



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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 17611

Hearing Date: June 5, 2008
 Case No.: **2007.1362X**
 Project Address: **1145 MARKET STREET**
 Zoning: C-3-G (Downtown General Commercial) District
 120-X Height and Bulk District
 Block/Lot: 3702/044
 Project Sponsor: Tuija I. Catalano, attorney
 Reuben and Junius, LLP
 One Bush Street, Suite 600
 San Francisco, CA 94104
 Staff Contact: Dan Dibartolo – (415) 558-6291
dan.dibartolo@sfgov.org

ADOPTING FINDINGS MAKING A DETERMINATION OF COMPLIANCE AND AUTHORIZING CONSTRUCTION/REPLACEMENT OF NON-USABLE SPACE ON A NONCOMPLYING STRUCTURE BY REPLACING THE BUILDING’S DAMAGED COPPER CUPOLA WITH HIGHEST ELEVATION OF 212 FEET AND A 30-FOOT TALL FLAGPOLE WITH A NEW GLASS CUPOLA WITH HIGHEST ELEVATION OF 215 FEET AND A 27-FOOT FLAGPOLE (SECTIONS 188(d)(2)(A) AND 309(b)), ON THE PROPERTY LOCATED AT 1145 MARKET STREET ON ASSESSOR'S BLOCK 3702, LOT 044, IN THE C-3-G (DOWNTOWN GENERAL COMMERCIAL) DISTRICT AND WITHIN THE 120-X HEIGHT AND BULK DISTRICT.

RECITALS

- On November 28, 2007, Tuija I. Catalano of Reuben & Junius, LLP, authorized agent of Trinity Properties (hereinafter “Applicant”), filed Application No. 2007.1362X (hereinafter “Application”) with the San Francisco Planning Department (hereinafter “Department”) for review pursuant to Planning Code (hereinafter “Code”) **Section 309** to replace an existing copper cupola and flagpole damaged during construction of the adjacent Federal Building with a new glass roof and flagpole on the existing building at 1145 Market Street, south side between Seventh and Eighth Streets. The new glass cupola will be the same shape and have the same dimensions as the existing copper

cupola but will be approximately three feet taller. At its peak, the new roof would be 215-feet high. The existing 30-foot-tall flagpole will be replaced with a new 27-foot-tall flagpole. The building's total height would remain unchanged at 242 feet. The total area of the glass cupola will be 720 square feet, all of which will be non-usable space. Because the existing building is non-complying with respect to the 120-foot height limit, the proposed alterations (hereinafter, summarily, "Project") require approval pursuant to Sections 188(d)(2)(A), 188(d)(3) and 309(b), which provide for the addition of unusable space to such structures. The site is in the C-3-G (Downtown General Commercial) District and within a 120-X Height and Bulk District.

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 February 1, 2008.
3. On February 13, 2008, the Planning Department staff concluded that the Project would result in no Section 295 shadow impact on parks of other open spaces within the jurisdiction of the Recreation and Park Department. According to the Planning Department's analysis, in part due to the existence of intervening buildings, including the Federal Building located to the southeast of the Property, the only times the shadow from the new cupola were cast on the Civic Center Plaza was within the first hour after sunrise, a period which is exempt under Section 295.
4. On June 5, 2008, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2007.1362X, at which time the Commission reviewed and discussed the findings prepared for its review by the Department staff.
5. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to this proposed Project.
6. 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.
7. **MOVED**, that the Commission hereby grants the approval requested in Application No. 2007.1362X 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 Property is located at 1145 Market Street, at the south side of Market Street between Seventh and Eighth Streets. The existing building was constructed in 1990, and is a 212-foot tall, 13-story office structure. The building is currently used as Trinity Properties' headquarters. The existing building has frontages on Market and Stevenson Streets. The Project Site, totaling 7,257 square feet, is located within a C-3-G (Downtown General Commercial) Zoning District and the 120-X Height and Bulk district.
3. **Surrounding Neighborhood.** The C-3-G District which contains the subject property is within the densely-developed core of the city. Immediately across the Property on the north side of Market Street is the United Nations Plaza. Across Stevenson Street at the rear of the existing building is the new Federal Building currently under construction, and the recently completed Soma Grand development. The Property is also located on the same block with the Trinity Plaza project at 1177 Market Street, a mixed-use project that was recently entitled by Trinity Properties.
4. **Project Description.** The proposed Project consists of the repair and replacement of both the existing copper cupola roof feature and of the existing flagpole. Both features had been damaged during the recent construction of the Federal Building. The existing copper cupola would be replaced with a glass roof that would match the existing window wall and would be internally illuminated with night lighting. This proposed glass roof would be 3 feet taller in elevation than the existing roof, and thus necessitates a Section 309 (Downtown Review) approval. The maximum height, at the top of the flagpole, will not change as the existing 30-foot tall flagpole (located at the top of the cupola feature) will be reduced in height by 3 feet, and thus the building's highest point (at the flagpole top) will remain 242-foot in height. The total area for the cupola roof feature will be 720 square feet, and all of the area will be non-usable space. The existing cupola roof measures at its largest point 26'-10 1/4" x 26'-10 1/4", and no change is proposed to these dimensions. Building Permit Application No. 2005.09.30.4371 for the Project was filed on September 30, 2005.

The Project involves a slight height increase for the cupola feature of approximately 3 feet at the top of the cupola feature and approximately 1 foot at the base of the cupola. The internal illumination cannot be accomplished without the height increase. The existing copper cupola roof contains exterior floodlights near the base of the cupola, which will be removed as part of the project. The internal illumination for the proposed glass cupola roof requires the additional height and area to operate and maintain the proposed lighting.
5. **Environmental Review.** The Project was issued a Categorical Exemption on February 1, 2008 (Case No. 2007.1362EX), Class 1, Existing Facilities.

6. **Section 309 Review.** Because the Project will increase the height of an existing structure that is non-complying with respect to the 120-foot height limit, the Commission's approval is required pursuant to **Sections 188** and **309**. Under **Section 188(d)(3)**, the Commission may approve the addition of nonusable space to noncomplying structures provided certain criteria are satisfied. Projects requiring such approval are reviewed pursuant to **Section 309(b)**, 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 approval to add nonusable open space to a noncomplying structure pursuant to **Sections 188(d)(3)** and **309(b)** 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 District is 9.0:1.

The Project will not alter the existing building's FAR. The proposed 720-square foot glass roof will replace an existing 720-square foot copper roof. The proposed replacement cupola contains non-usable space only.

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 height¹, and is measured from the interior property line or the center of a public right-of-way.

The Project will repair and replace the roof and flagpole. It will have no impact on the setback and separation of towers requirements.

C. Open Space -- Code **Section 138** requires that, in a C-3-0 District, an application for a permit to construct a new building or an addition of gross floor area equal to 20 percent or more of the existing building requires the provision of public open space at a ratio of one square foot of open space for every 50 square feet of developed space.

The Project involves the replacement of a 720-square-foot copper roof with a new 720-square-foot glass roof. The roof area is non-usable space that does not increase the building's gross floor area and does not exceed the 20 percent threshold for providing open space.

D. 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.

¹ The lower tower starts at the height that is equal to 1.25 times the width of the principal street on which the building faces.

The Project involves the replacement of a 720-square-foot copper roof with a new 720-square-foot glass roof. The roof area is non-usable space that does not increase the building's gross floor area and does not exceed the 20 percent threshold for providing pedestrian streetscape improvements.

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

The Project involves the replacement of a 720-square-foot copper roof with a new 720-square-foot glass roof. The roof area is non-usable space that does not increase the building's gross floor area and does not exceed the 20 percent threshold for contributing to the Downtown Park Special Fund.

- F. 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 involves the replacement of a 720-square-foot copper roof with a new 720-square-foot glass roof. The roof area is non-usable space that does not increase the building's gross floor area and does not exceed the 20 percent threshold for planting street trees.

- G. 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 south side of Market Street between Second and Tenth Streets is subject to a 50-degree sun access angle above a 119-foot street wall height. The proposed cupola that replaces the existing cupola is located approximately at the center of the building and thus is set back over 60 feet from Market Street. The negligible 3-foot height increase for the 26'-10 1/4" x 26'-10 1/4" cupola will have no impact on this requirement.

- H. 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.

- I. 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.

The Project will not result in a net addition of floor area and is not subject to the public art requirement.

- J. 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 result in a net addition of floor area, nor will it reduce or increase parking.

- K. 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). In that the Project would add approximately 78,000 square feet of floor area to the existing building, it would trigger a requirement of one off-street loading space.

The Project will not result in a net addition of floor area and will not trigger any loading requirements.

- L. Shower and Locker Facilities -- Code **Section 155.3(c)3** requires the installation of four showers and eight clothes lockers where the gross square footage of floor area added to a building containing general business offices through major renovation is in excess of 50,000 square feet.

The Project will not add floor area and is not subject to Section 155.3(c)3.

- M. Bulk Limits -- Code **Sections 270** and **272** establish building bulk limits. The "X" designation covering the site does not limit bulk.

The Project complies with the applicable bulk limit.

- N. Jobs-Housing Linkage Program -- The Code **Section 313** housing requirements apply to office projects proposing at least 25,000 square feet of new use.

The Project will not add new uses to the site, and Section 313 does not apply.

- O. Child Care Provision -- **Section 314.3** applies to office development projects proposing the net addition of 50,000 or more gross square feet of use. Such projects must provide a child-care facility on or near the site of the development, arrange with a nonprofit organization to provide a child-care facility, or pay an in-lieu fee to the City.

The Project will not add new uses to the site, and Section 314.3 does not apply.

- P. Height Limits -- Pursuant to Code **Section 260**, buildings up to 120 feet in height are permitted in the 120-X Height/Bulk District.

The existing building is 212 feet tall and is considered non-complying with respect to the height limits of Section 260. The Project will increase the height of the cupola roof by three feet through the addition of non-usable space. The height of the tallest building feature, the flagpole, will remain unchanged at 242 feet. Provided the criteria of Sections 188(d)(3) and Section 309(b) are satisfied, such additions may be authorized by the Planning Commission. These criteria are discussed in Section 2 below.

- 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.

A shadow analysis for the Project was completed per the provisions of Section 295, and determined that the Project would not cast net new shadow on Civic Center Plaza or any other open space under the jurisdiction of, or designated to be acquired by the, Recreation and Park Commission. The Planning Department staff analyzed the Project's impacts under Section 295, and concluded that in part due to the existence of intervening buildings, including the Federal Building located to the southeast of the Property, the only times the shadow from the new cupola were cast on the Civic Center Plaza was within the first hour after sunrise, a period which is exempt under Section 295. Therefore, the Project would not result in significant shadow impact under Section 295.

2. Request for Approval of Nonusable Space Pursuant to Sections 188 and 309: The Planning Commission finds and determines that the request for the addition of nonusable space, including three feet of additional height to accommodate the new glass cupola, as requested by the Project Sponsor and permitted in **Sections 309(b)**, and **188(d)(2)(A)**, is warranted and hereby granted:

Section 260 limits buildings in the 120-X Height and Bulk District to a maximum height of 120 feet. The building is currently 212 feet high to the top of the copper cupola. The Project will replace the copper cupola with a new 215-foot-high glass cupola. An existing 30-foot-tall flagpole will be replaced with a shorter 27-foot-tall flagpole. The height of the tallest building feature will remain unchanged at 242 feet. The Project will not result in the addition of usable space to the building.

Under **Section 188(d)(2)(A)** of the Code, the addition of nonusable space to a noncomplying building within a C-3 District may be approved provided it enhances the aesthetic quality or character of the building and satisfies the criteria set forth in **Sections 188(d)(3) and 309(b)**. The Project will enhance the aesthetics of the building by replacing a damaged copper cupola with a glass cupola that is more compatible with other building materials, and warrants approval under Section 188(d)(3) and 309(b):

Section 188(d)(3) Criteria. Section 188(d)(3) subjects applications to add nonusable space to a noncomplying building to the following criteria:

- (1) The enlargement promotes the health, safety and welfare of the public;

The 30-foot tall flagpole located on top of the existing cupola roof was damaged by a construction crane used in the construction of the adjacent Federal Building. The Project will allow the existing flagpole to be repaired and replaced, and the existing copper cupola to be replaced with a

new, structurally sound roof that will be internally illuminated with night lighting. The Project will improve the safety and appearance of the building, and would not adversely impact public safety, health and welfare.

(2) The enlargement does not cause significant shadow or wind impacts on the public sidewalks and open space;

The Project will not cause significant shadows or wind impacts on public sidewalks or parks. The Project consists of the repair and replacement of an existing 720-square foot cupola and flagpole with a glass roof of identical peripheral dimensions and footprint. The proposed cupola roof differs from the existing roof only in materials, replacing copper with glass, and in a slight 3-foot increase in vertical dimension. The cupola is located approximately at the center of the existing building and lot, and due to its location and the Project's limited scope, it will have minimal, if any, impact on shadows or wind patterns.

(3) The structure provides an appropriate transition to adjacent properties;

The proposed cupola is more compatible with the existing building, and thus aesthetically improves the existing building and the Project vicinity. The Project is limited in its scope, is located approximately at the center of the existing building, and thus its visual impact or its transitioning affect on adjacent properties will be minimal.

(4) The interior block open space formed by the rear yards of abutting properties will not be adversely affected;

The Project will have no impact on the abutting properties' interior block open space since none exists. The existing building covers the lot almost entirely. Similarly, other nearby buildings provide for full lot coverage, and neither the building nor the proposed cupola, will be adjacent to any interior block open space.

(5) The access of light and air to abutting properties will not be significantly affected; and

The Project will have no negative impact on the abutting properties' access to light and air. The proposed cupola replaces an existing cupola in its original location in the center of the building. The minor increase in the cupola's height will have no noticeable effect on light and air to adjacent properties.

(6) Public view corridors will not be significantly affected.

The Project will have no negative impact on public view corridors. A three foot increase in the height of the cupola at the top of an existing 212-foot tall building will not noticeably change the appearance of the building or impede a view corridor.

Section 309(b) Factors. An application for an alteration to a noncomplying structure shall be considered under the following requirements and limitations that may be imposed on the following aspects of a proposed project, through the imposition of conditions, in order to achieve the objectives and policies of the Master Plan or the purposes of the Planning Code:

(1) Building siting, orientation, massing and facade treatment, including proportion, scale, setbacks, materials, cornice, parapet and fenestration treatment, and design of building tops;

The Project consists of the repair and replacement of an existing 720-square foot cupola and flagpole with a cupola and flagpole of similar size. The cupola is a relatively small feature within an existing 13-story building, and the three foot increase in its vertical dimension will not be

noticeable. The 3-foot height increase is necessary to allow the feature to be illuminated. The new cupola will be glass to match the existing building window wall and is more compatible with the building than the copper cupola. The use of glass will allow the feature to be illuminated with internal night lighting. The Project does not propose any changes to any other building components. The Project improves the existing aesthetics and thus is consistent with this factor.

- (2) Aspects of the project affecting views and view corridors, shadowing of sidewalks and open spaces, openness of the street to the sky, ground-level wind current, and maintenance of predominant streetwalls in the immediate vicinity;

The Project will have no negative impact on the views, shadowing, openness, ground-level wind currents or existing streetwalls. The proposed cupola replaces an existing cupola in its original location, except for the slight three foot increase in height. The proposed cupola is located at the center of the existing Property and the minimal physical change, including the three-foot height increase and the change in materials, will have extremely minimal, if any, impact on other nearby properties or other members of the public.

- (3) Aspects of the project affecting parking, traffic circulation and transit operation and loading points;

The Project proposed to repair and replace an existing cupola roof, and does not involve any changes to existing parking, traffic or loading improvements, and thus due to its limited scope the Project will have no impact on this factor.

- (4) Aspects of the project affecting its energy consumption;

The area within the cupola roof is non-usable space, and thus the Project will have no impact on this factor.

- (5) Aspects of the project related to pedestrian activity, such as placement of entrances, street scale, visual richness, location of retail uses, and pedestrian circulation, and location and design of open space features;

The Project will repair and replace an existing cupola roof, and does not involve any changes to the existing pedestrian level improvements, and thus due to its limited scope the Project will have no impact on this factor.

- (6) Aspects of the project affecting public spaces adjacent to the project, such as the location and type of street trees and landscaping, sidewalk paving material, and the design and location of street furniture as required by Section 138.1;

The Project proposed to repair and replace an existing cupola roof, and does not involve any changes to the existing pedestrian level improvements, and thus due to its limited scope the Project will have no impact on this factor.

- (7) Aspects of the project relating to quality of the living environment of residential units, including housing unit size and the provisions of open space for residents;

The Project proposed to repair and replace an existing cupola roof, and due to its limited scope the Project will have no impact on this factor.

- (8) Aspects of the design of the project which have significant adverse environmental consequences;

The Project proposed to repair and replace an existing cupola roof, and due to its limited scope the Project will have no impact on this factor.

(9) Aspects of the project that affect its compliance with the provisions of Sections 1109(c), 1111.2(c), 1111.6(c), and 1113 regarding new construction and alterations in conservation districts; and

The Project is not located in a conservation district and thus will have no impact on this factor.

(10) Other aspects of the project for which modifications are justified because of its unique or unusual location, environment, topography or other circumstances.

The Project is very limited in its scope, and proposes an improvement to the existing building. No changes are proposed to the existing building with the exception of the roof cupola and flagpole components.

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 on the project as indicated above or included 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 have no impact on neighborhood-serving retail uses.

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 have no impact on existing houses uses in the vicinity.

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

The Project will have no impact on the City's affordable housing supply.

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

The Project will have no impact on the commuter traffic or neighborhood parking.

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 have no impact on the industrial or service sector uses.

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 a landmark or historically rated building and is not located within a historic district and thus will have no impact on this policy.

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

Due to the Project's minimal scope and the proposed cupola's location, the Project will have no impact on this policy.

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

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 3.2: Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

Policy 3.3: Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

Policy 4.14: Remove and obscure distracting and cluttering elements.

The Project furthers these Policies by improving the aesthetics of the existing building by replacing the existing copper roof cupola with a glass cupola that matches the building window wall and allows for internal night illumination.

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. 2007.1362X 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 June 5, 2008 on file in Case Docket No. 2007.1362X.

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 June 5, 2008.

Linda Avery
Commission Secretary

AYES: Olague, Antonini, Lee, Miguel

NAYS: Sugaya

ABSENT: Moore

ADOPTED: June 5, 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 application to alter a noncomplying structure given pursuant to Code **Section 309**, generally as described in the text of Motion No. 17611, in Application No. 2007.1362X, and as shown on plans dated June 5, 2008 labeled Exhibit B and on file with said Application, to replace a damaged copper cupola with highest elevation of 212 feet and 30-foot flagpole with a new glass cupola with highest elevation of 215 feet and 27-foot flagpole, Assessor's Block 3702, Lot 044, in a C-3-G (Downtown General Commercial) District and within a 120-X Height and Bulk District.

1. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. 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

A. Design.

- (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 by dated June 5, 2008, labeled "Exhibit B".
- (2) Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
- (3) 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.

I:\Cases\2007\2007.1362\2007.1362X\2007.1362X - 1145 Market - Motion - 060508.pdf