



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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Planning Commission Motion 18142

HEARING DATE: JULY 15, 2010

Date: July 9, 2010
Case No.: **2008.1234CV**
Project Address: **205 Franklin Street**
Zoning: Hayes-Gough Neighborhood Commercial Transit (NCT) District
 40-X/50-X/65-X Height and Bulk Districts
Block/Lot: 0816/003
Project Sponsor: SFJAZZ
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 San Francisco, CA 94111
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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 121.1, 121.2, 303, 720.48, AND 720.81 TO ALLOW DEVELOPMENT ON A LOT EXCEEDING 10,000 SQUARE FEET, TO ESTABLISH A NON-RESIDENTIAL USE EXCEEDING 3,000 SQUARE FEET, TO ESTABLISH AN "OTHER ENTERTAINMENT" USE, AND TO ESTABLISH AN "OTHER LARGE INSTITUTION" USE ABOVE THE FIRST STORY, FOR A PROJECT TO DEMOLISH AN EXISTING BUILDING CONTAINING AUTO REPAIR AND OFFICE USES, AND TO CONSTRUCT A NEW THREE-STORY BUILDING PLUS A MECHANICAL MEZZANINE LEVEL, MEASURING APPROXIMATELY 38,600 SQUARE FEET, CONTAINING AN AUDITORIUM WITH A CAPACITY OF UP TO 800 PATRONS (WITH ANCILLARY PERFORMER AND TECHNICAL SPACES), EDUCATIONAL AND ADMINISTRATIVE FACILITIES FOR THE SFJAZZ ORGANIZATION, A GROUND-FLOOR RESTAURANT, A SMALL GROUND-FLOOR RETAIL SALES AREA, A LOADING AISLE, AND NO OFF-STREET PARKING, WITHIN THE HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, AND THE 40-X, 50-X, AND 65-X HEIGHT AND BULK DISTRICTS AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On October 30, 2008, Deborah Frieden, acting on behalf of SFJAZZ ("Project Sponsor"), submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2008.1234E. A Notification of Project Receiving Environmental Review was sent on July 1,

2009 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

On September 23, 2009, the Project Sponsor filed an application with the Planning Department requesting, under Sections 121.1, 121.2, 303, 720.48, and 720.81, Conditional Use Authorization to allow development on a lot exceeding 10,000 square feet, to establish a non-residential use exceeding 3,000 square feet, to establish an "Other Entertainment" use, and to establish an "Other Large Institution" use above the first story, for a development on a 16,500 square-foot site (Lot 003 in Assessor's Block 0816) at 205 Franklin Street, northwest corner at Fell Street ("Project Site"). The project proposed to demolish an existing auto repair and office building and construct a new three-story building with mechanical mezzanine level containing an auditorium with a capacity of up to 800 patrons (with ancillary performer and technical spaces), educational and administrative facilities, a ground-floor restaurant, a small ground-floor retail sales area, a loading aisle, and no off-street parking, measuring approximately 35,000 square feet. The application was subsequently amended to enlarge the proposed building to add additional administrative spaces and dressing rooms, for a total building area of approximately 38,600 square feet. On June 23, 2010, the Project Sponsor filed an application with the Department requesting a Variance from the requirements of Section 136, to allow an architectural projection over the public right-of-way (Case No. 2008.1234CV; collectively, "Project").

On June 23, 2010, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review.

The Draft IS/MND was available for public comment until July 13, 2010.

On July 15, 2010, the Commission reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

The Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2008.1234E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

On July 15, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.1234C, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.

The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2008.1234C, 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. **Project Description.** The proposal is to demolish an existing auto repair and office building and construct a new three-story building, plus a mechanical mezzanine level, containing an auditorium with a capacity of up to 800 patrons (with ancillary performer and technical spaces), educational and office facilities, a ground-floor restaurant, a small ground-floor retail sales area, and a loading aisle at the westerly portion of the site. No off-street parking is proposed. The Project would measure approximately 38,600 square feet. The facility would host performances, offer music education classes, and serve as an administrative center for the SFJAZZ organization.
3. **Site Description and Present Use.** The Project Site is located at 205 Franklin Street, and the northwest corner of Fell Street, within the Hayes-Gough NCT, and the 40-X, 50-X, and 65-X Height and Bulk Districts. The property is developed with a two-story mixed-use building covering 100% of the lot, containing auto repair and office uses.
4. **Surrounding Properties and Neighborhood.** The area surrounding the Project Site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Hayes-Gough NCT, particularly concentrated on Hayes Street between Laguna and Franklin Streets. Along Franklin Street, ground floors of buildings are occupied by a mix of commercial and residential uses, interspersed with some institutional uses and surface parking lots. Upper floors of buildings are generally occupied by offices or residential units. Larger scale retail uses, residential and tourist hotels, and offices are situated along the Market Street corridor to the south and the Van Ness corridor to the east. The site is situated at the easterly portion of the Market and

Octavia Area Plan. The Civic Center district is located to the east, and includes various government buildings, museums, libraries, and performing arts buildings.

The scale of development is varied in the area. Corner properties tend to be larger lots, occupied by buildings averaging four to five stories in height. Mid-block properties tend to be narrower and occupied by lower buildings. Throughout the district, however, there are many individual examples of taller mid-block structures, reaching up to seven stories in height. Many of the institutional and performing arts buildings in the area form complexes that occupy entire blocks, such as Davies Symphony Hall, the War Memorial Opera House, Herbst Theatre, and City Hall. This pattern further contributes to the complexity of the context surrounding the Project Site.

5. **Variance Application.** The Project Sponsor is requesting a Variance from the requirements of Planning Code Section ("Section") 136. Section 136 lists a number of features (such as cornices, balconies, bay windows, and flagpoles) that are permitted to project over streets and alleys, with limitations placed on the dimensions of the features and the distance of the projection. The Project proposes a narrow, vertical architectural feature that would project approximately four feet over the Franklin Street sidewalk, near the corner at Fell Street. The purpose of this feature is, in part, to emphasize the corner entry to the facility, provide visibility and identity for the Project, and to enhance the sense of verticality within the building design. There are no provisions within Section 136 that would specifically allow this feature, therefore, a Variance is requested.
6. **Public Comment.** To date, staff has received two communications regarding the Project. The Hayes Valley Neighborhood Association submitted a letter expressing support for the project. The letter also requests that the project sponsor coordinate with the Planning Department to reintroduce a crosswalk to the east side of the intersection at Fell and Franklin Streets, and to upgrade Linden Street as a "living alley" pursuant to the Market and Octavia Area Plan. A neighboring property owner submitted an email that did not specifically object to the Project, but expressed concern with the height, massing, and fenestration of the building, as well as the specific design treatment of the Linden Street elevation.
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.** The Hayes-Gough Neighborhood Commercial Transit (NCT) District allows "Full-Service Restaurant" and "Retail Sales and Services" as principally permitted uses on the first story. An "Other Entertainment" use is permitted through Conditional Use Authorization at the first story. An "Other Large Institution" use is permitted through Conditional Use Authorization above the first story.

The Project proposes a full-service restaurant and a small retail sales area at the ground floor, which are principally permitted. The types of music performance and arts activities associated with the auditorium are categorized as an "Other Entertainment" use, pursuant

to the definition in Section 790.38. The Project would include music educational functions on the first and second stories, and administrative offices for the SFJAZZ organization on the third stories. These activities are categorized as an "Other Large Institution" use, pursuant to the definition in Section 790.50. The Project Sponsor is requesting Conditional Use Authorization for the "Other Entertainment" and "Other Large Institution" uses.

- B. **Height and Bulk.** The subject property is located within the 40-X, 50-X, and 65-X Height and Bulk Districts. Pursuant to Section 270, projects within "-X" Bulk Districts are not subject to specific bulk controls. Pursuant to Section 261.1, upper portions of buildings that abut the southerly side of specified narrow streets must be limited in height in order to preserve a "sun access plane" for Linden Street. This plane is defined by an angle of 45 degrees extending from the most directly opposite northerly property line. This additional height restriction applies to the portion of the narrow street frontage that is located 60 feet away from an intersection with a street wider than 40 feet.

The Project reaches a finished roof height of 40 feet. A mechanical mezzanine level occupies a portion of the roof and reaches a height of 48 feet. However, these features located at this level are necessary to the operation and maintenance of the building, and are therefore excluded from the calculation of building height pursuant to Section 260(1). The Project therefore complies with the basic height limitation for the property.

The Project is situated along the southerly side of Linden Street, which qualifies as a "Narrow Street", pursuant to Section 261.1. Linden Street measures 35 feet in width, therefore, the sunlight access plane must be preserved pursuant to Section 261.1, for the segment of the frontage located 60 feet away from the intersection of Linden and Franklin Streets. The Project incorporates a setback at the third story of the building along the westerly portion of the site that complies with the regulations of Section 261.1.

- C. **Floor Area Ratio.** In the Hayes-Gough NCT District, Section 124 allows a Floor Area Ratio (FAR) of up to 3.0. The Project Site has an area of 16,500 square feet, therefore the allowable FAR would permit a building of up to 49,500 square feet of Gross Floor Area as defined in Section 102.9.

The Project would measure approximately 38,600 square feet, and therefore complies with the maximum allowable FAR.

- D. **Hours of Operation.** Planning Code Section 720.27 states that a Conditional Use Authorization is required for maintaining hours of operation from 2:00AM to 6:00AM.

The Project Sponsor does not propose to operate the facility between the hours of 2:00AM to 6:00AM.

- E. **Off-Street Parking and Car Sharing.** Section 151.1 specifies that no off-street accessory parking is required for any use within an NCT District, and establishes the maximum amount of off-street parking that is permitted as accessory for uses within an NCT District.

The Project proposes no off-street parking, and therefore complies with Section 151.1.

- F. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market. Pursuant to this Section, offices, hotels, apartments, and other uses not primarily engaged in the handling of goods do not require off-street loading spaces if the use measures less than 100,000 square feet.

The Project measures 38,600 square feet, and is therefore not required to provide off-street loading. However, a loading area would be situated along the westerly portion of the site, accessible via Linden and Fell Streets. This loading area would be utilized for unloading of musical equipment, deliveries for the restaurant kitchen, and other goods and materials associated with the operations of the various uses within the building.

8. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project complies with the criteria of Section 303, in that:

- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The auditorium will serve as an important cultural and entertainment venue, drawing patrons from throughout the City and the region. This entertainment function is compatible with and will complement the many performing arts venues in the vicinity, including Davies Symphony Hall, Herbst Theater, the War Memorial Opera House, and the Bill Graham Civic Auditorium. The auditorium is relatively small compared to other venues, with a maximum capacity of up to 800 patrons. Therefore, the intensity of events hosted within the Project should not overwhelm the surrounding neighborhood with excessive traffic or noise.

Beyond the performances, the Project will also offer valuable music education opportunities that would serve students from the surrounding neighborhood and the City as a whole. In addition, the upper floor of the building will include administrative offices for SFJAZZ, in support of the mission of the organization to promote the cultural development of the City. The ground floor of the building is transparent along the Fell and Franklin Street frontages, creating a vibrant streetscape by revealing the activities of diners within the restaurant, the patrons congregating in the lobby, and music students practicing within the ensemble room.

The presence of these various functions throughout the day will help to bring vitality and activity to the area, without a single function overwhelming the neighborhood at a given time. The Project is therefore necessary and desirable for, and compatible with, the neighborhood.

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

The Project Site is a regularly-shaped lot that is adequately sized to accommodate the development. The building is generally arranged as a unified form occupying the majority of the lot, similar to other performing arts structures and institutional buildings in the area. However, the Project occupies a smaller footprint and is proposed at a lower height than these structures. Therefore, the Project will serve as a transition between the larger scale of the Civic Center district to the east with the more complex, fine-grained pattern of development within the Hayes Valley neighborhood to the west. In addition, the base of the Project is differentiated by being inset from the upper floors and transparent along the Fell and Franklin Street frontages. This differentiation activates the streetscape and reinforces a human scale for the pedestrian. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166.

The MND prepared for the Project did not identify transportation and circulation impacts beyond those anticipated by the Market and Octavia Neighborhood Plan Environmental Impact Report (EIR). The capacity of the auditorium is relatively small for a performing arts venue, and is not anticipated to draw excessive numbers of vehicles to the area. The transportation demand associated with the various performance, educational, and administrative functions within the Project would be staggered throughout the day, such that the individual functions would not overwhelm the area with traffic at a given time. The Project does not include off-street parking, however, publicly-accessible parking facilities are available in close proximity to the Project Site. In addition, the area is served by ample public transit, so that many of the employees, students, and patrons can be expected to arrive by transit or other means beyond private automobiles. While no off-street loading is required by the Planning Code, the Project includes a loading area at the western portion of the site to accommodate deliveries

associated with music performances, restaurant activities, and the other functions within the building.

As proposed, the traffic patterns, off-street loading, and the lack of off-street parking will not be detrimental to persons or adjacent properties in the vicinity.

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

Performances would occur within the auditorium, which is situated within the interior core of the building and is equipped with acoustic baffling. Therefore, all noise directly resulting from performances would be attenuated and would not be perceptible outside of the building. The MND prepared for the Project identifies that contaminated soils are present on the Project Site. Mitigation Measures for the Project will require the preparation of a Site Mitigation Plan to address this issue, including the suppression of dust during construction activity. Following construction, the operation of the building is not expected to generate unusual amounts of noise, glare, dust, or odor.

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

No open space is required by the Planning Code, however, the Project provides open spaces in the form of a recessed entry plaza at the ground floor, as well as exterior terraces at the second and third floors. The loading and service areas are consolidated at the western portion of the Project Site, and will be screened from adjacent streets by gates and will be roofed by the building floors above. Conditions of approval also require that, as the Project proceeds through the review of building permits, the Project Sponsor will continue to work with Department staff to refine details of lighting, signage, materials, street trees, and other aspects of the design.

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

The Project complies with the applicable sections of the Planning Code. The restaurant and small retail uses at the ground floor are principally permitted within the Hayes-Gough NCT. The "Other Entertainment" and "Other Large Institution" uses are allowed through Conditional Use authorization. The Project complies with the height limitations applicable to the Project Site. The Project will not adversely affect the General Plan, as discussed under item #11.

- D. Such use or feature as proposed will provide development that is in conformity with the state purpose of the Hayes-Gough NCT.

Section 720.1 states that, "The Hayes-Gough District controls are designed to allow for growth and expansion that is compatible with the existing building and use scales... to

maintain the mixed-use character of the district, most commercial uses are permitted at the first and second stories..." It further states that, "In order to encourage lively pedestrian-oriented commercial activity, but restrict certain sensitive and problematic uses, eating and drinking, and entertainment uses are directed to the ground story." Finally, this Section states that, "Given the area's central location and accessibility to the downtown and to the City's transit network, accessory parking for residential uses is not required."

The Project would enhance the vitality of the area by drawing patrons, students, and employees at various times of day. The music performances would contribute to the cultural life of the neighborhood and the City as a whole. The ground-floor restaurant will diversify the dining options in the area, activate the streetscape, and reinforce a pedestrian scale at the streetscape. The Project provides no parking and is well-served by transit, reinforcing the transit-oriented purpose of the Hayes-Gough NCT.

E. With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning categories .46, .47, and .48, that such use or feature will:

- i. Not be open between 2:00AM and 6:00AM.;

The Project Sponsor does not request to operate between the hours of 2:00AM to 6:00AM.

- ii. Not use electronic amplification between midnight and six a.m.;

The majority of events, including those utilizing electronic amplification, would end prior to midnight. However, all events scheduled for the Center would occur within the interior of the building, and noise from the electronic amplification would not be audible from outside the building. Therefore, any occasional or incidental performances that extend past midnight would not generate noise that would become a nuisance to surrounding properties.

- iii. Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

Performances would occur within the auditorium, which is situated within the core of the building and is equipped with acoustic baffling. Therefore, all noise directly resulting from events such as concerts would be attenuated and would not be perceptible outside of the building.

9. **Planning Code Section 121.1** establishes criteria for the Planning Commission to consider when reviewing applications for projects within the Hayes-Gough NCT on lots

that exceed 10,000 square feet, through the Conditional Use authorization process. On balance, the Project complies with said criteria in that:

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

The existing development in the area surrounding the Project Site is varied in scale and intensity. The building is a unified mass occupying most of the Project Site, a form that is comparable to other performing arts and institutional buildings in the area. However, the Project occupies a smaller footprint than these buildings, and is proposed at a height that transitions from the scale of these structures to the fine-grained pattern of development of Hayes Valley.

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

Existing buildings in the area exhibit an eclectic architectural character, with no prevailing style establishing a dominant visual pattern for the neighborhood. The style of the proposed building is contemporary, however, the relatively uniform massing is comparable to the uniform massing of many of the Beaux-Arts structures within the Civic Center District. The upper stories of the Project express a staggered pattern of frosted and vision glazing that is evocative of the punched windows found on many of the older buildings in the vicinity. This glazing pattern utilizes deep reveals, creating depth and shadow across each elevation. The corner terraces at the second and third levels, as well as the recessed entry plaza introduce voids and fracture the massing of the elevations. The design of the Project creates a distinct statement, while respecting the elements that comprise the varied visual character and scale of the surrounding area.

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

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

While the entertainment, educational, and institutional functions within the building are each relatively large, they would not compete with or otherwise foreclose the location of other needed neighborhood-serving uses in the area. Instead, the presence of the various users of the building would bolster the viability of the existing commercial spine of the neighborhood along Hayes Street, as well as the other scattered retail and restaurant uses in the vicinity. In addition, the Project would include a ground-floor restaurant space that would enhance the diversity of dining options in the area and draw customers into the District, both during and outside of performance hours.

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

The Project will contribute to and serve the neighborhood by providing employment opportunities, offering music education and performances for area residents, and by drawing patrons who will bolster the neighborhood economy by patronizing nearby businesses.

Although the auditorium is somewhat smaller than other such facilities, performance spaces inherently require larger footprints and volumes to operate. By co-locating the educational and administrative functions of SFJAZZ with the auditorium, each function can utilize the common building systems and facilities. Accordingly, the Project results in a relatively compact structure in proportion to the multiple functions that it serves.

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

As discussed under Item #9A and #9B above, the Project is situated in a context that is varied in height, scale, and visual character. The building massing complements the larger performance buildings within the Civic Center area, but the height and design is also complementary to the fine-grained pattern of Hayes Valley. Although the building is generally designed as a singular mass, a number of details help to animate the facade and create variety within the massing, such as alternating rhythms of projections and voids within the fenestration pattern, corner terraces, and a recessed entry plaza.

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

COMMERCE AND INDUSTRY ELEMENT:

Objectives and Policies

OBJECTIVE 6

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

Policy 6.10:

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

The Project would replace an existing auto repair and office building with a facility that will provide educational and cultural opportunities to the area, and will draw patrons from throughout the City and region who will patronize nearby businesses. In addition, the ground-

floor restaurant will activate the streetscape and enhance the pedestrian realm compared with the existing uses on the site.

ARTS ELEMENT:
Objectives and Policies

OBJECTIVE I-1:

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

Policy I-1.1

Promote inclusion of artistic considerations in local decision-making.

Policy I-1.2

Officially recognize on a regular basis the contributions arts make to the quality of life in San Francisco.

Policy I-1.4

Provide access to the creative process and cultural resources for all neighborhoods, cultural communities, and segments of the city and its populations.

OBJECTIVE VI-1

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI-1.4

Preserve existing performing spaces in San Francisco.

The auditorium will serve as an important cultural and entertainment venue, that will complement the complex of performing arts venues in the area. In addition, the Project will also offer valuable music education opportunities that would serve students from the surrounding neighborhood and the City as a whole. The upper floor of the building will include administrative offices for SFJAZZ, in support of the mission of the organization to promote the appreciation of jazz music. These activities strengthen the recognition and reputation of San Francisco as a city that is supportive of the arts, support the recreational and cultural vitality of San Francisco, bolster tourism, and add to the local economy by drawing patrons from throughout the region.

MARKET AND OCTAVIA PLAN:
Objectives and Policies

OBJECTIVE 1.1

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

Policy 1.1.2:

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

Policy 1.1.6:

Preserve and enhance the role of cultural and educational institutions in the plan area.

The Project would establish a cultural and educational institution in an area that is well-served by transit, and has abundant amenities, convenience goods, and services within walking distance.

OBJECTIVE 5.2

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

Policy 5.2.1:

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

Policy 5.2.3:

Minimize the negative impacts of parking on neighborhood quality.

The Project provides no off-street parking, creating an incentive for employees, patrons, and students of the facility to travel by means other than the private automobile. The area is well-served by public transit, and is within walking distance of many retail goods and services. Numerous parking facilities are available in the area for individuals who wish to drive to the facility. Therefore, the lack of parking will not negatively impact the quality of the surrounding neighborhood.

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

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

The new employees, patrons, and students visiting the Project will patronize area businesses, bolstering the viability of surrounding commercial base. In addition, the Project would include a ground-floor restaurant store that will provide employment opportunities and will diversify the dining options in the area.

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

The Project will not demolish any existing housing stock, and will complement the cultural performances situated in the Civic Center district, as well as the vibrant nightlife activity within Hayes Valley to the west.

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

The Project will not demolish any existing housing stock.

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

The area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. The Project does not include off-street parking, helping to encourage transit usage, deemphasize reliance on the private automobile, and retain a desirable environment for pedestrian and bicycle activity. Individuals who choose to arrive by private automobile may park in one of the numerous parking facilities located throughout the area.

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

The Project does not propose any office development, and will include a restaurant that will provide service sector employment opportunities for area residents.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

The existing building that would be demolished by the Project is not considered to be a historic resource.

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

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

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.

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

DECISION

That based upon the Record, the submissions by the Project Sponsor, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2008.1234C** subject to the following conditions attached hereto as EXHIBIT A which is incorporated herein by reference as though fully set forth, and in general conformance with the plans stamped EXHIBIT B and on file in Case Docket No. 2008.1234CV.

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

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

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18142. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 15, 2010.

Linda Avery
Commission Secretary

Motion 18142
Hearing Date: July 15, 2010

CASE NO 2008.1234CV
205 Franklin Street

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

NAYS:

ABSENT: Borden

ADOPTED: July 15, 2010

Exhibit A

Conditions of Approval

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

This Conditional Use Authorization is to demolish an existing auto repair and office building and construct a new three-story building, plus a mechanical mezzanine level, measuring approximately 38,600 square feet, containing an auditorium with a capacity of up to 800 patrons (with ancillary performer and technical spaces), educational and administrative facilities for the SFJAZZ organization, a ground-floor restaurant, and a small ground-floor retail sales area, located at 205 Franklin Street, Lot 003 in Assessor's Block 0816, within the Hayes-Gough Neighborhood Commercial Transit District, and the 40-X, 50-X, and 65-X Height and Bulk Districts, in general conformance with the plans dated July 15, 2010, and marked "Exhibit B", except as modified herein.

1. MITIGATION MEASURES

Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

2. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply. The conditions set forth below shall remain in effect for the life of the Project, unless specifically noted otherwise

3. GENERAL CONDITIONS

- A. Recordation. Prior to the issuance of any building permit for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
- B. Reporting. The Project Sponsor shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval

contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy.

C. Construction.

(1). The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby Projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.

(2). The contractor(s) shall arrange for off-street parking for construction workers.

D. Performance. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.

E. The operator of the establishment shall obtain all necessary approvals from the San Francisco Entertainment Commission prior to hosting live entertainment events on-site, but no later than 18 months from the date of this Conditional Use authorization.

F. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

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

H. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Sections 176 and 176.1 of the Planning Code and actions to abate violations of this conditional use authorization in accordance with Section 303(f).

- I. Should monitoring of these Conditions of Approval be required, the Project Sponsor or successors shall pay fees as established in Section 351(e)(1) of the Planning Code.
 - J. The Property Owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
 - K. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
 - L. Signs and exterior lighting for ground floor commercial uses shall be consistent with the approved signage program and shall be reviewed and approved by the Planning Department before they are installed.
 - M. Ground level storefronts and glazing in general conformity with Exhibit B shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the interiors and activity through all 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. Interior layouts should be designed with these requirements in mind. Generally, 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.
 - N. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
 - O. The project sponsor is encouraged to provide equitable, inclusive access to music education opportunities for communities at a variety of socioeconomic levels.
4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FIRST SITE OR BUILDING PERMIT
- A. Design. The Project Sponsor and the Project architects shall continue to work on design development with the Department, with particular attention given to details regarding reveal dimensions at all windows, moldings, and other details, as well as building materials and colors.

- B. A final pedestrian streetscape improvement plan, including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Planning Director, in consultation with staff from the Department of Public Works, the Department of Parking and Traffic, and the Bureau of Urban Forestry. Other agencies shall be contacted as appropriate. The Project shall include street trees in conformance with Section 143. The street trees planted pursuant to this condition shall be maintained in perpetuity by the Project Sponsor.
 - C. The project sponsor shall make diligent efforts to coordinate with staff from the Planning Department and the San Francisco Municipal Transportation Agency to explore improvements to improve pedestrian capacity and circulation within the vicinity of the project site, including, but not limited to the installation of a pedestrian crosswalk across Fell Street to the east side of Franklin Street, and the installation of sidewalk "bulb-outs" at the intersection of Fell and Franklin Streets.
5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM TO A BUILDING (OR SITE) PERMIT
- A. Except as otherwise provided in this Motion, the Project shall be completed in compliance with the Planning Code and in general conformity with plans dated July 15, 2010, labeled "Exhibit B".
 - B. Final detailed building plans shall be reviewed and approved by the Planning Department. Detailed building plans shall include a final site plan, elevations, sections, and a landscape plan, and shall specify final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes, and details of construction.
 - C. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
 - D. Pursuant to Planning Code Section 141, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
 - E. Signage. The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.

- F. Lighting. The Project Sponsor shall develop a lighting program for the Project which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the Project.

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MITIGATION MONITORING AND REPORTING PROGRAM
 (Including the Text of the Mitigation Measures Adopted as Conditions of Approval)

Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
1. Air Quality (Construction Mitigation Measure for Short-Term Exhaust Emissions)				
<p>1a) To reduce project level exhaust emissions from construction equipment, the following mitigation measures shall be implemented for construction activities in the project area.</p> <ul style="list-style-type: none"> • Confine idle time of combustion engine construction equipment at construction site to five minutes. • Maintain and properly tune construction equipment in accordance to manufacturer's specifications. • Use alternative fueled or electrical construction equipment at the project site when feasible. • Use the minimum practical engine size for construction equipment. • Equip gasoline-powered construction equipment with catalytic converters when feasible. 	Project sponsor and construction contractor(s)	During construction.	Project sponsor and construction contractor(s)	Considered complete on issuance of building permit.
2. Cultural Resources—Archeology				
<p>The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the "ALERT" Sheet.</p>	Project sponsor and construction contractor(s)	Prior to any soils-disturbing activity.	Distribution of "ALERT" sheet among contractors and crew; project sponsor to provide ERO with a signed affidavit.	Prior to any soils-disturbing activity. Considered complete upon ERO approval of affidavit.

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p>	<p>Head Foreman and project sponsor</p>	<p>During any soils-disturbing activity.</p>	<p>Notification of ERO if any archeological resources encountered.</p>	<p>During any soils-disturbing activity. Considered complete upon notification of ERO.</p>
<p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p>	<p>Project sponsor and archeological consultant</p>	<p>Before resumption of any soils-disturbing activity (if suspended).</p>	<p>Archeological consultant shall advise the ERO and ERO may require additional measures.</p>	<p>Prior to resumption of soils-disturbing activity. Considered complete upon ERO approval of archeological consultant's recommendations.</p>
<p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	<p>Project sponsor and archeological consultant</p>	<p>Following completion of any required archaeological field program.</p>	<p>Archeological consultant submits draft FARR to ERO for approval.</p>	<p>Prior to issuance of final certificate of occupancy. Considered complete upon ERO approval of draft FARR.</p>

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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p>	<p>Project sponsor and archeological consultant</p>	<p>Following completion of FARR.</p>	<p>Distribute FARR. Submittal to ERO of affidavit of FARR distribution.</p>	<p>Prior to resumption of soils-disturbing activities. Considered complete upon Planning Department receipt of report.</p>
3. Hazards and Hazardous Materials				
<p>3a) Hazardous Materials.</p> <p>Program or project level mitigation measures would vary depending upon the type and extent of contamination associated with each individual project. Mitigation measures to protect the community generally shall include:</p> <ul style="list-style-type: none"> • Airborne particulates shall be minimized by wetting exposed soils, as appropriate, containing runoff, and tarping over-night and weekends. • Storage stockpiles shall be minimized, where practical, and properly labeled and secured. • Vehicle speeds across unpaved areas shall not exceed 15 mph to reduce dust emissions. • Activities shall be conducted so as not to track contaminants beyond the regulated area. • Misting, fogging, or periodic dampening shall be utilized to minimize fugitive dust, as appropriate. • Contaminants and regulated areas shall be properly maintained. 	<p>Project sponsor and construction contractor(s).</p>	<p>During construction.</p>	<p>Project sponsor and construction contractor(s).</p>	<p>Considered complete on issuance of building permit.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>3b) Hazards (UST Removal and/or Monitoring)</p> <p>In accordance with San Francisco Health Code Article 21, the project sponsor shall file an application with the San Francisco Department of Public Health (DPH) for removal and/or monitoring of the 500-gallon UST that was identified as existing beneath the sidewalk in front of 210 Fell Street. Given the potential for hazards and hazardous materials release and exposure with abandoned USTs or residual contamination associated with the site's use, the project sponsor has agreed to implement a soil testing program, to determine the nature and extent of soil contamination (if any). The testing program shall include sampling and analysis for contaminants of concern, which includes lead, to the depth of the intended foundation excavations. If the proposed excavation activities encounter groundwater, the groundwater shall also be tested for contaminants. Copies of the test results shall be submitted to the DPH, Division of Environmental Health, and to the Planning Department, prior to the start of construction.</p> <p>If contamination or abandoned tanks are encountered, the project sponsor shall immediately notify the DPH, Division of Environmental Health, and shall take all necessary steps to ensure the safety of site workers and members of the public. These steps shall include implementation of a health and safety plan prepared by a qualified professional, and disposal of any contaminated soils removed from the site at an approved facility. In addition, the project shall be constructed, so that all remaining site soils are entirely encapsulated beneath a concrete slab. If confirmation testing following site excavation indicates that contaminated soils remain on site, a deed restriction notifying subsequent property owners of the contamination and the necessity of maintaining the cap, shall be executed, prior to a certificate of occupancy.</p>	<p>Project sponsor</p>	<p>Prior to removal of any undiscovered USTs.</p>	<p>Sponsor or contractor shall submit a "Certificate of Closure" received from the DPH, under auspice of RWQCB, to Planning Department and DBI.</p>	<p>Considered complete upon receiving "Certificate of Closure" from DPH.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>3c) Hazards (Testing for and Handling of Contaminated Soil)</p> <p>Step 1: Preparation of Site Mitigation Plan</p> <ul style="list-style-type: none"> DPH determined that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, and thus have determined that preparation of a Site Mitigation Plan (SMP) is warranted. The SMP shall address the two "hot spots" located at the southwestern portion of the site at borings SB-1 and SB-6, and that the characterization and disposal of any soils from the site be submitted to DPH for review. If excavation of the "hot spot" area is proposed, DPH requests that confirmatory sampling be included in the SMP. "Hot spot" removal shall be included as part of the foundation excavation for the project. Should elevated levels of lead remain on the site; a deed restriction shall be required. The SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification as to why; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file. 	<p>Project sponsor</p>	<p>Prior to excavation.</p>	<p>The DPH shall determine if preparation of an SMP is warranted. If so, the SMP should be prepared according to certain guidelines, and is subject to approval by the DPH.</p>	<p>Prior to excavation. Considered complete upon DPH review and approval of plans.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>Step 2: Handling, Hauling, and Disposal of Contaminated Soils</p> <ul style="list-style-type: none"> • (a) <u>Specific work practices</u>: If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations) when such soils are encountered on the site. If excavated materials contain over one percent friable asbestos, they shall be treated as hazardous waste, and shall be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site. • (b) <u>Dust suppression</u>: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after construction work hours. • (c) <u>Surface water runoff control</u>: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather. • (d) <u>Soils replacement</u>: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade. • (e) <u>Hauling and disposal</u>: Contaminated soils shall be hauled off the 	<p>Project sponsor and construction contractor(s)</p>	<p>Prior to excavation and during demolition, excavation, and construction.</p>	<p>If SMP indicates no contaminants in the soil and DPH concurs, then no monitoring required. If DPH determines presence of contaminants or if project sponsor assumes presence of contaminants, then contractor shall take the indicated mitigation action, and shall provide DPH weekly reports during the construction period.</p>	<p>Prior to excavation; or prior to excavation and during demolition, excavation, and construction. Considered complete if DPH determines the absence of contaminants and if project sponsor assumes the same. Otherwise, considered complete upon receipt by DPH of final monitoring plan.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of CA.</p>				
<p>Step 3: Preparation of Closure/Certification Report</p> <p>After construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.</p>	<p>Project sponsor and construction contractor</p>	<p>During demolition, excavation, and construction.</p>	<p>Project sponsor to provide DPH with final closure/certification report.</p>	<p>During demolition, excavation, and construction. Considered complete upon receipt of final monitoring report at completion of construction.</p>
<p>3d) Hazards (Disposal of Contaminated Soil, Site Health and Safety Plan)</p> <p>If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, any contaminated soils designated as hazardous waste and required by DPH to be excavated shall be removed by a qualified Removal Contractor and disposed of at a regulated Class I hazardous waste landfill in accordance with U.S. Environmental Protection Agency regulations, as stipulated in the Site Mitigation Plan. The Removal Contractor shall obtain, complete, and sign hazardous waste manifests to accompany the soils to the disposal site. Other excavated soils shall be disposed of in an appropriate landfill, as governed by applicable laws and regulations, or other appropriate actions shall be taken in coordination with the DPH.</p>	<p>Project sponsor and construction contractor</p>	<p>During demolition, excavation, and construction.</p>	<p>If SMP indicates no contaminants in the soil and DPH concurs, then no action required. If DPH determines presence of contaminants, then contractor shall take the indicated action, and shall submit weekly monitoring reports to DPH during the construction period.</p>	<p>During demolition, excavation, and construction. Considered complete if DPH determines the absence of contaminants. Otherwise, considered complete upon receipt by DPH of final monitoring plan.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, a Site Health and Safety (H&S) Plan shall be required by the California Division of Occupational Safety and Health (Cal-OSHA) prior to initiating any earth-moving activities at the site. The Site Health and Safety Plan shall identify protocols for managing soils during construction to minimize worker and public exposure to contaminated soils. The protocols shall include at a minimum:</p> <ul style="list-style-type: none"> • Sweeping of adjacent public streets daily (with water sweepers) if any visible soil material is carried onto the streets. • Characterization of excavated native soils proposed for use on site prior to placement to confirm that the soil meets appropriate standards. • The dust controls specified in the Construction Dust Control Ordinance (176-08). • Protocols for managing stockpiled and excavated soils. <p>The Site Health and Safety Plan shall identify site access controls to be implemented from the time of surface disruption through the completion of earthwork construction. The protocols shall include as a minimum:</p>	<p>Project sponsor and construction contractor</p>	<p>During demolition, excavation, and construction.</p>	<p>If SMP indicates no contaminants in the soil and DPH concurs, then no action required. If DPH determines presence of contaminants, then an H&S Plan would be required, which shall meet certain requirements.</p>	<p>During demolition, excavation, and construction. Considered complete if DPH determines the absence of contaminants. Otherwise, considered complete upon receipt by DPH of final monitoring plan.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<ul style="list-style-type: none"> • Appropriate site security to prevent unauthorized pedestrian/vehicular entry, such as fencing or other barrier or sufficient height and structural integrity to prevent entry and based upon the degree of control required. • Posting of "no trespassing" signs. • Providing on-site meetings with construction workers to inform them about security measures and reporting/contingency procedures. <p>If groundwater contamination is identified, the Site Health and Safety Plan shall identify protocols for managing groundwater during construction to minimize worker and public exposure to contaminated groundwater. The protocols shall include procedures to prevent unacceptable migration of contamination from defined plumes during dewatering.</p> <p>The Site Health and Safety Plan shall include a requirement that construction personnel be trained to recognize potential hazards associated with underground features that could contain hazardous substances, previously unidentified contamination, or buried hazardous debris. Excavation personnel shall also be required to wash hands and face before eating, smoking, and drinking.</p> <p>The Site Health and Safety Plan shall include procedures for implementing a contingency plan, including appropriate notification and control procedures, in the event unanticipated subsurface hazards are discovered during construction. Control procedures shall include, but would not be limited to, investigation and removal of underground storage tanks or other hazards.</p>	<p>Project sponsor and construction contractor</p>	<p>During demolition, excavation, and construction.</p>	<p>If SMP indicates no contaminants in the soil and DPH concurs, then no action required. If DPH determines presence of contaminants, then an H&S Plan would be required, which shall meet certain requirements.</p>	<p>During demolition, excavation, and construction. Considered complete if DPH determines the absence of contaminants. Otherwise, considered complete upon receipt by DPH of final monitoring plan.</p>

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measures Adopted As Conditions of Approval	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>3e) Hazards (Decontamination of Vehicles)</p> <p>If the DPH determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, all trucks and excavation and soil handling equipment shall be decontaminated following use and prior to removal from the site. Gross contamination shall be first removed through brushing, wiping, or dry brooming. The vehicle or equipment shall then be washed clean (including tires). Prior to removal from the work site, all vehicles and equipment shall be inspected to ensure that contamination has been removed.</p>	Project sponsor	After equipment use and prior to removal from the work site.	If required by the DPH, the project sponsor shall follow measures to decontaminate soils and transportation vehicles.	Considered complete on issuance of building permit.