

Subject to: (check if applicable)

- Inclusionary Housing
- Childcare Requirement
- Downtown Park Fund
- Public Art
- Public Open Space
- Jobs-Housing Linkage
- Transit Impact Development Fee
- First Source Hiring

SAN FRANCISCO PLANNING COMMISSION

MOTION NO. 17469

ADOPTING FINDINGS RELATED TO A DETERMINATION OF COMPLIANCE AND THE GRANTING OF CERTAIN EXCEPTIONS UNDER PLANNING CODE SECTION 309 FOR AN OFFICE PROJECT LOCATED AT 535 MISSION STREET IN A C-3-O (DOWNTOWN OFFICE) DISTRICT, TRANSBAY C-3 SPECIAL USE DISTRICT, AND A 550-S HEIGHT AND BULK DISTRICT.

RECITALS

1. In 1984, Bredero-Northern, a California partnership, filed an Environmental Evaluation application for a 300-foot tall, 23-story office building at 535 Mission Street ("Original Project") with the Department of City Planning ("Department"), identified as Case No. 84.403E. The Original Project contained 255,010 square feet of office space, 5,000 square feet of retail space, 5,700 square feet of open space, and 11,000 square feet of parking.
2. On November 13, 1986, by Motion No. 10853, the Planning Commission ("Commission") found the Final Environmental Impact Report ("FEIR") to be adequate, accurate and objective, and certified the completion of the FEIR in compliance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code. In certifying the FEIR, the Commission found that the Original Project and Alternatives considered in the FEIR would have no project-specific significant environmental effects, but would contribute to cumulative development in the Project vicinity, which in turn would generate incremental cumulative traffic increases as well as incremental cumulative passenger loading on transit. The Original Project was subsequently withdrawn by Bredero-Northern and was never approved by the Commission.
3. On January 13, 1999, a new project sponsor, DWI Development, Inc. ("DWI") filed with the Department a new Environmental Evaluation Application, Application No. 98.766EBX, for a modified office and retail project at 535 Mission Street ("Office

- Project"). The Office Project as proposed consisted of a 22-story (including mechanical penthouse), approximately 294-foot tall building, containing approximately 252,960 square feet of office space, 1,865 square feet of retail space, 5,538 square feet of open space, and 14,109 square feet of parking on one underground level, with approximately 40 spaces.
4. On October 21, 1999, the Commission conducted a duly noticed public hearing on the DSEIR, published by the Department on September 18, 1999, and received both oral and written comments from the public.
 5. On December 9, 1999, by Motion No. 14939, the Commission found the Final Supplemental Environmental Impact Report ("FSEIR") to be adequate, accurate and objective, and certified the completion of the FSEIR in compliance with the CEQA and State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.
 6. On April 13, 2000, the Commission conducted duly noticed public hearings on Application No. 98.766X and Application No. 98.766B for the Office Project and approved the Office Project pursuant to Motion Nos. 15026 and 15027. The approved Office Project consisted of a 24-story tower with approximately 253000 square feet of new office space, approximately 630 square feet of retail space, approximately 5,980 square feet of open space, and approximately 14,100 square feet of parking, containing approximately 43 parking spaces. The Commission found that the FSEIR Project would not result in any new significant environmental impacts other than those identified and studied in the FEIR and the FSEIR. The Commission also found that the FEIR conclusion that the Original Project would contribute to cumulative traffic increases in greater downtown San Francisco would not be altered by the FSEIR for the project because it would not result in significant additional cumulative traffic impacts above those identified in the FEIR.
 7. On April 17, 2002 Hines Interests Limited Partnership ("Hines"), as project sponsor, filed Conditional Use Application No. 2002.0401C ("Temporary Parking Lot Application") with the Department for conditional use authorization under Planning Code Section 303 for non-accessory parking in a C-3-O zoning district. The proposed project was to demolish the then-existing three-story unreinforced masonry building ("UMB") on Lot 083 and to construct a temporary 66-space commercial surface parking lot. The proposed parking lot was intended as a temporary use pending construction of the previously approved Office Project.
 8. On October 3, 2002, the Director conducted a duly noticed public hearing at a regularly scheduled meeting on the Temporary Parking Lot Application and approved the application pursuant to Motion No. 16465, allowing operation of a surface parking lot for a two-year period.
 9. On July 7, 2005, revised applications (Case No. 2004.0297EBXCV) were submitted by a new project sponsor, Monahan Pacific, Inc. for a 35-story (including mechanical penthouse), approximately 360-foot tall building containing a total of approximately 293,80 gross square feet, up to 273 dwelling units, approximately 5000 square feet of ground floor retail space, 7,230 square feet of common usable open space (for the residential use) and 90 square feet of public open space (for the retail use), and a five-

level underground garage containing up to 102 independently accessible parking spaces or up to 273 parking spaces using mechanical stackers and valet operation.

10. On July 23, 2005, a Preliminary Mitigated Negative Declaration was published for the Project in accordance with the provisions of CEQA, the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, in which the Department determined that the Project could not have a significant effect on the environment. No appeal was filed in connection with the Mitigated Negative Declaration ("MND"), and the Mitigated Negative Declaration became final on August 12, 2005. A copy of the Mitigated Negative Declaration is contained in Planning Department File No. 2004.0297E.
11. On September 1, 2005, the Commission and the Zoning Administrator conducted a duly noticed public hearing on Application No. 2004.EBXCV and approved the Project under Motion Nos. 17082 and 17083. In approving the Project, the Commission found that there was no substantial evidence that the proposed Project, given the implementation of the mitigation measures as stated in the MND, could have a significant effect on the environment.
12. On November 9, 2006, 535 Mission Street Property, LLC (Project Sponsor) filed applications for a 27-story (plus mechanical penthouse), approximately 380-foot tall building containing approximately 293,760 square feet of office space, approximately 3,700 square feet of retail space, and approximately 12,600 square feet of parking on one underground level, with approximately 32 parking spaces using valet operation ("Revised Project"). The Revised Project also includes approximately 6,000 square feet of open space in a combination of exterior open space, interior greenhouse and improvements to Shaw Alley.
13. On July 12, 2007, the Department published an Addendum to the MND and FSEIR, which determined that the Revised Project would not cause new significant impacts not identified in the MND and the FSEIR. Additionally, the Addendum concluded, based on a new transportation analysis, that the Revised Project would not have a significant cumulative transportation impact, as was the case for the FSEIR Project.
14. The Planning Department and Commission have reviewed and considered the information contained in the Addendum, the MND, the SEIR and all information pertaining to the project in the Department's case file. The Addendum, the MND, the FSEIR, and all pertinent documents may be found in the files of the Planning Department, as the custodian of records, at 1650 Mission Street, San Francisco.
15. The proposed Revised Project as approved herein is consistent with the project description contained in the Addendum, and the MND and FSEIR as amended by the Addendum, and would not result in significant impacts not identified in the Addendum or cause significant effects already identified in the Addendum, and the MND and FSEIR as amended by the Addendum, to be substantially more severe.
16. On August 2, 2007, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Application No. 2006.1273X and 2006.1273B for the Project. The Commission has heard and considered testimony presented to it at the

public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties.

MOVED, that the Planning Commission hereby approves the Section 309 Determination of Compliance and Request for Exceptions requested in Application No. 2006.1273X for the Project, subject to conditions contained in Exhibit A attached hereto and incorporated by reference, based on the following findings:

Findings

Having reviewed all the materials identified in the Recitals above, and having heard oral testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above Recitals are accurate and also constitute findings of this Commission.
2. Project Site: The Project Site ("Site") is located on the south side of Mission Street between First and Second Streets, with secondary frontages on Shaw Alley and Minna Street, in Assessor's Block 3721, Lots 68 and 83. The Project Site is on a block bounded by Mission Street to the north, First Street to the east, Howard Street to the south and Second Street to the west; Shaw Alley and Minna border the Project Site directly to the west and south, respectively. The Site area is approximately 16,320 square feet. The Site is located in the C-3-0 (Downtown, Office) Zoning District, a 550-S Height and Bulk District, and is within the Transbay Redevelopment Study area. The Site contains a 62-space parking lot (with an approximately 80-vehicle capacity with valet parking) and an attendant's booth.
3. Surrounding Area: The project site is located in downtown San Francisco, northwest of the Transbay Terminal. The downtown office district includes the Financial District and an emerging office development area south of Market Street, in which the project site is located. In the greater vicinity, the Yerba Buena Center Redevelopment Area is to the west (west of Second Street); the Rincon Hill neighborhood is about two blocks to the southeast; and the South of Market neighborhood is to the south and southwest. The area of downtown that is south of Market Street provides commercial support and secondary office space for San Francisco's central business district. The South of Market area also serves as a transition zone between the dense collection of modern high-rise office buildings of the Financial District and neighborhoods that are characterized by smaller-scale older buildings that generally range between two and 10 stories. This transition area in which the project site is located contains a group of modern high-rise buildings, both residential and office, juxtaposed against the older, smaller-scale commercial buildings. This area is characterized by a mix of office, institutional, residential, commercial, transportation-related, and cultural uses.

Land uses in the project vicinity primarily include office and retail uses, many in high-rise towers. Immediately east of the project site is a 27-story office building at 100 First Street (at the southwest corner of Mission Street) with an adjacent single-story parking garage atop which is a publicly accessible "sun terrace". Golden Gate University is located northwest of the project site, across Mission Street; east of the university is a vacant lot, north of which is a 20-story office building at 25 Ecker Square. Low- to mid-rise office buildings (two to six stories) with ground-floor retail occupy the northwest

corner of First and Mission Streets. Uses to the west of the project site, across Shaw Alley, include a recently renovated five-story office building at 2 Shaw Alley (also 543-545 Mission Street). A 549,000 square-foot office building is under construction at 555 Mission Street. In addition, a 27-story office building is located at 101 Second Street, at the intersection of Second and Mission Streets. Ramps for the Transbay Terminal and a parking garage (located underneath the Transbay ramps terminal), as well as surface parking (beneath the terminal ramps), are located to the south of the project site across Minna Street.

The Project Site is located in a C-3-O (Downtown Office) Use District, which plays a leading national role in finance, corporate headquarters and service industries, and serves as an employment center for the regions, consisting primarily of high-quality office development. The intensity of building development is the greatest in the City, resulting in a notable skyline symbolizing the area's strength and vitality. The district is served by City and regional transit reaching its central portions and by automobile parking at peripheral locations. Intensity and compactness permit face-to-face business contacts to be made conveniently by travel on foot. Office development is supported by some related retail and service uses within the area, with inappropriate uses excluded in order to conserve the supply of land in the core and its expansion areas for further development of major office buildings.

The Project Site is located in the Transbay C-3 Special Use District as described under Planning Code **Section 249.28**. This District is wholly within the Transbay Redevelopment Project Area, and whose primary features include the Transbay Terminal facility and its associated ramps, and a portion of the New Montgomery/Second Street Conservation District. A vision and guidelines for this area as an integral component of the Transbay Redevelopment Area are laid out in the Transbay Redevelopment Plan.

4. Proposed Project (also referred to as the "Revised Project" or "Project"): The proposal is to demolish the existing parking lot on the Project Site and construct a 27-story (plus mechanical penthouse), approximately 380-foot tall building containing 293,760 square feet of office space, approximately 3,700 square feet of retail space, and approximately 12,600 square feet of parking on one underground level with approximately 32 parking spaces using valet operation. The Revised Project also includes 6,000 square feet of open space in the form of a combination of exterior open space, interior greenhouse and improvements to Shaw Alley.

The Revised Project will transform the block bounded by Mission Street, Shaw Alley and Minna Street by improving the public's access to and use of Shaw Alley as an integral element of the building design. The office tower has been designed as a graceful, slender form. A double-height ground floor lobby, beveled corners and facades define the building's silhouette with sloping edges. The glass curtain wall will use high performance, low-e coated insulated glass that integrates with indoor controls to further enhance its energy and light transmission performance.

In addition to the office space, the Revised Project will provide approximately 3,700 square feet of ground floor retail space to serve building occupants, visitors and City residents. A covered outdoor seating area with trees, landscaping and an espresso bar

will be provided at the corner of Minna Street and Shaw Alley. The building lobby will also include publicly accessible open space that will flow into the outdoor open space. Numerous street trees will be added to Shaw Alley, together with a continuous bed of green planting, which will have the combined effect of softening the streetscape and greatly enhancing the pedestrian experience of Shaw as a tree-lined pedestrian walkway. In addition to new paving of the pedestrian surfaces, the project will resurface the roadway of Shaw Alley with high quality materials that will provide texture and color.

The Project Sponsor has committed to achieve a LEED-CS Gold certification, or better, for the construction of the core and shell of this building. The LEED Green Building Rating System is a nationally accepted benchmark for the design, construction, and operation of high performance green buildings developed by the United States Green building Council. LEED provides a complete framework for assessing building performance and meeting sustainability goals, and promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. LEED provides benchmarks for measuring and documenting success for every building type and phase of a building lifecycle. This building would, in the LEED Core and Shell track, have to obtain 34 to 44 points to receive Gold certification.

The project has been accepted into the City's Priority Application Processing program in exchange for promising this high level of sustainability. The project is registered with the USGBC, and the Project Team has been working closely with the City's "Green Team" to assure that LEED Gold certification is feasible. Conditions of approval require this level of sustainability, and provide for a new hearing, when the Commission can require other conditions and exactions to offset the expected increased environmental impacts should the project fail to certify at the Gold level or higher.

5. Findings Under the California Environmental Quality Act:

- (A) On December 9, 1999, pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter "CEQA"), the FSEIR was certified by the Commission the project (Case No. 199.766B). On August 16, 2005, a Final MND was published by the Department for the project (Case No. 2004.0297X). On July 12, 2007, an Addendum to the MND and the FSEIR was issued by the Department determining that the analyses conducted and the conclusions reached in the MND and the SEIR remain current and valid, except where updated by the Addendum, and that no subsequent environmental review is required for the proposed revisions to the project.
- (B) It was determined by the Department in accordance with the provisions of CEQA, the State Guidelines for the implementation of CEQA and Chapter 31 of the San Francisco Administrative Code that, although the project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures agreed to by the project sponsor have been incorporated into the project as conditions of approval, and in accordance with the above provisions, a FSEIR was certified on December 9, 1999, a MND was

adopted and issued on August 16, 2005, and an Addendum to the MND and the FSEIR for the project was issued on July 12, 2007, and these documents are part of the file for Case No. 2006.1273B.

- (C) The Commission finds that: no substantial changes are proposed in the Revised project that would require major revision of the previous SEIR or MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; no substantial changes have occurred with respect to the circumstances under which the project will be undertaken that would require major revisions of the previous SEIR or MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous SEIR was certified and the MND was adopted, shows that the Revised Project will have one or more significant effects not discussed in the previous SEIR or MND, significant effects previously examined will be substantially more severe than shown in the previous SEIR, or mitigation measures or alternatives previously found not to be feasible would be feasible and would substantially reduce one or more significant effects of the project, but the Project Sponsor declines to adopt the mitigation measure or alternative.
 - (D) Based upon the whole record, including the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, the Commission hereby finds that the Addendum to the MND and the FSEIR reflects the independent judgment and analysis of the Commission and there is no substantial evidence that the proposed Project, given the implementation of the mitigation measures as stated in the Addendum, could have a significant effect on the environment as shown in the analysis of the Addendum. The Addendum is hereby incorporated by reference as though fully set forth herein.
 - (E) Mitigation measures have been required in, or incorporated into, the project that avoid or substantially lessen the potentially significant environmental effects identified in the Addendum. The Commission hereby adopts the mitigation monitoring and reporting program, attached, as conditions of approval in Exhibit C.
6. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:
- (1) 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 includes new retail uses that could provide future opportunities for resident employment in and ownership of such businesses. The Project would have no adverse effect on neighborhood-serving retail uses or opportunities for employment in ownership of such business, and the proposed office use would

enhance the economic viability of many of the existing retail uses in the area by providing additional customers

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

The Project will have no impact on existing housing and is designed to be compatible with the character of the area. The project would replace an underutilized site with office and retail uses that would provide a variety of employment opportunities and enhance the area, preserving its cultural and economic diversity.

- (3) That the City's supply of affordable housing be preserved and enhanced.

The Project will promote this policy by contributing to the City's affordable housing supply through the Jobs Housing Linkage Program (Planning Code Section 313).

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

The amount of commuter traffic generated by the Project will not impede Muni transit service or overburden streets or neighborhood parking. The Project Site is well served by public transit, including the Transbay Terminal, BART and Muni. Access to the proposed parking and loading areas is from Minna Street, which is not used by Muni.

- (5) 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 the replacement of a surface parking lot with retail and office development and therefore will have no impact on the industrial or service sectors and will enhance future opportunities for resident employment or ownership in the service sector.

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

The new building will be constructed in full compliance with current seismic requirements. Thus, the project will achieve the greatest possible preparedness against injury and loss of life in an earthquake.

- (7) That landmarks and historic buildings be preserved.

The Project will have no significant impact on any landmarks or historic buildings, as the Project Site does not contain any existing improvements and is not located in any historic or preservation district.

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

A shadow fan analysis concluded that the Project would not create any new shade on any Department of Recreation and Park properties protected under Planning Code Section 295.

7. **Section 124** establishes basic floor area ratios (FAR) for all zoning districts. FAR is the ratio of the gross floor area of all the buildings on a lot to the total area of the lot. Under Table 124, the FAR for C-3-O Districts is 9.0 to 1, and per **Section 123(c)(1)**, the gross floor area of a structure on a lot in the C-3-O may not exceed a floor area ratio of 18 to 1.

With a lot area of 16,320 square feet, 146,880 gross square feet can be developed on the Project Site, and up to 293,760 gross square feet utilizing TDR. The Project will acquire the necessary amount of TDR and proposes a total of 293,760 gross square feet, and thus complies with this requirement.

8. **Section 132.1** 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.

For the building facade on the interior northeastern property line, the building will be setback between 3'-8" and 9'-11" from the interior property line, up to 300 feet in height. Above 300 feet, the building facade is setback between 9'-0" and 15'-6" at the top of the parapet. At Shaw Alley, there is no encroachment below 300 feet, and above 300 feet the setback is between 5'-6" and 6'-2" at the top of the parapet. These setbacks do not comply with the requirements of this Section. As such, pursuant to Planning Code Section 309(a), the Project will require an exception to the setbacks and separation of towers.

9. **Section 138** establishes open space requirements in C-3 Districts. For a C-3-O District, this section requires one square foot of open space for every 50 gross square feet of uses.

The Project proposes 293,760 gross square feet of space, therefore 5,875 square feet of open space is required. The Project includes 6,070 square feet of open space, consisting of 4,217 square feet of exterior on-site open space, 483 square feet of interior greenhouse area, and 1,370 square feet of improvements to a portion of Shaw Alley, and thus complies with the open space requirements.

The greenhouse will be located on the ground floor in the southwestern corner of the building, accessible from the street at grade from Shaw Alley and Minna Street, and from Mission Street through the building's lobby. The greenhouse will be open from at least 10:00 a.m. to 5:00 p.m. during weekdays with some weekend hours possible depending on demand. The interior surfaces of the greenhouse will be a mixture of hard surfaces, indoor trees and planting areas. A coffee kiosk will be located adjacent to the greenhouse space, open during weekday operating hours of the building, with extended evening and weekend hours possible depending on demand. This kiosk would enhance the space for public use. A condition of approval attached to this Motion as Exhibit A

states that to ensure the feasibility of the operation of the kiosk adjacent to the indoor greenhouse during weekday lunch hours (at a minimum 11:00 a.m. to 2:00 p.m.), the Project Sponsor will, if necessary, provide some form of support, such as reduced or waived rent.

The Project Sponsor has agreed to diligently pursue approval from all required City agencies and departments for the lunchtime closure of Shaw Alley from (at a minimum) 11:00 a.m. to 2:00 p.m., Monday through Friday. If the partial closure of Shaw Alley is not approved by all required City agencies, a condition of approval in this Motion (attached as Exhibit A) requires the Project Sponsor to fulfill the Shaw Alley portion of the Project's open space requirement, which is 1,370 square feet, by some other means pursuant to Section 138, or to seek and justify a Variance. Improvements to Shaw Alley will include high-quality decorative paving, bollards and planting areas.

The Project open space will be a desirable addition to the City's open space. As a condition of approval in Exhibit A of this motion, it will be accessible, well designed and comfortable, providing a variety of experiences and fulfilling all requirements of the Downtown Area Plan, the Downtown Streetscape Plan and Planning Code Section 138.

The policies of the Downtown Plan require that the need for human comfort in the design of open space be addressed by minimizing wind and maximizing sunshine.

10. **Section 138.1** requires a new building in a C-3 District to install street trees and sidewalk paving as set forth in the Downtown Streetscape Plan. Per **Section 249.28**, the Commission shall require pedestrian streetscape improvements, with regards to location, type and extent of improvements, in accordance with the Transbay Streetscape and open Space Plan or any streetscape plan contained within the Transbay Redevelopment Plan. The San Francisco Redevelopment Agency may impose additional streetscape requirements.

The Project includes pedestrian streetscape improvements around the site including repaving Shaw Alley, creating continuous sidewalks across Shaw Alley on both Mission and Minna Street, installing street trees along Mission Street, Minna Street and Shaw Alley.

The Conditions of Approval in Exhibit A provide that, prior to issuance of the final addendum to the site permit, 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 Director of the Department, in consultation with the San Francisco Redevelopment Agency and the Director of the Department of Public Works. As such, the Project complies with the requirements of Section 138.1 and 249.28.

11. **Section 139** imposes a fee of \$2 per square foot of the net addition of gross floor area of office use to be deposited in the Downtown Park Fund for the purpose of funding public park and recreation facilities to serve the daytime population in the Downtown. Per Planning Code **Section 249(b)(3)**, fees collected from this project shall be paid to and administered by the San Francisco Redevelopment Agency for the development of open space in accordance with the Transbay Redevelopment Plan and its companion documents.

The proposed project is an office development project as defined by Section 139(b)(3), and the Project Sponsor will comply with the requirements of this section by paying the fee of \$2.00 per square foot (for a total of \$587,520 for up to 293,760 square feet of office use), as set forth in Section 139(d). The exact fee will be determined based on drawings submitted with the Building Permit Application.

12. **Section 143** requires installation one tree of 15-gallon size for each 20 feet of frontage of the property along each street or alley. Section 143(e) states that in C-3 Districts, the Zoning Administrator may waive such a requirement in areas where landscaping is considered to be inappropriate because it conflicts with policies of the Downtown Plan, such as the policy favoring unobstructed pedestrian passage.

Subject to approval by the Department of Public Works, the Project Sponsor shall comply with the requirements set forth in Section 143 by providing street trees along Mission Street, Minna Street and Shaw Alley, and as interpreted by the Zoning Administrator.

13. **Section 147** requires that new buildings in the C-3 Districts shall 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.

Based on a shadow study conducted by the Planning Department and supplemental analysis conducted by the Project Sponsor and reviewed by the Planning Department, the previously approved project would not cause new shadow on any open space protected by Section 295. However, the previously approved project would cast a certain amount of new shadow on nearby publicly accessible, privately owned open spaces. One of them is the 100 First Street sun terrace, on the east side of the project site. New shadows would cover the entire sun terrace during the late afternoon hours year-round, except during the summer afternoon hours when approximately one-quarter of the sun terrace remains without shadow. During spring, new shadows would cover approximately half of the sun terrace during noontime.

Another publicly accessible open space that would receive new shadow from the previously approved project during portions of the day and year is the sunken terrace at Golden Gate University. It would receive new shadows during the morning hours in the fall that would cover the entire site, during morning hours in the spring that would cover a little more than half of the terrace, and during morning hours in the summer that would cover approximately one-quarter of the open space. Golden Gate University's sunken terrace would also receive new shadows generated by the proposed project at midday hours during the spring (when a little more than half of the sunken terrace would be covered with new shadows) and during the summer (approximately two-thirds of the terrace would be covered with new shadows).

New shadows would also be cast on the open space at 560 Mission, which would receive new shadows during the mornings in the summer, which would result in the majority of this open space being covered with shadow, except for a small sliver along the western portion of the open space. Finally the Fremont Center Plaza (50 Fremont

Street) would receive new shadows during the mid-day in the winter, when the previously approved proposed project would create new shadow over approximately one-third of the site.

The 100 First Street sun terrace and the Fremont Center Plaza (50 Fremont Street) are used regularly by the employees of the adjacent office buildings, particularly during lunchtime hours. While the previously approved project would result in new shadows on these open spaces, neither open space would be fully shaded during lunchtime hours (11:00 a.m. to 2:00 p.m.). In addition, the two open spaces are configured so that landscaping and seating is relatively consistent throughout the entire open space. Therefore, at any given time during the lunchtime hours, the public would have roughly a constant amount of amenities available (particularly seating) in the sunlight, even with new shadow from the project.

Based on the shadow study for the current proposal, analyzed under Case No. 2006.1273K, the proposed Project will cast shadows that are similar to those caused by the previously approved project. In order to significantly reduce or eliminate the additional shadows on the 100 First Street terrace and other private, publicly accessible open spaces, the Project would have to be substantially reduced in height and bulk. Therefore, a significant shadow reduction could be achieved only by unduly restricting the development potential of the site, zoned deliberately to accommodate buildings up to 605 feet tall at this location (per Section 263.9, 500 feet plus an optional tower extension of 10%) and to create a market for TDR. As such, the Project complies with the requirements of Section 147.

14. **Section 148** requires buildings to be shaped, or other wind-baffling measures to be adopted, so that the developments will not cause ground-level wind currents to exceed, more than 10 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 pedestrian use and seven m.p.h. equivalent wind speed in public seating areas.

The wind test results from the previously approved project determined that wind exceedences would remain at various points at the site, and that it might be impossible for the previously approved project, in any form, to completely eliminate all existing exceedences of the comfort criterion. As such, pursuant to Planning Code Section 309(a), the Project will require an exception to the reduction of ground-level wind currents.

15. **Section 149** requires the installation and maintenance of works of art costing an amount equal to one percent of the construction cost of the building. The type and location of the artwork, but not the artistic merits of the specific artwork proposed, must be approved by the Commission in accordance with the provisions of Section 309.

The estimated cost of construction for the project is \$44,550,000, and therefore the Project will include works of art costing \$445,500 for installation and maintenance. The Project Sponsor will continue to consult with the Department on the type and location of the artwork.

16. Under **Section 151.1** the amount of accessory off-street parking that is permitted is up to seven percent of the gross floor area of office uses. No off-street accessory parking is

required in C-3 Districts.

The Project includes 12,599 square feet of below-grade parking area, representing 4.3% of the gross floor area of the Project, and thus complies with off-street parking allowances.

17. **Section 152.1** requires 0.1 freight loading spaces per 10,000 gross square feet of use in the C-3 District. Section 153(a)(6) allows two service vehicle spaces to be substituted for each required off-street freight loading space provided that a minimum of 50 percent of the required number of spaces are provided for freight loading.

With a gross floor area of 293,760 square feet, the Project is required to provide 3 loading spaces per Section 153(a)(6). The Project will provide two freight loading spaces and two service vehicle spaces in lieu of the third required freight loading space, and thus complies with the freight loading requirements.

18. **Sections 155.3** and **155.4** require new commercial buildings exceeding 50,000 square feet to provide four showers and eight lockers for short-term use of the tenants or employees in that building, and to provide 12 bicycle spaces.

The Project will comply with the requirements of Sections 155.3 and 155.4.

19. **Section 163** requires projects creating more than 100,000 square feet of office space to provide on-site transportation services for the actual lifetime of the project and to prepare and implement a transportation management program approved by the Director.

The Project will comply with the requirements of Section 163.

20. **Section 164** requires projects creating in excess of 100,000 square feet of office space to provide employment brokerage services for the actual lifetime of the project.

The Project will comply with the requirements of Section 164.

21. **Section 165** requires projects creating in excess of 100,000 square feet of office space to provide on-site child-care brokerage services for the actual lifetime of the project.

The Project will comply with the requirements of Section 165.

22. The proposed office and retail uses are principally permitted uses in a C-3-O District under **Sections 219(c)** and **218(b)**.

23. **Section 260** requires that the limits on the height of buildings shall be as specified on the Zoning Map. The proposed Project is in a 550-S height and bulk district, with a 550-foot height limit.

The Project will have a total height of 378'-6", and thus complies with the height limit.

24. **Section 270** limits the bulk of buildings and structures, and assigns maximum plan dimensions. The Project is located in a 550-S height and bulk district, with an "S" bulk

control, permitting a maximum length of 160 feet for the lower tower, a maximum floor size of 20,000 square feet and a maximum diagonal dimension of 190 feet. The upper tower is permitted to have a maximum length of 130 feet, a maximum floor size for any floor of 17,000 square feet, an average floor plate of 12,000 square feet, and a maximum average diagonal measure of 160 feet.

The Project complies with the lower tower controls, however an exception is required for the upper tower. The upper tower has a maximum length of 148'-8", where 130'-0" is allowed, a maximum diagonal dimension of 161'-4", where 160'-0" is allowed, and an average floor plate of 12,186 square feet where 12,000 square feet is allowed. As such, pursuant to Planning Code Section 309(a), the upper tower requires an exception to the maximum length, maximum diagonal dimension, and the average floor plate requirements.

25. Under **Section 309**, the Project requires exceptions to the following Planning Code Requirements:

Setbacks and Separation of Towers (Section 132.1): The Planning Commission grants an exception to the setbacks and separation of towers requirements of Planning Code Section 132 in accordance with the provisions of Section 309, as provided below:

(A) Encroachments of building volume on the setback may be approved as follows:

- (i) For the portion of the building over 300 feet from the ground, encroachments may be allowed provided that (1) there are compensating recesses beyond the required setback below and within approximately 100 vertical feet of the encroachment, which recesses are at least equal in volume to the volume of the encroachment and (2) it is found that, overall, access to light and air and the appearance of separation between buildings will not be impaired.
- (ii) Between the top of the base and 300 feet above the ground, encroachments may be allowed provided that (1) there are compensating recesses beyond the required setback at the same level or within approximately 50 vertical feet above or below the encroachment, which recesses are at least equal in volume to the volume of the encroachment, (2) that the encroachment extends no more than five feet horizontally into the area otherwise required for a setback, (3) the encroachment extends for less than 1/3 of the horizontal length of the structure, and (4) it is found that, overall, access to light and air and the appearance of separation between buildings will not be impaired.

As previously described, the Project requires an exception to the setbacks and separation of towers from the building facade on the interior eastern property line (facing the 100 First Street Plaza) and the facade along Shaw Alley. The maximum encroachment along the interior eastern facade is between 9'-0" and 15'-6" at 300 feet in height, and the maximum encroachment along the Shaw Alley facade is between 5'-6" and 6'-2" at 300 feet in height, and between 3'-8" and 9'-11" between 103 feet and

300 feet in height. These encroachment areas have open space on either side (100 First Street Plaza to the east and Shaw Alley to the west), so overall, the encroachment will not impair access to light or the presence of separation between buildings.

- (B) Exceptions may be allowed to the extent that it is determined that restrictions on adjacent properties make it unlikely that development will occur at a height or bulk which will, overall, impair access to light and air or the presence of separation between buildings, thereby making setbacks unnecessary.

Overall, access to light and air or the appearance of tower separation will not be impaired by the Project or by the granting of the lower or upper tower exceptions. To the immediate east, the Project Site is bordered by a two-story over basement parking garage, which is topped by the publicly accessible sun terrace of the 27-story 100 First Street office tower. The 100 First Street building is immediately east of the sun terrace and lies approximately 110 feet to the east of the Project. The proposed encroachment into the required setback will have no material effect on the 100 First Street building, as the eastern wall of the Project is approximately 110 feet from the western wall of 100 First Street.

In addition, the Project Site is subject to several constraints (other than the separation of towers requirements) that severely restrict the height, gross floor area and design alternatives available to the Project Sponsor and the Project architect. The Project has undergone extensive design review with the intent to minimize shadow impacts on surrounding properties and produce a tower of high quality design. The current design of the Project is the product of a collaborative effort of Planning Department staff and the Project Sponsor's design team. At approximately 380 feet (inclusive of the mechanical penthouse), the tower is significantly shorter than permitted by the height limit. The building form and shape is dictated by its situs on a relatively small and narrow lot (approximately 100 feet x 160 feet, totaling approximately 16,320 square feet). An exception to the separation of towers setback requirements is appropriate given these constraints.

Design features of the Project will maintain access to light and air and separation between buildings. The width of the Mission Street and Minna Street facades will be relatively narrow. The facades facing the 100 First Street Plaza and Shaw Alley substantially comply with the separation of tower requirements and provide more than adequate separation for adjoining buildings. The tapered building shape will be a positive addition to the City's skyline, and granting this exception is necessary to preserve the design's architectural and geometric integrity.

Even if the 100 First Street Plaza or the building to the west at 2 Shaw Alley were to be more intensively developed in the future, practical and Planning Code restrictions assure that any such future development adjacent to the Project will likely result in a building design which overall will not impair access to light and air or the appearance of separation between buildings, notwithstanding construction of the Project as proposed. The granting of this exception will not result in any increase in the setback otherwise required under Section 132.1 (c)

in any future development of the adjacent parcels. Similar exceptions were previously granted by the Planning Commission for the prior office tower approved for this site under Motion No. 15026.

- (C) Exceptions may be allowed on lots with a frontage of less than 75 feet provided that (i) it is found that, overall, access to light and air will not be impaired and (ii) 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 the requirements of Chart A.

This criterion is not applicable, because the Project Site does not have a street frontage that is less than 75 feet.

Reduction of Ground-Level Wind Currents (Section 148): In C-3 Districts, buildings and additions to existing buildings shall 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 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 miles per hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

The Planning Commission grants an exception to the reduction of ground-level wind currents requirements of Section 148 in accordance with the provisions of Section 309, as provided below:

The ground level wind currents were examined for the previously approved project consisting of a 360-foot tall, 34-story building. Under that analysis, and as described in the November 12, 2004, Technical Memorandum Regarding Potential Wind Conditions prepared by Environmental Science Associates ("ESA") for the Planning Department (copy on file with the Planning Department, Case No. 2004.0297E), the wind effects of the previously approved project and the two previously analyzed office towers would be essentially the same.

In summary, the test results indicated that the previously approved project, when added to the current setting, would have resulted in a slight decrease in pedestrian-level and seating-area wind speeds in the Project vicinity. The previously approved project wind evaluation concluded that no new exceedances of the seating-comfort criterion would occur, and "the project effects would include no exceedance of the wind hazard criterion." However, there will remain exceedances of the pedestrian comfort criterion at five of 36 test points. The wind analysis determined that the highest ground-level wind speeds in the vicinity occurred along Minna Street, west of Shaw Alley, where wind speeds of 15 mph existed at two locations, and on the south side of Mission Street, west of Shaw Alley, where wind speeds of 14 mph existed at two locations.

The wind-tunnel test results for the previously approved project indicated that it might be impossible for the previously approved project, in any form, to completely eliminate all existing exceedances of the Section 148 comfort criteria. The previously approved project could not be designed or shaped in a way that would meet the provisions of Section 148 without drastically altering the previously approved project's architectural design, or creating an unattractive building form. The previously approved project could not be reasonably shaped to reduce the winds at the areas of the five existing exceedances without unduly restricting the development potential of the site. Considering the above justifications in light of the criteria for an exception set forth in Code Section 148 (a), the Commission approved an exception to the Ground Level Wind Currents requirement for the previously approved project.

The current Project is expected to result in similar ground level wind currents compared to those caused by the previously approved project and envelope.

Bulk (Section 270): Pursuant to Section 272(a), the bulk limits prescribed by Section 270 have been carefully considered in relation to objectives and policies for conservation and change in C-3 Districts. However, there may be some exceptional cases in which these limits may properly be permitted to be exceeded to a certain degree, provided, however, that there are adequate compensating factors. The Planning Commission grants an exception to the bulk requirements of Section 270 in accordance with the provisions of Section 309, as provided below:

- (1) Achievement of a distinctly better design, in both a public and a private sense, than would be possible with strict adherence to the bulk limits, avoiding an unnecessary prescription of building form while carrying out the intent of the bulk limits and the principles and policies of the Master Plan.

The Project as designed meets the intent of the bulk limits and principles of the General Plan by making logical changes in massing and form, given the relatively narrow width of the Project Site. Granting the requested bulk exceptions would result in a distinctly better overall design. In order for the tower to comply with the prescribed bulk controls, multiple setbacks would be required to taper the tower as it increases in height. This reduction would result in a tower that is broken up into two or more distinct sections (the tiered wedding cake effect). This design would detract from the tapered overall massing of the tower. The requested exceedances are integral to the building's architectural design.

- (2) Development of a building or structure with widespread public service benefits and significance to the community at large, where compelling functional requirements of the specific building or structure make necessary such a deviation; and provided further that all of the following criteria are met:

- (A) The added bulk does not contribute significantly to shading of publicly accessible open space.

As stated in the findings of compliance with Sections 147 and 295, the Project will not result in adverse shadow impacts on any open spaces or park under the Jurisdiction of the Recreation and Parks Department in the vicinity of the Project Site. With the bulk exception, the proposed Project would have a similar shadow impact on adjacent publicly accessible, privately owned open spaces, as would a project that complies with the bulk requirements.

- (B) The added bulk does not increase ground-level wind currents in violation of the provisions of Section 148 of this Code.

As stated in this Motion, the Project is not expected to increase existing wind conditions in the vicinity of the Project Site.

- (3) The added bulk does not significantly affect light and air to adjacent buildings.

The closest adjacent buildings are 100 First Street, which is 110 feet east of the proposed Project, and 2 Shaw Alley, which is across Shaw Alley from the Project. These buildings are far enough away from the Project that the added bulk could not significantly affect light and air to adjacent buildings.

- (4) If appropriate to the massing of the building, the appearance of bulk in the building, structure or development is reduced to the extent feasible by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:

- (A) Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass.

- (B) Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements.

- (C) Differences in materials, colors or scales of the façades that produce separate major elements.

- (D) Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted.

- (E) In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures or towers.

The overall design of the exterior fenestration, materials and surfaces includes variations that ameliorate the apparent mass of the tower. Strict adherence to the bulk limitations would result in a building with an awkward relationship between the upper and lower towers. The lower and upper towers have been designed so that their massing reflects a graceful transition from the lower to the upper tower. The result emphasizes the verticality of the tower, from both the streetscape and skyline perspective, in conformity with the principles and policies of the General Plan. The overall tower massing is defined by notched massing at each of the building corners that tapers inward towards the top of the tower. The tapered corners form a unique three-dimensional shape and emphasize the slender proportions of the building. The base of the building is established at level 6, where the tapered corners culminate. Below this datum point, the tapered massing reverses itself facing Shaw Alley, sloping inward towards the lobby. Additional variation is added to the tower facade by treating the Mission Street-Shaw Alley corner in a unique way, recessing the facade. This treatment reinforces the hierarchy of the corners and reflects the importance of the Mission Street/Shaw Alley corner as the main building entrance.

- (5) The building, structure or development is made compatible with the character and development of the surrounding area by means of all of the following factors:

- (A) A silhouette harmonious with natural land forms and building patterns, including the patterns produced by height limits.

As designed, the silhouette, height, and bulk of the Project are harmonious with the existing pattern of development in the neighborhood, including 100 First Street and 101 Second Street.

- (B) Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character.

The innovative parapet design also enhances the building appearance. The intention of the parapet is to emphasize the building's height, slenderness and artistic form, in contrast to the generally orthogonal building forms of the 27-story 100 First Street building to the east and the 34-story 555 Mission Street building under construction to the west. The Project's walls gradually taper at the corners as they gain verticality, producing a unique silhouette at the parapet. The Project is of similar height to 100 First Street to the east and 101 Second Street to the west, and provides a graceful transition to the 480 foot-tall 555 Mission Street to the west.

- POLICY 1 Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.
- POLICY 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 1 Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The Project furthers the objectives and policies of the Commerce and Industry Element with the addition of new office space, which generates employment opportunities and tax revenues for the City and promotes the retention and continuing growth of office space in the City.

The **Urban Design Element** of the General Plan contains the following relevant objectives and policies:

- OBJECTIVE 1 EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.
- POLICY 3 Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.
- OBJECTIVE 2 CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.
- POLICY 6 Respect the character of older development nearby in the design of new buildings.
- OBJECTIVE 3 MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERNS, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.
- POLICY 1 Promote harmony in visual relationships and transitions between new and older buildings.
- POLICY 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 Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

- POLICY 4 Promote building forms that will respect and improve the integrity of open spaces and other public areas.
- POLICY 5 Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.
- POLICY 6 Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

The Project furthers the objectives and policies of the Urban Design Element by incorporating the scale of existing development surrounding the Project Site, thereby creating an appropriate transition between old and new buildings. The Project will provide a high quality design, at an appropriate height and bulk with carefully designed publicly accessible open spaces, thereby promoting the objectives and policies of the Urban Design Element.

The **Environmental Protection Element** of the General Plan contains the following relevant objectives and policies:

- OBJECTIVE 14 PROMOTE EFFECTIVE ENERGY MANAGEMENT PRACTICES TO MAINTAIN THE ECONOMIC VITALITY OF COMMERCE AND INDUSTRY
- POLICY 4 Promote commercial office building design appropriate for local climate conditions.
- POLICY 5 Encourage use of integrated energy systems.

The Project furthers the objectives and policies of the Environmental Protection Element in that the Project Sponsor has committed to achieve a LEED-CS Gold certification, or better, for the construction of the core and shell of the building.

The **Downtown Plan** of the General Plan contains the following relevant 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 produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.
- OBJECTIVE 2 MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.
- POLICY 1 Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.
- POLICY 2 Guide location of office development to maintain a compact downtown core and minimize displacement of other uses.
- OBJECTIVE 3 IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.
- POLICY 4 Limit the amount of downtown retail space outside the retail district to avoid detracting from its economic vitality.
- POLICY 5 Meet the convenience needs of daytime downtown workers.
- OBJECTIVE 5 RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.
- POLICY 1 Provide space for support commercial activities within the downtown and in adjacent areas.
- OBJECTIVE 9 PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS
- POLICY 1 Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.
- POLICY 2 Provide different kinds of open space downtown.
- POLICY 4 Provide a variety of seating arrangements in open spaces throughout downtown.
- OBJECTIVE 10 ASSURE THAT OPEN SPACES ARE ACCESSIBLE AND USABLE.

- POLICY 1 Develop and open space system that gives every person living and working downtown access to a sizable sunlit open space within convenient walking distance.
- POLICY 3 Keep open space facilities available to the public.
- POLICY 4 Provide open space that is clearly visible and easily reached from the street or pedestrian way.
- POLICY 5 Address the need for human comfort in the design of open space by minimizing wind and maximizing sunshine.
- OBJECTIVE 12 CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.
- POLICY 3 Design new buildings to respect the character of older developments nearby.
- OBJECTIVE 13 CREATE AN URBAN FORM FOR DOWNTOWN THAT ENHANCES SAN FRANCISCO'S STATURE AS ONE OF THE WORLD'S MOST VISUALLY ATTRACTIVE CITIES.
- POLICY 1 Relate the height of buildings to important attributes of the city pattern and to the height and character of existing and proposed development.
- OBJECTIVE 14 CREATE AND MAINTAIN A COMFORTABLE PEDESTRIAN ENVIRONMENT.
- POLICY 1 Promote building forms that will maximize the sun access to open spaces and other public areas.
- POLICY 2 Promote building forms that will minimize the creation of surface winds near the base of buildings.
- OBJECTIVE 15 TO CREATE A BUILDING FORM THAT IS VISUALLY INTERESTING AND HARMONIZES WITH SURROUNDING BUILDINGS.
- POLICY 1 Ensure that new facades relate harmoniously with nearby facade patterns.
- POLICY 2 Assure that new buildings contribute to the visual unity of the city.
- OBJECTIVE 16 CREATE AND MAINTAIN ATTRACTIVE, INTERESTING URBAN STREETS CAPES.
- POLICY 1 Conserve the traditional street to building relationship that characterizes downtown San Francisco.

- POLICY 4 Use designs and materials and include activities at the ground floor to create pedestrian interest.
- POLICY 5 Encourage the incorporation of publicly visible art works in new private development and in various public spaces downtown.
- OBJECTIVE 18 ENSURE THAT THE NUMBER OF AUTO TRIPS TO AND FROM DOWNTOWN WILL NOT BE DETRIMENTAL TO THE GROWTH OR AMENITY OF DOWNTOWN.
- POLICY 2 The Project will further provide incentives for the use of transit, carpools, and vanpools, to reduce the need for new or expanded automobile parking facilities.
- OBJECTIVE 19 PROVIDE FOR SAFE AND CONVENIENT BICYCLE USE AS A MEANS OF TRANSPORTATION.
- POLICY 1 Include facilities for bicycle users in governmental, commercial, and residential developments.
- OBJECTIVE 21 IMPROVE FACILITIES FOR FREIGHT DELIVERIES AND BUSINESS SERVICES.
- POLICY 1 Provide off-street facilities for freight loading and service vehicles on the site of new buildings sufficient to meet the demands generated by the intended uses. Seek opportunities to create new off-street loading for existing buildings.
- POLICY 2 Discourage access to off-street freight loading and service vehicle facilities from transit preferential streets, or pedestrian-oriented streets and alleys.
- OBJECTIVE 22 IMPROVE THE DOWNTOWN PEDESTRIAN CIRCULATION SYSTEM, ESPECIALLY WITHIN THE CORE, TO PROVIDE FOR EFFICIENT, COMFORTABLE, AND SAFE MOVEMENT.
- POLICY 1 Provide sufficient pedestrian movement space.
- POLICY 5 Improve the ambience of the pedestrian environment.
- OBJECTIVE 23 REDUCE HAZARDS TO LIFE SAFETY AND MINIMIZE PROPERTY DAMAGE AND ECONOMIC DISLOCATION RESULTING FROM FUTURE EARTHQUAKES.
- POLICY 2 Initiate orderly abatement of hazards from existing buildings and structures, while preserving the architectural and design character of important buildings.

The Project contributes to the objectives and policies of the Downtown Plan by adding desirable office space to the C-3-O District, an area zoned specifically for office use, where there is ample infrastructure to support such a project, thereby contributing to meeting the demand for office space and permitting the orderly expansion of the Financial District without overburdening transit or displacing housing.

29. Each and every finding contained in Motion No. 17470 granting approvals for the Project under Sections 321 and 322, as requested in Application No. 2006.1273B, are hereby incorporated by reference as though fully set forth herein.
30. The Commission hereby finds that granting the Project Authorization in this case will particularly promote the public welfare, convenience and necessity for the reasons set forth above.

DECISION

Therefore, the Commission, after carefully balancing the competing public and private interests, and after considering the criteria of Planning Code Section 309, hereby grants Project Authorization for an office and retail development with parking and open space at 535 Mission Street, subject to the conditions attached hereto as Exhibit A and the Mitigation Monitoring and Reporting Program attached hereto as Exhibit C.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this conditional use authorization to the Board of Appeals within fifteen (15) days after the date of this Motion No. 17469. 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 Street, Suite 3036, San Francisco, CA 94103.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission on August 2, 2007.

Linda Avery
Commission Secretary

AYES: Commissioners Alexander, Olague, Sue Lee, Bill Lee, Moore, Sugaya

NOES: None

ABSENT: Commissioner Antonini

ADOPTED: August 2, 2007

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.

This Authorization is pursuant to Section 309 and for an office project located at 535 Mission Street, south side between 1st and 2nd Streets, Lots 68 and 83 in Assessor's Block 3721, in a C-3-O (Downtown Office) District and a 550-S Height and Bulk District, in general conformance with the plans dated June 18, 2007 and marked "Exhibit B." The proposed project would demolish the existing surface parking lot on the site and construct a 27-story (plus mechanical penthouse), approximately 380-foot tall building containing 293,760 square feet of office space, approximately 3,700 square feet of retail space, and approximately 12,600 square feet of parking on one underground level with approximately 32 parking spaces using valet operation. The Project also includes approximately 6,000 square feet of open space in the form of a combination of exterior open space, interior greenhouse and improvements to Shaw Alley.

1. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct or to receive or apply for a building permit. The Project Sponsor must obtain a project authorization under Planning Code Section 309 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) This approval renders the previous residential and retail project approved for this site under Motion Nos. 17082 and 17083 null and void.

(B) Mitigation Measures. Mitigation Measures identified in the Final Mitigated Negative Declaration and the Mitigation Measures which remain current from the Final SEIR shall be conditions of approval and are accepted by the Project Sponsor or its successor in interest, as shown in Exhibit "C" attached.

(C) Community Liaison.

(1) The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties at all times during Project construction. **Prior to the commencement of Project construction**, the Project Sponsor shall give the Zoning Administrator and the owners of properties within 300 feet of the Project site boundaries written notice of the name, business address and telephone number of the community liaison.

- (2) Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code, and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may 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 Planning Code to consider revocation of this authorization.
 - (3) Should monitoring of the conditions of approval of this Motion be required, the Project Sponsor shall pay fees as established in Planning Code Section 351(e)(1).
- (D) Reporting. The Project Sponsor shall submit to the Zoning Administrator 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.
- (E) Performance.
- (1) The Commission may, in a public hearing, consider the revocation of this authorization under Section 309 if a site or building permit for the work has not been issued within eighteen (18) months of the date of this Motion. Once that site or building permit has been issued, construction must commence within the time frame required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revocation of this authorization if a permit for the project has been issued but is allowed to expire and more than eighteen (18) months have passed since the Motion was approved.
 - (2) This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection within eighteen (18) months is delayed by a City, State or Federal agency or by appeal of the issuance of such permit.
- (F) 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 until workers can park at the proposed project's parking garage.
 - (4) The project sponsor and construction contractor(s) shall meet with the Traffic Engineering Division of the Department of Parking and Traffic, the Fire Department, MUNI, and the Planning Department to determine feasible traffic mitigation measures to reduce traffic congestion and pedestrian circulation impacts during construction of the proposed project.
 - (5) The Project Sponsor and architects shall communicate and coordinate with the staff of the TransBay Joint Powers Authority (TJPA) and San Francisco Redevelopment Agency (SFRA) as needed regarding the proposed project and any potential impacts the project's construction might have on proposed plans for the TransBay Terminal and surrounding area.
- (G) Loading.
- (1) The Project Sponsor shall require that loading activities involving extended/extensive truck access to the Minna Street loading facilities, such as tenant move-in/move-out, be accomplished during off-peak nighttime (7:00 p.m. to 7:00 a.m.) and weekend hours.
 - (2) No delivery vehicles of any size shall park or idle on either side of Minna Street between First and Second Streets while waiting to access the loading facilities.
- (H) First Source Hiring Program. The Project is subject to and shall comply with 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. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction Program approved by the First Source Hiring Administrator, and evidenced in writing. Prior to the issuance of the First Certificate of Occupancy, the Project Sponsor shall have a First Source Hiring Occupancy Program approved by the First Source Hiring Administrator, and evidenced in writing.
- (I) 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) Recordation. Prior to the issuance of a building (or site) permit for the construction of the Project, the Project Sponsor shall execute and record a Notice of Special Restriction (Notice) at the Office of the County Recorder/County Clerk, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.
- (B) Transferable Development Rights. The Project Sponsor shall purchase the required number of TDR (equal to 146,880 square feet of floor area) and shall secure a Notice of Use of TDR. The Applicant shall effect the transfer of 146,880 square feet of proposed building addition to the Subject Property pursuant to the text of the attached Motion and the standards established in Planning Code Section 128.
- (C) Jobs-Housing Linkage Fee. The Project Sponsor shall pay the Jobs-Housing Linkage Fee as required by Planning Code Section 313. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application. This fee shall be paid to the San Francisco Redevelopment Agency.
- (D) Architectural Design.
- (1) Except as otherwise provided in this Motion, the Project shall be completed in compliance with the Planning Code and in general conformity with plans by HOK Architects, labeled "Exhibit B", and reviewed by the Planning Commission on August 2, 2007.
 - (2) Final detailed building plans shall be reviewed and approved by the Planning Department before issuance of the first addendum to the site permit. Detailed building plans shall include a final site plan, parking plan, open space and landscaping plans, floor plans, elevations, sections, specifications of finish materials and colors, and details of construction.
 - (3) 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 Director of the Department. Additional aspects of design development include, but are not limited to the curtain wall glazing, curtain wall framing finishes and framing pattern especially at the corner facade "chamfers" and the screening of rooftop mechanical equipment. The Project architect shall submit dimensional design drawings for building details with specifications and samples of materials to ensure a high quality design is maintained.

- (4) Highly reflective glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be permitted at pedestrian levels.
 - (5) The Project Sponsor and the Project architects shall also continue to work with Department staff on the design details (including materials) for the lower floor or floors of the building to ensure a quality of design at the street level appropriate for the project site and consistent with design guidelines in the Urban Design element and the Downtown Area Plan of the General Plan, including, but not limited to, the pavement on Shaw Alley and the accessibility of the seating inside the "greenhouse" open space.
- (E) Streetscape Improvements. The Project shall include pedestrian streetscape improvements generally as described in this Motion and in conformance with Planning Code Section 138.1 and the *Downtown Streetscape Plan*. 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 Director of the Department, in consultation with the Director of the Department of Public Works.
- (F) Open Space.
- (1) Final open space design, including materials and their treatment, furniture, the placement of paving, landscaping and structures in sidewalk areas and planting plan including species shall be submitted for review by, and shall be satisfactory to the Director of Planning and the Director of Public Works. Structures in the sidewalk area shall be subject to the approval of the City and shall be designed and placed in such a way as to minimize conflicts with pedestrians and shall comply with Section 138.1.
 - (2) Plans shall indicate that Shaw Alley will be paved with a high-quality stone material that is satisfactory to the Director of Planning and the Director of Public Works.
 - (3) The Project Sponsor and the project architect shall continue to work with Planning Department Staff to refine the design of the benches and the development of a water feature that could mitigate noise generated by the loading docks adjacent to the open space.
 - (4) The Project Sponsor shall work with Planning Department Staff on improving the design of the seating areas on Shaw Alley and the public open space areas, particularly where ambient wind speeds may exceed comfort levels for public seating areas and pedestrian use, as indicated by site conditions. The Project Sponsor will continue to work with Staff to adjust seating areas and refine amenity details of the public open space following completion of construction as deemed appropriate by the Planning Department.

- (5) The Project Sponsor will work with Staff to develop a written report to the Planning Commission detailing the results of these design refinements in terms of mitigating wind exceedances in the open space areas, including Shaw Alley. This report shall be submitted within 6 months of completion of construction.

(G) Public Art.

- (1) Pursuant to Section 149, the Project shall include the work(s) of art valued at an amount equal to one percent of the hard construction costs of 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 and final type of the art. The final art concept shall be submitted for review, and shall be satisfactory to the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept no later than 6 months after the date of this approval.

- (H) Signage. The Project Sponsor shall develop a signage program for the Project that shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the project.

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

4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY

- (A) Downtown Park Fee. The Project Sponsor shall pay the Downtown Park Fee as required by Planning Code Section 139. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application. This fee shall be paid to the San Francisco Redevelopment Agency.

(B) Child Care Brokerage Services and Fees.

- (1) The Project Sponsor shall execute an agreement with the Department and the Mayor's Office of Community Development for the provision of

childcare brokerage services and preparation of a childcare plan to be approved by the Director of Planning. The childcare plan and childcare brokerage services shall be designed to meet the goals and objectives set forth in Planning Code Section 165.

- (2) The Project Sponsor shall pay the Child Care Fee as required by Planning Code Section 314. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application. This fee shall be paid to the San Francisco Redevelopment Agency.
- (C) 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 the first certificate of occupancy, the Project Sponsor shall provide the Director with certification that the fee has been paid.
- (D) LEED Certification.
- (1) Should the project fail to attain at least a Gold certification in accord with this condition, the Project Sponsor will be in violation of this approval, and must file an application with the Planning Department to amend the conditions of approval at a public hearing. At that time, the Commission may require compliance with the certification requirements, or, if that is infeasible, may require other conditions and exactions to offset the expected increased environmental impacts resulting from the failure of the building to certify at the Gold level.
 - (2) The Project Sponsor is required to provide all tenants with a manual delineating green commercial interior construction and operation practices, and encouraging tenants to construct leasehold improvements in accord with the principles embodied in the USGBC LEED-CI checklist (v2.0, June 2005). The manual shall be approved as to form by the Zoning Administrator.
- (E) Streetscape Improvements.
- (1) The Project Sponsor shall complete the required pedestrian streetscape improvements and shall be responsible for the upkeep and maintenance of such improvements if they exceed City standards.
 - (2) Street trees shall be installed pursuant to the requirements set forth in Section 143, and as interpreted by the Zoning Administrator. The species and locations shall be subject to approval by the Department of Public Works.

(F) Open Space.

- (1) The publicly accessible open space areas described in this Motion and shown on Exhibit B shall be completed and made available for use. All such open areas shall be retained and maintained for the lifetime of the project.
- (2) The Project Sponsor shall install in the Project open space and shall thereafter maintain a map or diagram that shows the connection between the space and the downtown pedestrian network in the general vicinity of the Project. The materials, content and location of the map or diagram shall be submitted to the Director for approval prior to installation.
- (3) The Project Sponsor shall install at each entrance to the public open space, a sign with the public open space logo, hours of operation and maintenance contact. The materials, content and location of the sign shall be submitted to the Director for approval prior to installation.
- (4) The Project Sponsor together with the Department diligently pursue the required approvals from City departments having jurisdiction in order to gain all necessary approvals for the closure of Shaw Alley from 11:00 a.m. to 2:00 p.m. and related Shaw Alley pedestrian walkway improvements as shown in the final design submissions. If all required approvals are obtained, the Project Sponsor shall develop the Shaw Alley pedestrian walkway as part of the Project. If the partial closure of Shaw Alley is not approved by all required City agencies, the Project Sponsor shall fulfill the Shaw Alley portion of the Project's open space requirement by some other means pursuant to Section 138, or seek and justify a Variance.
- (5) To ensure the feasibility of the operation of the kiosk adjacent to the indoor greenhouse during weekday lunch hours (at a minimum 11:00 a.m. to 2:00 p.m.), the Project Sponsor will, if necessary, provide some form of support, such as reduced or waived rent.

(G) Public Art.

- (1) The Project Sponsor 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.

- (H) 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 meet 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 spaces shall be indicated on the building plans.

5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF THE FINAL CERTIFICATE OF OCCUPANCY

(A) LEED Certification.

- (1) The project is required to achieve a LEED-CS Gold certification (v2.0, July 2006), or better, from the USGBC within six months of issuance of the first Certificate of Occupancy. This time period may be extended at the discretion of the Zoning Administrator if it is demonstrated that any delays in certification are not attributable to the Project Sponsor.
- (2) The Project Sponsor shall provide evidence to the Zoning Administrator that a "green cleaning" program has been instituted at the site within one month of issuance of the first Certificate of Occupancy.

- (B) 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.

PLANNING COMMISSION
August 2, 2007

Case No. **2006.1273EKBX**
Address **535 Mission Street**
Assessor's Block & Lot **3271/ 68, 83**
Motion No. 17469
Page 36

EXHIBIT C

MITIGATION PROGRAM