



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Motion No. 18144

HEARING DATE: JULY 15, 2010

*Date:* July 8, 2010  
*Case No.:* **2004.0946EKC**  
*Project Address:* **1717 17<sup>th</sup> Street**  
*Previous Zoning:* M-1 (Light Industrial)  
 40-X Height and Bulk District  
*Current Zoning:* UMU (Urban Mixed Use) and  
 45/48-X Height and Bulk District  
*Block/Lot:* 3980/008  
*Project Sponsor:* Sean Keighran  
 499 Marina Boulevard  
 San Francisco, CA 94123  
*Staff Contact:* Corey Teague – (415) 575-9081  
[corey.teague@sfgov.org](mailto:corey.teague@sfgov.org)

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION FOR A PLANNED UNIT DEVELOPMENT (PUD) WITH AN EXCEPTION FOR THE REAR YARD PURSUANT TO PLANNING CODE SECTIONS 134, 175.6, 215, AND 304 TO DEMOLISH THE EXISTING INDUSTRIAL BUILDINGS AND CONSTRUCT TWO ADJACENT FOUR-STORY, 48-FOOT TALL BUILDINGS (415 DE HARO STREET AND 310 CAROLINA STREET) THAT COMBINE TO INCLUDE UP TO 41 DWELLING UNITS, APPROXIMATELY 8,000 SQUARE FEET OF RETAIL SPACE, APPROXIMATELY 7,000 SQUARE FEET OF PDR (PRODUCTION/DISTRIBUTION/REPAIR) SPACE, UP TO 36 RESIDENTIAL PARKING SPACES, AND UP TO 22 COMMERCIAL PARKING SPACES IN THE UMU (URBAN MIXED USE) DISTRICT AND 45/48-X (PROPOSED 48-X) HEIGHT AND BULK DISTRICT, AND FORMERLY IN THE M-1 (LIGHT INDUSTRIAL) DISTRICT AND 40-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

### PREAMBLE

On December 22, 2005, Sean Keighran (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 134, 175.6, 215, and 304 of the Planning Code to demolish the existing industrial building and construct two adjacent four-story, 48-foot tall buildings (415 De Haro Street and 310 Carolina Street) that

combine to include up to 41 dwelling units, approximately 8,000 square feet of retail space, approximately 7,000 square feet of PDR (Production/Distribution/Repair) space, and up to 58 parking spaces in the UMU (Urban Mixed Use) District and 45/48-X (Proposed 48-X) Height and Bulk District.

On February 4, 2009, the Project Sponsor filed Shadow Impact Study Application No. 2004.0946K. Pursuant to Section 295, the Recreation and Park Commission held a duly advertised joint public hearing on January 21, 2010, and adopted Resolution No. 1001-005 recommending to the Planning Commission that the shadow of the proposed project will not be significant or adverse on Jackson Playground.

On March 10, 2010, Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review, and

The Draft IS/MND was available for public comment until March 30, 2010; and

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

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

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2004.0946E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

On July 15, 2010, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Shadow Impact Study Application No. 2004.0946K, and adopted Motion No. 18143 determining that the shadow of the proposed project will be significant, but not adverse on Jackson Playground.

On July 15, 2010, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2004.0946C.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2004.0946EKC, 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 is located at 1717 17<sup>th</sup> Street on a lot that was recently adjusted. Prior to the lot line adjustment, the lot was approximately 25,469 square foot and triangular. The project sponsor entered into an agreement with Anchor Steam Brewing Company (Anchor Steam) for a lot line adjustment which reconfigured the irregularly shaped lot 007 into a rectangular parcel (now Lot 008), approximately equal to the area of the site prior to the lot line adjustment. The new subject lot measures 200 feet by 127 feet with a 200 ft frontage along 17<sup>th</sup> Street and a 127 ft frontage along De Haro and Carolina Streets.

The project site includes three commercial buildings and a paved parking lot. The one-story 13-ft tall wood frame building and the adjacent two-story, 24-ft tall wood frame building both front on 17<sup>th</sup> Street. A surface parking lot with 20 parking spaces occupies the northeast corner of the project site. The remainder of the lot is occupied by a two story, 24-ft tall metal building. The portion of the lot to the west that was previously used for loading by Anchor Steam is covered with vegetation and asphalt.

The small one-story building at the intersection of 17<sup>th</sup> and De Haro Streets was originally constructed in 1928. Between 1929 and 1974 various additions were added to the building, altering the original footprint. A 2,000 square foot building was added to the east side of the original building in 1975. The two-story metal building with frontage on Carolina Street was constructed in 1976.

3. **Proposed Height Limit Amendment.** The lot line adjustment referenced in Item 2 above occurred before the adoption of the Eastern Neighborhoods rezoning late in 2008. The official rezoning legislation properly replaced the previous lots (006 and 007) with the new lots (008 and 009) and in the new zoning districts table, shown as follows:

BLOCK	LOT	USE DISTRICT TO BE SUPERSEDED	USE DISTRICT HEREBY APPROVED	SHEET
3980	<del>006</del> 009	M-1	PDR-1-G	10
3980	<del>007</del> 008	M-1	UMU	10

The official rezoning legislation did not, however, properly replace the previous lots with the new lots in the new height districts table, shown as follows:

BLOCK	LOT	HEIGHT DISTRICT TO BE SUPERSEDED	HEIGHT & BULK DISTRICT HEREBY APPROVED	SHEET
3980	006	40-X	45-X	8
3980	007	40-X	48-X	8

The result of not updating the lots in the height district table is that the southwest portion of the Project site (the previous portion of Lot 006 that was made part of the Project site through the lot line adjustment) is zoned for a height of 45 feet. Therefore, any approval for this 48-foot high Project can not be effective until the height table is amended to reflect the new lots, which will effectively rezone the southwestern portion of the Project site to a 48-foot height district.

The intent was for the Project site—the new Lot 008—to be rezoned to UMU and 48-X, just as other surrounding properties fronting on 17<sup>th</sup> Street. Therefore, on June 29, 2010, Supervisor Sophie Maxwell introduced Ordinance No. 100881 to correct the lots in the height district table and ensure that the new Lot 008 is entirely within a 48-X height and bulk district, and the new Lot 009 is entirely within a 45-X height and bulk district.

4. **Surrounding Properties and Neighborhood.** The project site lies in a corridor of UMU zoning along 16<sup>th</sup> and 17<sup>th</sup> Streets, and is at the northern foot of Potrero Hill. It borders the Potrero Hill neighborhood to the south, which primarily includes residential uses and zoning, with some exceptions like the Live Oak School at Mariposa and Arkansas Streets. Showplace Square lies to the north, and generally includes industrial buildings with larger footprints and PDR zoning. The project site also borders Jackson Playground to the east across Carolina Street, and is just north of the Anchor Steam Brewing Company. Most of the buildings to the west along 17<sup>th</sup> Street in the area range from two to five stories, including 444 De Haro Street and the Whole Foods building at 17<sup>th</sup> Street and Rhode Island Street. Buildings to the east along 17<sup>th</sup> Street tend to be smaller in scale.
  
5. **Project Description.** The proposed project includes demolition of the existing buildings on the project site including: the 1,000 square feet general office building, the 2,080 square feet production, distribution and repair (PDR) building, and the 11,050 square feet PDR/office building. Total existing PDR on the project site is approximately 12,000 square feet. The project site is partially occupied (approximately 3,800 square feet) with PDR uses. On the reconfigured, rectangular lot, the project sponsor proposes to construct two mixed-use buildings with off-street parking. The project will result in two four-story, 48-foot tall buildings with a total of 41 dwelling units, 7,000 square feet of ground floor PDR uses, 8,000 square feet of commercial/retail space, and 58 independently accessible below-grade parking spaces. Parking in each building’s parking garage will be divided into 18 residential parking spaces, 11 commercial spaces for the PDR and retail uses, and one van loading space. Each parking garage will also include 13 secured Class 1 bicycle spaces. The two buildings will meet along the 17<sup>th</sup> Street frontage with a common “paseo,” or alley-like entryway, which will extend a depth of approximately 72 feet into the building mass. The proposed project would be constructed in two phases, as follows:

Phase I (415 De Haro Street)

Phase I will include demolition of the two existing wood-frame buildings fronting 17th Street and the partial demolition of the concrete and aluminum building. Phase I will construct a new 48-foot tall, 51,664 gross square foot mixed-use building with below-grade parking on a newly subdivided lot measuring 100 foot by 127 feet. The building will contain 20 dwelling units, including ten two-bedroom units and ten one-bedroom units. The ground floor will also contain 7,500 square feet of PDR/commercial/retail space. The below-grade basement level will contain 29 off-street parking spaces (18 spaces for the residential uses and 11 spaces for the PDR/commercial/retail uses), one van loading space, and 11 secured Class I bicycle spaces. Vehicular access and the residential lobby to the building will be from De Haro Street. The building will also contain a 1,680 square foot roof deck for common usable open space for the residential units. Some units will also have private decks or terraces.

Phase II (310 Carolina Street)

Phase II will be the construction of a 48-foot tall, 51,664 gross square feet building fronting Carolina Street. This building will include 21 residential units, including nine two-bedroom and twelve one-bedroom units. This ground floor will also include 7,500 square feet of PDR/commercial/retail space. The below-grade basement level will contain 29 below-grade vehicle parking spaces (18 spaces for the residential uses and 11 spaces for the PDR/commercial/retail uses), one van loading space, and 11 Class I bicycle spaces. Vehicular access and the residential lobby to the building will be from Carolina Street. The building will also contain a 1,680 square foot roof deck for common usable open space for the residential units. Some units will also have private decks or terraces.

6. **Public Comment.** The Department received a letter of opposition from the Anchor Steam Brewing Company. The opposition is based on a dispute regarding a 2006 Memorandum of Understanding between Anchor Steam and the Project Sponsor, and not necessarily on the merits of the project overall. The Project Sponsor is working with Anchor Steam to ensure that all agreements under the Memorandum of Understanding will be met.
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. **Zoning Districts.** On the date of the first development application, the project site was zoned M-1. As part of the Eastern Neighborhoods rezoning, the Project site was rezoned to UMU. The Urban Mixed Use (UMU) District is intended to promote a vibrant mix of uses while maintaining the characteristics of this formerly industrially-zoned area. It is also intended to serve as a buffer between residential districts and PDR districts in the Eastern Neighborhoods. Within the UMU, allowed uses include production, distribution, and repair uses such as light manufacturing, home and business services, arts activities, warehouse, and wholesaling. Additional permitted uses include retail, educational facilities, and nighttime entertainment. Housing is also permitted, but is subject to higher affordability requirements. Family-sized dwelling units are encouraged. Within the UMU, office uses are restricted to the upper floors of multiple story buildings.

- B. **Use.** This project falls within the Eastern Neighborhood plan area and filed its first development application in September 2004. As such, it is subject to the land use controls that applied at that filing date, per Planning Code Section 175.6. At that time the subject property was zoned M-1, which required Conditional Use authorization for residential uses.

*The Project proposes residential units above ground floor commercial uses. The commercial uses were permitted as of right in the M-1 District, and the residential uses were permitted with Conditional Use authorization.*

- C. **Rear Yard.** Per Planning Code Section 175.6, the Project is subject to the rear yard controls of its current zoning district, which is UMU. Planning Code Section 134 requires residential buildings to provide a rear yard of no less than 25 percent of the lot depth at the lowest story containing a dwelling unit, and at each succeeding level or story of the building.

*The Project provides open spaces equivalent to 25 percent of the lot, but requests an exception to its configuration through a Planned Unit Development and pursuant to Planning Code Section 175.6(e)(1)(c), as discussed in Item 9 below.*

- D. **Residential Open Space.** Per Planning Code Section 175.6, the Project is subject to the open space controls of its current zoning district, which is UMU. Planning Code Section 135 requires at least 80 square feet of usable open space per dwelling unit.

*The 415 De Haro Street building requires at least 1600 square feet of useable open space, which is met by a 1680 square foot roof deck. The 310 Carolina Street building requires at least 1680 square feet of useable open space, which is met by a 1680 square foot roof deck.*

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

*The Project is required to provide at least 60 square feet of commercial open space. This requirement is met through the provision of the central "paseo" and insets provided along 17<sup>th</sup> Street, which provide well over 60 square feet.*

- E. **Exposure.** Planning Code Section 140 requires each dwelling unit to have at least one window facing a public street, code-complying rear yard, or an appropriately sized open area.

*All the dwelling units in the two buildings have at least one building facing either De Haro, 17<sup>th</sup>, or Carolina Street, or the interior courtyard, which meets the minimum dimensional requirements per Section 140(a)(2).*

- F. **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 every 20 feet of frontage of the property along each street or public alley.

*The Project is required to install 6 street trees along De Haro Street, 10 along 17<sup>th</sup> Street, and 6 along Carolina Street. The Project includes 7 street trees along De Haro Street, 10 along 17<sup>th</sup> Street, and 7 along Carolina Street.*

- G. **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 12-foot wide garage opening for each building, which is less than 1/3 the width of each building; (2) situating parking at the basement level; (3) incorporating an approximately 15,000 square foot ground floor commercial ("active" use) space and residential lobbies that provide full coverage of the ground floor; (4) providing a floor-to-floor ground floor height of 18 feet for the commercial frontage; and, (5) providing transparent windows at the ground floor active use.*

- H. **Vehicle Parking.** Per Planning Code Section 175.6, the Project is subject to the parking controls of its current zoning district, which is UMU. Planning Section 151.1 does not require any parking for the Project. However, the 415 De Haro Street building may include up to 18 residential parking spaces subject to the criteria of Section 151.1(f), and up to 15 commercial parking spaces as of right. The 310 Carolina Street building may include up to 18 residential parking spaces subject to the criteria of Section 151.1(f), and up to 15 commercial parking spaces as of right.

*Each proposed building will provide 18 residential parking spaces and 11 commercial parking spaces. Each project meets the criteria of Section 151.1(f) in the following ways:*

Parking for All Uses

- a) Vehicle movement on or around the project does not unduly impact pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in the district;

*Each building includes only one curb cut, which are located on De Haro and Carolina Streets. Each curb cut is located a maximum distance of approximately 120 feet from the intersection with 17<sup>th</sup> Street. Overall, there will be no increase in the number of curb cuts, and the new curb cuts are located on the side streets that carry less vehicular and transit traffic than 17<sup>th</sup> Street.*

*Considering the moderate number of parking spaces for each building will result in no undue impact on pedestrian or vehicular movement.*

- b) Accommodating excess accessory parking does not degrade the overall urban design quality of the project proposal;

*Each building provides parking below grade, which is not visible from the street. Additionally, the provision of only one garage entrance for each building further minimizes the parking's impact on the urban design quality of the project.*

- c) All above-grade parking is architecturally screened and, where appropriate, lined with active uses according to the standards of Section 145.1, and the project sponsor is not requesting any exceptions or variances requiring such treatments elsewhere in this Code; and

*Each building provides parking below grade, which is not visible from the street.*

- d) Excess accessory parking does not diminish the quality and viability of existing or planned streetscape enhancements.

*The Project will not increase the existing number of curb cuts and will add 24 street trees around the subject property.*

Parking for Residential Uses

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

*The Project includes only 41 dwelling units.*

- I. **Bicycle parking.** Planning Code Section 155.5 requires projects with up to 50 dwelling units to provide at least one bicycle parking for every two dwelling units. Therefore, the 415 De Haro Street building requires eleven bicycle parking spaces, and the 310 Carolina Street building requires ten bicycle parking spaces.

*Each building will provide 13 secure Class 1 bicycle spaces in its basement level garage.*

- J. **Height.** The Project site is currently within a 45/48-X height and bulk district. However, it fell within a 40-X height and bulk district when the first development application was submitted in 2004. Details regarding the portion of the Project site in the 45-X height and bulk district and associated actions are discussed in Item 3 above. Per Planning Code Section 175.6, the Project is required to stay within the original height limit. However, per Planning Code Section 175.6(e)(1)(B), the Planning Director may grant an increase beyond the otherwise-superseded height limits of no more than 8 feet when an equal or greater increase would be allowed under the Eastern Neighborhoods Controls and when such increase is necessary to comply with the current Planning Code requirements.



*The Project was originally proposed to be 40 feet in height. However, the minimum ground floor ceiling height required Section 145.1 in the UMU District is 17 feet. Per Section 175.6(e)(1)(B), the Planning Director granted an 8-foot height increase to comply with the ground floor ceiling height requirement. As such, the Project is proposed at a height of 48 feet.*

- K. **Shadow.** Pursuant to Section 295, no building permit authorizing the construction of any structure exceeding 40 feet in height that will cast any shade or shadow upon any property under the jurisdiction of the Recreation and Park Commission during the times of one hour after sunrise and one hour before sunset, all year round, may be issued except on prior action of the Commission pursuant to the provisions of this Section. The Commission must conduct a hearing and must disapprove the issuance of any building permit governed by the provisions of this Section if it finds that the proposed project will have any adverse impact on the use of the property under the jurisdiction of the Recreation and Park Commission because of the shading or shadowing that it will cause, unless it is determined that the impact would be insignificant.

*The Project will add net new shadow that is significant, but not adverse to the use of the park, based on qualitative criteria of shadow duration, time of day, and time of year. The ball field shadowed by the significant shadow has lights, and the shadow occurs at the end of the day, beginning in late March in trace amounts, reaching a maximum June 21, for about 2 hours, and tapering down to zero in late September. The total annual shadow increase on the park is less than 0.5%.*

*The Recreation and Parks Commission found on January 21, 2010, that the shadow of the proposed project will not be significant or adverse on Jackson Playground. The Planning Commission adopted Motion No. 18143 on July 1, 2010, determining that the shadow of the proposed project will be significant, but not adverse on Jackson Playground.*

- L. **Affordable Housing Program.** Planning Code Section 415<sup>1</sup> (formerly Code Section 315) sets forth the requirements and procedures for the Affordable Housing Program. On February 2, 2010, the Board of Supervisors adopted Interim Controls contained in Board of Supervisors' Resolution No. 36-10 (BOS File 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 415.3 (formerly Code Section 315.3), these requirements would apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for before July 18, 2006. Pursuant to Planning Code Section 415.5 (formerly Code Section 315.6), the Project is required to provide 12% of the proposed dwelling units as affordable if the Project is eligible for and selects the on-site alternative. The Project may also elect to pay the Affordable Housing fee for 17% of the proposed dwelling units, or some combination of on on-site and fee payment.

---

<sup>1</sup> On May 18, 2010 the Board of Supervisors Ordinance No. 108-10 (Board of Supervisors File No. 091275). Ordinance No. 08-10 created a new Article IV in the Planning Code and changed the numbering of most development fees including the fee in the Affordable Housing Program. When Ordinance No. 108-10 becomes effective (on or about June 25, 2010, the Affordable Housing Program will become Planning Code Section 415 et seq. All references herein to Section 315 shall then mean Section 415.

*The Project Sponsor has demonstrated that it is eligible for the on-site alternative under Planning Code Section 415.5 (formerly Code Section 315.6), and has submitted a Declaration of Intent to satisfy the requirements of the Affordable Housing Ordinance by providing 49 percent of the affordable housing on-site and 51 percent of the affordable housing through 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 Establish Eligibility for Alternative to Affordable Housing Fee' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project. The project sponsor submitted such Affidavit on July 7, 2010. The EE application was submitted on September 23, 2004. The 415 De Haro Street building will provide one affordable unit out of the 20 total units. The 310 Carolina Street building will provide one affordable unit out of the 21 total units. If the Project becomes ineligible to meet its Affordable Housing Program obligation on-site, it must pay the Affordable Housing Fee with interest for those units, if applicable.*

M. **Eastern Neighborhoods Public Benefit Fund.** The first development application for the project was filed on September 23, 2004. Therefore, per Planning Code Section 175.6, the Project is not subject to the Eastern Neighborhoods Public Benefit Fund provisions of Planning Code Section 327.

8. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The Project site is located on the transition between the mostly residential area of Potrero Hill and the more industrial Showplace Square. The surrounding area was planned for a moderately dense mix of uses to improve the transition between these two areas. The Project falls in the range of the existing two to five story scale of industrial and mixed use building in the area. As such, the proposal of 41 dwelling units with ground floor commercial and PDR space represents a necessary and desirable project to meet those aims.*

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

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

*The height and bulk of the proposal is compatible with the mixed nature of the area. The facades along De Haro and Carolina Streets are appropriately modulated and place focus on the corners and residential lobbies. The 17<sup>th</sup> Street façade appropriately uses similar treatments, but also*

*includes a "paseo" where the two buildings meet that serves to reduce the mass of the building walls along that frontage and provide additional open space.*

- 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;

*Each building includes only one curb cut, which are located on De Haro and Carolina Streets. Each curb cut is located a maximum distance of approximately 120 feet from the intersection with 17<sup>th</sup> Street. Overall, there will be no increase in the number of curb cuts, and the new curb cuts are located on the side streets that carry less vehicular and transit traffic than 17<sup>th</sup> Street. The overall parking space to dwelling unit ratio will be .88, and 22 parking spaces are provided for 15,000 square feet of retail and PDR space. Additionally, the project meets the Planning Code requirement for loading spaces by providing a van loading space in each garage.*

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

*The Project will not produce any noxious or offensive emissions.*

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

*The Project does not include a front setback, and so no visible landscaping is included. The off-street parking is located below grade, and there will only be two curb cuts for the entire Project. All possible utilities are located inside.*

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

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

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The Project does not fall within a Neighborhood Commercial District.*

- 9. **Planned Unit Development.** Section 304 establishes criteria and limitations for the authorization of PUDs over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of outstanding overall design, projects may merit modification of certain Code requirements. The Project requests a modification to the rear yard requirement of Planning Code Section 134. On balance, the Project complies with said criteria in that it:

- a. Affirmatively promote applicable objectives and policies of the General Plan;

*The Project's conformity with the General Plan is discussed in Item 10 below.*

- b. Provide off-street parking adequate for the occupancy proposed;

*Each proposed building will provide 18 residential parking spaces and 11 commercial parking spaces and meets the criteria of Section 151.1(f), as discussed in Item 7G above. The residential parking represents the maximum permitted and a ratio of .88 spaces per unit. Up to 30 total commercial parking spaces are permitted, but the size of the spaces and proposed uses do not demand that many.*

- c. Provide open space usable by the occupants and, where appropriate, by the general public, at least equal to the open spaces required by this Code;

*The Project meets its residential open space requirement primarily through two roof decks of 1600 and 1680 square feet, although rear patios and some common space is also included at the second level. Additionally, the proposed "paseo" in the middle of the 17<sup>th</sup> Street façade combines with insets to the commercial entrances that create additional public open space.*

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

*The M-1 District permits a residential density equal to that permitted in the nearest R District. At the time of application, the nearest R District to the subject lot was RM-1, which permits one dwelling unit per 800 square feet. The Project site is 25,469 square feet, which permits a maximum density of 38 units. However, the PUD permits a density just below what is permitted in the next District permitting a greater density. In this case, the RM-2 District represents that next District, and permits a density of up to one unit per 600 square feet. Under the RM-2 District, the Project site would be permitted to have 42 units. Therefore, the maximum permitted density for this Project as a PUD is 41 units, which is what is proposed.*

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

*The Project does not include any exception to the height limit. The only height deviation proposed is per Planning Code Section 175.6(e)(1)(B) discussed above in Item 7I.*

- f. Provide street trees as per the requirements of Section 143(j) of the Code.

*The Project will provide more street trees than are required in Section 143.*

- g. Provide landscaping and permeable surfaces in any required setbacks in accordance with Section 132 (g) and (h).

*The Project has no required setbacks (i.e. front, side, etc.).*

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 appropriate infill development that will improve a currently underused industrial site. Additionally, the site is planned for such growth and located in an area immediately adjacent to the well established residential neighborhood of Potrero Hill.*

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

##### 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 11.3:

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

*The Project will provide neighborhood-serving commercial opportunities in a transitioning area adjacent to established residential uses without displacing any housing.*

## **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.

*The Project will plant a total of 24 street trees around the site.*

#### **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 26 bicycle parking spaces in a secure, convenient location in the parking garages.*

## **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 4:**

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

#### **Policy 2.6:**

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

*The Project lies on the border of the Potrero Hill residential neighborhood to the south and the Showplace Square industrial area to the north. As such, the Project will respect the character of older industrial developments nearby in terms of its large footprint, scale, and heavier materials. However, the Project has appropriate breaks in mass, focuses on the residential lobbies, and provides potential for neighborhood-serving uses on the ground floor that respect the adjacent residential area.*

**OBJECTIVE 4:**

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 4.12:**

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

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*The Project will plant 24 street trees along the edges of the site, and include a "paseo" in the middle of the 17<sup>th</sup> Street frontage that will break up the mass of the buildings and serve as a visually and functionally interesting pedestrian feature.*

**SHOWPLACE SQUARE/POTRERO HILL PLAN**  
**Objectives and Policies**

**OBJECTIVE 1.1:**

ENCOURAGE THE TRANSITION OF PORTIONS OF SHOWPLACE / POTRERO TO A MORE MIXED USE AND NEIGHBORHOOD-SERVING CHARACTER, WHILE PROTECTING THE CORE OF DESIGN-RELATED PDR USES.

**Policy 1.1.3:**

Allow for active ground floor uses and a more neighborhood commercial character in newly designated mixed use areas within Showplace Square.

**OBJECTIVE 1.7**

RETAIN THE ROLE OF SHOWPLACE SQUARE AS AN IMPORTANT LOCATION FOR PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ACTIVITIES, FOCUSING IN PARTICULAR ON DESIGN RELATED ACTIVITIES.

**Policy 1.7.3**

Require development of flexible buildings with generous floor-to-ceiling heights, large floor plates, and other features that will allow the structure to support various businesses.

*The Project includes nonresidential space on the ground floor (including mezzanines) with large ground floor ceiling heights and adequate area for a range of uses, including PDR.*

**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 3.2.4**

Strengthen the relationship between a building and its fronting sidewalk.

**Policy 3.2.5**

Building form should celebrate corner locations.

*The Project's facades are of high quality materials. The ground floor will be tall enough to create attractive storefronts for pedestrians and viable space for a variety of uses, including PDR. The parking will all be below grade and only visible by the single garage door on each building. The buildings also include appropriate modulation of the facades to break them into distinct sections, including strong corner elements.*

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.

*The Project will not remove any neighborhood-serving retail uses, but it will create 15,000 square feet of useable space for retail and PDR uses.*

- 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 displace any existing housing, and the development is compatible with the surrounding neighborhood in terms of density, height and scale.*

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



*The Project will not remove any housing and will result in five BMR units on-site, or the appropriate affordable housing in-lieu fee.*

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

*Each building only includes one curb cut and retains the existing on-street parking, and the Project's moderate size overall will not significantly impact MUNI or neighboring 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 will not remove any neighborhood-serving retail uses, but it will create 15,000 square feet of useable space for retail and PDR uses that will provide employment and ownership opportunities.*

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

*The Project will be constructed to meet all seismic safety requirements of the Building Code.*

- G. That landmarks and historic buildings be preserved.

*The existing buildings proposed for demolition were found to not be historical resources.*

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

*The Project will add significant, but not adverse shadow on Jackson Square. The Recreation and Parks Commission found on January 21, 2010, that the shadow of the proposed project will not be significant or adverse on Jackson Playground. The Planning Commission adopted Motion No. 18143 on July 15, 2010, determining that the shadow of the proposed project will be significant, but not adverse on Jackson Playground.*

12. 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.

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

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2004.0946C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on June 17, 2010, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

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

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

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18144. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

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

Linda D. Avery  
Commission Secretary

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

NAYS: None

ABSENT: Commissioner Borden.

ADOPTED: July 15, 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 authorization is for a Conditional Use Authorization under Planning Code Sections 134, 175.6, 215, and 304 of the Planning Code to demolish the existing industrial building and construct two adjacent four-story, 48-foot tall buildings (415 DeHaro Street and 310 Carolina Street) that combine to include up to 41 dwelling units, approximately 8,000 square feet of retail space, approximately 7,000 square feet of PDR (Production/Distribution/Repair) space, and up to 58 parking spaces in the UMU (Urban Mixed Use) District and 45/48-X (Proposed 48-X) Height and Bulk District, in general conformance with plans filed with the Application as received on June 17, 2010, and stamped "EXHIBIT B" included in the docket for Case No. 2004.0946C, reviewed and approved by the Commission on July 15, 2010.
2. The Project approved by this Motion is in general conformity with the plans dated June 17, 2010, on file with the Department in the docket for Case No. 2004.0946EKC (labeled EXHIBIT B), reviewed and approved by the Commission on July 15, 2010.
3. 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.
4. The Project shall comply with the provision of street trees as required by Planning Code Section 143.

### Housing

5. 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.

### Design

6. The Project Sponsor shall continue to work with the Planning Department on the storefront designs to ensure that any large retail storefronts are adequately varied and modulated.

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

7. **Requirement.** Pursuant to Planning Code 415.7 (formerly Code Section 315.4), the Project Sponsor must pay an Affordable Housing fee at a rate equivalent to the applicable percentage of the number of units in the principle project to satisfy the Affordable Housing Requirement. The applicable percentage for this project is seventeen percent (17%). The Project Sponsor is electing to provide 49 percent of the total units as affordable on-site, and pay the Affordable Housing fee for 17 percent of the total units for the remaining affordability requirement.
8. **Number of Required Units.** Pursuant to Planning Code Section 415.5 (formerly Code Section 315.6), the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households ("BMR Units"), pay an Affordable Housing fee for 17% of the proposed dwelling units, or some combination of the two. The 415 De Haro Street Project contains 20 units and will provide one BMR unit on-site and pay the Affordable Housing fee for the remaining requirement. The 310 Carolina Street Project contains 21 units and will provide one BMR unit on-site and pay the Affordable Housing fee for the remaining requirement. If the number of market-rate units change, the number of required BMR units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing.
9. **Unit Mix.** The two proposed on-site BMR units will include a one-bedroom unit and a two-bedroom unit. One unit will be located in each building. The determination of which building receives which unit will be made as part of the building permit application process. If the market-rate unit mixes change, the BMR unit mix will be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing.
10. **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.
11. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than forty-nine percent (49) of the required twelve percent (12%) of each phase's total number of dwelling units as on-site BMR units.
12. **Duration.** Under Planning Code Section 415.8 (formerly Code Section 315.7), all units constructed pursuant to Section 415.5 (formerly Code Section 315.6) must remain affordable to qualifying households for the life of the project.
13. **Other Conditions.** The Project is subject to the requirements of the Affordable Housing Program under Section 415 et seq. of the Planning Code (formerly Code Section 315) including the Interim Controls contained in Board of Supervisors' Resolution No. 36-10 (BOS File No. 100047) entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" adopted on February 2, 2010 and the terms of the Residential 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 415 (formerly Code Section 315) (collectively the "Affordable Housing Ordinance"). Terms used in these Conditions of Approval and not otherwise defined shall

have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Affordable Housing Ordinance, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

- a. The project sponsor must pay the applicable fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by MOH prior to the issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
- b. The BMR unit(s) shall be designated on the building plans prior to the issuance of the first site or building permit by the Department of Building Inspection (DBI). The BMR unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) shall be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) shall be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. Other specific standards for on-site units are outline in the Procedures Manual.
- c. If the units in the building are offered for sale, 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 401 (formerly Code Section 315.1), an amount that translates to ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size" derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. 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.
- d. If the Project Sponsor has entered into an agreement with the City permitting the on-site units to be rental units, 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 401 (formerly Code Section 315.1), an amount that translates to fifty-five (55) percent of Area Median Income under the income table called Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. The qualifying household income limits and maximum monthly rent for BMR units shall be calculated by Mayor's Office of Housing.

- e. 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.
- f. Required parking spaces shall be made available to initial buyers or renters of BMR units according to the Procedures Manual.
- g. 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.
- h. The Project Sponsor has demonstrated that it is eligible for the on-site alternative under Planning Code Section 415.5 (formerly Code Section 315.6) instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit to Establish Eligibility for Alternative to Affordable Housing Fee* to the Planning Department 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.
- i. If project applicant fails to comply with the Affordable Housing requirement, the Director of Building Inspection shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A project applicant's failure to comply with the requirements of Planning Code Section 415 et seq. (formerly Code Section 315) shall constitute cause for the City to record a lien against the development project.
- j. If the Project becomes ineligible at any time for the on-site alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first site or building permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. 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.)
- k. **Future Applicable Controls:** If the Interim Controls contained in Board of Supervisors Resolution No. 36-10 (BOS File No. 100047) entitled "Planning Code – Interim Controls Related to Affordable Housing Requirements" or permanent controls in substantially similar form to those contained in BOS File No. 100046 entitled "Planning Code – Amending Inclusionary Housing Ordinance" proposing amendments to Planning Code Section 415 et seq. (formerly Code Section 315) (collectively "applicable future controls") are approved by the Board of Supervisors prior to issuance of the first certificate of occupancy for the Project,

the Project shall be subject to the applicable future controls and not the current provisions of Planning Code Section 415 et seq. (formerly Code Section 315).

### **Parking**

14. 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.
15. 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.

### **Performance**

16. 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.
17. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor’s Block 3980, Lot 008), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion.
18. In addition to the Notice of Special Restriction required in Condition of approval number 17 herein, the Project Sponsor shall record a second Notice of Special Restriction notifying the purchasers and/or lessee of the residential units in the Project of the industrial natural and associated noise and odor from the adjacent property, which may be offensive. Such second Notice of Special Restrictions shall be recorded prior to the issuance of a Site Permit for the project or any portion of the project. The Project Sponsor shall provide a recorded copy of this second Notice of Special Restrictions to the Planning Department.
19. The authorization and right vested by virtue of this action shall not be effective until the effective date of Ordinance No. 100881 to correct the height district of the Project site. This authorization shall be deemed void and canceled if, within 4 years of the date of this Motion, or within 3 years of the effective date of Ordinance No. 100881 to correct the height district of the Project site, whichever occurs first, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

**Mitigation Measures**

20. 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**

21. 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 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 1

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p><b>MITIGATION MEASURE 1</b> <i>Archeological Resources (Accidental Discovery)</i></p>					
<p>The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in <i>CEQA Guidelines</i> Section 15064.5(a)(c). 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>	<p>Project sponsor</p>	<p>Accidental discovery</p>	<p>Distribute Planning Department Archeological Resource "ALERT" sheet to Prime Contractor, sub-contractors and utilities firms;  Project sponsor, archaeologist and Environmental Review Officer (ERO).  Submit signed affidavit of distribution to ERO.</p>	<p>Prior to any soil-disturbing activities on the project site.</p>	<p>Date signed affidavit submitted to the ERO: _____</p>
<p>Should any indication of an archeological resource be encountered during any soils disturbing activity</p>	<p>Head Foreman and/or project</p>	<p>Accidental discovery</p>	<p>Suspend any soils disturbing</p>		

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 2

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>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>sponsor</p>		<p>activity; and Notify ERO of accidental discovery.</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>Project Sponsor  Archeological consultant</p>	<p>In case of accidental discovery.</p>	<p>If ERO determines an archeological resource may be present, services of a qualified archeological consultant to be retained.  Identify and evaluate archeological resources; and make recommendation to the ERO.</p>		
<p>Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing</p>	<p>Project Sponsor</p>	<p>After determination by the ERO of appropriate action to be</p>	<p>Implementation of Archeological measure required</p>		

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 3

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>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>implemented following evaluation of accidental discovery.</p>	<p>by ERO.</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 describes 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</p>	<p>Following completion of any* archeological field program. (* required.)</p>	<p>Submittal of Draft/Final FARR to ERO.</p>		
<p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California 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 MEA 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</p>	<p>Project Sponsor</p>		<p>Distribution of Final FARR.</p>		

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 4

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>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><b>MITIGATION MEASURE 2</b></p> <p><b>Preconstruction Surveys for Nesting Birds</b></p>					
<p>The project sponsor shall implement the following protective measures to ensure implementation of the Migratory Bird Treaty Act and compliance with State regulations during construction. To the extent feasible, the project sponsor and/or the construction contractor(s) shall remove all vegetation on the project site between September 1-December 31. Should vegetation removal occur between January 1 to August 31, pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist or wildlife biologist to ensure that no nests would be disturbed during project implementation. A pre-construction survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the qualified person</p>	<p>Project sponsor and contractor</p>	<p>Prior to construction activities.</p>	<p>Should vegetation removal or construction activities commence during the breeding season, the project sponsor's qualified biologist/ornithologist shall conduct a pre-construction survey for nesting birds in accordance with this mitigation measure. Results</p>	<p>Prior to construction activities.</p>	<p>Date of vegetation removal: _____</p> <p>Pre-construction bird survey required? Y or N</p> <p>Consultation with CDFG required? Y or N</p>

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 5

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>shall inspect all vegetation in and immediately adjacent to the impact areas for nests. If an active nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, shall determine the extent of a construction-free buffer zone to be established around the nest until the young have fledged.</p>			<p>of preconstruction survey shall be submitted to the ERO.</p>		
<p><b>MITIGATION MEASURE 3</b></p>					
<p><b>Hazardous Materials (Contaminated Soil)</b></p>					
<p><i>Step 1: Preparation of Site Mitigation Plan:</i> DPH has determined that the soils on the project site are contaminated with lead at or above potentially hazardous levels, and DPH has determined that preparation of a Site Mitigation Plan (SMP) is warranted. The SMP shall include a discussion of the level of lead 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; and 3) the specific</p>	<p>Project sponsor</p>	<p>Prior to excavation.</p>	<p>The project sponsor to prepare an SMP, subject to approval by the DPH.</p>	<p>Prior to excavation. Considered complete upon receipt of final SMP by ERO.</p>	<p>Date SMP submitted to DPH: _____  Date SMP approved by DPH: _____  Date Final SMP received by ERO: _____</p>

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 6

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>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>					
<p><i>Step 2: Handling, Hauling, and Disposal of Contaminated Soils</i></p> <p>(a) <u>specific work practices</u>: 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, including OSHA metal, or petroleum hydrocarbon, or volatile organic compounds, safe work practices) when such soils are encountered on the site.</p> <p>(b) <u>dust suppression</u>: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.</p> <p>(c) <u>surface water runoff control</u>: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the</p>	<p>Project sponsor and construction contractor</p>	<p>Prior to any soil disturbing activities.</p>	<p>Contractor shall take the indicated mitigation action, and shall provide DPH weekly reports during the construction period. The sponsor shall forward copies of these reports to the ERO.</p>	<p>Considered complete if DPH determines the absence of contaminants or receipt of final weekly monitoring reports.</p>	<p>DPH determination that contaminants are present: Y N Date: _____</p> <p>Date final monitoring reports received: _____</p>

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 7

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<p>soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.</p> <p>(d) <u>soils replacement</u>: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where metal, or petroleum hydrocarbon, or volatile organic compound-contaminated soils have been excavated and removed, up to construction grade.</p> <p>(e) <u>hauling and disposal</u>: Contaminated soils shall be hauled off the project site by waste-hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.</p>					
<p><i>Step 3: Preparation of Closure/Certification Report</i></p> <p>After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing lead from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the</p>	<p>Project sponsor and construction contractor</p>	<p>During demolition, excavation, and construction.</p>	<p>Project sponsor to provide DPH and the ERO with final closure/certification report.</p>	<p>Considered complete upon ERO receipt of final closure/certification report at completion of construction.</p>	<p>Date closure report submitted to DPH: _____</p> <p>Date closure report approved by DPH: _____</p> <p>Date of ERO receipt of</p>

**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 8

Mitigation Measures Agreed to by Project Sponsor	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
construction contractor modified those mitigation measures.					final closure report: _____

Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<b>IMPROVEMENT MEASURE 1</b>					
<b>Parking</b>					
To reduce the proposed project's parking demand and parking shortfall and to encourage the use of alternative transportation modes, the project sponsor will provide both residents and PDR and retail businesses a transportation insert for the move-in packet that would provide information on transit service (MUNI and BART lines, schedules and fares), information on where Fast Passes could be purchased, information on car share parking space locations and information on the 511 Regional Rideshare program. The lessee of the commercial spaces would be encouraged to allow overnight use of the commercial parking spaces by residents in order to accommodate the residential parking shortfall.	Project Sponsor	Prior to occupancy	Project sponsor to provide a move-in packet in accordance with this mitigation measure and to encourage the lessee of commercial spaces to accommodate the residential parking shortfall.	Considered complete upon submittal of material to both new residents and occupants of the retail and PDR spaces.	



**EXHIBIT 1**  
**MITIGATION MONITORING**  
**AND REPORTING PROGRAM**

Case File No.: 2004.0946E  
Project Title: 1717 17<sup>th</sup> Street

Motion No.: 18144  
Page 9

Improvement Measures Identified by Planning Department Staff	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Monitoring Schedule	Status / Date Completed
<b>IMPROVEMENT MEASURE 2</b> <b>Construction Traffic</b>					
<p>Construction traffic occurring between 7:00 and 9:00 AM or between 3:30 and 6:00 PM would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. The project sponsor would require the construction contractor to limit truck movements to the hours between 9:00 AM and 3:30 PM (or other times, if approved by the San Francisco Municipal Transportation Authority) in order to minimize the disruption of the general traffic flow on adjacent streets during the AM and PM peak periods.</p>	<p>Project sponsor</p>	<p>Prior to the start of construction activities.</p>	<p>Project sponsor to require the contractor to limit truck movements to the hours between 9:00 AM and 3:30 PM.</p>	<p>Prior to the start of construction activities.</p>	
<p>The project sponsor and construction contractor will meet with the Traffic Engineering Division of the SFMTA, the Fire Department, MUNI, the Planning Department and other City agencies to determine feasible measures to reduce traffic congestion and other potential transit and pedestrian circulation effects during construction of the proposed project. The temporary parking demand by construction workers would need to be met on-street or within available off-street parking facilities.</p>	<p>Project sponsor</p>	<p>Prior to the start of construction activities.</p>	<p>Project Sponsor to meet with City agencies to determine feasible measures to reduce traffic congestion during project construction.</p>	<p>Prior to the start of construction activities.</p>	