changes in grade or steps not required by the underlying natural topography and average grade;

*The proposed mid-block pathway includes no grade changes or steps.*

13. Be fronted by active ground floor uses, as defined in Section 145.1, to the extent feasible;

*The proposed mid-block pathway will be fronted by ground floor townhouse units.*

14. New buildings abutting mid-block alleys provided pursuant to this Section 270.2 shall feature upper story setbacks according to the provisions of Section 261.1.

*The proposed mid-block pathway is nearly 40 feet wide. A 30-foot wide pathway would require a 5-foot setback above 25 feet. The Project effectively provides a nearly 10-foot setback.*

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting;

*The Project proposes the installation of street trees along all three frontages, public seating along 5<sup>th</sup> Street, sidewalk improvements on Clementina Street, and a publicly accessible park connecting Folsom and Clementina Streets.*

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

*The Project provides a single ingress/egress on Clementina Street and is not anticipated to create traffic problems. No ingress/egress is proposed on Clementina Street by the proposed project at 260 5<sup>th</sup> Street (Case No. 2007.0690EKX) to prevent possible conflicts and congestion. Additionally, the proposed mid-block pedestrian pathway will improve circulation on a very long block.*

- H. Bulk limits;

*The Project site is located in an X Bulk District, which provides no bulk restrictions.*

- I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan.

*The Project generally meets the Objectives and Policies of the General Plan and is compliant with the East SoMa Area Plan.*

9. **Exceptions.** Proposed Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts.

- A. Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth beginning at the lowest story containing a dwelling unit. The subject property is a triple-frontage lot. Planning Code Section 329(d) allows an exception for the rear yard requirement pursuant to requirements of Planning Code Section 134(f).

1. Residential uses are included in the new or expanding development and a comparable amount of readily accessible usable open space is provided elsewhere on the lot:

*The Project is occupied by residential uses, except for a small amount of ground floor commercial space, and a comparable amount of readily accessible open space is proposed. Per the Planning Code, the required rear yard should equal 25 percent of the lot area, which is approximately 14,015 square feet for this property. The proposed mid-block pathway and inner courtyard combine to provide approximately 13,900 square feet. Private decks and the large roof deck combine to provide more than 13,000 additional square feet of usable open space.*

2. The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties:

*The Project will occupy the northwestern corner of the block and be surrounded by three streets and a nearly 40-foot wide park. The tallest portions of the building will front Folsom and 5<sup>th</sup> Streets, which are both approximately 80-foot rights-of-way. The proposed structure will step down as it reaches Clementina Street in response to the alley controls of Planning Code Section 261.1. As a result, the Project will have no significant impact on light and air to adjacent properties.*

3. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties:

*Adjacent buildings to the Project provide no rear yard, resulting in no existing interior block open space. However, the Project includes a nearly 40-foot wide pedestrian pathway and a second floor inner courtyard.*

- B. Planning Code Section 136 limits the types and dimensions of building features that may project over a sidewalk in the public right-of-way. Bay windows are permitted to obstruct over sidewalks and required yards as long as they 1) do not extend more than 3 feet, 2) be no more than 15 feet at the line establishing the required open area, and 3) be reduced in proportion to the distance from such line by means of 45 degree angles drawn inward from the ends of such 15-foot dimension, reaching a maximum of nine feet along a line parallel to and at a distance of three feet from the line establishing the required open area. The proposal includes bays that exceed the minimum dimensions.

*The Project includes enlarged, angled bays at the corner of Folsom and 5<sup>th</sup> Streets that are 18 feet 8 inches wide, and project 8 feet 9 inches over the sidewalk at their longest points. The bays fronting*

*Clementina Street are "box" bays that do not include any glazing on the sides. The bays on the corner of Folsom Street and the mid-block pedestrian pathway are long, narrow, and follow a stitch pattern. While the corner bays are somewhat longer than traditional bays, and the Clementina Street bays are somewhat non-traditional, they all add unique value and detail to the overall contemporary design of the building.*

- C. Planning Code Section 145.1 requires that all ground floor parking be set back at least 25 feet from each street frontage. The proposal includes an approximately 40-foot portion of parking along Clementina Street that is only set back 20 feet from the street.

*This minor deviation is needed to ensure adequate vehicular maneuverability in the ground floor parking area. This exception will not be visible from the street, and the overall intent of the Section 145.1 will still be met.*

- D. Planning Code Section 151.1 allows for provision of up to one parking space for each four dwelling units, or up to .75 parking space for each unit when the criteria of Planning Code Sections 151.1(f) and 329(d) are met. Additionally, up to one parking space is permitted for each dwelling unit that is two or more bedrooms and at least 1,000 square feet of occupied floor area, subject to the requirements of Sections 151.1(f) and 329(d). No additional parking is permitted above these amounts. Based on the proposed dwelling unit mix, the maximum parking rate permitted is .82 spaces per dwelling unit. The project proposes a parking rate of approximately .82 spaces per dwelling unit.

In granting an exception for parking in excess of that principally permitted, the Planning Commission shall make the following affirmative findings per Planning Code Section 151.1(f).

1. Vehicle movement in or around the Project does not unduly impact pedestrian spaces or movement, transportation service, bicycle movement, or the overall traffic movement in the district:

*The project includes 221 off-street parking spaces, which represents .82 spaces per dwelling unit. The basement and ground level parking garage will have a single ingress/egress point on Clementina Street. The project is projected to generate no more than 110 additional vehicle trips per weekday at the PM peak hour. These additional vehicle trips are not projected to reduce the Level of Service (LOS) rating at any surrounding intersection. The Final EIR for this project found no significant pedestrian or bicycle impacts. There are also mitigation measures for this project, such as curb ramp upgrades, sidewalk improvements, and bus stop relocations that will improve access and use of pedestrian facilities.*

2. Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal:

*All parking will be accessed through a single ingress/egress point on Clementina Street. The primary facades on 5<sup>th</sup> Street and Folsom Street, which include commercial entrances and ground floor "Flexible-Occupancy" units, do not include any curb cuts. Additionally, all on-site parking on the ground floor is wrapped by active uses. As such, the parking does not significantly impact the overall urban design of the project.*

3. All above-ground 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 the Code:  
*All the ground floor parking will be screened by active uses. The requested exception to Section 145.1 is extremely minor, and will not be visible from the street, thereby meeting the overall intent of the Section.*
4. Excess accessory parking does not diminish the quality and viability of the planned streetscape improvements:  
*The proposed parking is not anticipated to impact planned streetscape improvements.*
- E. Planning Code Section 263.21 permits projects subject to Section 329 and within a height district of 85 feet or less to include a vertical, non-habitable architectural feature to rise above the designated height district under the following limitations: 1) only one such feature is permitted per lot; 2) the feature shall not exceed 1,000 gross square feet in area; 3) no plan dimension shall be greater than 50 feet; 4) the feature shall not exceed a height greater than 50 percent of the underlying height district; and 5) such feature shall be consistent with the design, materials, and character of the building.  
*The Project includes such a feature at the corner of Folsom and 5th Streets. The feature is 27 feet by 18 feet 6 inches, with an angled face and an area of 500 square feet. The feature extends 11 feet above the 85-foot height limit, which is less than 50 percent of the height limitation (42.5 feet).*
- F. Planning Code Section 270.1 requires any project with a frontage of more than 200 feet to incorporate one or more mass reduction breaks in the building that reduce the horizontal scale of the building into discrete sections not more than 200 feet in length. The minimum dimensions required for such a break are 30 feet of width and 60 feet of depth above 25 feet. The proposal includes a two smaller mass reduction breaks that are both 15 feet deep, and 24 feet 6 inches wide and 20 feet 6 inches wide, respectively.

In granting an exception for horizontal mass reductions, the Planning Commission shall consider the following criteria per Planning Code Section 270.1(d).

1. No more than 50 percent of the required mass is reduced unless special circumstances are evident;

*The proposed mass reduction breaks represent 38 percent of required amount. The special circumstance for the Project is that the vast majority of developments large enough to trigger this requirement will include double-loading corridors to access its dwelling units, as it is the most efficient means of doing so. A mass reduction break that is 60 feet deep makes this extremely difficult, and would effectively split the proposed Project into two separate building, doubling its egress requirements. This in turn would result in fewer units, but higher construction costs, and thus significantly impacting the creation and affordability of new units in the City.*

*Regarding the intent of the requirement, providing two smaller breaks along such a large frontage is most likely more effective than one large break. Additionally, the proposed southern break*

*extends all the way to the ground floor, instead of starting at the third floor as the Section requires. This provides additional volume to the break and increases its visibility to pedestrians on the street.*

2. The depth of any mass reduction breaks provided is not less than 15 feet from the front facade, unless special circumstances are evident;

*The proposed mass reduction breaks are 15 feet deep.*

3. The proposed building envelope can be demonstrated to achieve a distinctly superior effect of reducing the apparent horizontal dimension of the building; and

*As discussed above, providing two smaller breaks along such a large frontage is most likely more effective than one large break. Additionally, the proposed southern break extends all the way to the ground floor, instead of starting at the third floor as the Section requires. This provides additional volume to the break and increases its visibility to pedestrians on the street. These combined elements provide a superior effect of breaking down the mass of the Folsom Street façade.*

4. The proposed building achieves unique and superior architectural design.

*The building achieves unique and superior architectural design by including a 6,000 square foot publicly accessible park that also functions as a midblock throughway, located most proximate to the middle of the block. Additionally, the building mass contains two mass breaks, as opposed to the code-required single break. Further, the building contains colored glass at the massing breaks, cornice variation for movement at the roofline, and building material and color variation at the façade to create a unique and vibrant architectural rhythm. The dynamic nature of the design of the Project is emphasized through the horizontal breakdown of the Folsom Street façade, the depth and hierarchy of the design elements, the overlying organization of the frames, the motion of the windows slipping behind, and the corner element with projecting balconies and colored glass panels. Other architectural features include a podium accessible from the second floor, providing the opportunity for an interior courtyard open to the sky, and a roof terrace. The roof terrace will provide 12,000 square feet of open space for the Project's tenants, and will be the site of many of the Project's sustainable features.*

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

## HOUSING

### Objectives and Policies – 2004 Housing Element

#### Housing Supply

##### OBJECTIVE 1:

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 is a high density residential development in an underutilized, transitioning industrial area adjacent to downtown. The Project site is a large opportunity site that is currently only used as a surface parking lot with two large billboards, all of which significantly degrades the built and pedestrian environment that surrounds it. The area around the Project site was recently rezoned to MUR as part of a long range planning goal to create a cohesive, high-to-medium density residential neighborhood adjacent to downtown.*

**Housing Choice**

**OBJECTIVE 8:**

ENSURE EQUAL ACCESS TO HOUSING OPPORTUNITIES.

**Policy 8.9:**

Encourage the provision of new home ownership opportunities through new construction so that increased owner occupancy does not diminish the supply of rental housing.

*The Project proposes 269 dwelling units in place of an effectively vacant parcel.*

**Housing Density, Design and Quality of Life**

**Policy 11.2:**

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

**Policy 11.3:**

Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

*The Proposed Project will site 269 dwelling units on an in-fill site within an established mixed-use neighborhood that is well served by mass transit, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations. No affordable housing would be displaced by the project.*



## Regional and State Housing Needs

### OBJECTIVE 11:

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

#### Policy 11.10:

Include energy efficient features in new residential development and encourage weatherization in existing housing to reduce overall housing costs and the long-range cost of maintenance.

*The Project will be constructed to meet LEED Gold certification or equivalent standards through the use of vegetated roof decks, on-site renewable energy, water-efficient landscaping, low VOC-emitting materials, and location efficiency. All of these features may help reduce overall energy and transportation costs for future residents, as well as contribute to a more environmentally friendly living environment.*

### OBJECTIVE 12:

STRENGTHEN CITYWIDE AFFORDABLE HOUSING PROGRAMS THROUGH COORDINATED REGIONAL AND STATE EFFORTS.

#### Policy 12.2:

Support the production of well-planned housing region-wide that addresses regional housing needs and improve the overall quality of life in the Bay Area.

*The Project will site 269 dwelling units on an in-fill site within an established mixed-use neighborhood that is well served by mass transit, thereby meeting the goals of providing housing near employment, transportation, and commercial/retail locations.*

## RECREATION AND OPEN SPACE ELEMENT

### Objectives and Policies

#### OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

#### Policy 4.5:

Require private usable outdoor open space in new residential development.

#### Policy 4.6:

Assure the provision of adequate public open space to serve new residential development.

*The Project will create private outdoor open space in new residential development through numerous private balconies and two large, vegetated roof decks. It will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department. Additionally, a new pedestrian pathway will be created to connect Folsom and Clementina Streets, and it will function like a public park.*

## **TRANSPORTATION ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 24:**

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

#### **Policy 24.2:**

Maintain and expand the planting of street trees and the infrastructure to support them.

#### **Policy 24.3:**

Install pedestrian-serving street furniture where appropriate.

#### **Policy 24.4:**

Preserve pedestrian-oriented building frontages.

*The Project will install street trees at approximately 20 foot intervals all along the three site frontages on Folsom, 5<sup>th</sup>, and Clementina Streets. Pedestrian-serving street furniture will be installed in front of the commercial space along 5<sup>th</sup> Street. Frontages are designed with active spaces oriented at the pedestrian level.*

#### **OBJECTIVE 28:**

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

#### **Policy 28.1:**

Provide secure bicycle parking in new governmental, commercial, and residential developments.

#### **Policy 28.3:**

Provide parking facilities which are safe, secure, and convenient.

*The Project includes 109 bicycle parking spaces in a secure, convenient location on the ground floor and basement level.*

#### **OBJECTIVE 34:**

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

#### **Policy 34.1:**

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

**Policy 34.3:**

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

**Policy 34.5:**

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

*The Project has a parking to dwelling unit ratio of .82 spaces per unit. The 221 parking spaces are accessed by a single ingress/egress point on Clementina Street.*

**URBAN DESIGN ELEMENT**

**Objectives and Policies**

**OBJECTIVE 1:**

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

**Policy 1.7:**

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

**OBJECTIVE 2:**

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

**Policy 2.6:**

Respect the character of older development nearby in the design of new buildings.

*The Project lies on the border of the Yerba Buena arts and entertainment area to the east and an area to the east and south that is transitioning from low-scale industrial uses to a mid to high density residential neighborhood. As such, the proposed building provides a more intricate 5<sup>th</sup> Street façade that responds to the buildings to the east, while providing a more structured façade along Folsom and Clementina Streets that respond to the industrial influences of the buildings to the west and south.*

**OBJECTIVE 4:**

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

**Policy 4.5:**

Design walkways and parking facilities to minimize danger to pedestrians.

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*While the Project has three street frontages, it only provides one vehicular access point for the entire project, limiting conflicts with pedestrians and bicyclists. Numerous street trees will be planted on each façade, pedestrian seating will be installed along 5<sup>th</sup> street, the ground floor will have active uses, and Clementina and Folsom Streets will have ground floor dwelling units directly accessing the street. All of this will improve the pedestrian experience along the Project site.*

**ENVIRONMENTAL PROTECTION ELEMENT**

**Objectives and Policies**

**OBJECTIVE 1:**

ACHIEVE A PROPER BALANCE AMONG THE CONSERVATION, UTILIZATION, AND DEVELOPMENT OF SAN FRANCISCO'S NATURAL RESOURCES.

**Policy 1.4:**

Assure that all new development meets strict environmental quality standards and recognizes human needs.

*The Project plans to achieve a LEED Gold certification or equivalent through various environmentally friendly elements of the proposal.*

**OBJECTIVE 15:**

INCREASE THE ENERGY EFFICIENCY OF TRANSPORTATION AND ENCOURAGE LAND USE PATTERNS AND METHODS OF TRANSPORTATION WHICH USE LESS ENERGY.

**Policy 15.3:**

Encourage an urban design pattern that will minimize travel requirements among working, shopping, recreation, school and childcare areas.

*The Project is sited in an area planned for mid to high density residential uses directly adjacent to downtown, which serves as the major employment and shopping center for the region. The site is well served by pedestrian, bicycling and transit infrastructure. Additionally, parking is provided at a rate of less than one space per dwelling unit.*

**EAST SOMA AREA PLAN**

**Objectives and Policies**

**Land Use**

**OBJECTIVE 1.2:**

MAXIMIZE HOUSING DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

**Policy 1.2.1:**

Encourage development of new housing throughout East SoMa.

**Policy 1.2.3:**

For new construction, and as part of major expansion of existing buildings, encourage housing development over commercial.

*The Project will add a significant amount of housing in the East SoMa area on a currently underutilized property. The ground floor along 5<sup>th</sup> Street will include commercial uses.*

**Housing**

**OBJECTIVE 2.3:**

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

**OBJECTIVE 2.4:**

LOWER THE COST OF THE PRODUCTION OF HOUSING.

**Policy 2.4.1:**

Require developers to separate the cost of parking from the cost of housing in both for sale and rental developments.

*The Project includes a variety of housing types, including studio, 1-bedroom, Jr. 2-bedroom, and 2-bedroom units. Unit types include both flats and townhouses. The available parking will be unbundled and sold or leased separately from the dwelling units.*

**OBJECTIVE 2.5:**

PROMOTE HEALTH THROUGH RESIDENTIAL DEVELOPMENT DESIGN AND LOCATION.

**Policy 2.5.3:**

Require new development to meet minimum levels of "green" construction.

*The Project plans to achieve a LEED Gold certification through various environmentally friendly elements of the proposal.*

**Built Form**

**OBJECTIVE 3.1:**

PROMOTE AN URBAN FORM THAT REINFORCES EAST SOMA'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

**Policy 3.1.3:**

Relate the prevailing heights of buildings to street and alley width throughout the plan area.

**Policy 3.1.11:**

Establish and require height limits along alleyways to create the intimate feeling of an urban room.

**Policy 3.1.12:**

Establish and require height limits and upper story setbacks to maintain adequate light and air to sidewalks and frontages along alleys.

*The Project adequately responds to the width and character of Clementina Street by capping the height at the street front to 40 feet and then stair-stepping away from the street to ensure the alley receives adequate light and air. The overall design of the Project is contemporary, but it also responds well to its surroundings.*

**OBJECTIVE 3.2:**

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

**Policy 3.2.1:**

Require high quality design of street-facing building exteriors.

**Policy 3.2.2:**

Make ground floor retail and PDR uses as tall, roomy and permeable as possible.

**Policy 3.2.3:**

Minimize the visual impact of parking.

**Policy 3.2.5:**

Building form should celebrate corner locations.

*The Project includes a nearly 19-foot floor to ceiling height for the commercial space along 5<sup>th</sup> Street. This space is of ample size and has significant transparency. The majority of the parking for the project is below grade and only visible by the single curb cut and garage door on Clementina Street. The ground floor parking is all wrapped in active uses. The primary corner at 5<sup>th</sup> Street and Folsom Street is celebrated through an enlarged bay system that is visually distinct.*

**Transportation**

**OBJECTIVE 4.1:**

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN THE SOUTH OF MARKET.

**Policy 4.1.4:**

Reduce existing curb cuts where possible and restrict new curb cuts to prevent vehicular conflicts with transit on important transit and neighborhood commercial streets

*The Project will actually reduce the number of curb cuts on the site from three to one. Additionally, the lone curb cut will be placed on Clementina Street.*

**Streets and Open Space**

**OBJECTIVE 5.2:**

ENSURE THAT NEW DEVELOPMENT INCLUDES HIGH QUALITY PRIVATE OPEN SPACE.

**Policy 5.2.1:**

Require new residential and mixed-use residential development to provide on-site private open space designed to meet the needs of residents.

*The Project includes numerous private balconies well above the minimum dimensions required for private open space. Additionally, the proposed roof deck is quite large and, combined with the pedestrian pathway connecting Folsom and Clementina Streets, will provide open space well in excess of the minimum requirements.*

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

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

*There are no existing neighborhood-serving retail uses in the existing building. The Project will provide 4,146 square feet of ground floor space adequate for various commercial uses that will create opportunities for local resident employment and ownership opportunities.*

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

*No housing exists on the project site. The project will provide up to 269 new dwelling units, significantly increasing the neighborhood housing stock. The design of the Project is compatible with the surrounding neighborhood. For these reasons, the proposed project would protect and preserve the cultural, economic and historic significance of the neighborhood.*

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

*The Project will not displace any affordable housing because there is currently no housing on the site. The Project will comply with the City's Inclusionary Housing Program, therefore increasing the stock of affordable housing units in the City.*

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

*The Project is surrounded by a plethora of public transit routes. Routes within a several block radius include the MUNI and BART Powell Street station, the MUNI F line, the 8A-8X-8BX, 12, 14-14L-14X, 27, 30, 45, and several other MUNI bus lines north of Market Street. Golden Gate Transit and SamTrans also operate bus routes in this radius. The majority of future residents are expected to use alternative methods of transportation other than private automobiles, and the small number of vehicle trips generated by this project would not impede MUNI transit service or overburden streets.*

- 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 include any commercial office development. The Project will displace an underutilized property and would eliminate the potential for future development of Production, Distribution, and Repair (PDR) uses on the site. However, the replacement with dwelling units and commercial space will increase the diversity of the City's housing supply, a top priority in the City, and provide potential neighborhood-serving uses.*

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

*The Project will comply with all current seismic requirements.*

- G. That landmarks and historic buildings be preserved.

*The Project will not impact any existing landmarks or historic buildings.*

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

*The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.*

- 12. The Project has completed the requirements of the First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator as they apply to permits for residential development (Section 83.4(m) of the Administrative Code). The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

- 13. 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.

- 14. Findings under the California Environmental Quality Act (CEQA).

- a. Project Sponsor Objectives

The Final Environmental Impact Report (FEIR) discusses several Project objectives identified by the Project Sponsor. The objectives are as follows:



- To create a high-quality, sustainable, well-designed project that is responsive to the surrounding neighborhood.
- To provide residential and retail mixed-uses consistent with land use and design goals adopted for the Eastern Neighborhoods.
- To create transit-oriented housing opportunities located in Downtown San Francisco.
- To provide 15 percent BMR units to contribute to the City's supply of moderate income housing; and
- To construct a project that will qualify for Leadership in Energy and Environmental Design (LEED) Gold certification.

b. Planning and Environmental Review Process

The Project Sponsor applied for environmental review on July 6, 2007. The San Francisco Planning Department (the "Department") determined that an Environmental Impact Report was required and the Department printed and circulated a Notice of Preparation on June 11, 2008, that solicited comments regarding the content of the proposed EIR for the Project. The Department accepted comments on the EIR content through July 11, 2008. Subsequently, the Department published the Draft EIR on July 29, 2009, on which comments were accepted until September 15, 2009. The DEIR, together with the Comments and Responses document constitute the Final Environmental Impact Report (FEIR.) The Commission certified the FEIR on May 20, 2010 in Motion No. 18088.

c. Location and Custodian of Records.

The public hearing transcript, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are located at the Planning Department, 1650 Mission Street, San Francisco. The Planning Commission Secretary, Linda Avery, is the custodian of records for the Planning Department and the Planning Commission.

d. Alternatives Analyzed in the FEIR

The FEIR analyzed two alternatives to the Project: the No Project Alternative and the No Subsurface Parking Alternative. The No Project Alternative analyzes no immediate change to the Project site, including no demolition of the two buildings on the Project site and no construction of the new residential and/or office building with ground floor retail and underground parking. The No Subsurface Parking Alternative analyzes construction of a similarly sized building without subsurface parking and with fewer dwelling units.

e. Alternatives Rejected and Reasons for Rejection

1. No Project Alternative. The No Project Alternative would not be desirable or meet the Project Sponsor's goals. The No Project Alternative would amount to a continuation of the existing conditions at the Project site, which is underutilized. The No Project Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons:
  - (a) The No Project Alternative would not meet any of the Project Sponsor's objectives.
  - (b) The No Project Alternative would be inconsistent with key goals of the East SoMa Area Plan.
  - (c) The Project site would remain underutilized and the City would not achieve its objective of providing more housing and commercial space at this site to contribute to the neighborhood and improve the area.
  
2. No Subsurface Parking Alternative. The No Subsurface Parking Alternative would not be desirable or meet the Project Sponsor's goals. The Code Complying Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons:
  - (a) The No Subsurface Parking Alternative would meet some but not all of the Project Sponsor's objectives.
  - (b) The No Subsurface Parking Alternative would create 212 rather than 269 new dwelling units resulting in only 79 percent of the housing that would otherwise be accommodated on the project site, thus adversely affecting the City's total housing supply.
  - (c) The No Subsurface Parking Alternative would result in less retail space.

f. **Significant Impacts and Mitigation Measures**

In the course of the project planning and design, mitigation measures were identified that would reduce or eliminate potential significant environmental impacts. The significant impacts and the mitigation measures to reduce the significant impacts are described in chapter 4 of the FEIR, and outlined as follows:

Air Quality (Initial Study)

- Construction Noise and Vibration Significant Impact
  - Initial Study Mitigation Measure 1: Construction Noise and Vibration
- Construction Air Quality Significant Impact
  - Initial Study Mitigation Measure 2: Construction Air Quality

Cultural and Paleontological Resources (Draft EIR)

- Archaeological Resources Impact CR-1: Significant Effect on Archaeological Resources
  - Draft EIR Mitigation Measure M-CR-1: Archaeological Resources
- Paleontological Resources Impact CR-2: Significant Effect on Paleontological Resources
  - Draft EIR Mitigation Measure M-CR-2: Paleontological Resources

The Project Sponsor has agreed to implement and comply with all mitigation measures identified in the FEIR. Therefore, the mitigation measures that have been incorporated into the Project will avoid or substantially lessen the potential significant environmental effects identified in the FEIR. To assure the implementation of these measures, they are included in the mitigation monitoring and reporting program for the Project, which is attached as Exhibit C to the this motion and incorporated herein by this reference. Implementation of all the mitigation measures contained in the FEIR will be included as a condition of approval for the Project. All mitigation measures proposed in the FEIR are adopted and the full text of the mitigation measures is set forth in the Mitigation Monitoring and Reporting Program attached as Exhibit C to this motion.

g. **Unavoidable Significant Environmental Impacts**

The Project, as approved, would not have a Project-specific or cumulative unavoidable significant environmental impact. The proposed Project would not contribute to cumulatively significant impacts to the quantity of PDR space available within the Eastern Neighborhoods plan area. The Project would not have significant project-level or cumulative effects on transportation conditions. The project would avoid potentially significant adverse impacts on archaeological and paleontological resources with implementation of mitigation measures identified in the Mitigation Monitoring and Reporting Program.

15. Mitigation. Pursuant to CEQA, the Commission has considered the mitigation measures as described in the FEIR and will include these measures and the mitigation monitoring program as conditions of Project approval (see Exhibit C).

16. The Commission hereby finds that approval of the Large Project Authorization would promote the health, safety and welfare of the City.

## DECISION

The Commission, after carefully balancing the competing public and private interests, and based upon the Recitals and Findings set forth above, in accordance with the standards specified in the Code, hereby approves a Large Project Authorization under Planning Code Section 329 to allow the construction of a 9-story, 85-foot tall building with up to 269 dwelling units, up to 4,146 square feet of ground floor commercial space, and up to 221 parking spaces in the SoMa Youth and Family Special Use District and MUR zoning district with an 85/45-X Height and Bulk Designation subject to the conditions of approval attached hereto as **Exhibit A** and in general conformance with plans filed with the plans as received on May 4, 2010, and stamped **Exhibit B**, which is incorporated herein by reference as though fully set forth.

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

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 18088. The effective date of this Motion shall be the date of this Motion if not appealed (After the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1660 Mission Street, (Room 3036) or call 575-6880.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 20, 2010.

Linda D. Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Lee, Miguel, Moore, Olague, and Sugaya.

NAYS:

ABSENT:

ADOPTED: May 20, 2010

# Exhibit A

## Conditions of Approval

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

### General Conditions

1. This approval is for authorization under Planning Code Section 329 on the property at 900 Folsom Street, Lots 009, 018, 048 and 147 in Assessor's Block 3732 (hereinafter "Property") to allow for the construction of a nine-story, 85-foot high building with approximately 353,301 gross square feet of floor area containing up to 269 dwelling units, up to 4,146 square feet of ground floor commercial space, and up to 221 off-street parking spaces, and exceptions to: (1) rear yard; (2) obstructions over a sidewalk; (3) ground floor parking setback; (4) off-street parking spaces; (5) vertical non-habitable architectural element; and (6) horizontal mass reduction.
2. The Project approved by this Motion is in general conformity with the plans dated May 4, 2010, on file with the Department in the docket for Case No. 2007.0689EKX (labeled EXHIBIT B), reviewed and approved by the Commission on May 20, 2010.

### Design

3. The final plans shall meet the standards of the Planning Code and be in general conformity with the plans approved by the Commission on May 20, 2010, as Exhibit B found in the Case docket.
4. The project sponsor shall continue to work with Planning Department staff on the details of the design of the project.
5. Space for the collection and storage of garbage shall be provided within enclosed areas on the property. Garbage containers shall be kept inside buildings, and placed outside only when being serviced by the disposal company. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall be provided at the ground level of the building.
6. The Project shall comply with the provision of street trees as required by Planning Code Section 143.
7. Ground level storefronts in general conformity with Exhibit A 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.

8. The mid-block pedestrian pathway proposed per Planning Code Section 270.2 shall meet all design criteria of Subsection (e). It shall also meet the following criteria and conditions:
  - a. **Maintenance.** The mid-block pedestrian pathway shall be maintained at no public expense. The owner of the property on which the alley is located shall maintain it by keeping the area clean and free of litter and by keeping it in an acceptable state of repair. Conditions intended to assure continued maintenance of the right-of-way for the actual lifetime of the building giving rise to the open space requirement may be imposed in accordance with the provisions of Section 309.1 for DTR or 329 for Eastern Neighborhoods Mixed Use Districts.
  - b. **Informational Plaque.** Prior to issuance of a permit of occupancy, a plaque shall be placed in a publicly conspicuous location for pedestrian viewing. The plaque shall state the right of the public to pass through the alley and stating the name and address of the owner or owner's agent responsible for maintenance. The plaque shall be of no less than 24 inches by 36 inches in size.
  - c. Property owners providing a pathway or alley under this section will hold harmless the City and County of San Francisco, its officers, agents and employees, from any damage or injury caused by the design, construction or maintenance of the right-of-way, and are solely liable for any damage or loss occasioned by any act or neglect in respect to the design, construction or maintenance of the right-of-way.
  - d. The Project Sponsor shall coordinate programming activities for the mid-block pedestrian pathway on the western end of the 900 Folsom Street property with youth and family organizations providing services to youth and family in the SoMa Redevelopment Plan Area.

## Housing

9. Covenants, conditions and restrictions approved by the Planning Department shall be imposed upon the project units to restrict use to occupancy for permanent residents and to preclude time-share ownership or occupancy. No residential units shall be used as hotel units, as defined in Section 203.8 of the San Francisco Housing Code.
10. The Project Sponsor community liaison shall work with the Mission Hiring Hall South of Market Employment Center to evaluate qualified and competitively priced firms and service providers that have historically done work in or provided services in the SoMa Redevelopment Plan Area and make good faith efforts to engage such firms and service providers based on their qualifications and competitive costs and rates on an as needed basis.
11. **Flexible-Occupancy Units.** The ground floor dwelling units that front directly on Folsom Street are designated as Flexible-Occupancy Units and are subject to the following conditions:
  - a. The units are considered dwelling units and are subject to the affordability controls of Planning Code Section 315. The total gross floor area of each unit is subject to the residential rate of Eastern Neighborhood Impact Fee per Planning Code Section 327.3.

- b. The ground floor of these units may be occupied by the following non-residential uses:
    - i. All retail sales and services permitted as of right in the MUR Zoning District (Sec. 841.45);
    - ii. All arts activities permitted as of right in the MUR Zoning District (Sec. 841.55);
    - iii. Trade shops (Sec. 841.80); and
    - iv. Catering services (Sec. 841.81).
    - v. Other uses not specified herein that are permitted as of right in the MUR Zoning District and deemed appropriate by the Zoning Administrator.
  - c. Non-residential uses permitted on the ground floor are subject to the Conditional Use Authorization requirements of the SoMa Youth and Family Special Use District, where applicable.
  - d. Changes of non-residential uses are subject to the notification requirements of Planning Code Section 312.
  - e. Permitted non-residential uses may occupy the ground floor only. Any conversion of residential space on the 2<sup>nd</sup> floor shall be tantamount to the removal of a dwelling unit and be subject to the controls of Planning Code Section 317.
  - f. Non-residential uses permitted on the ground floor are subject to all applicable requirements of the Building and Fire Codes.
  - g. The Planning Department shall prepare an analysis of the occupancy and use of the Flexible-Occupancy units two years after the issuance of the building's Certificate of Final Completion (CFC) from the Department of Building Inspection, and present the findings to the Planning Commission.
12. The purchaser of each unit within the development must sign a disclosure stating that the unit they are purchasing is located within a mixed-use neighborhood that may contain land uses that may be considered a nuisance by future occupants.

**Below Market Rate Units (BMR Units)**

13. **Number of Required Units.** Pursuant to Planning Code Section 315.6, the Project is required to provide 15% of the proposed dwelling units as affordable to qualifying households ("BMR Units").
14. **Unit Mix.** The Project contains 111 two-bedroom, 131 one-bedroom, and 27 studio units; therefore, the required BMR unit mix is 17 two-bedroom, 19 one-bedroom units, and 4 studio units. If the market-rate unit mix changes, the BMR unit mix will be modified accordingly.
15. **Unit Location.** The BMR units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the Property prior to the issuance of the first site or building permit.
16. **Phasing.** If any building permit is issued for any partial phase of the Project, the Project Sponsor shall have designated not less than fifteen percent (15%) of the each phase's total number of dwelling units as on-site BMR units.
17. **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.



18. **Notification.** Project Sponsor shall appoint and maintain a community liaison who shall keep the organizations in the surrounding neighborhood, including those in the SoMa Redevelopment Plan Area, the Youth and Family Zone, the SoMa Community Action Network and the Veterans Equity Center notified about the availability and opportunity to apply and qualify for below market housing opportunities. The ability for Project Sponsor to commence its below market rate sales program shall be conditioned upon it having completed its notification to these neighborhood organizations serving this area.
19. **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 (collectively the "Inclusionary Housing Ordinance"). Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://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.
- a. The BMR units 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 units 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.
  - b. 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.
  - c. 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.).

- d. 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.
- e. Required parking spaces shall be made available to initial buyers or renters of BMR units according to the Procedures Manual.
- f. 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).
- g. 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.
- h. 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 sponsor's failure to comply with the requirements of Planning Code Sections 315 to 315.10 shall constitute cause for the City to record a lien against the development project.
- i. 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 **at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code (as amended by Ordinance No. 0107-10).**
- j. **Future Applicable Controls:** Interim Controls contained in Board of Supervisors Resolution No. 100047 approved by the Board on February 02, 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.

### **Parking**

20. All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling units. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space.
21. The parking spaces must be marketed and sold or leased as an addition to, not a subtraction from, the base purchase or rental price of a dwelling unit, and units may not be marketed or offered as a bundled package that includes parking without clear accompanying language that the parking is available only at additional cost. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units

### **Eastern Neighborhoods Public Benefit Fund**

22. The Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions of Planning Code Section 327 through payment of an Impact Fee to the Treasurer, or the execution of a Waiver Agreement or an In-Kind agreement approved as described per proposed Planning Code Section 327 prior to the issuance by Department of Building Inspection of the first site or building permit for the development project.

### **Performance**

23. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties at all times during Project construction. Prior to the commencement of Project construction, the Project Sponsor shall give the Zoning Administrator and the owners of properties within 300 feet of the Project site boundaries written notice of the name, business address and telephone number of the community liaison.
24. The Project Sponsor shall provide the Planning Department with written documentation of approved construction financing for the new building prior to the issuance of a site or building permit for any site disturbance at the project site.
25. If the Project Sponsor chooses to pursue an In-Kind Agreement with the City to provide improvements on or near the project site in-lieu of an equivalent amount of otherwise required community impact fee, per Planning Code Section 327.3(f), they shall first notify the Planning Department by submitting a letter stating their “Intent to Enter an In-Kind Agreement.” They shall also notify all property owners within a 300-foot radius of the project site of the “Intent to Enter an In-Kind Agreement” with the City within 30 days of its submittal to the Planning Department.
26. Prior to the issuance of any new building or site permit for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor or the successor thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
27. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended for up to two years 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.

**Mitigation Measures**

28. 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.

**Monitoring and Violation**

29. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Code Section 176.

## EXHIBIT C: Mitigation Monitoring and Reporting Program

### MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<b>NOISE:</b>				
<b><u>Mitigation Measure 1: Construction Noise and Vibration</u></b>				
<p>The Project Sponsor shall require its geotechnical engineering contractor to conduct a preconstruction assessment of existing subsurface conditions and the structural integrity of nearby buildings subject to pile driving impacts prior to receiving a building permit. If recommended by the geotechnical engineer, for structures or facilities within 50 feet of pile driving, the project sponsor shall require ground-borne vibration monitoring of nearby structures. The project sponsor shall also require its construction contractor to use noise-reducing pile driving techniques if nearby structures are subject to pile driving noise and vibration. These techniques include pre-drilling pile holes (if feasible, based on soils) to the maximum feasible depth, installing intake and exhaust mufflers on pile driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible.</p> <p>Contractors shall be required to use construction equipment with state-of-the-art noise shielding and muffling devices. In addition, at least 48 hours prior to pile-driving activities, the project sponsor shall notify building owners and occupants within 500 feet of the project site of the dates, hours, and expected duration of such activities.</p>	<p>Project Sponsor, geotechnical engineering contractor, and construction contractor</p>	<p>Prior to and during soil disturbing activities</p>	<p>Project Sponsor, construction contractor, and ERO</p>	
<b>AIR QUALITY:</b>				
<b><u>Mitigation Measure 2: Construction Air Quality</u></b>				
<p>The Project Sponsor shall require the project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and to implement specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.</p>	<p>Project Sponsor, and construction contractor(s)</p>	<p>Prior to and during soil disturbing activities</p>	<p>Project Sponsor, construction contractor, and ERO</p>	

EXHIBIT C: Mitigation Monitoring and Reporting Program

**MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	

**ARCHAEOLOGICAL RESOURCES:**

**Mitigation Measure M-CR-1: Archaeological Resources**

Based on a reasonable presumption that archaeological 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 archaeological consultant having expertise in California prehistoric and urban historical archaeology. The archaeological consultant shall undertake an archaeological testing program as specified herein. In addition, the consultant shall be available to conduct an archaeological monitoring and/or data recovery program if required pursuant to this measure. The archaeological consultant's work shall be conducted in accordance with this measure and with the requirements of the project archaeological research design and treatment plan prepared for the project at the direction of the Environmental Review Officer (ERO). In instances of inconsistency between the requirement of the project archaeological research design and treatment plan and of this archaeological mitigation measure, the requirement of this archaeological mitigation measure shall prevail. 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. Archaeological 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 archaeological resource as defined in CEQA Guidelines Section 15064.5 (a)(c).

Project Sponsor  
(subject to ERO approval)

Prior to soil disturbing activities

Project Sponsor to submit documentation to ERO that a qualified archaeological consultant has been retained.

## EXHIBIT C: Mitigation Monitoring and Reporting Program

### MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<p><b>Archaeological Testing Program.</b> The archaeological consultant shall prepare and submit to the ERO for review and approval an archaeological testing plan (ATP). The archaeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archaeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archaeological testing program will be to determine to the extent possible the presence or absence of archaeological resources and to identify and to evaluate whether any archaeological resource encountered on the site constitutes an historical resource under CEQA.</p> <p>At the completion of the archaeological testing program, the archaeological consultant shall submit a written report of the findings to the ERO. If based on the archaeological testing program the archaeological consultant finds that significant archaeological resources may be present, the ERO in consultation with the archaeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archaeological testing, archaeological monitoring, and/or an archaeological data recovery program. If the ERO determines that a significant archaeological 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"> <li>A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archaeological resource; or</li> <li>B) A data recovery program shall be implemented, unless the ERO determines that the archaeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</li> </ul> <p><b>Archaeological Monitoring Program.</b> If the ERO in consultation with the archaeological consultant determines that an archaeological monitoring program shall be implemented the archaeological monitoring program shall minimally include the following provisions:</p>	<p>Project Sponsor and archaeological consultant</p>	<p>In the event that archaeological deposit is determined to be significant</p>	<p>The project sponsor in consultation with the ERO shall either redesign the project to avoid any adverse effect or implement data recovery program</p>	

## EXHIBIT C: Mitigation Monitoring and Reporting Program

### MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
<ul style="list-style-type: none"> <li>The archaeological 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 archaeological consultant shall determine what project activities shall be archaeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archaeological monitoring because of the risk these activities pose to potential archaeological resources and to their depositional context;</li> </ul>	Project Sponsor and archaeological consultant	During soil disturbing activities	Project Sponsor and archaeological consultant Implement AMP in consultation with ERO	
<ul style="list-style-type: none"> <li>The archaeological 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 archaeological resource;</li> </ul>	Project Sponsor and archaeological consultant	During soil disturbing activities	Archaeological consultant and project contractors	
<ul style="list-style-type: none"> <li>The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archaeological consultant and the ERO until the ERO has, in consultation with project archaeological consultant, determined that project construction activities could have no effects on significant archaeological deposits;</li> </ul>	Project Sponsor and archaeological Consultant	During soil disturbing activities	Archaeological consultant and Project Contractors	
<ul style="list-style-type: none"> <li>The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;</li> </ul>	Project Sponsor and archaeological consultant	During soil disturbing activities	Archaeological consultant and Project Contractors	
<ul style="list-style-type: none"> <li>If an intact archaeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archaeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archaeological monitor has cause to believe that the pile driving activity may affect an archaeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archaeological consultant shall immediately notify the ERO of the encountered archaeological deposit. The archaeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological deposit, and present the findings of this assessment to the ERO.</li> </ul>	Project Sponsor and archaeological consultant	In the event that archaeological deposit is encountered	Archaeological consultant and project contractors shall report finding to ERO, conduct appropriate significance evaluation, and report findings to ERO	



## EXHIBIT C: Mitigation Monitoring and Reporting Program

### MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<p>Whether or not significant archaeological resources are encountered, the archaeological consultant shall submit a written report of the findings of the monitoring program to the ERO.</p> <p><b>Archaeological Data Recovery Program.</b> The archaeological data recovery program shall be conducted in accord with an archaeological data recovery plan (ADRP). The archaeological consultant, Project Sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archaeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archaeological 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 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 archaeological resources if nondestructive methods are practical.</p>	<p>Project Sponsor and archaeological consultant</p>	<p>In the event that archaeological data recovery program is required by the ERO</p>	<p>The project sponsor and archaeological consultant shall consult with ERO for approval of ADRP</p>	

EXHIBIT C: Mitigation Monitoring and Reporting Program

**MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> <li>• <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations.</li> <li>• <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures.</li> <li>• <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies.</li> <li>• <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program.</li> <li>• <i>Security Measures.</i> Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities.</li> <li>• <i>Final Report.</i> Description of proposed report format and distribution of results.</li> <li>• <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.</li> </ul> <p><b>Human Remains and Associated or Unassociated Funerary Objects.</b> 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. This shall include 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 archaeological 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, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.</p>	Project Sponsor and archaeological consultant	In the event human remains and/or funerary objects are encountered	Archaeological consultant in consultation with the San Francisco Coroner, NAHC, and, if applicable, MLD	

EXHIBIT C: Mitigation Monitoring and Reporting Program

**MITIGATION MEASURES ADOPTED AS CONDITIONS OF APPROVAL AND MITIGATION MONITORING PROGRAM**

Mitigation Measures Adopted As Conditions of Approval	MONITORING PROGRAM			Status/Date Completed
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<p><b>Final Archaeological Resources Report.</b> The archaeological consultant shall submit a Draft Final Archaeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archaeological resource and describes the archaeological and historical research methods employed in the archaeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archaeological resource shall be provided in a separate removable insert within the final report.</p> <p>Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.</p>	Project Sponsor and archaeological consultant	After all monitoring and data recovery (if necessary) is complete	Submit Draft and Final Archaeological Resources Report to the ERO	

**PALEONTOLOGICAL RESOURCES:**

**Mitigation Measure M-CR-2: Paleontological Resources**

The project sponsor shall retain the services of a qualified paleontological consultant, either as part of the archaeological consultant team or to work with the archaeological consultant to be retained through Mitigation Measure M-CR-1: Archaeological Resources. The paleontologist shall provide the archaeologist information sufficient to allow the archaeological testing program specified in M-CR-1 to serve also as a preliminary paleontological testing program. The paleontologist shall be available to assist the archaeologist in conducting a monitoring and/or data recovery program, if required pursuant to M-CR-1, to the extent that paleontological resources would be involved in the program.

Project Sponsor (subject to ERO approval)	Prior to soil disturbing activities	Project Sponsor to submit documentation to ERO that a qualified archaeological consultant has been retained.
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