



# 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

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## Planning Commission Motion No. 17554

*Hearing Date:* February 14, 2008  
*Case No.:* **2004.0914 CVEK**  
*Project Address:* **793 SOUTH VAN NESS AVENUE**  
*Zoning:* NC-1 (Neighborhood Commercial, Cluster)  
 50-X Height and Bulk District  
*Block/Lot:* 3591/024  
*Project Sponsor:* Tuija I. Catalano of Reuben and Junius, LLP  
 Authorized Agent of Vermont Street Town Homes, LLC  
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 San Francisco, CA 94104  
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**ADOPTING FINDINGS TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 121.1, 710.11 AND 303 TO ALLOW CONSTRUCTION ON A SITE THAT EXCEEDS 4,999 SQUARE FEET IN SIZE, AND UNDER PLANNING CODE SECTIONS 228.3 AND 303 TO ALLOW THE CONVERSION OF A GASOLINE SERVICE STATION TO ANOTHER USE CONSISTING OF A CONSTRUCTION OF A 50-FOOT TALL, FIVE-STORY MIXED-USE BUILDING WITH APPROXIMATELY 3,215 SQUARE FEET OF GROUND FLOOR RETAIL/COMMERCIAL SPACE, APPROXIMATELY 1,430 SQUARE FEET OF GROUND FLOOR PDR SPACE, 29 DWELLING UNITS AND 29 OFF-STREET PARKING SPACES, AT 793 SOUTH VAN NESS AVENUE, LOT 024 IN ASSESSOR’S BLOCK 3591, IN AN NC-1 (COMMERCIAL CLUSTER) DISTRICT, A 50-X HEIGHT AND BULK DISTRICT, AND THE PROPOSED EASTERN NEIGHBORHOODS PLAN AREA.**

### PREAMBLE

On August 18, 2005, Tuija I. Catalano of Reuben and Junius, LLP, authorized agent of Vermont Street Town Homes, LLC (hereinafter "Applicant") filed Application No. 2004.0914C (hereinafter "Application") requesting a conditional use authorization for the property at **793 South Van Ness Avenue, Lot 024 in Assessor’s Block 3591** to construct a 50-foot tall structure containing 29 dwelling units and off-street parking spaces, approximately 3,215 square feet of ground-floor retail/commercial space, and approximately 1,430 square feet of ground-floor Production, Distribution and Repair ("PDR") space within an NC-1 (Neighborhood-Commercial Cluster) Use District, a 50-X Height and Bulk District, and

the proposed Eastern Neighborhoods Plan Area.

A Mitigated Negative Declaration was prepared and issued for the project pursuant with the provisions of the California Environmental Quality Act (hereinafter "CEQA"), the State Guidelines for the Implementation of CEQA and Chapter 31 of the San Francisco Administrative Code, that there will not be a significant effect on the environment because of the mitigation measures included. The Mitigated Negative Declaration was published on May 5, 2007 by the Planning Department of the City and County of San Francisco (hereinafter "Department"), and no appeals were filed. A Final Mitigated Negative Declaration was adopted and issued on June 5, 2007. This document is included in Planning Department File No. 2004.0914E.

On January 9, 2006, the Department performed a shadow study, Case No. 2004.0914K, per Planning Code Section 295 and determined that the proposed 50-foot building would not create new shadow impact on any property under the jurisdiction of the Recreation and Park Commission. On December 13, 2007, the Commission reviewed and affirmed that the project does not create any shadow impacts per Section 295.

On February 14, 2008, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2004.0914CV, at which time the Commission reviewed and discussed the findings prepared for their review by the staff of the Department.

The Commission has reviewed and considered reports, studies, plans and other documents pertaining to this 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 applicant, the Department staff, and other interested parties.

**MOVED**, that the Commission hereby grants conditional use authorization as requested in Application No. 2004.0914CV subject to the conditions contained in Exhibit A, attached hereto and incorporated herein by reference thereto, 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.** The rectangular, 17,589-sq.ft. project site is located in the Inner Mission neighborhood of San Francisco, at the northeast corner of South Van Ness Avenue and 19<sup>th</sup> Street. The Project Site is within an NC-1 (Commercial Cluster) Neighborhood Commercial Use District, a 50-X Height and Bulk District. The Project Site is essentially flat and the South Van Ness Avenue frontage has a slight lateral slope to the north.

The Project Site is also within the proposed Eastern Neighborhoods Plan Area. Under the most current proposed zoning map and proposed heights map, both dated December, 2007, the Project Site is proposed to be rezoned for the NCT-3 (Neighborhood Commercial Transit-3) District, and a 55-foot height district.

A gasoline station formerly occupied the Project Site. The underground storage tanks and pumps of the gasoline station were removed on December 22, 2004 with the Department of Public Health's approval and supervision.

3. **Surrounding Neighborhood.** The surrounding area is diversely zoned for a variety of residential, residential-mixed, neighborhood-commercial and industrial districts, and is developed mostly with 2 to 4 story multi-family housing and industrial buildings. Nearby land uses include residential, retail, auto service, church and the Mission Family Center.
4. **Project Description.** The Project consists of the demolition of the existing improvements used by the former gasoline station, and the construction of a mixed-use building with commercial / retail and PDR uses on the ground floor, 29 residential units on floors two through five, and 29 off-street parking spaces at the ground level. The Project contains a total of approximately 61,400 square feet of area, which is broken down into approximately 42,250 square feet of residential area, 3,215 square feet of retail/commercial ground floor space, 1,430 square feet of PDR ground floor space, approximately 9,380 square feet of parking area, in addition to the other service, storage and common areas. As proposed the project would contain, 13 two-bedroom units, and 16 three-bedroom units. The residential lobby is provided off of 19<sup>th</sup> Street. The project sponsor intends to satisfy the Inclusionary Housing Requirement by providing the three (3) below-market rate units on-site. An approximately 11-foot wide garage opening would be located on 19<sup>th</sup> Street to provide ingress and egress to the residential parking
5. **Public Comment.** The Department has received one (1) letter in opposing to the possible reduction of the parking requirement. For more information regarding this concern, please see the attached correspondence.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Compliance with Planning Code Section 228.3.** Section 228.3 provides two alternative criteria for Commission consideration with regard to conditional use authorization for conversion requests. The Commission finds and determines that the proposed Project complies with both of the criteria of Section 228.3(a) and (b) of the Code in that:
    - a. Comparable automotive goods and services are available at other reasonably accessible locations;
      - (1) The types of services offered by the gasoline station sought to be converted and the hours and days during which such goods and services are available.

*Currently, the gasoline service station at 793 South Van Ness Avenue does not offer any services because the operation ceased prior to December 2004, before the Project Sponsor purchased the Property.*
      - (2) The volume of gasoline and other motor fuels sold and the number of vehicles

serviced at each gasoline station during each of the 24 months preceding the filing of the conditional use authorization application.

*The former gas station ceased to operate prior to December 2004. The Project Sponsor filed a conditional use authorization application for the mixed-use project on August 18, 2005. By the filing date the volume of sold gasoline and other motor fuels and the number of serviced vehicles in the 24 months preceding the filing of the application had declined to zero since the gas station ceased to operate at least 8 months prior to the filing of the application. No gasoline or other motor fuels have been sold at the subject station for almost 3 years.*

- (3) Whether the volume of gasoline and other motor fuels sold and the number of vehicles serviced each month has increased or decreased during the 24-month period immediately preceding the conditional use authorization.

*No services have been provided on the site for almost 3 years, and the volume of sold gasoline and the number of serviced vehicles declined to zero by the filing date. The underground storage tanks were removed on December 22, 2004 with the Department of Public Health's supervision and at the prior owner's request.*

- (4) The accessibility of comparable automotive goods and services offered by other gasoline service stations and repair garages which serve the same geographic area and population segments (e.g., neighborhood residents, in-town our out-of-town commuters, tourists) as the service station sought to be converted.

*The accessibility of goods and services offered by other gasoline service stations and repair garages is good. There are at least 9 gasoline stations within less than one mile from the Project Site, 7 of which provide 24-hour gasoline service. There are at least 3 locations within less than one mile from the Project Site that provide automobile service and repair. The closest gasoline stations are located just two to three blocks north of the Project Site along South Van Ness Avenue.*

- b. The benefits to the public of the service station conversion would outweigh any reduction in automotive goods and services availability because the proposed new use is more necessary or desirable for the neighborhood or community than continued service station use.

- (1) If the proposed use is a residential use, the total number of units to be provided and the number of those units that are affordable units.

*The site is proposed to be used for residential, commercial and PDR uses. The Project proposes construction of a 50-foot tall building with up to 29 dwelling units. The project sponsor has elected to construct the below-market-rate units on-site to comply with the Inclusionary Housing Program.*

- (2) If the proposed new use is a commercial use, the types of goods and services to be offered and the availability of comparable products and services in the

vicinity.

*The site is proposed to be used for residential, commercial and PDR uses. The PDR uses would occupy approximately 1,430 square feet of area on ground floor façade with frontage on 19<sup>th</sup> Street. The commercial/retail uses would consist of a total of 3,215 square feet located within 3 separate spaces.*

- (3) The relative environmental dangers posed by the current and proposed uses, including but not limited to the quality and the character of waste generated, noxious or offensive emissions, fire and explosion hazards and noise, and whether the service station conversion would facilitate the clean up of existing contamination at the property.

*There are no known environmental dangers posed by the proposed mixed-use residential, commercial and PDR uses. On June 5, 2007, a Final Mitigated Negative Declaration was adopted and issued by the Planning Department for the conversion and mixed-use proposals. On December 22, 2004, three underground storage tanks were removed from the premises in accordance with regulations and policies of the San Francisco Department of Public Health.*

- (4) The relative employment opportunities offered by the gasoline service station and the proposed new use.

*The gasoline station offers no current employment opportunities as it has been closed for almost 3 years. The proposed mixed-use Project will provide some employment opportunities during the Project's construction phase and after construction for the commercial/retail and PDR space tenants.*

- (5) The relative amount of taxes or other revenues to be received by the City or other governmental bodies from service station use and the proposed new use.

*The amount of taxes and other revenue received by the City from the gasoline station is currently zero, because the former owner of the Property terminated the gasoline service station prior to December 20, 2004, before they sold the Project Site to the Project Sponsor. The proposed mixed-use development will generate both residential and commercial taxes on a long-term basis to be paid to the City.*

- (6) Whether the service station use and the proposed use are permitted principal uses, conditional use or non-conforming use.

*The former gasoline service station was a non-conforming use pursuant to Planning Code Section 710.58. Residential and commercial/retail uses are principally permitted pursuant to Planning Code Sections 710.90, and 710.40 through 710.67.*

- B. **Use:** Residential and commercial/retail uses are permitted in the NC-1 District pursuant to Planning Code Sections 710 et. seq.

*Comment: The proposal includes up to 29 dwelling units, approximately 3,215 square feet of ground-floor retail space divided into three separate retail/commercial areas, and approximately 1,430 square feet of ground-floor PDR space within one area.*

- C. **Dwelling Unit Density:** Planning Code Section 710.91 and 207.4 allows the density of the nearest R-District, and for NC-1 Districts, wherein the Property is located, in no case less than one unit for every 800 square feet of lot area. The closest R-District to the Property is the RM-2 District which permits one unit per 600 square feet of lot area.

*Comment: The Property can be constructed with up to 29 units. The project proposes up to 29 dwelling units, and thus complies with the maximum unit density.*

- D. **Shadow Study:** Section 295 requires review of buildings over 40 feet in height to determine any potential shadowing on property under the jurisdiction of the Recreation and Park Commission.

*Comment: On January 9, 2006, the Department performed a shadow study (Case No. 2004.0914K) and determined that the 50-foot building would not create a shadow impact on any property under the jurisdiction of the Recreation and Park Department.*

- E. **Floor Area Ratio:** The FAR limit in NC-1 District is 1.8:1 pursuant to Section 124, and applies to non-residential uses only.

*Comment: The Project Site contains 17,593 square feet of area, and thus the maximum non-residential development can contain up to 31,667 gross square feet. The Project contains approximately 3,215 gross square feet of retail/commercial development and approximately 1,430 gross square feet of PDR development, and thus complies with the applicable FAR limit.*

- F. **Rear Yard:** Section 134(a) (1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at every residential level. The Project provides a rear yard that varies in depth, and thus the Project requires a modification of the rear yard requirement pursuant to Section 134(e). A rear yard modification will be considered by the Zoning Administrator at the same public hearing as the conditional use.

*Comment: The required rear yard setback is equal to approximately 30 feet measured from the rear property line and extending for the full 146-foot width of the property. As proposed, the rear yard requirement is provided from the second level, the lowest level where dwelling units are located, and above. Thus a modification by the Zoning Administrator pursuant to Section 134(e) is required.*

- G. **Dwelling Unit Exposure:** Section 140 establishes exposure requirements for all dwelling units, requiring that all units face onto an open area such as a street or rear yard, or onto an inner court, that is no less than 25 feet in every horizontal dimension.

*Comment: The units face towards South Van Ness Avenue, 19<sup>th</sup> Street, or the inner court yard at the northeast corner of the property. The inner court yard complies with the 25-foot dimensional and 5-foot incremental requirements, and thus all units comply with the dwelling unit exposure requirement.*

- H. **Usable Open Space:** Planning Code Section 135 requires at least 100 square feet of private open space per dwelling unit, or approximately 133 square feet of common open space per dwelling unit. The Project requires 2,900 square feet of private open space, or 3,857 square feet of common open space.

*Comment: The open space requirement for 5 units is met through the inclusion of private decks and/or balconies adjacent to the units. Additional 16 units have decks and/or balconies however, they do not meet the minimum square footage requirement and/or the minimum dimension of six feet in depth. However, a 3,200-square foot common open space located at the rooftop will provide the open space for these units. Thus, the Project complies with the open space requirement.*

- I. **Height and Bulk:** The Project complies with the 50-foot height limit applicable in the 50-X height and bulk district. There are no bulk controls in the X-Bulk District.

*Comment: The Project has a height of 50 feet, and thus complies.*

- J. **Off-Street Parking:** Planning Code Section 151 requires one parking space for every dwelling unit. No parking is required for the approximately 3,215-square foot of commercial/retail use, or for the 1,430-square foot PDR use.

*Comment: The project includes 29 at-grade off-street parking spaces, which would be accessible from an 11-foot wide garage entrance along 19<sup>th</sup> Street. Parking for the commercial areas is not required as the occupied floor area is less than 5,000 square feet. The proposal complies with the parking requirements.*

- K. **Off-Street Loading:** Pursuant to Section 152, retail stores over 10,001 square feet require off-street freight loading.

*Comment: The ground-floor commercial area is approximately 3,215 square feet. Off-street loading is not required.*

- L. **Affordable Housing:** Pursuant to Section 315, the Project is required to comply with the inclusionary housing requirements by constructing 12% of the proposed dwelling units as affordable if they are provided on-site, 17% if the affordable units are provided off-site, or by payment of an in lieu fee.

*Comment: The Project will satisfy the affordable housing requirements by constructing the required number of units on-site.*

7. **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 will create up to 29 new dwelling units in an in-fill project within an established residential and mixed-use neighborhood, fulfilling General Plan policies that encourage the construction of new housing. The Project will make a contribution to the City's housing supply, and will also contribute to the affordable housing supply by constructing the required affordable units on-site in compliance with Section 315 et seq. The approximately 3,215 square feet of new retail/commercial space will provide services to the immediate neighborhood, and will create pedestrian oriented, active uses on the South Van Ness Avenue and 19<sup>th</sup> Street frontages.*

*The Project will remove the existing improvements used by the prior non-conforming gasoline service station. At 50-feet tall, the proposed building is appropriate for its location at the corner of South Van Ness Avenue and 19<sup>th</sup> Street. The proposed mixed uses are compatible with the neighborhood that includes a variety of land uses, including residential, retail, commercial, religious and community services and industrial uses. Under the proposed Eastern Neighborhoods Plan the property and other properties with frontage on South Van Ness Avenue would be rezoned for the 55-foot height. General urban design concepts encourage prominent structures on street corners.*

- 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 Project Site is located at the intersection of South Van Ness Avenue and 19<sup>th</sup> Street and is appropriate for such a mixed-use development. The Site provides two street frontages, and allows vehicular ingress and egress from 19<sup>th</sup> Street eliminating the need for vehicular access from, and curb cuts on, South Van Ness Avenue.*

*The design of the Project is compatible with the scale and context of the surrounding neighborhood, and will result in a continuous and unified street wall on South Van Ness Avenue and 19<sup>th</sup> Street with active ground level pedestrian-friendly uses along South Van Ness Avenue.*



- 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;

*The Project provides up to 29 off-street parking spaces located in a garage at the ground level, with ingress and egress from 19<sup>th</sup> Street. All of the parking spaces will be independently accessible. The proposed curb cut along 19<sup>th</sup> Street is approximately 10 feet in width.*

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

*The Project will consist of residential units and ground floor retail/commercial and PDR space, and will not produce noxious or offensive emissions, noise, glare, dust or odors. The proposed uses will replace the prior gasoline station use and the related improvements, which may have generated offensive emissions, noise, or odors.*

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

*The project proposes street trees along South Van Ness Avenue and 19<sup>th</sup> Street. Off-street parking will be provided at grade level. The proposed at-grade off-street parking will be completely screened from view from the street, and will be accessible from a single garage entrance/exit located on 19<sup>th</sup> Street. The Project will provide both private and common usable open space. Areas that provide common usable open space would be appropriately landscaped. Lighting along the building façade and at the street level will be consistent with the neighborhood character. Signage pursuant to Article 6 of the Planning Code has not been proposed, or reviewed, under the subject proposal.*

- 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 proposed project is consistent with the stated purposes of NC-1 Districts in that the proposed building will provide viable commercial retail space for compatible convenience services for the immediately surrounding neighborhoods while providing 29 new family sized dwelling units above the ground story.*

- 8. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

**HOUSING ELEMENT:**

## Objectives and Policies

### 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 1.4:

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

#### Policy 1.7:

Encourage and support the construction of quality, new family housing.

### 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 11.1:

Use new housing development as a means to enhance neighborhood vitality and diversity.

#### Policy 11.2:

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

#### Policy 11.3:

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

#### Policy 11.5:

Promote the construction of well-designed housing that enhances existing neighborhood character.

#### Policy 11.8:

Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.

*The Project is an appropriate in-fill proposal that will facilitate the conversion of a former gasoline station in an established mixed-use neighborhood. The Project will locate up to 29 housing units at a site zoned for residential use and will increase the supply of housing by maximizing the allowable density limits of the NC-1 Zoning District. The Project's architectural design will be compatible with the existing scale and character of the neighborhood.*

*Common open areas of the development have been located at the second level to create a usable open space with adequate light and air. Simultaneously the configuration allows the ground floor area to be maximized to provide for viable neighborhood-serving retail/commercial uses at the ground level, along with PDR and required building services and areas. The Project will promote neighborhood-serving commercial activities by providing approximately 3,215 square feet of ground-floor commercial/retail space, and approximately 1,430 square feet of ground-floor PDR space.*

*The Project will contribute to the City's affordable housing supply by constructing the required below-market-rate units on-site.*

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

**MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.**

#### **Policy 1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The Project will redevelop an underused lot with a mix of residential, commercial/retail and PDR uses. The Project is consistent with the objectives of the NC-1 Zoning District by proposing a mixed-use development that provides ground floor commercial/retail and PDR uses and locates up to 29 dwelling units above the ground level. The Project's ground floor commercial/retail component will augment a viable neighborhood commercial area that is accessible to City residents.*

## **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 OR ORIENTATION.**

#### **Policy 1.2:**

Protect and reinforce the existing street pattern, especially as it is related to topography.

**Policy 1.3:**

Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

*The Project will enhance this NC-1 District by reinforcing the urban nature of the street pattern, and by creating a unified street wall along South Van Ness Avenue and 19<sup>th</sup> Street. The Project will result in a better utilization of the Project Site than that of the existing improvements relating to the prior gasoline station that has not been in operation for almost 3 years. The Project will contribute positively to the neighborhood context and Mission District.*

**VISUAL HARMONY**

**Objectives and Policies**

**OBJECTIVE 3:**

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

**Policy 3.1:**

Promote harmony in visual relationships and transitions between new and older buildings.

**Policy 3.3:**

Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

**NEIGHBORHOOD ENVIRONMENT**

**Objectives and Policies**

**OBJECTIVE 4:**

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

**Policy 4.12:**

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

*The Project will provide pedestrian-level interest by including three ground floor commercial/retail spaces along the South Van Ness Avenue frontage and at the corner of South Van Ness Avenue and 19<sup>th</sup> Street. The new building will be compatible in use and design with other buildings in the neighborhood. The Project will remove the existing improvements that were used by the gasoline station that is no longer in operation.*

E. The Planning Commission also finds and determines that the Project complies with the following additional criteria set forth in Section 121.1 applicable to projects that develop a lot exceeding 4,999 square feet in area in a Neighborhood Commercial District:

- i. The mass and façade of the proposed structure are compatible with the existing scale of the district;

*The mass and scale of the Project are compatible with the existing scale of the NC-1 District, which is typified by low- to moderate-scale residential, industrial and mixed-use buildings. Furthermore it is appropriate to have a prominent structure on a corner lot.*

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

*Other buildings in the Project vicinity consist of a variety of building types and uses. The Project provides a continuous streetwall along South Van Ness Avenue and 19<sup>th</sup> Street with active ground floor retail/commercial uses. Floors two through five will be occupied by residential uses consistent with the NC-1 zoning controls and some of the other nearby properties. The Project's design is compatible with the neighborhood and appropriate for the corner lot location.*

9. On February 12, 2004, the Commission adopted **Resolution No. 16727**, establishing interim policies and procedures for development proposals in sections of Showplace Square, the South of Market, and the Mission, including the Project site. The site is designated under these policies as a Housing/Mixed Use Overlay District.

1. Apply the Design Guidelines attached in Appendix C.
2. The maximum housing density permitted under current zoning should be encouraged in new residential projects consistent with the goals of maximizing family housing.
3. PDR, as defined in light and medium categories is permitted.
4. A new project with ten (10) or more units is strongly encouraged to provide at least 20% of its units with two (2) or more bedrooms.
5. Heights should be limited to 40 feet on streets less than 40 feet in width and on parcels adjacent to designated open spaces.
6. Parking permitted should not exceed one (1) parking space per residential unit (except for lots currently zoned Residential/Service Mixed Use District (RSD), where one (1) parking space per every four (4) units is the maximum permitted).

The Project is consistent with these policies in the following ways:

1. *It would not provide new curb cuts on a major transit or retail corridor and the off-street parking or loading would not be visible from South Van Ness Avenue or 19<sup>th</sup> Streets. The site would enhance the fine-grain physical scale and character of the district with façade articulation and variation in planes, colors and textures. It would enhance the pedestrian scale of South Van Ness Avenue and 19<sup>th</sup> Street by providing several viable commercial frontages with active retail that open directly to the streets.*

- It would enhance the sidewalks with transparent storefronts on South Van Ness Street and 19th Street.*
2. *It would maximize housing density without overcrowding by providing 29 family sized dwelling units.*
  3. *The building is proposed to accommodate certain PDR uses (approximately 1,400 square feet) within the 19<sup>th</sup> Street ground floor commercial spaces.*
  4. *All units are proposed as two and three-bedroom units, the type of housing which Mission Street Area Plan residents have requested.*
  5. *The site has no frontage along a street less than 40 feet in width and is not adjacent to open space.*
  6. *The Project provides no more than one off-street parking space per residential unit.*
10. **Resolution No. 17481.** On August 30, 2007, the Commission adopted Resolution No. 17481, which governs impact fee requirements for projects in the Eastern Neighborhoods. The Resolution provides that “The Commission will apply these policies uniformly through the conditional use authorization or other approvals currently required.” The Resolution imposes fees, by way of springing conditions, for all projects filed on or after April 19, 2007. The proposed Project was filed on September 13, 2004, approximately three years prior to the grandfathering date. Accordingly, pursuant to Planning Commission Resolution No. 17481, no springing conditions apply to this Project.
11. **Eastern Neighborhoods – Mission Area Plan.** The Mission Area Plan as part of the Eastern neighborhoods rezoning effort proposes to changes the current zoning at the subject lot from NC-1 to NC-3T. The Eastern Neighborhoods rezoning is currently in process, and no new controls have yet been adopted. The purpose of this zoning re-classification is to encourage mixed-use development. The subject lot will be subject to a change in the maximum allowable height of 50 feet to 55 feet.

*The Project is generally compliant with the rezoning effort as part of the Mission Area Plan in providing a large mixed-use development in area that will be zoned as a neighborhood commercial district:*

1. **Height.** *The height of the Project complies with current zoning of 50 feet and is proposed to be up- zoned to 55 feet. The draft Mission Area Plan policies encourage up to 15-foot ceiling heights for the ground floor use, however, a double-height entrance for an approximate 17’X17’ area is provided for the large retail space at the corner of the South Van Ness Avenue and 19<sup>th</sup> Street.*
2. **Uses.** *The proposed uses of residential, commercial and PDR comply with both the current and future zoning.*

3. **Unit Mix.** *Under the Mission Area Plan re-zoning effort, the NC-3T District will require all new developments to allocate 40% of their new units as two-bedroom units and will encourage 10% of units to have three-bedrooms. The Project proposes 100 percent two and three bedroom units (family housing). This mix of units exceeds the future zoning requirements.*
  4. **Ground Floor Coverage/Open Space.** *The project proposes near full lot coverage on the ground floor requiring the Zoning Administrator's approval for a rear yard modification pursuant to Planning Code Section 134(e). The future NC-3T zoning will permit full lot coverage on the property as of right.*

*The open space requirement for 5 units is met through the inclusion of private decks and/or balconies adjacent to the units. Additional 16 units have decks and/or balconies however; they do not meet the minimum square footage requirement and/or the minimum dimension of six feet in depth. However, a 3,200-square foot common open space located at the rooftop will provide the open space for these units. Thus, the Project complies with the open space requirement and exceeds the requirements for the future zoning.*
  5. **Inclusionary Housing.** *The Project was filed before the July 18, 2006 deadline (Environmental Evaluation Application filed on September 13, 2004, and therefore, it is subject to the previous inclusionary housing controls that requires a BMR set-aside of 12% of the total number of on-site units or 17% of off-site units or an equivalent in-lieu fee. The Project Sponsor is providing a total of 3 on-site BMR units (shown on the plans).*
  6. **Parking.** *The proposed Project complies with the required parking for residential uses under the current zoning of 1 per dwelling unit. Under the proposed re-zoning 1 to 1 parking would be possible is a Conditional Use Authorization is granted for the project.*
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 Project Site was previously used as a gasoline station. Currently, no neighborhood-serving retail uses exists on the Project Site and therefore none will be displaced by the Project. The Project will create approximately 3,215 square feet of new commercial/retail space on the ground floor, and thus could provide new resident employment and ownership opportunities of such businesses.*
  - B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*No existing housing would be impacted. The site was previously used as a gasoline station. The Project Site is located within the NC-1 District which is a mixed-use area consisting of residential, commercial and PDR uses. The new dwelling units will provide opportunities for up to 29 families to*

*move into the building. The Project is compatible with the scale and design of the neighborhood within which the Project Site is located. The cultural and economic diversity of the neighborhood would be augmented by the proposed project.*

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

*The Project will further this priority policy by constructing three (3) below-market rate units on-site, which constitute 12% of the Project's units.*

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

*This is primarily a residential project, and will therefore not create commuter traffic. Housing created by the Project will be located along a transit thoroughfare on South Van Ness Avenue, and one off-street parking space will be provided for each residential unit. Because the Project Site located on a transit thoroughfare, it is anticipated that the Project will generate less traffic than a similar residential building located elsewhere.*

- 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 contribute to a diverse economic base by providing a significant number of new residential dwelling units in San Francisco. By contributing to the City's housing supply, the Project will further help San Francisco increase housing opportunities for resident workers, and thereby maintain a diverse economic base.*

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

*The Project will conform to the structural and seismic requirements of the San Francisco Building Code.*

- G. That landmarks and historic buildings be preserved.

*This policy does not apply, since the Project Site is not located in a historic district or conservation district, and does not contain any landmark or historic buildings.*

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

*The Project will not impact parks, open space, or their access to sunlight or vistas.*



13. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
14. 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 **DECISION** 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 adopts the Conditional Use Application, Case No. 2004.0914CVEKV, subject to the following conditions attached hereto as Exhibit A (Conditions of Approval) which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and dated November August 30, 2004 and on file in Case Docket No. 2004.0914CV.

**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. 17554. 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 February 14, 2008.

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, S. Lee, Moore and Sugaya

NAYS: Commissioner Olague

ABSENT: Commissioner W. Lee

ADOPTED: February 14, 2008

# Exhibit A

## Conditions of Approval

### GENERAL

1. 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.
2. This Conditional Use Authorization is granted to allow a development of a lot that exceeds 4,999 square feet in area, and to allow conversion of a gasoline service station to another use consisting of the construction of a new building that would contain approximately 29 dwelling units, approximately 3,215 square feet of ground floor commercial/retail space, approximately 1,430 square feet of ground floor PDR space, and up to 29 off-street parking spaces at 793 South Van Ness Avenue, Lot 024 in Assessor's Block 3591 in an NC-1 (Neighborhood-Commercial Cluster) District, a 50-X Height and Bulk District, and the proposed Eastern Neighborhoods Area Plan, in general conformity with the plans identified as Exhibit B, dated August 30, 2004, reviewed by the Commission on February 14, 2008.
3. The Project Sponsor must also obtain a modification from the rear yard setback requirement as requested from the Zoning Administrator pursuant to Section 134(e). The conditions set forth below are additional conditions required in connection with the Project. If these conditions conflict with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.
4. The Project sponsor shall continue to work with staff to refine the design and assure that all building materials, including finishes, windows, entries, storefronts, and detailing are appropriate for the site and neighborhood.
5. All applicable City Codes and standards shall be met.
6. No general advertising signs shall be permitted anywhere on the building.
7. All signs and exterior lighting for the businesses shall be reviewed and approved by the Planning Department before they are installed.
8. The Project Sponsor shall require that the tenants maintain storefronts that maximize the visibility of the interior through the storefront windows.
9. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Project. Prior to the commencement of construction activities, the Project Sponsor shall provide the Zoning

Administrator and the owners of the properties within 300 feet of the Project site written notice of the name, business address, and telephone number of the community liaison.

10. Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code, enforceable by the Zoning Administrator. Should the monitoring of the Conditions of Approval be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(f) (2).
11. This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the bureau of the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s). The Project Sponsor shall obtain required site or building permits within three years of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.
12. The Project Sponsor shall submit 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. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.
13. 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, including having an Occupancy Program approved by the First Source Hiring Administrator prior to the issuance of the first Certificate of Occupancy.
14. 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.
15. Should implementation of this Project result in complaints from neighborhood residents or business owners and tenants, which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the City Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of the Motion, the Zoning Administrator shall report such complaints to the City Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.
16. Should the monitoring of the conditions of approval contained in this Exhibit A be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(f) (2).
17. Prior to the issuance of any building permit application 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 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.

## DESIGN

18. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted as a primary glazing material. Only clear glass shall be used at the ground floor level.

## MITIGATION MEASURES

### 14. *Mitigation Measure 1 - Archeology*

Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of *construction* can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a) (c).

**Archeological monitoring program (AMP).** The archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the project archeologist shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archaeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected

resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;

- The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
- The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;

If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.

If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

***Human Remains, Associated or Unassociated Funerary Objects.*** The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines, Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.

***Final Archeological Resources Report.*** The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.

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.

15. *Mitigation Measure 2 - Construction Air Quality*

The project sponsor shall require the contractor(s) to cover stockpiles of soil, sand, and other material; cover trucks hauling debris, soil, sand or other such material; and sweep surrounding streets during construction at least once per day to reduce particulate emissions. Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose.

16. *Mitigation Measure 3 – Biological Resources*

To implement California Fish and Game Code Section 3503, the project sponsor shall conduct a field survey 14 to 21 days prior to construction activities that would result in vegetation removal during the breeding season (February 1 through August 31). A qualified biologist shall determine if active nests of native birds are present in the construction zone. In the event an active nest is discovered in areas to be disturbed, removal of the nesting substrate shall be postponed until the next is vacated and juveniles have fledged (typically 3-4 weeks for most small passerines), as determined by the biologist, and there is no evidence of second nesting attempts, unless the California Department of Fish and Game (and the U.S. Fish and Wildlife Service for migratory birds) authorize otherwise. No surveys are required and no impact would occur if vegetation removal, grading or other heavy construction activities would occur between September 1 to January 31, outside the nesting season.

17. *Mitigation Measure 4 - Contaminated Soil*

*Step 1: Determination of Presence of Lead-Contaminated Soil*

Prior to approval of a building permit for the project, the project sponsor shall hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the soil samples for total lead. The consultant shall analyze the soil borings as discrete, not composite samples. The consultant shall prepare a report on the soil testing for lead that includes the results of the soil testing and a map that shows the locations of stockpiled soils from which the consultant collected the soil samples.

The project sponsor shall submit the report on the soil testing for lead and a fee of \$425 in the form of a check payable to the San Francisco Department of Public Health (DPH), to the Hazardous Waste Program, Department of Public Health, 101 Grove Street, Room 214, San Francisco, California 94102. The fee of \$425 shall cover five hours of soil testing report review and administrative handling. If additional review is necessary, DPH shall bill the project sponsor for each additional hour of review over the first five hours, at a rate of \$85 per hour. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the soil testing report to determine to whether soils on the project site are contaminated with lead at or above potentially



hazardous levels. If DPH determines that the soils on the project site are not contaminated with lead at or above a potentially hazardous level (i.e., below 50 ppm total lead), no further mitigation measure with regard to lead-contaminated soils on the site would be necessary.

**Step 2: Preparation of Site Mitigation Plan**

If, based on the results of the soil tests conducted, the DPH determines that the soils on the project site are contaminated with lead at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of lead 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; 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.

**Step 3: Handling, Hauling, and Disposal of Contaminated Soils**

- (a) **Specific Work Practices:** If based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated with lead 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, including OSHA lead-safe work practices) when such soils are encountered on the site.
- (b) **Dust Suppression:** 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.
- (c) **Surface Water Runoff Control:** 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) **Soils Replacement:** If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where lead-contaminated soils have been excavated and removed, up to construction grade.
- (e) **Hauling and Disposal:** 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.

Step 4: Preparation of Closure/Certification Report

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 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.

**AFFORDABLE DWELLING UNITS**

18. The Project shall comply with the Inclusionary housing requirements set forth in Section 315 of the Planning Code. Under Planning Code Section 315 of the Planning Code, the project requires three (3) below-market-rate on-site units (12%); and the project sponsor has provided a "Declaration of Intent" electing to construct the below-market-rate units on-site to satisfy the Inclusionary Housing requirement.
19. The subject BMR unit(s) shall reflect the unit size mix of the market rate units and shall be distributed in the following range of unit sizes:
20. The Project Sponsor shall record a Notice of Special Restriction on the property which records a copy of this Motion and identifies the BMR unit(s) satisfying the requirements of this Motion.
21. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 315 et seq. of the Planning Code and the terms of the Affordable Housing Monitoring Procedures Manual (hereinafter "Procedures Manual"), incorporated herein by reference, as published and adopted by Resolution No. 13405 on September 10, 1992 by the Planning Commission, and as required by Planning Code Section 315 (collectively the "Inclusionary Requirement").
  - A. The BMR unit(s) shall be designated on the building plans prior to approval of any building permit. 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, and ready for occupancy 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. The Project proposes 29 dwelling units to include 13 two-bedroom units and 16 three-bedroom units.
  - B. 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 San Francisco Principal Metropolitan Statistical Area (PMSA). The initial sales price of such units shall be calculated according to the Procedures Manual based on such percentage of median income. This restriction shall apply for a fifty (50) year period from the date of the initial sale of the BMR unit.
  - C. The Applicant shall administer the marketing and reporting procedures, including the payment of administrative fees to the monitoring agency if such fees are authorized by ordinance,

according to the procedures established in the Procedures Manual or as otherwise provided by law.

- D. The definitions, procedures and requirements for BMR units are set forth in the Procedures Manual and are incorporated herein as Conditions of Approval. Terms used in these Conditions of Approval and not otherwise defined shall have the meanings set forth in the Procedures Manual.
- E. Prior to issuance of any building permit for the Project (including any building permit issued for any partial phase of the Project), the Project Sponsor shall have designated the BMR units in accordance with Items a, b and c above.
- F. Prior to issuance of the Building Permit, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval and identifies the BMR unit(s) satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the Mayor's Office of Housing or its successor (MOH), the monitoring agency for the BMR unit(s).