



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- TIDF (Admin. Code)
- 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. 17603

HEARING DATE: MAY 29, 2008

*Date:* May 22, 2008  
*Case No.:* **2006.1419VX**  
*Project Address:* **19 Tehama Street**  
*Zoning:* C-3-O (SD) (Downtown Office Special Development) District  
 200-S Height and Bulk District  
*Block/Lot:* 3736/079  
*Project Sponsor:* Tracy Boxer Zill, attorney  
 Reuben and Junius, LLP  
 One Bush Street, Suite 600  
 San Francisco, CA 94104  
*Staff Contact:* Kevin Guy – (415) 558-6163  
[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS MAKING A DETERMINATION OF COMPLIANCE UNDER PLANNING CODE SECTION 309 FOR A PROPOSAL TO CONSTRUCT A NEW MIXED-USE PROJECT CONSISTING OF SIX RESIDENTIAL DWELLING UNITS OVER APPROXIMATELY 930 SQUARE FEET OF GROUND-FLOOR RETAIL SPACE IN A BUILDING THAT WOULD REACH 65-FEET IN HEIGHT (EXCLUSIVE OF MECHANICAL PENTHOUSES AND ROOF PROJECTIONS), AND FOR THE GRANTING OF AN EXCEPTION TO INTERIOR LOT LINE SETBACK REQUIREMENTS UNDER PLANNING CODE SECTIONS 132.1(c)(2) AND 309(a)(1), ON ASSESSOR'S BLOCK 3736, LOT 079, WITHIN THE C-3-O (SD) (DOWNTOWN OFFICE SPECIAL DEVELOPMENT) DISTRICT WITH A 200-S HEIGHT AND BULK DESIGNATION.**

### RECITALS

1. On January 16, 2008, Tracy Boxer Zill (hereinafter "Sponsor") of Reuben & Junius, LLP, authorized agent for Edward and Margaret Duffy (hereinafter "Applicant"), filed Application No. 2006.1419VX (hereinafter "Application") with the San Francisco Planning Department (hereinafter "Department") for review pursuant to Planning Code (hereinafter "Code") **Section 309** to demolish a vacant 1,000 square-foot single story storage facility, and replace it with a 7-story, 65-foot mixed used building approximately

8,915 square feet in size at 19 Tehama Street, Assessor's Block 3736, Lot 079 in San Francisco (hereinafter "Project Site"). The proposed development (hereinafter, "Project") will include six residential units ranging from 1,000 to 1,230 square feet above 930 square feet of ground-floor retail space. The current building provides no parking, and the Project proposes none. The Project Site, totaling 1,875 square feet in area, is zoned for the C-3-O(SD) (Downtown Office Special Development) District and the 200-S height and bulk district. Because the Project Site is 25 feet wide and Code Section 132(c)(1) requires all structures in "S" Bulk Districts to provide minimum 15-foot setbacks from interior property lines, the Project requires approval pursuant to Section 309(a)(1), which provides for an exception from the setback requirements for lots with frontages of less than 75 feet.

2. It was determined by the Department, in accordance 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 the proposed project could have no significant impact on the environment and was exempt from CEQA. A Categorical Exemption stamp was issued for the Project on June 27, 2007.
3. On May 29, 2008, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2006.1419VX, at which time the Commission reviewed and discussed the findings prepared for its review by the Department staff.
4. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to this proposed Project.
5. 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.
6. **MOVED**, that the Commission hereby grants the approval requested in Application No. 2006.1419VX 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 recitals 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 subject property is located at 19 Tehama Street, on the south side of Tehama, between First and Second Streets, Block 3736, Lot 079. The property is located within the C-3-O(SD) (Downtown Office Special Development) District and the 200-S Height and Bulk District. The Project Site measures 1,875 square feet, and is developed

with a 1.5 -story light industrial building that covers the entire lot. The building is currently vacant, but was most recently used for storage.

3. **Surrounding Neighborhood.** The Project Site is adjacent to the Financial District, which consists of a wide variety of office, retail, hotel, and residential uses. The character of the site and the immediate surrounding area is strongly influenced by the presence of the elevated Fremont Street freeway off-ramp, located to the rear of the subject property. Surface parking lots are located to the west of the property and across Tehama Street to the north. Office uses with ground-floor retail are situated along Howard Street and First Street. High density residential uses are located further to the south along First Street, within the Rincon Hill area. The Transbay Terminal is located two blocks north of the subject property. Older buildings in the area are typically four stories in height, while recent residential and office buildings are generally mid- to high-rise.
4. **Project Description.** The Project proposes to demolish an existing 1.5-story light industrial building, and construct a new seven-story mixed-use building measuring approximately 8,915 square feet. The new building would include six residential units, each ranging from 1,000 to 1,230 square feet, and a ground-floor retail space measuring approximately 930 square feet. The roof of the building would reach a height of approximately 65 feet, and the elevator penthouse and other projections would reach a maximum height of 80 feet.
5. **Environmental Review.** The Project was issued a Categorical Exemption on June 27, 2007 (Case No. 2006.1419E), Classes 1 & 3.
6. **Section 309 Review.** Because the Project will not provide Code-required interior lot line setbacks, the Commission's approval is required pursuant to **Sections 132 and 309**. Under **Section 132.1(c)(2)(C)**, the Commission may waive the required setbacks provided that certain criteria are satisfied. Projects requiring such approval are reviewed pursuant to **Section 309(a)**, which allows the Commission to approve or disapprove a project, grant exceptions from certain requirements of the Code, and/or impose conditions on an approval. The proposed Project is required to meet all applicable Code requirements or request exceptions. As stated above, the Project Sponsor is seeking a waiver of interior lot line setback requirements pursuant to **Sections 132.1(c)(2)(C) and 309(a)** of the Code.
7. **Planning Code Compliance.** The Planning Commission finds and determines that the proposed Project meets all applicable Code requirements, or is granted an exception thereto, and makes the following additional findings:
  - A. **Maximum Floor Area Ratio** -- Pursuant to standards set forth in **Section 124** of the Code, the base floor area ratio (hereinafter "FAR") in the C-3-O(SD) District is 6.0:1.

*The Project Site has a lot area of approximately 1,875 square feet. Therefore, the maximum development of the Project Site pursuant to Section 124 is 11,250 square feet of gross area. The*

*Project will add approximately 5,833 square feet of new gross floor area, and thus complies with Section 124.*

- B. Setbacks and Separation of Towers -- **Section 132(c)(1)** of the Code requires all structures in the "S" Bulk District to provide a minimum 15-foot setback from the interior property lines that do not abut public sidewalks and from the property lines abutting a public street or alley. The setback is required at the lower tower height, which starts at a height equal to 1.25 times the width of the abutting street. The setback is measured from the interior property line or the center of a public right-of-way.

*The Project abuts Tehama Street, which is 35 feet wide, and thus complies on its northern boundary. At the lower tower height, the Project is set back from the Property's southern boundary by approximately 19 feet and therefore complies with Section 132.1. Due to the 25' width of the Project site, the Project will be built to the Property lines on the east and west and will require an exception from the Code required setbacks. Provided the criteria of Sections 132.1(c)(2)(C) and Section 309(a) are satisfied, the Planning Commission may grant an exception to these requirements on lots with a frontage of less than 75'. These criteria are discussed in Section 2 below.*

- C. Rear Yard – Code **Section 134** requires any building containing a dwelling in a C-3 District to have a rear yard with a depth equal to 25 percent of the total depth of the lot at the lowest story containing a dwelling unit, and at each succeeding level or story of the building. In no case may the rear yard be less than 15 feet deep.

*The Property is 75 feet deep, requiring a rear yard at least 18.75 feet deep. The Project proposes a rear yard approximately 19 feet in depth at all dwelling levels, and therefore complies with the requirements of Section 134.*

- D. Residential Open Space – Code **Section 135** requires that, in C-3 Districts, usable open space shall be provided at a ratio of 36 square feet per dwelling unit. Common open space may be substituted for private open space at a ratio of 1.33 to 1.

*The Project proposes a common roof deck with an area of 300 square feet, which complies with this requirement. Each unit also has access to a private deck that is provided in excess of the requirements of this Section.*

*Each unit includes a private deck of approximately 50 square feet at the front of the unit, facing Tehama Street. Each of these decks does not have a perimeter that is more than 30 percent unobstructed, therefore, these decks do not count toward the open space requirements of Section 135. In addition, Unit 1 includes a private deck at the rear of the unit. This deck meets the dimension and exposure criteria of Section 135, and therefore counts toward the private open space requirements of this Section.*

- E. Public Open Space – Code **Section 138** requires that, in C-3 Districts, an application for a permit to construct a new building or an addition of gross floor area equal to 20 percent (20%) or more of the existing building shall provide public open space at a ratio of 1 square foot of open space for every 50 square feet of developed space. Residential use is excluded from this calculation.

*Based on the ratio of this requirement, the project would need to provide approximately 19 square feet of open space. The open space must also be sited and designed to be functional, accessible, and attractive. Given the relatively small area of required open space, the narrow lot size, and the*

*configuration of the ground floor commercial area, it would be difficult to provide a suitable open space area within the project site. The Sponsor is requesting a Variance from the requirements for publicly-accessible open space. This request will be considered by the Zoning Administrator at the Planning Commission hearing.*

- F. Pedestrian Streetscape Improvements -- Code **Section 138.1** requires project sponsors to make streetscape improvements where the proposed project includes the construction of a new building, substantial alterations to an existing building, or the addition of floor area equal to 20 percent or more of an existing building.

*The Project will include appropriate streetscape improvements and will comply with this requirement.*

- G. Downtown Park Special Fund -- Under **Section 139** of the Code, new office buildings or projects that add 20 percent more gross floor area of office to an existing building are subject to the Downtown Park Fee.

*The Project proposes no office use.*

- H. Dwelling Unit Exposure -- Code **Section 140** requires at least one room within every dwelling unit to face directly on an open area that is either (1) a public street or alley that is at least 25 feet in width, or a side yard or rear yard that meets the requirements of the Planning Code, or (2) an open area that is unobstructed and is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

*All Project dwelling units face Tehama Street, which is 35 feet wide, as well as a Code-complying rear yard, and thus the Project complies with Section 140.*

- I. Street Trees in C-3 Districts -- Code **Section 143** requires that street trees be installed by the owner or developer in the case of a new building, relocation of a building, or addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building.

*The Project will comply with this requirement.*

- J. Reduction of Shadows on Certain Public or Publicly Accessible Open Spaces in C-3 Districts -- Pursuant to **Section 147** of the Code, new buildings and additions to existing buildings, where the building height exceeds 50 feet, must be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under **Section 295**.

*The Project will measure approximately 65 feet tall, but does not result in new shadows on public or publicly accessible open space, and therefore Section 147 does not apply.*

- K. Reduction of Ground-Level Wind Currents in C-3 Districts -- Code **Section 148** requires, in C-3 Districts, that new buildings and additions to existing buildings be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed, more than ten percent of the time year round, between 7:00 A.M. and 6:00 P.M., the comfort level of 11 m.p.h. equivalent wind speed in areas of substantial public use and seven m.p.h. equivalent wind speed in public seating areas.

*Due to the Project's location and minimal scope, the Project will not cause pedestrian ground-level wind comfort levels to be exceeded.*

- L. Public Art -- **Section 149** of the Code sets forth a public art requirement for construction of new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District. Such public art must be equal in value to one percent of the construction cost of the building or addition as determined by the Director of the Department of Building Inspection. It must be installed and maintained (i) in areas on the site of the building or addition and clearly visible from the public sidewalk or the open-space feature required by Code **Section 138**, or (ii) on the site of the open-space feature provided pursuant to said **Section 138**, or (iii) upon the approval of any relevant public agency, on adjacent public property, or (iv) in a publicly accessible lobby area of a hotel.

*A concrete block wall is situated at the rear property line at the first story of the building. As part of the early planning process for the Transit Center District, this area (beneath the Fremont Street off-ramp) is envisioned as a park or recreational space. To satisfy the public art requirements for this project, the Sponsor proposes to commission an artist to paint a mural on the rear wall that will enliven this future open space.*

- M. Off-street Parking -- Pursuant to Code **Section 161(c)**, no off-street parking is required for any use in a C-3 District.

*The Project will not reduce or increase parking.*

- N. Freight Loading -- **Section 152** of the Code sets forth requirements for off-street freight loading. Table 152.1 thereunder requires, in C-3 Districts, 0.1 off-street freight loading spaces per 10,000 square feet of gross floor area (to the closest whole number).

*The Project proposes approximately 930 square feet of retail use and will not trigger any loading requirements.*

- O. Height Limits -- Pursuant to Code **Section 260**, buildings up to 200 feet in height are permitted in the 200-S Height/Bulk District.

*The Project will measure 65 feet tall and thus complies with Code height restrictions.*

- P. Bulk Limits -- Code **Sections 270** and **272** establish building bulk limits. In "S" Bulk Districts, bulk limits apply above the base of a structure. The base ends at a height of 1.25 times the width of the widest abutting street or 50 feet, whichever is more. The bulk controls above the base for the lower tower are a maximum length of 160 feet, a maximum floor size of 20,000 square feet, and a maximum diagonal dimension of 190 feet.

*Above the base, the Project is approximately 56 feet long, has a floor plate of approximately 1,400 square feet, and has a maximum diagonal measuring approximately 62 feet. The Project complies with Section.*

- Q. Shadowing -- Pursuant to Code **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 Department conducted a shadow analysis which determined that the Project would not cast net new shadow on any open space under the jurisdiction of, or designated to be acquired by the Recreation and Park Commission.*

2. Request for Waiver of Interior Lot Line Setbacks Pursuant to Sections 132.1 and 309: The Planning Commission finds and determines that the request for a waiver of interior lot line setbacks, as requested by the Project Sponsor and permitted in Sections 309(a), and 132.1(c)(2), is warranted and hereby granted:

*The project would require an exception to the "Separation of Towers" requirement of Planning Code Section 132.1(c). Structures within the "S" Bulk District must be set back a minimum of 15 feet from each interior property line or the center of a public right-of-way, beginning at a tower height which is 1.25 times the width of the abutting street. Because the subject property abuts Tehama Street, which is 35 feet wide, the tower height subject to this regulation begins at approximately 43.75 feet (35 feet x 1.25). The building is situated 17 feet from the centerline of Tehama Street, and approximately 19 feet from the rear property line, and therefore complies on the front and rear portions of the property.*

*The subject property of is approximately 25 feet in width. Strict application of the "Separation of Towers" provisions would require a 15-foot setback from each side property line, effectively limiting the building to a height of 43.75 feet. Planning Code Section 132.1(c)(2)(C) permits exceptions to the requirements on lots with a frontage of less than 75 feet, in accordance with Section 309, provided that the following findings are made:*

- (1) It is found that, overall, access to light and air will not be impaired;

*The proposed building will obstruct some of the windows at the property line of the building to the east (246 First Street). Generally, the City does not protect property line windows, however, the Project provides a code-complying rear yard that will preserve some light and air to the obstructed windows. In addition, 246 First Street is a large-floorplate building, with extensive frontage and numerous large windows on Tehama Street and First Street. Overall access to light and air will be preserved for 246 First Street, and the localized effect from the proposed building would be negligible.*

- (2) The granting of the exception will not result in a group of buildings the total street frontage of which is greater than 125 feet without a separation between buildings which meets [Section 132.1 setback] requirements.

*Because the adjacent building (246 First Street) abuts First Street, which is 82.5 feet wide, the tower height begins at approximately 103 feet (82.5 x 1.25). The building at 246 First Street is approximately 85 in height, and therefore, the length of the building sits below the regulated tower height. The proposed building would not result in a length of building frontage greater than 125 that does not meet the separation requirements.*

*The building at 246 First Street fronts on First Street, rather than Tehama Street. Because the subject property abuts Tehama Street, which is 35 feet wide, the tower height subject to this regulation begins at approximately 43.75 feet (35 feet x 1.25). The building is situated 17 feet from the centerline of Tehama Street, and approximately 19 feet from the rear property line, and therefore complies on the front and rear portions of the property.*

3. Modification Required by the Commission: **Section 309(b)** of the Planning Code provides that the Commission may impose additional requirements and limitations in order to achieve the objectives and policies of the General Plan. The Commission imposes additional modifications as indicated in Exhibit A (Conditions of Approval) appended to this motion.
  
4. Section 101.1 Priority Policy Findings: **Section 101.1(b)(1-8)** establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies. The Planning Commission finds and determines that the Project is consistent with the eight policies in the following ways.

A. That Existing Neighborhood-Serving Retail Uses be Preserved and Enhanced and Future Opportunities for Resident Employment in and Ownership of Such Businesses Enhanced.

*The Project will provide new retail space in the neighborhood and create associated employment opportunities. The Project will also add residents that will patronize existing establishments in the area, bolstering the viability of Downtown retail services in the evening and weekend hours.*

B. That Existing Housing and Neighborhood Character be Conserved and Protected in Order to Preserve the Cultural and Economic Diversity of Our Neighborhood.

*The Project will add residential uses in a location that will diversify the existing mix of land uses. The addition of residents to the area will help to activate the streetscape and bolster the viability of surrounding retail establishments, particularly in the evening and weekend hours.*

C. The City's Supply of Affordable Housing be Preserved and Enhanced.

*The Project will not remove any existing housing stock. The Project will be required to comply with Citywide inclusionary housing requirements and contribute to the City's supply of affordable housing by providing an affordable unit on-site or off-site, or by paying an in lieu fee to create such housing. [Prior to the date of the hearing, the Project Sponsor will submit a Declaration of Intent specifying how these requirements will be satisfied. Staff will convey this information at the scheduled hearing and this information in the final motion.]*

D. That Commuter Traffic not Impede Muni Transit Service or Overburden our Streets or Neighborhood Parking.

*The Project Site, situated in the Transbay Terminal area, is well served by public transit. The Project proposes no parking, thus no significant increase in commuter traffic is anticipated. Any modest increase in commuter activity could be easily absorbed by existing transit services.*

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 proposes no office development. The Project would demolish an existing light industrial building that is currently vacant and provides no employment. The project would provide new retail space that would offer employment opportunities.*

**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.**

*The existing building is not considered a potential historic resource under CEQA. The building was constructed in 1907, and is associated with the reconstruction following the 1906 earthquake. The building has undergone significant alteration, however, and is situated in a context that is vastly different than the post-earthquake era. The proposed demolition of this building would not adversely affect an historic resource.*

**H. That our Parks and Open Space and their Access to Sunlight and Vistas be Protected from Development.**

*The Project will not affect parks and open spaces or their access to sunlight or vistas.*

5. **Consistency with the General Plan:** The Project would be, on balance, consistent with and will not adversely affect the General Plan:

**Residence Element**

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

*The Project will provide additional housing in a manner that will contribute to a diversified land-use mix for the Downtown area.*

**OBJECTIVE 2: TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS. (RETAIN THE EXISTING SUPPLY OF HOUSING.)**

**Policy 2.2:** 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 permanently affordable to lower income households.

*The Project will provide new housing adjacent to Downtown. The Downtown area is suitable for an intense mix of land-uses that provides jobs, housing, and services within a compact development pattern. Residents of the proposed project will be able to walk or utilize transit to commute. The Project will also add to the customer base of businesses in the area, contributing to the vitality of the retail and personal service establishments in the vicinity.*

**OBJECTIVE 12: TO PROVIDE A QUALITY LIVING ENVIRONMENT.**

Policy 12.1: Assure housing is provided with adequate public improvements, services and amenities.

Policy 12.4: Promote construction of well designed housing that conserves existing neighborhood character.

*The Project will add dwelling units in a location that is well-served by public transit, commercial services, and recreational opportunities. The project is in character with the intense, diversified development pattern of the area.*

Housing Element

**OBJECTIVE 1: TO 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. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhood support.

*The project would add new residential units within close proximity of the Financial District. Public transit and neighborhood-serving commercial establishments are abundant in the area. Residents will be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open spaces in the area, and will help to support retail and service establishments in the neighborhood.*

*The scale of existing development in the area is varied. Older buildings in the area are typically between two and four stories in height, while recent residential and office buildings are mid- and high-rise. The Project is a narrow, slender building that is compatible with the context of the area.*

**OBJECTIVE 4: SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY**

Policy 4.2: Include affordable units in larger housing projects.

*As stated above, the Project will provide on-site affordable units, off-site affordable housing units, or payment of an in-lieu fee per Section 315, and will affirmatively promote this policy.*

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

*The project would add new residential units within close proximity of the Financial District, helping to diversity the existing mix of land uses. Residents will be able to walk to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open spaces in the area, and will help to support retail and service establishments in the neighborhood. The Project will also include retail space that will broaden the availability of goods and services for all residents in the area.*

Commerce Element

OBJECTIVE 1: MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.3: Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 2: MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1: Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will insert new residential units and retail space into an underutilized site with an existing, vacant industrial building. The retail space will offer new employment opportunities. The Project will also add residents that will patronize existing establishments in the area, bolstering the viability of Downtown retail services in the evening and weekend hours.*

Urban Design Element

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 the visual relationships and transitions between new

- and older buildings.
- Policy 3.6: Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

*The Project is a slender, 7-story, mixed-use building on a narrow lot which is compatible to the varied scale of development in the area. The Project is below the height of the adjacent building at 246 First Street, and is below the height limitations that apply to the subject property.*

Downtown Plan Element

OBJECTIVE 5: RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.

- Policy 5.1: Provide space for support commercial activities within the downtown and in adjacent areas.

*The Project includes ground-floor retail space to provide goods and services to residents and workers in the area.*

Transportation Element

OBJECTIVE 2: USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

- Policy 2.1: Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

*No off-street parking is proposed for the dwelling units. The property is located near the Financial District, and a wide variety of goods and services are available within walking distance of the subject property. In addition, the area is well served by public transit, providing connections to all areas of the City and to the larger regional transportation network. Residents are able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile.*

6. 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 City's downtown core and would constitute a beneficial development. The Commission finds that granting the Project Authorization in this case would promote the public welfare, convenience and necessity of the City for the reasons set forth above.

**DECISION**

The Commission, after carefully balancing the competing public and private interests, based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented the public hearing, and all other written materials submitted by all parties, hereby **APPROVES** Application No. 2006.1419VX subject to the conditions attached hereto as Exhibit A, which is incorporated herein by reference as though

fully set forth, in general conformance with the plans stamped Exhibit B and dated May 29, 2008 on file in Case Docket No. 2006.1419VX.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.**

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on May 29, 2008.

Linda Avery  
Commission Secretary

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

NAYS: None

ABSENT: None

ADOPTED: May 29, 2008

## Exhibit A

# Conditions of Approval

Wherever "Applicant" or "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.

The authorization contained herein is a Determination of Compliance and approval for an exemption from interior lot line setback requirements given pursuant to Code **Section 309**, generally as described in the text of Motion No. 17603, in Application No. 2006.1419VX, and as shown on plans labeled Exhibit B, dated May 29, 2008 and on file with said Application, to construct a 7-story mixed use building at Assessor's Block 3736, Lot 079, in a C-3-O(SD) (Downtown Office Special Development) District and within a 200-S Height and Bulk District.

### 1. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. A publicly-accessible open space Variance must be granted by the Zoning Administrator, and the Project Sponsor must obtain a building permit and satisfy all the conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

### 2. GENERAL CONDITIONS

- A. Community Liaison. 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.
- B. Recordation. **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.

- C. Reporting. 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.
- D. Performance.
- (1) A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization may become null and void.
  - (2) This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by 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.
- E. Construction.
- (1) The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
  - (2) Truck movements shall be limited to the hours between 9:30 A.M. and 3:30 P.M. to minimize disruption of the general traffic flow on adjacent streets.
  - (3) The contractor shall arrange for off-street parking for construction workers.
- F. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.
3. **CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING (OR SITE) PERMIT**
- (1) Except as otherwise provided in the attached Motion, the Project shall be completed in compliance with the Planning Code and in general conformity with plans labeled "Exhibit B", dated May 29, 2008.

- (2) Final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Planning Director.
  - (3) Final detailed building plans shall be reviewed and approved by the Department. Detailed building plans shall include a final site plan, floor plans, elevations, sections, landscape plan including the retention of the mature street trees on the Project site, specification of finish materials and colors, and details of construction. The sponsor shall coordinate with the Department to determine an appropriate finish material for the exposed wall at the western property line.
  - (4) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
  - (5) Per Code **Section 141**, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
  - (6) The Project Sponsor shall develop a signage program for the Project, which shall be subject to review and approval by Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.
- B. Publicly-Accessible Open Space. The Project Sponsor shall comply will any conditions placed on the granting of the requested Variance regarding the publicly-accessible open space.
- C. Pedestrian Streetscape Improvements. A final pedestrian streetscape improvement plan including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Planning Director, in consultation with staff from the Department of Public Works and the Department of Parking and Traffic. Other agencies shall be contacted as appropriate. The Project shall include pedestrian streetscape improvements in conformance with Planning Code **Section 138.1**, **Section 143**, and the Downtown Streetscape Plan.
- D. Public Artwork.
- (1) The Project shall include the work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.
  - (2) The Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, type and location of the art. The final art concept and location shall be submitted for review by, and shall be satisfactory to the Director of the Department in consultation with the Commission.
- E. Garbage and Recycling. The building design shall provide adequate space designated for trash compactors and trash loading. 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 also be provided at the ground level of the project. Such space shall be indicated on the building plans.



5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF THE FIRST CERTIFICATION OF OCCUPANCY.

A. Transit Impact Development Fee. The Project Sponsor shall pay the Transit Impact Development Fee as required by Chapter 38 of the Administrative Code. The net addition of gross floor area of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy the Project Sponsor shall provide the Director with certification that the fee has been paid.

B. Street Trees. The Project Sponsor shall provide (and maintain existing) street trees as set forth in Code **Section 143**.

C. Public Art.

(1) The Applicant shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

(2) The Project Sponsor shall comply with Code **Section 149(b)** by providing a plaque or cornerstone identifying the Project architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project site. The design and content of the plaque shall be approved by Department staff prior to its installation.

D. Garbage and Recycling. The Project Sponsor shall provide the garbage and recycling areas as outlined above and contract for recycling pickup.

E. Emergency Preparedness Plan. An evacuation and emergency response plan shall be developed by the Project Sponsor or building management staff, in consultation with the Mayor's Office of Emergency Services, to ensure coordination between the City's emergency planning activities and the Project's plan and to provide for building occupants in the event of an emergency. The Project's plan shall be reviewed by the Office of Emergency Services and implemented by the building management insofar as feasible before issuance of the final certificate of occupancy by the Department of Public Works. A copy of the transmittal and the plan submitted to the Office of Emergency Services shall be submitted to the Department. To expedite the implementation of the City's Emergency Response Plan, the Project Sponsor shall post information (with locations noted on the final plans) for building occupants concerning actions to take in the event of a disaster.

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