



SAN FRANCISCO PLANNING DEPARTMENT

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. 18089

HEARING DATE: MAY 20, 2010

Date: May 6, 2010
Case No.: **2007.0690EKX**
Project Address: **260 5th Street**
Zoning: MUR (Mixed Use Residential)
85-X Height and Bulk District
Block/Lot: 3732/008 and 150
Project Sponsor: Eric Tao
AGI Capital
100 Bush Street, 22nd Floor
San Francisco, CA 94104
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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 179 DWELLING UNITS, APPROXIMATELY 5,281 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE, AND UP TO 102 PARKING SPACES 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 DWELLING UNIT EXPOSURE REQUIREMENTS OF PLANNING CODE SECTION 140 FOR UP TO 48 UNITS THAT WOULD NOT FACE ONTO A STREET OR PUBLIC ALLEY, OR CODE-COMPLYING REAR YARD OR OPEN SPACE; (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-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On July 6, 2007, Eric Tao (hereinafter "Project Sponsor") filed Environmental Review Application No. 2007.0690E with the Planning Department (hereinafter "Department"), and on January 24, 2008, filed Conditional Use Application No. 2007.0690C that was subsequently updated to Large Project Authorization Application No. 2007.0690X (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 179 dwelling units, approximately 5,281 square feet of ground floor commercial space, and up to 102 basement level parking spaces and including the following exceptions: (1) rear yard; (2) obstructions over a sidewalk; (3) dwelling unit exposure; (4) off-street parking spaces; and (5) horizontal mass reduction.

On February 11, 2008, Project Sponsor filed a Review of Shadow Impacts on Public Park (application no. 2007.0690K) 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.

On August 19, 2009, the San Francisco Historic Preservation Commission (hereinafter "Preservation Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to review the Draft EIR and provide comment.

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. The Project's FEIR identifies a Project specific unavoidable significant impact on the 260 5th Street building resulting from its demolition. Mitigation measures that are recommended for implementation by the Project Sponsor would reduce but not eliminate this impact. This Motion, including Exhibit C attached hereto, sets forth the necessary California Environmental Quality Act (CEQA) findings, including a statement of overriding considerations, 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. 2007.0690EKX.

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. 2007.0690EKX, 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 Clementina Street (a one-way eastbound alley) to the south, Tehama Street (a one-way westbound alley) to the north, and 5th Street to the east. The project site is comprised of two contiguous lots that form a 28,641 square foot "L" shaped property. The project site is currently occupied by a 35-space surface parking lot and a two-story-plus-mezzanine warehouse building with approximately 42,000 square feet of interior space that houses an art gallery and, until recently, an event promotion company. The surface parking is enclosed by a chain-link fence, and there are no trees, open space, or other vegetation on the property.
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 5th 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 demolish the existing light industrial building on the site and construct a 9-story, 85-foot tall building with a basement level parking garage, creating up to 179 dwelling units, up to 5,281 square feet of ground floor commercial space along 5th Street, and up to 102 off-street parking spaces (including stackers). Open space is provided on private balconies and two rooftop decks. The building has an "L" shaped footprint with two primary wings: the 5th Street wing and the Clementina Street wing. The 5th Street wing includes ground floor commercial space with 7 stories of residential use above, and the sole parking access on Tehama Street. The Clementina Street wing includes 9 stories of residential use, including the residential lobby for the entire building and ground floor townhouse units that directly access Clementina Street.

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 approximately 14,320 square feet of usable open space.

The Project includes 13 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. Two roof decks are proposed to provide 7,156 square feet and 6,744 square feet of useable open space. The 13,900 square feet of total roof deck area provides approximately 84 square feet of useable open space to each of the remaining units.

- 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 will meet the requirement by payment of an in lieu fee of approximately \$1,600 for the approximately 21 square feet of usable open space required for the 5,281 square feet of proposed ground floor commercial 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 5 trees on Tehama Street, 8 trees on 5th Street, and 14 trees on Clementina 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 100-foot wide building; (2) situating parking at the basement level; (3) incorporating an approximately 5,281 square foot ground floor commercial ("active" use) space within the first 25 feet of the building depth at ground floor along Tehama and 5th Streets, and residential units along Clementina Street; (4) providing a floor-to-floor ground floor height of 18 feet 11 inches for the commercial frontage; and, (5) providing transparent windows at the ground floor active use.

- 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.

- 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 57 bicycle parking spaces.

The project meets, and exceeds, this requirement with 60 bicycle spaces on the ground floor.

- H. **Car Sharing.** Planning Code Section 166 requires developments creating between 50 and 200 dwelling units to provide at least one car share space 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 one car share space in the basement level garage.

- 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 71 dwelling units as 2-bedroom units or larger, which represents 40 percent of the total.

- J. **Height.** The project site is located in an 85-X height and bulk district.

The height of the finished roof will be 85-feet. 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 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. It also does not occupy any property that fronts only on Clementina or Tehama Street. Therefore, there are no additional affordable housing requirements.

- 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. 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 Eastern Neighborhoods Area Plans, and contains a range of building masses. The Project, with residential and retail uses, will be consistent with the character of the area. The Project massing responds to the unique and challenging L-shaped parcel, providing a massing and scale that is appropriate at the 5th Street corridor, while reducing the scale with a setback at the building fronting Clementina Street to provide adequate light and air 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 5th 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) at the western edge of the Project, 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 5th Street. The defining trend in the area is toward modernization of historically industrial facilities 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 building will be approximately 85-feet in height and 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 5th Street, is approximately 120 feet in height. This approximately 85-foot Project will function as a transition between the 120-foot Alexis Towers immediately to the east, and the 65-foot residential project immediately to the west.

B. Architectural treatments, facade design and building materials;

The architecture of this project responds to the site's location on 5th Street, at the western edge off the Yerba Buena District, a neighborhood defined by contemporary architectural gestures. A dynamic roof-top element, set-back glazing and cantilevered balconies at the corner of 5th and Tehama, give the building a dynamic identity and gesture toward the taller buildings to the northeast of the project. Fenestration patterns and material selections create a dynamic but coherent architecture. Neutral colored pop-outs are set against metallic colored paneling along 5th Street, and warm wood tones at the ground level storefront are set behind aluminum clad columns expressed along the street. Wood benches span between columns on the 5th Street façade offering a small piece of publicly accessible open space.

The façade along Clementina Street is comprised of a horizontal element clad in horizontal wood-look paneling from the ground to sixth floor. The structure behind the façade is expressed through use of reveals flanking the column locations. A double story expression at the building's base is articulated by a horizontal element at the second floor line. This wood-toned element helps demarcate the townhomes located along Clementina Street with gated recessed entries and lowered wood screening both inside and out at the double height storefront glazing. The building changes material above the sixth floor, to the metallic colored paneling of the 5th Street façade with similar pop-outs, set back to respect the alley sun-angle requirements.

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;

In keeping with the architecture of the neighborhood, the building meets the street edge with setbacks only at the individual townhomes. Townhomes are articulated along Clementina Street with double height glazing, recessed entries, and lowered wood screens. Planters sit between the building and the sidewalks in the 18 inch ground and second floor setback, providing screening and greenery at street level. The Project's main residential entry is located along Clementina Street between the townhouses and the corner commercial space. The building entry is covered by a cantilevered canopy. Double height commercial space is located at the corner of Clementina and 5th Street, and extends the entire length of the 5th Street façade. The wood-toned storefront glazing is set back 3 feet 6 inches from the property line, with the upper stories sitting on columns flush at the property line. This setback creates a covered, set back space at the ground floor with wood benches spanning from column to column, offering a definitively pedestrian oriented street edge. The double-height base on all sides of the building reflects the scale of neighboring building in the district, as well as the street frontage requirements of Planning Code Section 145.1.

A 13,900 square foot rooftop terrace provides open space for all tenants. Below grade parking is accessed via a single curb cut along Tehama Street. Utility access is provided along Tehama Street. Service vehicle parking is located in the below grade parking area in lieu of providing a loading dock

- 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 two large roof decks. 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;

The project has a frontage of 275 feet along Clementina Street. However, there is no opportunity to establish a through-block connection between two existing alleys or streets, and the property does not extend over the central portion of the block face. Therefore, no mid-block alley or pathway is required.

- 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 5th Street, and sidewalk improvements on Clementina Street.

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

The Project provides a single ingress/egress on Tehama Street and is not anticipated to create traffic problems. No ingress/egress was provided on Clementina Street to prevent possible conflicts and congestion from proposed parking at the project at 900 Folsom Street (Case No. 2007.0689EKX).

- 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 "L" shaped with varying depths, depending on the perspective. This results in an "L" shaped required rear yard beginning at the second story. 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 7,160 square feet for this property. The proposed "L" shaped rear yard and the mass reduction break that begins at the third floor combine to provide approximately 7,300 square feet. Additionally, private decks and the two large roof decks combine to provide more than 15,000 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 adjacent structure on Clementina Street is six stories high. The adjacent structures on Tehama Street are three and four stories high. The majority of these sites provide little or no rear or side yard spaces. The proposal will not significantly impede the access of light and air to these 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:

Existing buildings on adjacent parcels are generally built to the lot lines and there is no pattern of interior block open space. The only exceptions are the first two adjacent buildings on Tehama Street, which have rear yards of less than 20 feet and 10 feet.

- 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 angled bays along each façade, and in the rear, which are 23 feet 6 inches wide. The shallowest point of the bays projects 1 foot 6 inches, while the deepest portion projects 3 feet. Additionally, the bays on the corner of 5th Street and Tehama Street project approximately 7 feet from the corner. While somewhat longer than traditional bays, these bays add unique character and detail to the overall contemporary design of the building.

- C. Planning Code Section 140 requires dwelling units to have at least one window facing a street or alley, a Code-complying rear yard or an open space with certain minimum dimensions. Up to 48 of the 179 proposed dwelling units will not meet the requirement because the open space they face is not a Code-complying rear yard.

The required rear yard for building section along Clementina Street is 18 feet 9 inches. Each rear unit in this section will face a rear yard space of just more than 16 feet, which is not Code-complying. However, the deficiency is not significant, and combined with the moderate heights of the adjacent buildings on Tehama Street, there will still be adequate access to light and air.

- 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). Based on the proposed dwelling unit mix, the maximum parking rate permitted is approximately .77 spaces per dwelling unit. The project proposes a parking rate of approximately .57 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 102 off-street parking spaces, which represents .57 spaces per dwelling unit. The basement level parking garage will have a single ingress/egress point on Tehama Street. The project is projected to generate no more than 130 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, that will improve sidewalk access and use.

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 Tehama Street, which is the shortest frontage on this site, and is not adjacent to pedestrian access points to the project. The primary facades on 5th Street and Clementina Street, which include commercial entrances and ground floor residential units, do not include any curb cuts. 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:

The proposed parking is all on the basement level. The Project is not requesting any exceptions or variances related to such treatments elsewhere in the Code.

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 Tehama and 5th Streets. The feature is angled to a point and measures approximately 38 feet by 39 feet, and an area of 990 square feet. The feature extends 12 feet 6 inches above the 85-foot height limit, which is less and 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 mass reduction that is 60 feet deep, but only 16 feet wide.

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 break represents 53.3 percent of required amount.

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 break is 60 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

The Project proposes an "L" shaped design based on the underlying property configuration. The location of the proposed mass reduction break is a natural break point in the overall structure and effectively separates the larger section along 5th Street from the smaller, more residential portion along Clementina Street.

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

The building achieves unique and superior architectural design by including a transparent glass bridge that connects the Clementina Street wing with the 5th Street wing of this L-shaped

building, allowing the two sides of the building to maintain a connection to the single elevator core while respecting the need for a mass break as described in Planning Code section 270.1. A Horizontal Mass Reduction as prescribed by this code section coupled with the unique L-shape of the Project site will completely bisect the building, creating a highly inefficient and less functional design. Because the proposed mass break is contiguous with a 10-foot setback at the upper four floors, the building presents a significant and coherent modulation at the Clementina Street frontage.

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. A portion of the Project covers a currently vacant lot being used for surface parking. 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 179 dwelling units in place of a vacant parcel and industrial building.

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 179 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 179 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.

The Project will create private outdoor open space in new residential development through numerous private balconies and two large, vegetated roof decks. The Project will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department.

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 Tehama, 5th, and Clementina Streets. Pedestrian-serving street furniture will be installed in front of the commercial space along 5th 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 60 bicycle parking spaces in a secure, convenient location on the ground floor.

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 .57 spaces per unit. The 102 parking spaces are accessed by a single ingress/egress point on Tehama 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 5th Street façade that responds to the buildings to the east and the rest of 5th Street, while providing a more structured façade along Clementina Street that responds 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 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 5th Street, the ground floor will have active uses, and Clementina Street 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 well below 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 5th 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, 2-bedroom, and 3-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 stepping back at least 10 feet at the 6th floor and above. The design is contemporary, but 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 5th Street. This space is of ample size and has significant transparency. The parking for the project is below grade and only visible by the single curb cut and garage door on Tehama Street. The primary corner at 5th Street and Tehama Street is celebrated through an angled 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 Tehama 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 two proposed roof decks are quite large and 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 5,281 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 179 new dwelling units, significantly increasing the neighborhood housing stock. The existing warehouse building was constructed in 1923, and its demolition will eliminate a structure that could contribute to the identified potential California Register-eligible historic district in the area. However, the Eastern Neighborhoods FEIR found that development in the East SoMa would result in a cumulative loss of historical structures, including those in the potential historic district, which is an unavoidable impact. Implementation of Mitigation Measures M-CR-3 and M-CR-4 found in the project's FEIR will reduce

the impact of the proposal on historic resources. The design of the Project is otherwise compatible with the potential historic district and 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 industrial space 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 site is located within an identified potential California Register-eligible historic district in the area. However, the Eastern Neighborhoods FEIR found that development in the East SoMa would result in a cumulative loss of historical structures, including those in the potential historic district, which is an unavoidable impact. Implementation of Mitigation Measures M-CR-3 and M-CR-4 found in the project's FEIR will reduce the impact of the proposal on historic resources. The design of the Project is otherwise compatible with the potential historic district and surrounding neighborhood. Therefore, landmarks, including the historic district, would be preserved by the Project.
- 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. 18089.

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 four alternatives to the Project: the No Project Alternative, the Adaptive Reuse/Preservation New Development of Lot 150 Alternative, the Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative, and the Adaptive Reuse/Partial Preservation With PDR Space Alternative. The No Project Alternative analyzes no immediate change to the Project site, including no demolition of the 260 5th Street building on the Project site and no construction of the new residential building with ground floor retail and underground parking. The Adaptive Reuse/Preservation New Development of Lot 150 Alternative analyzes the construction of a smaller building on Lot 150 while preserving the existing 260 5th Street building. The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative analyzes a project that would involve the construction of a new 2-story addition to the 260 5th Street building and new construction of a 6-story building on Lot 150. The Adaptive Reuse/Partial Preservation With PDR Space Alternative analyzes a project that would involve the construction of a new 2-story addition to the 260 5th Street building with PDR uses included, and new construction of a 4-story building on Lot 150. The No Project Alternative, the Adaptive Reuse/Preservation New Development of Lot 150 Alternative, the Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative, and the Adaptive Reuse/Partial Preservation With PDR Space Alternative are rejected for the reasons explained below.

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.

2. Adaptive Reuse/Preservation New Development of Lot 150 Alternative. The Adaptive Reuse/Preservation New Development of Lot 150 Alternative would not be desirable or meet the Project Sponsor's goals. The Code Adaptive Reuse/Preservation

New Development of Lot 150 Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons:

- (a) The Adaptive Reuse/Preservation New Development of Lot 150 Alternative would meet some but not all of the Project Sponsor's objectives.
- (b) The Adaptive Reuse/Preservation New Development of Lot 150 Alternative would not result in the adaptively re-used building at 260 Fifth Street being LEED certified.
- (c) The Adaptive Reuse/Preservation New Development of Lot 150 Alternative would create 46 rather than 179 new dwelling units resulting in only 26 percent of the housing that would otherwise be accommodated on the project site, thus adversely affecting the City's total housing supply.

3. Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative. The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative would not be desirable or meet the Project Sponsor's goals. The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons.

- (a) The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative would reduce but not avoid project-level and cumulative impacts on an historical resource.
- (b) The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative would attain most, but not all, of the basic objectives of the project.
- (c) The Adaptive Reuse/Partial Preservation Addition to 260 Fifth Street Alternative would create 80 rather than 179 new dwelling units resulting in only 45 percent of the housing that would otherwise be accommodated on the project site, thus adversely affecting the City's total housing supply

4. Adaptive Reuse/Partial Preservation With PDR Space Alternative. The Adaptive Reuse/Partial Preservation With PDR Space Alternative would not be desirable or meet the Project Sponsor's goals. The Adaptive Reuse/Partial Preservation With PDR Space Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons.

- (a) The Adaptive Reuse/Partial Preservation With PDR Space Alternative would meet some but not all of the Project Sponsor's objectives.
- (b) The Adaptive Reuse/Partial Preservation With PDR Space Alternative would reduce but not avoid project-level and cumulative impacts on an historical resource; therefore, the effect on the historical resource would still be considered significant with this alternative.
- (c) The Adaptive Reuse/Partial Preservation With PDR Space Alternative would create 52 rather than 179 new dwelling units resulting in only 29 percent of the

housing that would otherwise be accommodated on the project site, thus adversely affecting the City's total housing supply.

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 Air Quality Significant Impact
 - Initial Study Mitigation Measure 1: 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 have a Project-specific unavoidable significant environmental impact on the 260 5th Street building, a historic resource, resulting from its demolition as a part of the Project. There is no feasible or prudent mitigation measure for this impact for the reasons set forth in Section III. However, Mitigation Measure M-CR-3 in the Mitigation Monitoring and Reporting Program, which calls for documentation and commemoration of the building, would reduce impacts on historical resources, but the impact would remain significant and unavoidable.

The Project, as approved, would have a cumulative unavoidable significant environmental impact through the loss of opportunity for PDR use on the project site and the potential

associated displacement of PDR businesses and jobs. No mitigation measure has been identified for the proposed project's contribution to the cumulative loss of land available for PDR use in the Eastern Neighborhoods area.

h. Statement of Overriding Considerations

Notwithstanding this significant unavoidable impact noted above, pursuant to CEQA Section 21081(b), the CEQA Guidelines, and Chapter 31 of the Administrative Code, the Commission finds, after considering the FEIR, that specific overriding economic, legal, social and other considerations, as set forth below, outweigh the identified significant effect on the environment. In addition, the Commission finds that the rejected Project Alternatives are also rejected for the following specific economic, social or other considerations, in addition to the specific reasons discussed in Section III above.

1. The Project would promote the objectives and policies of the General Plan by creating new housing, improving retail options, and being well located near public transit.
 2. The Project would provide housing in the East SoMa Plan Area by the development of 179 homes, which will be close to an array of public transit and close to offices and jobs.
 3. Although the Project would have a significant, unavoidable impact on the 260 5th Street Building, the history of the 260 5th Street building will be commemorated with an exhibit at the Project site pursuant to the Mitigation Measure M-CR-3 that the Project Sponsor has accepted.
 4. The Project would revitalize the Project site and the surrounding neighborhood.
 5. The Project would make a substantial contribution to the creation of affordable housing in the City pursuant to the provisions of Section 315 of the Planning Code.
 6. The Project would provide opportunities for new sources of jobs and would over its life result in substantial property taxes and transfer tax revenues for the City.
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 demolish of the existing two-story, 41,250 square feet industrial building and construction of a 9-story, 85-foot tall building with up to 179 dwelling units, up to 5,281 square feet of ground floor commercial space, and up to 102 parking spaces in a basement level parking garage in the SoMa Youth and Family Special Use District and MUR zoning district with an 85-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. 18089. 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 260 5th Street, Lots 008 and 150 in Assessor's Block 3732 (hereinafter "Property") to allow for the construction of a nine-story, 85-foot high building with approximately 235,000 gross square feet of floor area containing up to 179 dwelling units, up to 5,281 square feet of ground floor commercial space, and up to 102 off-street parking spaces, and exceptions to: (1) rear yard; (2) obstructions over a sidewalk; (3) dwelling unit exposure; (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 an in-lieu fee for approximately 21 square feet of usable open space for the approximately 5,281 square feet of proposed ground floor commercial space as required by Planning Code Section 135.3.
7. The Project shall comply with the provision of street trees as required by Planning Code Section 143.
8. 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.

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. 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)

12. **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").
13. **Unit Mix.** The Project contains 71 two-bedroom, 80 one-bedroom units, and 28 studios; therefore, the required BMR unit mix is 11 two-bedroom, 12 one-bedroom and 4 studio units. If the market-rate unit mix changes, the BMR unit mix will be modified accordingly.
14. **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.
15. **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.
16. **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.
17. **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.

18. **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

19. 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.
20. 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

21. 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

22. 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.
23. 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 demolition of the existing building at 260 5th Street.
24. 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.
25. 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.
26. 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

27. 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

28. 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			
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
AIR QUALITY:				
<u>Mitigation Measure 1: Construction Air Quality</u>				
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.	Project Sponsor, and construction contractor(s)	Prior to and during soil disturbing activities	Project Sponsor, construction contractor, and ERO	
ARCHAEOLOGICAL RESOURCES:				
<u>Mitigation Measure M-CR-1: Archaeological Resources</u>				
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.	
Archaeological Testing Program. The archaeological consultant shall prepare and submit an archaeological testing plan (ATP) to the ERO for	Project Sponsor and archaeological	In the event that archaeological	The project sponsor in consultation with the ERO	

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	
<p>review and approval. 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> <p>A) The proposed project shall be redesigned so as to avoid any adverse effect on the significant archaeological resource; or</p> <p>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.</p> <p>Archaeological Monitoring Program. If the ERO, in consultation with the archaeological consultant, determines that an archaeological monitoring program (AMP) shall be implemented, the archaeological monitoring program shall minimally include the following provisions:</p> <ul style="list-style-type: none"> • 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; • The archaeological consultant shall advise all project contractors to be on 	<p>consultant</p>	<p>deposit is determined to be significant</p>	<p>shall either redesign the project to avoid any adverse effect or implement data recovery program</p>	
<ul style="list-style-type: none"> • 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; • The archaeological consultant shall advise all project contractors to be on 	<p>Project Sponsor and archaeological consultant</p>	<p>During soil disturbing activities</p>	<p>Project Sponsor and archaeological consultant Implement AMP in consultation with ERO</p>	
<ul style="list-style-type: none"> • The archaeological consultant shall advise all project contractors to be on 	<p>Project Sponsor and</p>	<p>During soil</p>	<p>Archaeological consultant</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
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;	archaeological consultant	disturbing activities	and project contractors	
<ul style="list-style-type: none"> 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; 	Project Sponsor and archaeological Consultant	During soil disturbing activities	Archaeological consultant and Project Contractors	
<ul style="list-style-type: none"> The archaeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; 	Project Sponsor and archaeological consultant	During soil disturbing activities	Archaeological consultant and Project Contractors	
<ul style="list-style-type: none"> 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. 	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	
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>Archaeological Data Recovery Program. 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</p>	Project Sponsor and archaeological consultant	In the event that archaeological data recovery program is required by the ERO	The project sponsor and archaeological consultant shall consult with ERO for approval of ADRP	

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
<p>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>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> • Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. • Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. • Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. • Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archaeological data recovery program. • Security Measures. Recommended security measures to protect the archaeological resource from vandalism, looting, and non-intentionally damaging activities. • Final Report. Description of proposed report format and distribution of results. • Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities. <p>Human Remains and Associated or Unassociated Funerary Objects. 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</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			
	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Status/Date Completed
<p>human remains and associated or unassociated funerary objects.</p> <p>Final Archaeological Resources Report. 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 any archaeological resource at risk 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: The 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

<p>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, to the extent that paleontological resources would be involved in the program.</p>	Project Sponsor (subject to ERO approval)	Prior to soil disturbing activities	Project Sponsor to submit documentation to ERO that a qualified paleontological consultant has been retained.	
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ARCHITECTURAL RESOURCES:

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><u>Mitigation Measure M-CR-3: Architectural Resources</u></p> <p>To partially offset the loss of the 260 Fifth Street building, a structure considered to be a contributor to the potential California Register-eligible Light Industrial and Residential Historic District, the project sponsor shall, at a minimum, ensure that a complete survey meeting the standards of the Historic American Building Survey (HABS) is undertaken prior to demolition. This survey shall be completed by a qualified historic preservation professional and in accordance with HABS Level II documentation standards. According to HABS Standards, Level II documentation consists of the following tasks:</p> <ul style="list-style-type: none"> • Written data: A brief report documenting the existing conditions and history of the building shall be prepared, focusing on the building’s architectural and contextual relationship with the greater Eastern SoMa neighborhood. The report shall include documentation of the mural on the north elevation of the building. Documentation of the mural shall be coordinated with the San Francisco Arts Commission. • Photographs: Photographs with large-format (4 inch x 5 inch) negatives shall be shot of exterior and interior views of the 260 Fifth Street building. Exterior photographs shall include the mural on the north elevation. Historic photos of the building, where available, shall be photographically reproduced. All photos shall be printed on archival fiber paper. • Drawings: Existing architectural drawings (elevations and plans) of the 260 Fifth Street building, where available, shall be photographed with large format negatives or photographically reproduced on mylar. <p>The complete documentation package shall be submitted to local and regional archives, including but not limited to, the San Francisco Public Library History Room, the California Historical Society and the Northwest Information Center at Sonoma State University in Rohnert Park.</p> <p>The project sponsor shall construct a publically accessible display in the Fifth Street lobby documenting the history of the 260 Fifth Street building. The display shall be prepared based on the documentation required in Mitigation Measure M-CR-3.</p> <p>Implementation of this mitigation measure would not reduce the project’s significant adverse impact to a less-than-significant level. State CEQA Guidelines Section 15126.4 states that, “In some circumstances, documentation of an historical resource, by way of historic narrative, photographs, or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur.” As such, HABS</p>	Project Sponsor and historic resources consultant	Prior to demolition	The Project Sponsor to submit documentation package to local and regional archives	

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
<p>recordation does not fully mitigate the loss of historic structures. Although the primary significance of the 260 Fifth Street building relates to its contextual association with the SoMa neighborhood and not as a significant work of architecture, nonetheless, demolition of the 260 Fifth Street building would result in significant, unavoidable impact on historical resources.</p> <p><u>Mitigation Measure M-CR-4: Cumulative Effect on Architectural Resources</u></p> <p>The project sponsor shall comply with Mitigation Measure M-CR-3. Implementation of this mitigation measure would not reduce the project's significant adverse cumulative impact to a less-than-significant level; it would partially mitigate the loss of the historical resource, but the proposed project cumulative impacts on historical resources would remain significant and unavoidable.</p>	See M-CR-3 above	See M-CR-3 above	See M-CR-3 above	