



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JULY 28, 2016

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Date: July 18, 2016
Case No.: **2014.0409CUAVAR**
Project Address: **1740 MARKET STREET**
Zoning: NCT-3 (Moderate Scale Neighborhood Commercial Transit District)
Within ¼ Mile of an Existing Fringe Financial Service
85-X Height and Bulk District
Area Plan: Market and Octavia
Block/Lot: 0855/010
Project Sponsor: Warner Schmalz
Forum Design
1014 Howard Street
San Francisco, CA 94103
Staff Contact: Tina Chang – (415) 575-9197
tina.chang@sfgov.org
Recommendation: **Approval with Conditions**

PROJECT DESCRIPTION

The proposed project includes demolition of an existing two-story commercial building and new construction of an nine-story (eight-story or residential uses over ground-floor retail), 87,781 square foot mixed-use building with 100 dwelling units, 4,385 square feet of ground floor commercial space and 170 bicycle parking spaces (160 Class 1, 10 Class 2). The project is located on a triangular shaped lot on Market Street near the Octavia Boulevard intersection. The project removes two existing driveways that will no longer be used, and restores the street wall along Market Street on the west side of the property currently occupied by two off-street parking spaces and trash bins. The project features retail, a residential lobby, bike room, storage and utility space on the ground floor. The dwelling unit mix includes 6 studios and 44 one-bedroom units, 35 two-bedrooms and 15 three-bedroom units. Usable open space is provided via private balconies, a common roof deck and rear yard. No off-street parking is provided. Since the lot exceeds 10,000 square feet, a Conditional Use authorization is required for lot size. The project also requires a rear yard modification and variance from exposure requirements for 23 dwelling units.

SITE DESCRIPTION AND PRESENT USE

The proposed project is located on a triangle shaped lot located on the north side of Market Street near Octavia Boulevard. The total lot area is 13,642 square feet and currently occupied by a two-story commercial building. The ground floor retail space contains approximately four retail spaces, of which three appear vacant. The fourth is occupied by a limited-restaurant doing business as Proposition Chicken. The second floor is occupied by offices. The façade faces south towards Market Street and is

approximately 177-feet wide. The building was constructed circa 1940 and was found to have lost integrity of design, materials, workmanship, feeling and association through conversion of the upper stories, multiple alterations to ground floor storefronts and windows; removal of a portion of the roof parapet; and removal of a portion of the building for construction of the Central Freeway. Due to the loss of integrity, the building is not eligible for the National Register of Historic Places, California Register of Historical Resources or local designation under any criterion.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is prominently located on Market Street near the Octavia Boulevard intersection in the Western Addition neighborhood, at the confluence of the Hayes Valley, Mission, Downtown / Civic Center and South of Market neighborhoods. The surrounding mixed-use area contains diverse building types including residential, office, educational, civic and commercial structures.

The project site is located within the NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District, and the Market and Octavia Area Plan. NCT-3 Districts are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCT-3 Districts are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. NCT-3 Districts are intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. A number of similarly sized projects have recently been constructed within the NCT-3 District along Market Street, including 8 Octavia, Linea at 8 Buchanan, The Center at 1800 Market Street, Venn at 1844 Market Street and 38 Dolores Street.

Approximately one block to the west of the subject property, immediately west of Octavia Boulevard, the neighborhood transitions to an RTO (Residential, Transit-Oriented Neighborhood) District, characterized by a mixture of houses and apartment buildings, covering a range of densities and building forms. RTO Districts are composed of multi-family moderate-density areas.

About a block to the east, starting at Franklin Street, the neighborhood transitions to a C-3-G (Downtown General Commercial) Zoning District where a number of high density mixed-use development projects are in the pipeline, including the nearly completed 100 Van Ness Avenue project, 30 Van Ness Avenue, 1540 Market Street, 1 Franklin Street, 10 South Van Ness Avenue, the Goodwill campus, 1601 Mission Street and the proposed project at 150 Van Ness Avenue.

Immediately adjacent to the subject property on the west is an eight-story, mixed-use residential-over-ground floor commercial structure known as 8 Octavia. Immediately to the east at 11 and 33 Haight Street are two, four-story buildings containing approximately 22 dwelling units. At the end of the block is 1700 Market Street, currently occupied by a retail store doing business as Fast Frame, however an eight-story, 31,673 square-foot building containing 42 dwelling units is proposed for the site.

ENVIRONMENTAL REVIEW

On July 21, 2016, the Planning Department of the City and County of San Francisco determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Market and Octavia Area Plan and was encompassed within the analysis contained in the

Final EIR. Since the Final EIR was finalized, there have been no substantial changes to the Market and Octavia Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Market and Octavia Area Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Market and Octavia Area Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	July 8, 2016	July 6, 2016	22 days
Posted Notice	20 days	July 8, 2016	July 8, 2016	20 days
Mailed Notice	10 days	July 8, 2016	July 8, 2016	20 days

PUBLIC COMMENT & COMMUNITY OUTREACH

- **Public Comment.** To date, the Department has received four letters from the adjacent property at 33 Haight Street, expressing opposition to the project for the proposal's impact on light and air to their property. The Department has also received one letter of support from the Hayes Valley Neighborhood Association.
- **Community Outreach.** The project sponsor has conducted meetings with adjacent properties and neighborhood groups since 2014, before an application was submitted to the Planning Department.

ISSUES AND OTHER CONSIDERATIONS

- **Affordable Housing.** The project proposes on-site affordable housing pursuant to Section 415.6, which currently requires 12 percent on-site affordable units. The project proposes 100 units, therefore 12 affordable units are required.
- **Lot Size.** The project is located on a parcel that exceeds 10,000 square feet, which requires Conditional Use authorization pursuant to Planning Code Sections 303, 121.1 and 731.11.
- **Exposure.** The project requires a variance exposure for 23 of the units that expose onto the inner courtyard at the rear, which is not a Code-compliant rear yard, and do not meet the dimensional requirements per Section 140.
- **Rear yard.** The project is seeking a rear yard reduction pursuant to Sections 249.5 and 134(e), which is permitted in Neighborhood Commercial Districts.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization to approve development on a lot exceeding 10,000 square feet in size to allow the establishment of a mixed-used, 9-story, approximately 83-foot tall, 88,000 gross square feet building, containing 100 dwelling units, approximately 4,385 square feet of ground floor retail, and 170 bicycle parking spaces (160 Class 1, 10 Class 2) within an NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District, and an 85-X Height and Bulk District pursuant to Planning Code Sections 303, 121.1 and 731.11.

BASIS FOR RECOMMENDATION

- The project would add 100 dwelling units to the City's housing stock, in a walkable and transit-rich area suited for dense, mixed-use development.
- The project would replace an underutilized lot with housing and retail, activating Market Street.
- The project is compatible with the surrounding neighborhood character in terms of height, scale and massing.
- The project is desirable for, and compatible with the surrounding neighborhood.

RECOMMENDATION:	Approval with Conditions
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Attachments:

Draft Motion for Conditional Use Authorization

Exhibits:

Parcel Map
Sanborn Map
Zoning Map
Aerial Photograph
Site Photograph

First Source Affidavit

Anti-Discriminatory Housing Policy Affidavit

Affordable Housing Affidavit

Draft Costa Hawkins Agreement

Exhibit B – Proposed Plans

Attachment Checklist

☒ Executive Summary

☒ Draft Motion

☐ Environmental Determination

☒ Zoning District Map

☐ Height & Bulk Map

☒ Parcel Map

☒ Project sponsor submittal

☐ Letter

☐ Letter in support

Drawings: Proposed Project

☐ Check for legibility

Health Dept. review of RF levels

☐ RF Report



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input checked="" type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other (Rincon Hill Impact Fees) |

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Planning Commission Draft Motion

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Recommendation: **Approval with Conditions**

ADOPTING FINDINGS GRANTING CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303, 121.1 AND 731.11 TO ALLOW THE DEVELOPMENT OF A LOT SIZE GREATER THAN 10,000 SQUARE FEET ASSOCIATED WITH THE PROPOSAL TO CONSTRUCT AN 9-STORY 87,781 GROSS SQUARE FOOT BUILDING WITH 100 DWELLING UNITS AND 4,385 SQUARE FEET OF COMMERCIAL SPACE ON A LOT CURRENTLY OCCUPIED BY A TWO-STORY COMMERCIAL BUILDING, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PROJECT SITE IS LOCATED WITHIN THE NCT-3 (MODERATE SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND AN 85-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 1, 2015, Warner Schmalz on behalf of DIVCO Group, LLC (hereinafter "Project Sponsor") filed Application No. 2014.0409CUAENV (hereinafter "Application") with the Planning Department (hereinafter "Department") seeking authorization to modify the dwelling unit mix requirement pursuant

to Planning Code Section 207.6, to develop a lot larger than 10,000 square feet pursuant to Planning Code Section 121.1, 731.11 and 303, and for the environmental review associated with the new construction of a 9-story building with 100 dwelling units at 1740 Market Street (Block 0855, Lots 010), within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District and a 85-X Height and Bulk District. The project proposes 6 studio and 44 one-bedroom units, 35 two-bedroom units and 15 three-bedroom units, no off-street parking, a modification from the required rear yard and a variance from Planning Code Section 140, for units that do not meet the exposure requirement.

On October 19, 2015, the Project Sponsor updated the Application the Department remove the request to modify the dwelling unit mix requirement pursuant to Planning Code Section 207.6. The request to develop a lot larger than 10,000 square feet pursuant to Planning Code Section 121.1, 731.11 and 303, associated with the new construction of a 9-story building with 100 dwelling units at 1740 Market Street (Block 0855, Lots 010), within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District and a 85-X Height and Bulk District remained.

On October 27, 2015, the Project Sponsor filed a request for the granting of Variances, Case No. 2014.0409VAR with the Department for a modification from the required rear yard pursuant to Planning Code Section 134(e) and a variance from Planning Code Section 140, for units that do not meet the exposure requirement.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Market and Octavia Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on April 5, 2007, by Motion No. 17406, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter "CEQA"). The certification of the EIR was upheld on appeal to the Board of Supervisors at a public hearing on June 19, 2007. The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Market and Octavia Area Plan, the Commission adopted CEQA Findings in its Motion No. 17406 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse

impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On **July 21, 2016**, the Planning Department of the City and County of San Francisco determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Market and Octavia Area Plan and was encompassed within the analysis contained in the Final EIR. Since the Final EIR was finalized, there have been no substantial changes to the Market and Octavia Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Market and Octavia Area Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

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The Planning Department, Jonas O. Ionin, is the custodian of records, located in the File for Case No. 2014.0409CUAVAR at 1650 Mission Street, 4th Floor, San Francisco, California.

On July 28, 2016, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014.0409CUAVAR.

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

MOVED, that the Commission hereby approves the Conditional Use authorization to develop a lot greater than 10,000 square feet pursuant to Planning Code Sections 121.1, 731.11 and 303 for Case No. 2014.0409CUAVAR, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The proposed project is located on a triangle shaped lot located on the north side of Market Street near Octavia Boulevard. The total lot area is 13,642

square feet and currently occupied by a two-story commercial building. The ground floor retail space contains approximately four retail spaces, of which three appear vacant. The fourth is occupied by a limited-restaurant doing business as Proposition Chicken. The second floor is occupied by offices. The façade faces south towards Market Street and is approximately 177-feet wide. The building was constructed circa 1940 and was found to have lost integrity of design, materials, workmanship, felling and association through conversion of the upper stories, multiple alterations to ground floor storefronts and windows; removal of a portion of the roof parapet; and removal of a portion of the building for construction of the Central Freeway. Due to the loss of integrity, the building is not eligible for the National Register of Historic Places, California Register of Historical Resources or local designation under any criterion.

3. **Surrounding Properties and Neighborhood.** The project site is prominently located on Market Street near the Octavia Boulevard intersection in the Western Addition neighborhood, at the confluence of the Hayes Valley, Mission, Downtown / Civic Center and South of Market neighborhoods. The surrounding mixed-use area contains diverse building types including residential, office, educational, civic and commercial structures.

The project site is located within the NCT-3 Moderate-Scale Neighborhood Commercial Transit Zoning District, and the Market and Octavia Area Plan. NCT-3 Districts are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCT-3 Districts are mixed use districts that support neighborhood-serving commercial uses on lower floors and housing above. NCT-3 Districts are intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. A number of similarly sized projects have recently been constructed within the NCT-3 District along Market Street, including 8 Octavia, Linea at 8 Buchanan, The Center at 1800 Market Street, Venn at 1844 Market Street and 38 Dolores Street.

Approximately one block to the west of the subject property, immediately west of Octavia Boulevard, the neighborhood transitions to an RTO (Residential, Transit-Oriented Neighborhood) District, characterized by a mixture of houses and apartment buildings, covering a range of densities and building forms. RTO Districts are composed of multi-family moderate-density areas.

About a block to the east, starting at Franklin Street, the neighborhood transitions to a C-3-G (Downtown General Commercial) Zoning District where a number of high density mixed-use development projects are in the pipeline, including the nearly completed 100 Van Ness Avenue project, 30 Van Ness Avenue, 1540 Market Street, 1 Franklin Street, 10 South Van Ness Avenue, the Goodwill campus, 1601 Mission Street and the proposed project at 150 Van Ness Avenue.

Immediately adjacent to the subject property on the west is an eight-story, mixed-use residential-over-ground floor commercial structure known as 8 Octavia. Immediately to the east at 11 and 33 Haight Street are two, four-story buildings containing approximately 22 dwelling units. At the end of the block is 1700 Market Street, currently occupied by a retail store doing business as Fast

Frame, however an eight-story, 31,673 square-foot building containing 42 dwelling units is proposed for the site.

4. **Project Description.** The proposed project includes demolition of an existing two-story commercial building and new construction of an nine-story (eight-story or residential uses over ground-floor retail), 87,781 square foot mixed-use building with 100 dwelling units, 4,385 square feet of ground floor commercial space and 170 bicycle parking spaces (160 Class 1, 10 Class 2). The project is located on a triangular shaped lot on Market Street near the Octavia Boulevard intersection. The project features retail, a residential lobby, bike room, storage and utility space on the ground floor. The dwelling unit mix includes 6 studios and 44 one-bedroom units, 35 two-bedrooms and 15 three-bedroom units. Usable open space is provided via private balconies, a common roof deck and rear yard. No off-street parking is provided.
5. **Public Comment.** As of July 12th, 2016 the Department received one letters of support for the proposed project from the following:
 - Hayes Valley Neighborhood Association's Transportation & Planning Committee
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Lot Size (Section 121.1, 731.11).** Development on lots smaller than 9,999 square feet are principally permitted, whereas those on lots that are 10,000 square feet or larger require Conditional Use authorization.

The subject lot is 13,642 square feet, which exceeds 10,000 square feet and therefore requires Conditional Use authorization. Conditional Use authorization findings can be found under item 7. of this motion.

- B. **Floor Area Ratio (Section 124).** The floor area ratio (FAR) limit as defined by Planning Code Section 124 for the NCT-3 District is 3.6 to 1. Section 124(b) provides that in NC Districts floor area ratio limits shall not apply to dwellings or other residential uses.

The base FAR of 3.6 permits a 49,111 gross square foot (gsf) structure. Though the project proposes a 87,781 gsf building yielding a FAR of 6.4 to 1.0, the proposed 83,396 gsf of residential space can be excluded from the FAR calculation pursuant to Planning Code Section 124(b). Therefore, the remaining floor area attributed to non-residential use of 4,385 gsf on a 13,642 square foot lot yields a FAR of 0.32 to 1.0 - well within the base FAR of 3.6 to 1.0.

- C. **Rear Yard (Section 134).** Planning Code Section 134 requires that projects in NC Zoning Districts provide a minimum rear yard depth equal to 25 percent of the total depth of the lot on which the building is situated, but in no case less than 15 feet. In the NCT-3 Zoning District rear yards must be provided at the lowest story containing a dwelling unit and at each succeeding story of the building.

The Project is required to provide a 35 foot rear yard beginning at the second floor, where the first dwelling units are located and at each succeeding story of the building. The lot nearly forms an equilateral triangle, with a lot depth of approximately 140 feet-3.5 inches.

If one draws a line from the front lot line to the rear of the lot, the depth measures approximately 145 feet -4.5 inches. However, per Section 130(d), where the side lot lines converge to a point, a line five feet long within the lot parallel to and at a maximum distance from the front lot line shall be demand to be the rear lot line for the purposes of determining the depth of the rear yard. Rather than a Code-compliant rear yard that measures 35 feet of lot depth and provides approximately 1,108 square feet, the project proposes a courtyard that measures approximately 50-feet wide by 110-feet deep and provides approximately 2,278 square feet of open space in a form that is more compatible with the existing pattern of open space. Since the rear yard open space varies from a Code-compliant rear yard, the a modification of the rear yard requirements from the Zoning Administrator is requested, as permitted in Planning Code Section 134(e), which allows the rear yard requirement in NC Districts to be modified so long the following criteria are met:

1. Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and

The project includes 100 new dwelling units, and approximately 7,551 square feet of common open space is provided on the roof of the structure. A Code-compliant rear yard of 35-feet would yield an open space of approximately 1,108 square feet, less than the amount of open space proposed for the project. The project also provides approximately 2,278 square feet of open space at the 2nd level in the form of an inner court. However, this will not be used to meet the project's open space requirement.

2. The proposed new or expanding structure will not significantly impede the access of light and air to and view from adjacent properties;

Approximately 37-feet of the proposed building will be built to the eastern property line, which is shared with properties fronting Haight Street. To provide adequate light and air and reduce the impact to views for the buildings nearest to the subject property line, a side setback of 22-feet is being provided.

3. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

The proposed courtyard is more consistent with the existing pattern of the interior block open space than a Code-compliant rear yard would be, in that it more closely matches the location of existing open space. A Code-compliant rear yard, on the other hand, would have greater building mass along the eastern property line detracting from the existing open space pattern.

- D. **Residential Open Space (Section 135).** Planning Code Section 135 requires 80 sf of private open space per dwelling unit or 100 sf of common open space per dwelling units. Private open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 square feet if located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 sf if located on open ground, a terrace or the surface of an inner or outer court. Common usable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 square feet. Inner courts may be credited as common usable open space if the enclosed space is not less than 20 feet in every horizontal dimension and 400 sf in area, and if the height of the walls and projections above the court on at least three sides is such that no point on any such wall or projection is higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court. Further, units that measure less than 350 square feet require one third the amount of required open space per dwelling unit.

The Project has elected to meet the majority of open space requirements pursuant to Section 135 through a common roof deck. While private decks are provided for 5 units at the second level, only one private deck provided at the third level is being used to meet open space requirements. The project requires approximately 7,113 square feet of common open space (56 units that require 100 square feet of open space, and 43 units that are less than 350 square feet and require approximately 1,433 square feet of open space). The proposed roof deck is 7,551 square feet, satisfying the Planning Code requirement.

- E. **Streetscape and Pedestrian Improvements (Section 138.1).** Planning Code Section 138.1 requires one new street tree for every 20 feet of street frontage for projects proposing new construction. A streetscape and pedestrian elements in conformance with the Better Street Plan is required for all projects that contain development on lots with more than 250 feet of total frontage along one or more public rights-of-way and that propose new construction.

The project includes the new construction of a nine-story residential building on a lot with approximately 177-feet of frontage along Market Street. Therefore, the Project is not required provide streetscape improvements per Section 138.1. However, the project will remove two curb-cuts for driveways that will no longer be used.

- F. **Bird Safety (Section 139).** Planning Code Section 139 outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The subject lot is not located in close proximity to an Urban Bird Refuge. The Project meets the requirements of feature-related standards and does not include any unbroken glazed segments 24-sq ft. and larger in size; therefore, the Project complies with Planning Code Section 139.

- G. **Dwelling Unit Exposure (Section 140).** Planning Code Section 140 requires that at least one room of all dwelling units face directly onto 25 of open area (a public street, alley or side yard) or onto an inner courtyard that is 25 feet in every horizontal dimension for the floor at

which the dwelling unit in question is located and the floor immediately above it, with an increase in five feet in every horizontal dimension at each subsequent floor.

Twenty-three (23) of the 100 units do not face a Code-compliant rear yard or open space that meets the dimensional requirements pursuant to Section 140. Therefore a variance from exposure requirements is required.

- H. **Street Frontage in Commercial Districts (Section 145.1).** Planning Code Section 145.1(c)(3) requires that within Neighborhood Commercial Districts, space for “active uses” shall be provided within the first 25 feet of building depth on the ground floor. Spaces accessory to residential uses, such as fitness or community rooms are considered active uses only if they meet the intent of this section and have access directly to the public sidewalk or street. Building systems including mechanical, electrical and plumbing features may be exempted from this requirement by the Zoning Administrator only in instances where those features are provided in such a fashion as to not negatively impact the quality of the ground floor space.

Planning Code Section 145.1(c)(4) requires that ground floor non-residential uses in NCT Zoning Districts have a minimum floor-to-floor height of 14 feet. Planning Code Section 145.1(c)(5) requires the floors of street-fronting interior spaces housing non-residential active uses and lobbies to be as close as possible to the level of adjacent sidewalks at the principal entrances to these spaces. Planning Code Section 145.1(c)(6) requires frontages with active uses that are not residential or PDR to be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

The Project provides active uses along all frontages with direct access to the sidewalk within the first 25 feet of building depth and is thus compliant with this Code Section, with the exception of mechanical and utility spaces as permitted by the Planning Code. The Project provides a 15-foot, 1.5-inch floor-to-floor ground floor height as measured from Market Street where a minimum 14’ height is required. Approximately 80 percent of the non-residential uses along the Market Street frontage is transparent. Therefore, the Project fully complies with Planning Code Sections 145.1.

- I. **Section 151. Off-Street Parking:** Planning Code Section 151 requires one off-street parking space per dwelling units. However, pursuant to Planning Code Section 150 off-street parking spaces may be reduced and replaced by bicycle parking spaces based on Planning Code established standards.

The Project does not provide any off-street parking and takes advantage of the provisions permitting in Planning Code Section 150 to provide bicycle parking instead. Per Planning Code Section 155, 100 Class 1 and seven (7) Class 2 bicycle parking spaces are required. The Project provides 160 Class 1 and 10 Class 2 bicycle parking spaces. The Class 1 spaces are located in a bike room on the ground floor while 10 Class 2 bicycle parking spaces are provided along the Market Street frontage.

- J. **Dwelling Unit Mix (Section 207.6).** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

For a project containing 100 dwelling units, the project is required to provide at least 40 two-bedroom or larger units or 30 three-bedroom or larger units. The project provides six studio, 44 one-bedroom, 35 two-bedroom and 15 three-bedroom units. Fifty percent of the units in the project contain two or more bedrooms; therefore the project exceeds Planning Code requirements and complies with Section 207.6. The project does not meet the requisite unit-mix; therefore requiring the subject Conditional Use Authorization.

- K. **Density (Section 731.91).** The NCT-3 Zoning District does not provide a density limit for residential uses by lot area, but complies with applicable requirements and limitations elsewhere in the Planning Code as well as the Market & Octavia Area Plan Objectives and Policies.

The Project proposes 100 dwelling units, satisfying the Market & Octavia Area Plan Objectives and Policies, and other Planning Code requirements, with two exceptions requested (Rear Yard Modification, Section 134; Variance from exposure per Section 140). The Market & Octavia Area Plan encourages a mix of unit sizes to accommodate a variety of housing and household types, such as student, extended family, or artist housing, as well as development on small and irregular lots. The project provides a wide range of unit types, fulfilling objectives of the Market & Octavia Area Plan.

- L. **Uses (Sections 731.40-731.90).** The Project Site is located in a Moderate Scale Neighborhood Commercial Transit District (NCT-3) District wherein residential and neighborhood commercial uses are permitted, such as retail, offices, restaurants, bars and moderately high-density residential.

The Project proposes a primarily residential use building with ground floor retail, both of which are principally permitted in the NCT-3 Zoning District.

- M. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the current Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 12% of the proposed dwelling units as affordable. This requirement is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. Recently adopted Ordinance No. 76-16 (File No. 160255) will become effective after the election is certified and includes grandfathering provisions for projects that were submitted to the Planning Department prior to January 12, 2016.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on July 7, 2016 and a draft of the Costa Hawkins agreement on July 6, 2016. The EE application was submitted on January 1, 2015. Pursuant to Planning Code Section 415.3 and 415.6 the current on-site requirement is 12%. Twelve units (1 studio, 5 one-bedroom, 4 two-bedroom, and 2 three-bedroom) of the 100 units provided will be affordable rental units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable. The Project must execute the Costa Hawkins agreement prior to Planning Commission approval or must revert to payment of the Affordable Housing Fee.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with the criteria of Section 303, in that:
 - N. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or community.

The Project will revitalize an underutilized, 13,642 square foot parcel with a mixed-use, residential development over ground floor commercial, providing 100 units of housing. San Francisco has an acute need for high-density residential development near transit services as encouraged by the Market & Octavia Area Plan. Providing a total of 100 dwelling units in the Market & Octavia area will assist in alleviating the City's housing shortage for numerous individuals and households. The Project has no off-street parking, encouraging future residents and neighborhood shoppers to walk, bike or use the amply available public transit. The active retail use at the ground floor will enliven the Market Street frontage, creating vibrancy in the area, activating the streetscape and providing visual interest for pedestrians at a prominent site location. The Project is compatible with the neighborhood and

community in terms of use and scale; and offers residents access to important amenities and support services.

- O. The use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:
- i. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures.

The project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity with respect to the nature of the proposed site, including its shape and size and arrangement of structures.

The Project will incorporate a contemporary building façade with a design character and shape which will positively anchor this prominent frontage of Market Street at the terminus of Valencia Street.

To be more in keeping with the existing pattern of open space immediately to the rear of the property, the project provides an inner court rather than a Code-compliant rear yard, which would more greatly impact the adjacent properties.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code.

The Project Site is located within an urban context, where convenience goods and services are available within walking distance. Given the proximity of multiple public transit alternatives (BART, Golden Gate Transit, MUNI, and SamTrans). The Project will not provide off-street parking, consistent with the goals of the Market & Octavia Plan, and instead will provide bicycle parking on the ground floor that exceeds Planning Code requirements, incentivizing Project residents and neighborhood shoppers to walk, bike, or use readily-available public transit options.

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

The Project includes residential and commercial uses that are typical of the Market Octavia Plan Area, and will not introduce any permanent operational noises or odors that are detrimental, excessive, or atypical for the Plan Area. Although construction will cause a temporary increase in noise, it will be limited in duration, and the Project Sponsor will fully comply with San Francisco's Noise Ordinance, which prohibits excessive noise levels from construction activity and limits permitted working hours when the Project is being built. The Project Sponsor will design building materials to avoid mirrored glass and other highly reflective materials to avoid offensive glare.

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

The Project will provide a rooftop open space, built with the high quality design amenities and accessibility for all of the Project's residents.

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

The Project generally complies with the applicable sections of the Code. The residential uses contemplated for the Project are permitted within the NCT-3 District. The Project complies with use and density requirements. The Project Site is well-served by transit and commercial services, allowing residents to commute, shop and reach amenities by walking, transit and bicycling. The Project conforms with multiple goals and policies of the General Plan, as follows

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The project provides a wide range of unit-types, ranging from studios to three-bedroom units, adding variety to the current dwelling-unit mix, City wide, and particularly throughout the Market & Octavia Plan Area. The project will also provide on-site affordable units, which will provide opportunities for affordable housing to the City.

Policy 2.2.1

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The project will provide a high-density mixed-use project with 100 new residential units on a triangular-shaped lot Market Street, a prime location of non-automobile transit. The project will not provide off-street parking, encouraging its residents and neighborhood shoppers to walk, bike, or utilize many of the nearby public transit options in the vicinity. One hundred 160 Class 1 and 10 Class 2 bicycle parking spaces will be available for residents and visitors. Finally, the project will provide on-site affordable units, which will provide opportunities for affordable housing to the City.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

OBJECTIVE 5

ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4

Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

This project satisfies these policies by providing a wide-range of unit types, including on-site affordable housing, for individuals and families of different sizes and household incomes.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The project will remove two driveways and reinstate the sidewalk to help improve the pedestrian environment along the building's Market Street frontage.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

The Project includes 160 Class 1 bicycle parking spaces and ten (10) Class 2 bicycle parking spaces in secure, convenient locations, exceeding Planning Code requirements, requiring 100 Class 1 and seven (7) Class 2 Parking spaces

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project proposes no off-street parking, encouraging a pedestrian and bicyclist life-style and does not propose any new curb cuts, maintaining the number of existing on-street parking spaces.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.7:

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

The project is located within a Moderate Scale Neighborhood Commercial Transit within the Market & Octavia Area Plan, which is a confluence of a number of mixed-use, commercial and civic neighborhoods. As such, the Project provides street façades that respond to form, scale and material palette of the new construction in the neighborhood. The Project uses a mix of high quality building materials including ceramic or porcelain tiles, metal panels, plaster and glass to provide three dimensional detailing.

OBJECTIVE 4:

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

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The project site has approximately 177-feet of street frontages without any vehicular access, thus limiting conflicts with pedestrians and bicyclists.

MARKET & OCTAVIA AREA PLAN

LAND USE AND URBAN FORM

Objective 1.1

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

Policy 1.1.2

Concentrate more intense uses and activities in those areas best served by transit and most accessible on foot.

Policy 1.1.3

Encourage housing and retail infill to support the vitality of the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts.

Policy 1.1.9

Allow small-scale neighborhood-serving retail and other community-serving uses at intersection in residential districts.

This Project provides a higher-density mixed-use residential-over commercial use near a variety of transit services at the Market and Van Ness intersection. The Project also satisfies the policy to provide infill retail and residential development, as the project will replace an underutilized site with a new 9-story mixed use structure in an NCT-3 zoning district. Finally, by providing a 4,385 square foot retail space on the ground floor at terminus of Valencia Street, the Project will allow for small-scale, neighborhood-serving retail opportunities.

HOUSING

Objectives and Policies

OBJECTIVE 2.2

ENCOURAGE THE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

Policy 2.2.1

Eliminate housing density maximums close to transit and services.

Policy 2.2.2

Ensure a mix of unit sizes is built in new development and is maintained in existing housing stock.

Policy 2.2.4

Encourage new housing above ground-floor commercial uses in new development and in expansion of existing commercial buildings.

The project satisfies this policy. The project takes advantage of the relaxed density restrictions in the Market & Octavia Plan Area by proposing a mixed-use project with 100 units, of which 6 are studio, 44 are one-bedroom, 35 are two-bedroom and 15 are three-bedroom units. The residential units will be built above ground-floor commercial space. The project will not provide off-street parking, encouraging its residents and neighborhood shoppers to walk, bike or utilize the many existing transit options. As encouraged in Policy 2.2.2., the new development provides a wide-range of unit types and sizes.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The proposed project will replace an outdated, small two-story retail space with a new 4,385 square foot ground-floor retail space which will add vitality and amenity to this location. There will be similar employment and job opportunities for the new project as compared to the existing building.

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

No housing currently exists on the project site. The project will provide 100 new dwelling units, thus resulting in a significant increase in the neighborhood housing stock. The neighborhood character and street activation will be enriched by the new mixed-use project.

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

The City's supply of affordable housing will be increased with this project. The project sponsor will provide on-site affordable units, compliant with Planning Code Section 415.5.

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

The project does not include any on-site parking. The use of Muni and all public transit will be sustained by the construction of this project. Commuter traffic will not be increased by this project.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project would not displace any industrial or service sectors, nor will City resident employment be negatively impacted.

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

The project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no landmarks or historic buildings on the project site.

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

The project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

11. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. 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 and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The project sponsor completed the First Source Hiring Affidavit on July 7, 2016.

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization No. 2014.0409CUAVAR** under Planning Code Sections 303, 121.1 and 731.11 to allow development of a lot exceeding 10,000 square feet in size, within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District, and a 85-X Height and Bulk District. The project also seeks modification from the rear yard requirements per Planning Code Section 134 and a Variance from Planning Code Section 140, as approximately 23 units do not comply with exposure requirements per Section 140 of the Planning Code. The project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated July 7, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

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

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309.1 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 28, 2016.

Draft Motion
Hearing Date: July 28, 2016

CASE NO. 2014.0409CUAVAR
1740 Market Street

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 28, 2016

EXHIBIT A

AUTHORIZATION

This authorization is for a Conditional Use development of a lot exceeding 10,000 square feet in size, pursuant to Planning Code Sections 303, 121.1 and 731.11 within the NCT-3 (Moderate Scale Neighborhood Commercial Transit) Zoning District, and a 85-X Height and Bulk District; in general conformance with plans, dated July 7, 2016 and stamped "EXHIBIT B" included in the docket for Case No. 2014.0409CUAVAR and subject to conditions of approval reviewed and approved by the Commission on July 28, 2016 under Motion No. []. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 28, 2016 under Motion No. [].

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. [] shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. 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 remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Mitigation Measures.** Mitigation measures described in the MMRP for the Market & Octavia Community Plan Exemption (Case No. 2014.0409ENV) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

7. **Additional Project Authorization.** The Project Sponsor must obtain a modification and variance from the Zoning Administration to address the requirements for rear yard (Planning Code Section 134) and permitted obstructions over a street, alley, setback or usable open space (Planning Code Section 136). 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.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

ENTERTAINMENT COMMISSION – NOISE ATTENUATION CONDITIONS

Chapter 116 Residential Projects. The Project Sponsor shall comply with the “Recommended Noise Attenuation Conditions for Chapter 116 Residential Projects,” which were recommended by the Entertainment Commission on August 25, 2015. These conditions state:

8. **Community Outreach.** Project Sponsor shall include in its community outreach process any businesses located within 300 feet of the proposed project that operate between the hours of 9PM-5AM. Notice shall be made in person, written or electronic form.
9. **Sound Study.** Project sponsor shall conduct an acoustical sound study, which shall include sound readings taken when performances are taking place at the proximate Places of Entertainment, as well as when patrons arrive and leave these locations at closing time. Readings should be taken at locations that most accurately capture sound from the Place of Entertainment to best of their ability. Any recommendation(s) in the sound study regarding window glaze ratings and soundproofing materials including but not limited to walls, doors, roofing, etc. shall be given highest consideration by the project sponsor when designing and building the project.
10. **Design Considerations.**
 - a. During design phase, project sponsor shall consider the entrance and egress location and paths of travel at the Place(s) of Entertainment in designing the location of (a) any entrance/egress for the residential building and (b) any parking garage in the building.
 - b. In designing doors, windows, and other openings for the residential building, project sponsor should consider the POE’s operations and noise during all hours of the day and night.

11. **Construction Impacts.** Project sponsor shall communicate with adjacent or nearby Place(s) of Entertainment as to the construction schedule, daytime and nighttime, and consider how this schedule and any storage of construction materials may impact the POE operations.
12. **Communication.** Project Sponsor shall make a cell phone number available to Place(s) of Entertainment management during all phases of development through construction. In addition, a line of communication should be created to ongoing building management throughout the occupation phase and beyond.

DESIGN – COMPLIANCE AT PLAN STAGE

13. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
14. **Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
15. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application for each building. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
16. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
 - a. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
 - b. On-site, in a driveway, underground;

- c. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- d. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- e. Public right-of-way, underground; and based on Better Streets Plan guidelines;
- f. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- g. On-site, in a ground floor façade (the least desirable location).
- h. Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

17. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415-701-4500, www.sfmta.org

18. **Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, "Background Noise Levels," of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

19. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

20. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 100 Class 1 bicycle parking spaces and 7 Class 2 bicycle parking spaces (100 Class 1 and 5 Class 2 spaces for the residential portion and 2 Class spaces for the commercial portion).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

21. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco

Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

- 22. Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

- 23. First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

- 24. Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

- 25. Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

- 26. Market & Octavia Affordable Housing Fee.** Pursuant to Planning Code Section 416, the Project Sponsor shall pay the Market & Octavia Affordable Housing Fee prior to the City's issuance of the first construction document, with an option for the project sponsor to defer payment to prior to the issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

- 27. Market & Octavia Community Infrastructure Fee.** Pursuant to Planning Code Section 421, the Project Sponsor shall pay the Market & Octavia Community Improvements Fee prior to issuance of the first construction document, with an option for the project sponsor to defer payment to prior to the issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING AFTER ENTITLEMENT

28. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

29. **Revocation Due to Violation of Conditions.** 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 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 to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

30. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

31. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

32. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org.

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org.

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

33. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

34. **Lighting.** All Project lighting shall be directed onto the project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

INCLUSIONARY HOUSING

35. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is currently required to provide 12% of the proposed dwelling units as affordable to qualifying households, but is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. Recently adopted Ordinance No. 76-16 (File No. 160255) will become effective after the election is certified and includes grandfathering provisions for projects that were submitted to the Planning Department prior to January 12, 2016. The Project contains 100 units; therefore, 12 affordable units are currently required. The Project Sponsor will fulfill this requirement by providing the 12 affordable units on-site. If the Project is subject to a different requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements at the time of compliance. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- 36. Unit Mix.** The Project contains 6 studios, 44 one-bedroom, 35 two-bedroom, and 15 three-bedroom units; therefore, the required affordable unit mix is 1 studios, 5 one-bedroom, 4 two-bedroom, and 2 three-bedroom units, or the unit mix that may be required if the inclusionary housing requirements change as discussed above. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- 37. Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- 38. Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%), or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- 39. Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- 40. Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," but these income levels are subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. If the Project is subject to a different income level requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

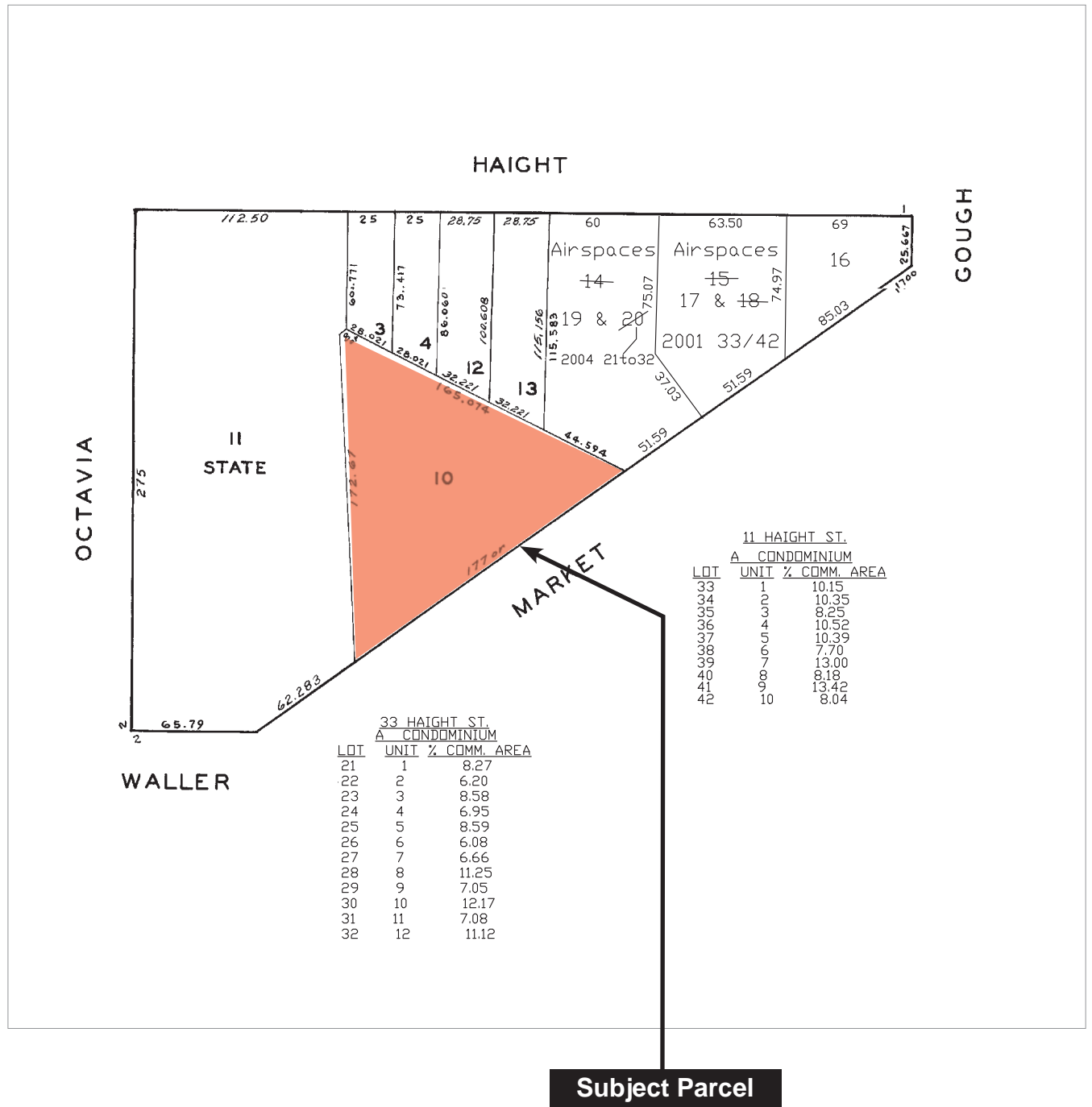
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior to issuance of the first construction document or must revert payment of the Affordable Housing Fee.
- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

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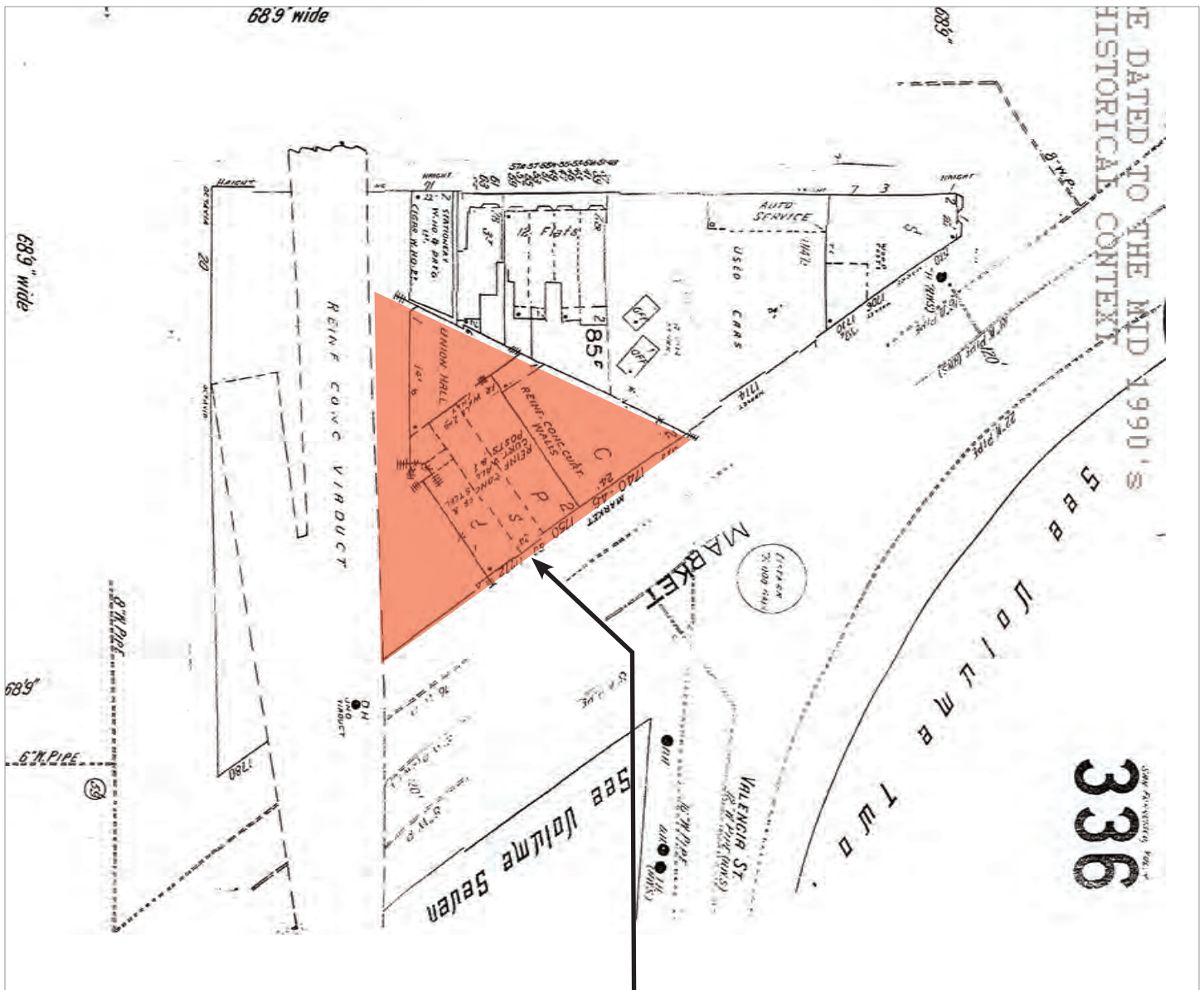
Exhibits

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Parcel Map



Sanborn Map



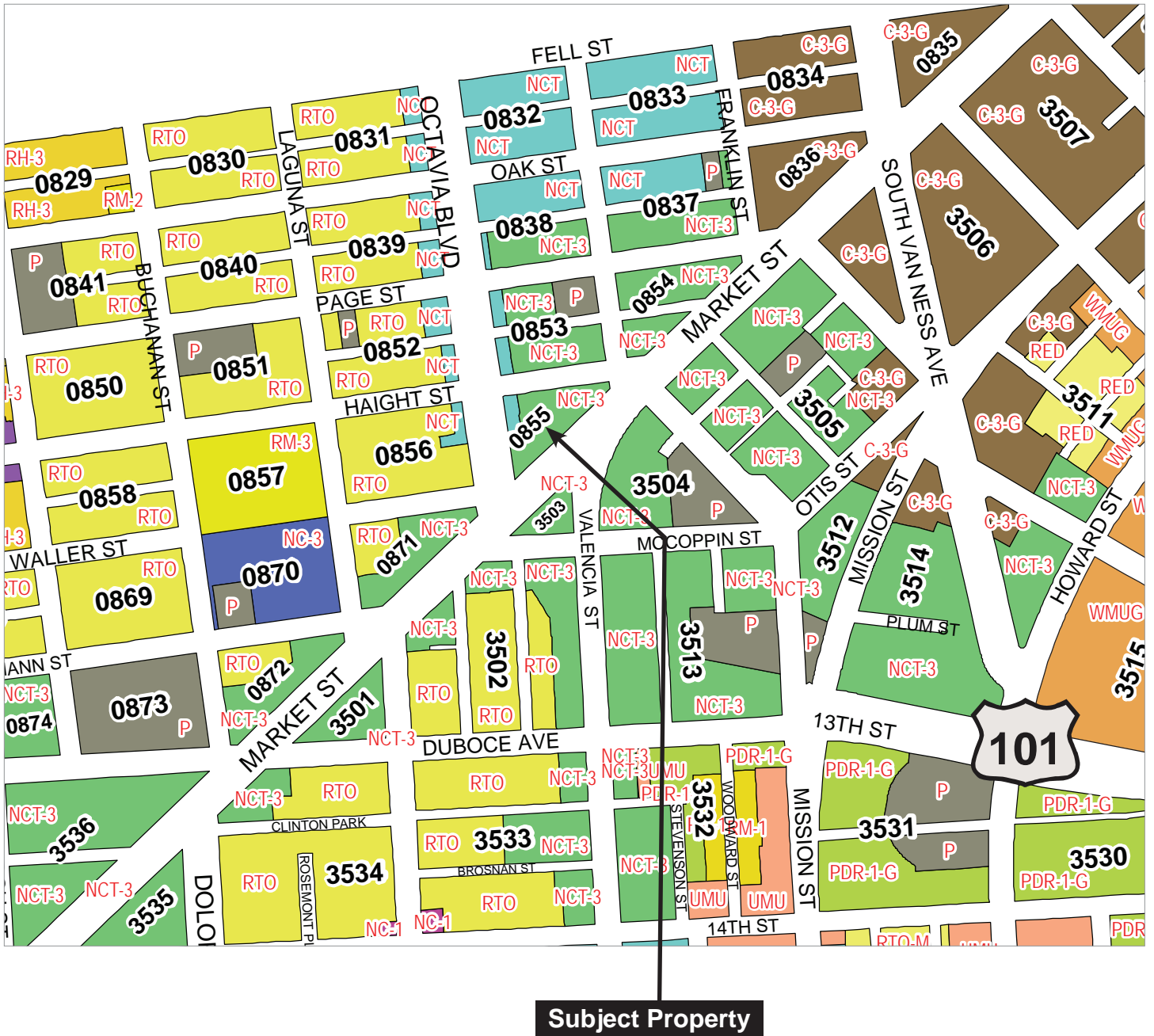
Subject Property

*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

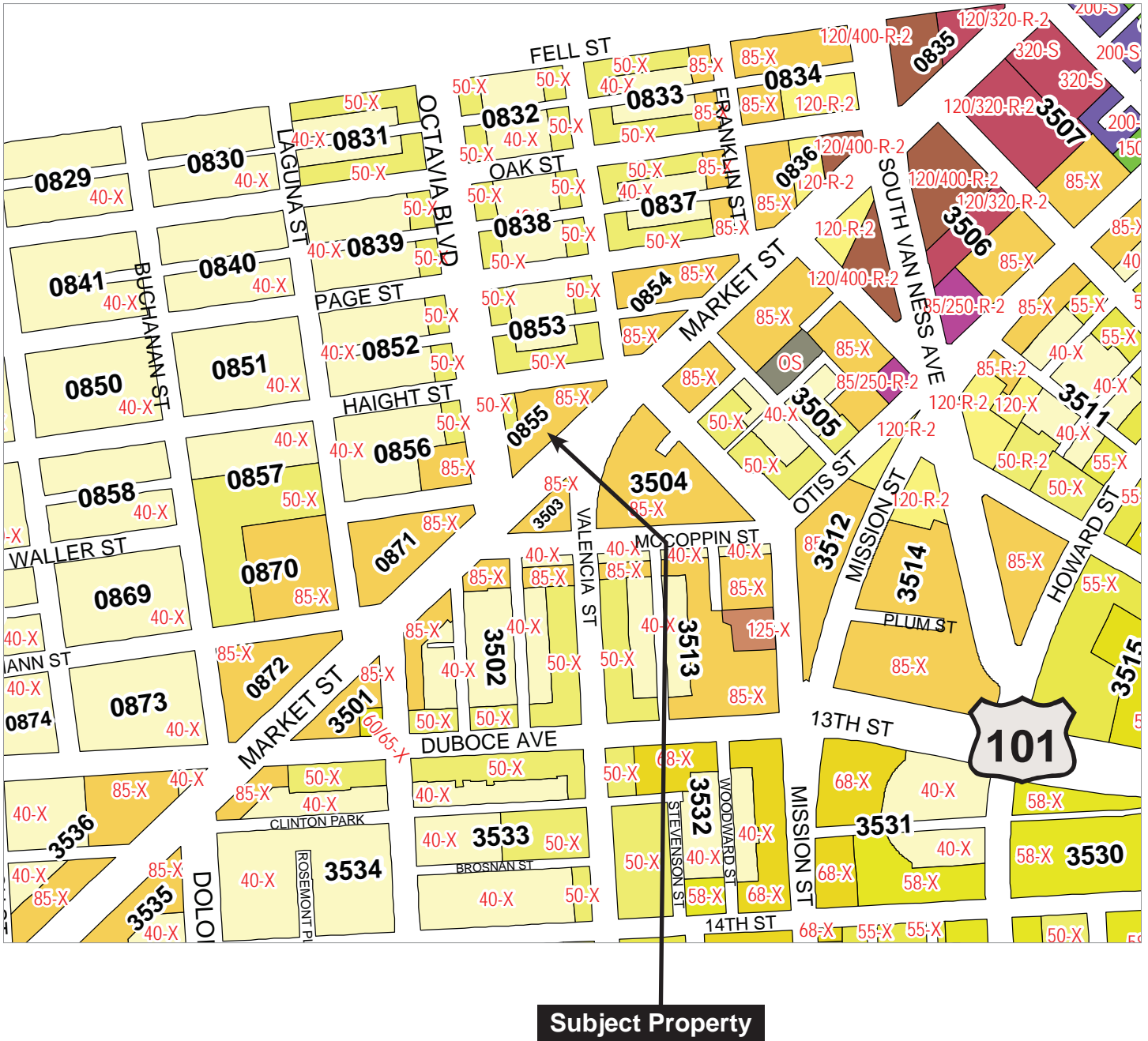
SAN FRANCISCO
PLANNING DEPARTMENT

Conditional Use Authorization
Case Number 2014.0409CUAVAR
Lot Size
1740 Market St.

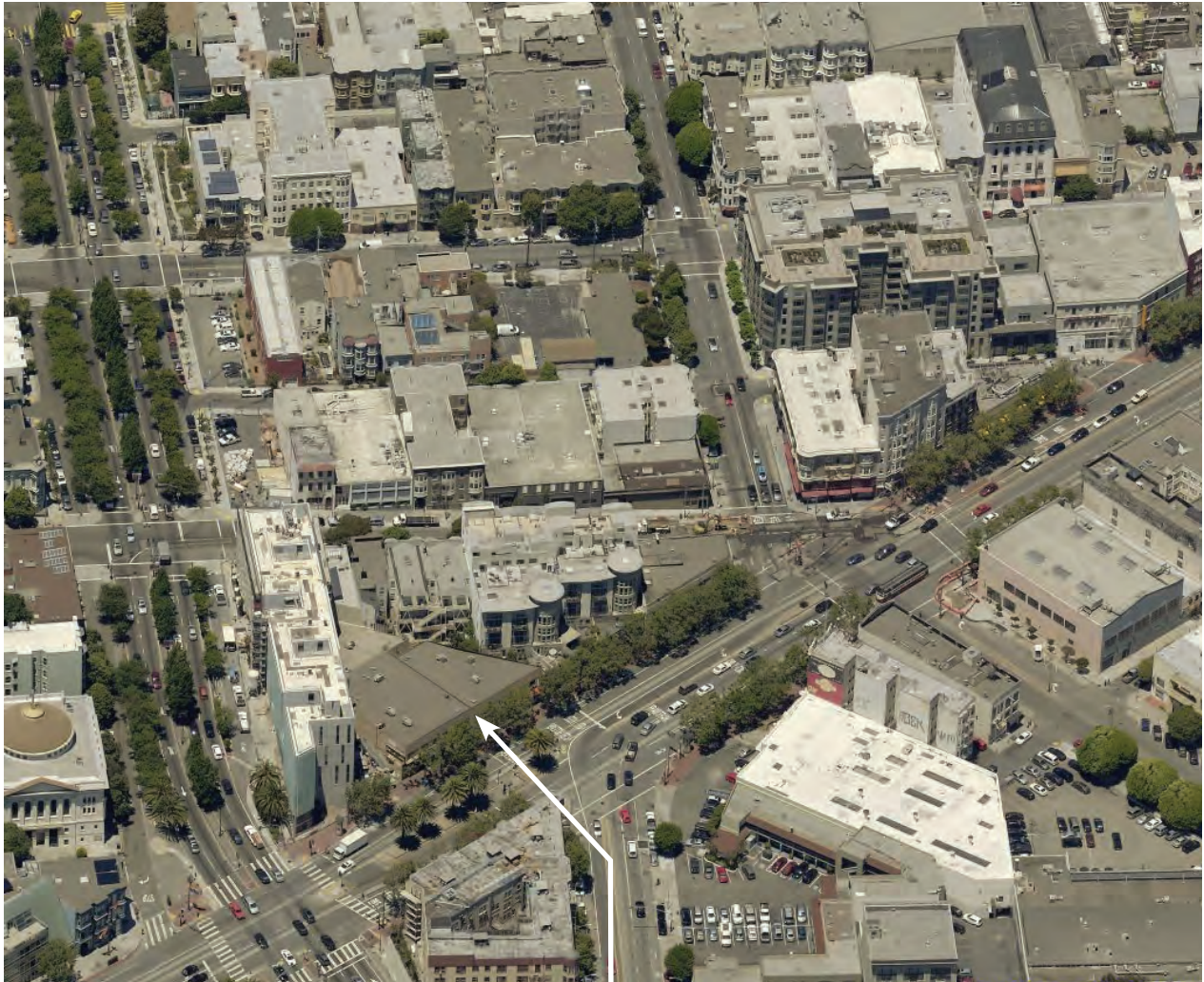
Zoning Map



Height Map



Aerial



Subject Property

SAN FRANCISCO
PLANNING DEPARTMENT

Conditional Use Authorization
Case Number 2014.0409CUAVAR
1740 Market St.
Block 0855 Lot 010

Site Photos





SAN FRANCISCO
PLANNING
DEPARTMENT

AFFIDAVIT FOR FIRST SOURCE HIRING PROGRAM

Administrative Code

Chapter 83

1650 Mission Street, Suite 400 • San Francisco, CA 94103-2479 • 415.558.6378 • <http://www.sfplanning.org>

Section 1: Project Information

PROJECT ADDRESS 1740 - 1770 MARKET STR.		BLOCK/LOT(S) 0855/010
BUILDING PERMIT APPLICATION NO.	CASE NO. (IF APPLICABLE)	MOTION NO. (IF APPLICABLE)
PROJECT SPONSOR DIVCO GROUP, LLC	MAIN CONTACT PATRICK SZETO	PHONE 415 928 6600
ADDRESS 1489 WEBSTER ST, # 218		
CITY, STATE, ZIP SAN FRANCISCO, CA 94115		EMAIL patrick@qmrcl.com
ESTIMATED RESIDENTIAL UNITS 100	ESTIMATED SQ FT COMMERCIAL SPACE 4,385.0 sf	ESTIMATED HEIGHT/FLOORS 85/9
ANTICIPATED START DATE JULY 2017		ESTIMATED CONSTRUCTION COST 15,000,000.0

Section 2: First Source Hiring Program Verification

CHECK ALL BOXES APPLICABLE TO THIS PROJECT

☐ Project is wholly Residential

☐ Project is wholly Commercial

☒ Project is Mixed Use

☒ A: The project consists of ten (10) or more residential units;

☐ B: The project consists of 25,000 square feet or more gross commercial floor area.

☐ C: Neither 1A nor 1B apply.

NOTES:

- If you checked C, this project is NOT subject to the First Source Hiring Program. Sign Section 4: Declaration of Sponsor of Project and submit to the Planning Department.
- If you checked A or B, your project IS subject to the First Source Hiring Program. Please complete the reverse of this document, sign, and submit to the Planning Department prior to any Planning Commission hearing. If principally permitted, Planning Department approval of the Site Permit is required for all projects subject to Administrative Code Chapter 83.
- For questions, please contact OEWD's CityBuild program at CityBuild@sfgov.org or (415) 701-4848. For more information about the First Source Hiring Program visit www.workforcedevelopmentsf.org
- If the project is subject to the First Source Hiring Program, you are required to execute a Memorandum of Understanding (MOU) with OEWD's CityBuild program prior to receiving construction permits from Department of Building Inspection.

Continued...

Section 3: First Source Hiring Program – Workforce Projection

Per Section 83.11 of Administrative Code Chapter 83, it is the developer's responsibility to complete the following information to the best of their knowledge.

Provide the estimated number of employees from each construction trade to be used on the project, indicating how many are entry and/or apprentice level as well as the anticipated wage for these positions.

Check the anticipated trade(s) and provide accompanying information (Select all that apply):

TRADE/CRAFT	ANTICIPATED JOURNEYMAN WAGE	# APPRENTICE POSITIONS	# TOTAL POSITIONS	TRADE/CRAFT	ANTICIPATED JOURNEYMAN WAGE	# APPRENTICE POSITIONS	# TOTAL POSITIONS
Abatement Laborer				Laborer	22	2	10
Boilermaker	—	—	—	Operating Engineer	45	—	2
Bricklayer	—	—	—	Painter	32	1	7
Carpenter	32	1	7	Pile Driver	—	—	—
Cement Mason	27	—	4	Plasterer	35	1	7
Drywall/Latherer	28	1	8	Plumber and Pipefitter	40	1	7
Electrician	34	1	7	Roofer/Water proofer	35	—	5
Elevator Constructor	33	—	2	Sheet Metal Worker	32	1	4
Floor Coverer	27	1	6	Sprinkler Fitter	33	—	4
Glazier	27	—	6	Taper	—	—	—
Heat & Frost Insulator	—	—	—	Tile Layer/Finisher	36	1	7
Ironworker	—	—	—	Other:			
TOTAL:			40	TOTAL:			53

- Will the anticipated employee compensation by trade be consistent with area Prevailing Wage? ☐ YES ☒ NO
- Will the awarded contractor(s) participate in an apprenticeship program approved by the State of California's Department of Industrial Relations? ☒ YES ☐ NO
- Will hiring and retention goals for apprentices be established? ☒ YES ☐ NO
- What is the estimated number of local residents to be hired? 60

Section 4: Declaration of Sponsor of Principal Project

PRINT NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

PATRICK SZETO (AGENT)

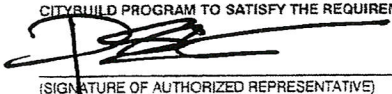
EMAIL

patrick@amrci.com

PHONE NUMBER

415-928-6600

I HEREBY DECLARE THAT THE INFORMATION PROVIDED HEREIN IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND THAT I COORDINATED WITH OEWD'S CITYBUILD PROGRAM TO SATISFY THE REQUIREMENTS OF ADMINISTRATIVE CODE CHAPTER 83.


(SIGNATURE OF AUTHORIZED REPRESENTATIVE)

7/7/16

(DATE)

FOR PLANNING DEPARTMENT STAFF ONLY: PLEASE EMAIL AN ELECTRONIC COPY OF THE COMPLETED AFFIDAVIT FOR FIRST SOURCE HIRING PROGRAM TO OEWD'S CITYBUILD PROGRAM AT CITYBUILD@SFGOV.ORG

Cc: Office of Economic and Workforce Development, CityBuild
Address: 1 South Van Ness 5th Floor San Francisco, CA 94103 Phone: 415-701-4848
Website: www.workforcedevelopmentsf.org Email: CityBuild@sfgov.org



SAN FRANCISCO
PLANNING
DEPARTMENT

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

SUPPLEMENTAL INFORMATION PACKET FOR **Anti-Discriminatory Housing Policy**

Pursuant to Administrative Code Section 1.61, certain housing projects must complete and submit a completed Anti-Discriminatory Housing Policy form as part of any entitlement or building permit application that proposes an increase of ten (10) dwelling units or more.

Planning Department staff is available to advise you in the preparation of this application. Call (415) 558-6377 for further information.

WHEN IS THE SUPPLEMENTAL INFORMATION FORM NECESSARY?

Administrative Code Section 1.61 requires the Planning Department to collect an application/form with information about an applicant's internal anti-discriminatory policies for projects proposing an increase of ten (10) dwelling units or more.

WHAT IF THE PROJECT SPONSOR OR PERMITTEE CHANGE PRIOR TO THE FIRST ISSUANCE OF CERTIFICATE OF OCCUPANCY?

If the permittee and/or sponsor should change, they shall notify the Planning Department and file a new supplemental information form with the updated information.

HOW IS THIS INFORMATION USED?

The Planning Department is not to review the responses other than to confirm that all questions have been answered. Upon confirmation, the information is routed to the Human Rights Commission.

For questions about the Human Rights Commission (HRC) and/or the Anti-Discriminatory Housing Policy, please contact Mullane Ahern at (415) 252-2514 or mullane.ahern@sfgov.org.

All building permit applications and/or entitlements related to a project proposing 10 dwelling units or more will not be considered complete until all responses are provided.

WHAT PART OF THE POLICY IS BEING REVIEWED?

The Human Rights Commission will review the policy to verify whether it addresses discrimination based on sexual orientation and gender identity. The policy will be considered incomplete if it lacks such protections.

WILL THE ANSWERS TO THE QUESTIONS EFFECT THE REVIEW OF MY PROJECT?

The Planning Department's and Planning Commission's processing of and recommendations or determinations regarding an application shall be unaffected by the applicant's answers to the questions.

INSTRUCTIONS:

The attached supplemental information form is to be submitted as part of the required entitlement application and/or Building Permit Application. This application does not require an additional fee.

Answer all questions fully and type or print in ink. Attach additional pages if necessary.

Please see the primary entitlement application or Building Permit Application instructions for a list of necessary materials required.

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SAN FRANCISCO
PLANNING
DEPARTMENT

FOR MORE INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**
FAX: **415 558-6409**
WEB: <http://www.sfplanning.org>

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**
*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

SUPPLEMENTAL INFORMATION FOR Anti-Discriminatory Housing Policy

1. Owner/Applicant Information

PROPERTY OWNER'S NAME:

DIVCO GROUP, LLC

PROPERTY OWNER'S ADDRESS:

1484 WEBSTER ST. #218
SAN FRANCISCO, CA 94115

TELEPHONE:

(415) 928-6600

EMAIL:

APPLICANT'S NAME:

Same as Above ☒

APPLICANT'S ADDRESS:

TELEPHONE:

()

EMAIL:

CONTACT FOR PROJECT INFORMATION:

PATRICK SZETO

Same as Above ☒

ADDRESS:

TELEPHONE:

()

EMAIL:

COMMUNITY LIAISON FOR PROJECT (PLEASE REPORT CHANGES TO THE ZONING ADMINISTRATOR):

Same as Above ☐

ADDRESS:

TELEPHONE:

()

EMAIL:

2. Location and Project Description

STREET ADDRESS OF PROJECT:

1740-1770 MARKET STR. SAN FRANCISCO

ZIP CODE:

94110

CROSS STREETS:

OCTAVIA

ASSESSORS BLOCK/LOT:

0855 1 010

ZONING DISTRICT:

NCT-3

HEIGHT/BULK DISTRICT:

85-X

PROJECT TYPE: (Please check all that apply)

EXISTING DWELLING UNITS: PROPOSED DWELLING UNITS: NET INCREASE:

☒ New Construction

☒ Demolition

☐ Alteration

☐ Other: _____

Compliance with the Anti-Discriminatory Housing Policy

1. Does the applicant or sponsor, including the applicant or sponsor's parent company, subsidiary, or any other business or entity with an ownership share of at least 30% of the applicant's company, engage in the business of developing real estate, owning properties, or leasing or selling individual dwelling units in States or jurisdictions outside of California?

☐ YES ☒ NO

1a. If yes, in which States? _____

- 1b. If yes, does the applicant or sponsor, as defined above, have policies in individual States that prohibit discrimination based on sexual orientation and gender identity in the sale, lease, or financing of any dwelling units enforced on every property in the State or States where the applicant or sponsor has an ownership or financial interest?

☐ YES ☐ NO

- 1c. If yes, does the applicant or sponsor, as defined above, have a national policy that prohibits discrimination based on sexual orientation and gender identity in the sale, lease, or financing of any dwelling units enforced on every property in the United States where the applicant or sponsor has an ownership or financial interest in property?

☐ YES ☐ NO

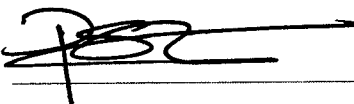
If the answer to 1b and/or 1c is yes, please provide a copy of that policy or policies as part of the supplemental information packet to the Planning Department.

Human Rights Commission contact information
Mullane Ahern at (415)252-2514 or mullane.ahern@sfgov.org

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: Other information or applications may be required.

Signature: 

Date: 7/7/16

Print name, and indicate whether owner, or authorized agent:

PATRICK SOTO

Owner ☒ Authorized Agent (circle one)

PLANNING DEPARTMENT USE ONLY

PLANNING DEPARTMENT VERIFICATION:

- ☐ Anti-Discriminatory Housing Policy Form is **Complete**
☐ Anti-Discriminatory Housing Policy Form is **Incomplete**

Notification of Incomplete Information made:

To: _____ Date: _____

BUILDING PERMIT NUMBER(S): _____

DATE FILED: _____

RECORD NUMBER: _____

DATE FILED: _____

VERIFIED BY PLANNER:

Signature: _____ Date: _____

Printed Name: _____ Phone: _____

ROUTED TO HRC: _____

DATE: _____

☐ Emailed to: _____



SAN FRANCISCO
PLANNING
DEPARTMENT

1740 MARKET STR.

AFFIDAVIT FOR Compliance with the Inclusionary Affordable Housing Program

Date: January 11, 2013

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

To: Applicants subject to Planning Code Section 415: Inclusionary
Affordable Housing Program
From: San Francisco Planning Department
Re: Compliance with the Inclusionary Affordable Housing Program

All projects that involve ten or more new dwelling units must participate in the *Inclusionary Affordable Housing Program* contained in Section 415 of the Planning Code. Every project subject to Section 415 must pay an Affordable Housing Fee that is equivalent to the applicable percentage of the number of units in the principal project, which is 20% of the total number of units proposed (or the applicable percentage if subject to different area plan controls or requirements).

A project may be eligible for an Alternative to the Affordable Housing Fee if the developer chooses to commit to sell the new on- or off-residential units rather than offer them as rental units. Second, the project may be eligible for an Alternative to the Affordable Housing Fee if it has demonstrated to the Planning Department that the affordable units are not subject to the Costa Hawkins Rental Housing Act. All projects that can demonstrate that they are eligible for an alternative to the Affordable Housing Fee must provide the necessary documentation to the Planning Department and the Mayor's Office of Housing. Additional material may be required to determine if a project is eligible to fulfill the Program's requirements through an alternative.

Before the Planning Department and/or Planning Commission can act on the project, this *Affidavit for Compliance with the Inclusionary Affordable Housing Program* must be completed.

Affidavit for Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415

07/07/2016
Date

I, PATRICK SZETO, do hereby declare as follows:

a. The subject property is located at (address and block/lot):

1740 - 1770 MARKET STREET, SAN FRANCISCO 0855/010
Address Block / Lot

b. The proposed project at the above address is subject to the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq.

The Planning Case Number and/or Building Permit Number is:

2014.0409
Planning Case Number Building Permit Number

This project requires the following approval:

- ☒ Planning Commission approval (e.g. Conditional Use Authorization, Large Project Authorization)
☐ This project is principally permitted.

The Current Planner assigned to my project within the Planning Department is:

TINA CHANG
Planner Name

Is this project within the Eastern Neighborhoods Plan Area?

- ☐ Yes (if yes, please indicate Tier) _____
☒ No

This project is exempt from the Inclusionary Affordable Housing Program because:

- ☐ This project is 100% affordable.

c. This project will comply with the Inclusionary Affordable Housing Program by:

- ☐ Payment of the Affordable Housing Fee prior to the first site or building permit issuance (Planning Code Section 415.5).
☒ On-site or Off-site Affordable Housing Alternative (Planning Code Sections 415.6 and 416.7).

d. If the project will comply with the Inclusionary Affordable Housing Program through an **On-site** or **Off-site Affordable Housing Alternative**, please fill out the following regarding how the project is eligible for an alternative and the accompanying unit mix tables on page 4.

- ☐ **Ownership.** All affordable housing units will be sold as ownership units and will remain as ownership units for the life of the project.
- ☒ **Rental.** Exemption from Costa Hawkins Rental Housing Act.² The Project Sponsor has demonstrated to the Department that the affordable units are not subject to the Costa Hawkins Rental Housing Act, under the exception provided in Civil Code Sections 1954.50 through one of the following:
- ☐ Direct financial contribution from a public entity.
 - ☐ Development or density bonus or other public form of assistance.
 - ☐ Development Agreement with the City. The Project Sponsor has entered into or has applied to enter into a Development Agreement with the City and County of San Francisco pursuant to Chapter 56 of the San Francisco Administrative Code and, as part of that Agreement, is receiving a direct financial contribution, development or density bonus, or other form of public assistance.

e. The Project Sponsor acknowledges that failure to sell the affordable units as ownership units or to eliminate the on-site or off-site affordable ownership-only units at any time will require the Project Sponsor to:

- (1) Inform the Planning Department and the Mayor's Office of Housing and, if applicable, fill out a new affidavit;
- (2) Record a new Notice of Special Restrictions; and
- (3) Pay the Affordable Housing Fee plus applicable interest (using the fee schedule in place at the time that the units are converted from ownership to rental units) and any applicable penalties by law.

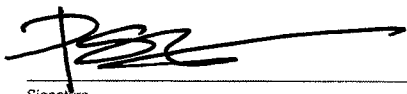
f. The Project Sponsor must pay the Affordable Housing Fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by the Mayor's Office of Housing prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

g. I am a duly authorized officer or owner of the subject property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed on this day in:

SAN FRANCISCO
Location

7/7/16
Date


Signature
PATRICK SZETO, AUTHORIZED AGENT
Name (Print), Title

415-928-6600
Contact Phone Number

cc: Mayor's Office of Housing
Planning Department Case Docket
Historic File, if applicable
Assessor's Office, if applicable

Unit Mix Tables

NUMBER OF ALL UNITS IN PRINCIPAL PROJECT					
Total Number of Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
100	—	6	44	35	15

If you selected an On-site or Off-Site Alternative, please fill out the applicable section below:

- ☒ On-site Affordable Housing Alternative (Charter Section 16.110 (g) and Planning Code Section 415.6): calculated at 12% of the unit total.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED ON-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units
12		1	5	4	2

- ☐ Off-site Affordable Housing Alternative (Planning Code Section 415.7): calculated at 20% of the unit total.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED OFF-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units

Area of Dwellings in Principal Project (in sq. feet)	Off-Site Project Address	
Area of Dwellings in Off-Site Project (in sq. feet)		
Off-Site Block/Lot(s)	Motion No. (if applicable)	Number of Market-Rate Units in the Off-site Project

- ☐ Combination of payment of a fee, on-site affordable units, or off-site affordable units with the following distribution:

Indicate what percent of each option would be implemented (from 0% to 99%) and the number of on-site and/or off-site below market rate units for rent and/or for sale.

1. Fee _____ % of affordable housing requirement.

2. On-Site _____ % of affordable housing requirement.

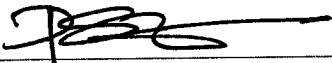
NUMBER OF AFFORDABLE UNITS TO BE LOCATED ON-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units

3. Off-Site _____ % of affordable housing requirement.

NUMBER OF AFFORDABLE UNITS TO BE LOCATED OFF-SITE					
Total Affordable Units	SRO	Studios	One-Bedroom Units	Two-Bedroom Units	Three-Bedroom Units

Area of Dwellings in Principal Project (in sq. feet)	Off-Site Project Address	
Area of Dwellings in Off-Site Project (in sq. feet)		
Off-Site Block/Lot(s)	Motion No. (if applicable)	Number of Market-Rate Units in the Off-site Project

Appendix A Compliance with the Inclusionary Affordable Housing Program

CONTACT INFORMATION AND DECLARATION OF SPONSOR OF PRINCIPAL PROJECT	CONTACT INFORMATION AND DECLARATION OF SPONSOR OF OFF-SITE PROJECT (IF DIFFERENT)
Company Name DVCO GROUP, LLC	Company Name
Print Name of Contact Person PATRICK SZETO	Print Name of Contact Person
Address 148A WEBSTER ST. #218	Address
City, State, Zip SAN FRANCISCO, CA 94115	City, State, Zip
Phone, Fax 415-928-6600	Phone, Fax
Email patrick@amvci.com	Email
I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above. 	I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.
Signature PATRICK SZETO, AUTHORIZED AGENT	Signature
Name (Print), Title	Name (Print), Title

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Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
San Francisco Planning Department
1650 Mission Street, Room 400
San Francisco, California 94103
Attn: Director

Lot 010 in Assessor's Block 0855

**AGREEMENT TO PROVIDE ON-SITE AFFORDABLE HOUSING UNITS BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO AND DIVCO GROUP, LLC,
RELATIVE TO THE DEVELOPMENT KNOWN AS 1740 MARKET STREET**

THIS AGREEMENT TO PROVIDE ON-SITE AFFORDABLE HOUSING UNITS ("Agreement") dated for reference purposes only as of this ____ day of _____, 201__, is by and amongst the CITY AND COUNTY OF SAN FRANCISCO, a political subdivision of the State of California (the "City"), acting by and through its Planning Department, and DIVCO GROUP, LLC, a California limited liability company ("Developer"), with respect to the project approved for 1740 Market Street (the "Project"). City and Developer are also sometimes referred to individually as a "Party" and together as the "Parties."

RECITALS

This Agreement is made with reference to the following facts:

A. Code Authorization. Chapter 4.3 of the California Government Code directs public agencies to grant concessions and incentives to private developers for the production of housing for lower income households. The Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq., hereafter "Costa-Hawkins Act") imposes limitations on the establishment of the initial and all subsequent rental rates for a dwelling unit with a certificate of occupancy issued after February 1, 1995, with exceptions, including an exception for dwelling units constructed pursuant to a contract with a public entity in consideration for a direct financial contribution or any other form of assistance specified in Chapter 4.3 of the California Government Code (Section 1954.52(b)). Pursuant to Civil Code Section 1954.52(b), the City's Board of Supervisors has enacted as part of the Inclusionary Affordable Housing Program, Planning Code Section 415 et seq, procedures and requirements for entering into an agreement with a private developer to memorialize the concessions and incentives granted to the developer and to provide an exception to the Costa-Hawkins Act for the inclusionary units included in the developer's project.

B. Property Subject to this Agreement. The property that is the subject of this Agreement consists of the real property in the City and County of San Francisco at Assessor's Block 0855, Lot 010, located on the north side of Market Street between Octavia and Gough Streets (hereinafter "Property"). The Property is more particularly described in Exhibit A attached hereto. The Property is owned in fee by Developer.

C. Development Proposal; Intent of the Parties. The Developer proposes to demolish an existing two-story commercial building at the Property and construct a 9-story, approximately 83-foot tall, 88,148 gross square foot mixed-use building, containing 100 dwelling units in a mix of studios, one-bedrooms, two-bedrooms, and three-bedrooms, 4,385 square feet of ground floor commercial space, a large landscaped common roof deck, 160 Class 1 bicycle parking spaces, and 10 Class 2 bicycle spaces (the "Project"). The dwelling units would be offered as rental units and the inclusionary affordable housing would be provided on-site. The Project would fulfill its inclusionary affordable housing requirement by providing 12% of the dwelling units, or 12 below-market rate (BMR) units, on-site, assuming that 100 residential units are constructed.

On _____, 2016, pursuant to Motion No. _____, the San Francisco Planning Commission issued a Conditional Use Authorization (the "Conditional Use Authorization") under Section 303 with modifications for obstructions (bay windows) pursuant to Planning Code Section 136 and for the development of a lot that is at least 10,000 square feet in the NCT-3 District pursuant to Planning Code Section 121.1. On _____, 2016, the Zoning Administrator issued a variance decision for the Project under Section 305 (the "Variance Decision") to allow a modification for rear yard requirements pursuant to Planning Code Section 134(e) and for exposure requirements for certain units on the eighth and ninth floors pursuant to Planning Code Section 140(a). A Notice of Special Restrictions containing Conditions of Approval was recorded against the Property on _____ 201__ (NSR No. _____).

The Conditional Use Authorization and the Variance Decision are both referred to herein as the "Project Approval". The dwelling units that are the subject of this Agreement are the Project's on-site inclusionary units representing twelve percent (12%) of the Project's dwelling units, which assuming that 100 dwelling are constructed, would total 12 inclusionary units (the "Inclusionary Units"). The dwelling units in the Project that are not Inclusionary Units, representing eighty-eight percent (88%) of the Project's dwelling units, which assuming that 100 units are constructed would total 88 units, are referred to herein as the "Market Rate Units." This requirement is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. Recently adopted Ordinance No. 76-16 (File No. 160255) will become effective after the election is certified and includes grandfathering provisions for projects that were submitted to the Planning Department prior to January 12, 2016.

This Agreement is not intended to impose restrictions on the Market Rate Units, any portions of the Project other than the Inclusionary Units, or any future development at the Property that is not a part of the Project. This Agreement relates solely to the Inclusionary Units and shall have no legal effect in the event that the Project is not constructed. The Parties acknowledge that this Agreement is entered into in consideration of the respective burdens and benefits of the Parties contained in this Agreement and in reliance on their agreements, representations and warranties.

D. Inclusionary Affordable Housing Program. The Inclusionary Affordable Housing Program, San Francisco Planning Code Section 415 et seq. (the "Affordable Housing Program") provides that developers of any housing project consisting of ten or more units must pay an Affordable Housing Fee, as defined therein. The Affordable Housing Program provides that developers may be eligible to meet the requirements of the program through the alternative

means of entering into an agreement with the City and County of San Francisco pursuant to Chapter 4.3 of the California Government Code, for concessions and incentives, pursuant to which the developer covenants to provide affordable on-site units as an alternative to payment of the Affordable Housing Fee to satisfy the requirements of the Affordable Housing Program and in consideration of the City's concessions and incentives.

E. Developer's Election to Provide On-Site Units. Developer has elected to enter into this Agreement to provide the Inclusionary Units in lieu of payment of the Affordable Housing Fee in satisfaction of its obligation under the Affordable Housing Program and to provide for an exception to the rent restrictions of the Costa-Hawkins Act for the Inclusionary Units only.

F. Compliance with All Legal Requirements. It is the intent of the Parties that all acts referred to in this Agreement shall be accomplished in such a way as to fully comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq., "CEQA"), Chapter 4.3 of the California Government Code, the Costa-Hawkins Act, the San Francisco Planning Code, and all other applicable laws and regulations.

G. Project's Compliance with CEQA. Pursuant to section 15183 of the CEQA Guidelines, California Public Resources Section 21083.3, and Chapter 31 of the San Francisco Administrative Code, the Planning Department published a Certificate of Exemption ("CPE") from Environmental Review for the Project on _____, 201____. The Planning Commission subsequently reviewed and concurred with the information contained in the CPE at a noticed public hearing on _____, 201__ (Motion No. _____).

H. General Plan Findings. This Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable area or specific plan, and the Priority Policies enumerated in Planning Code Section 101.1, as set forth in Planning Commission Motion No. _____.

AGREEMENT

The Parties acknowledge the receipt and sufficiency of good and valuable consideration and agree as follows:

1. GENERAL PROVISIONS

1.1 Incorporation of Recitals and Exhibits. The preamble paragraph, Recitals, and Exhibits, and all defined terms contained therein, are hereby incorporated into this Agreement as if set forth in full.

2. CITY'S DENSITY BONUS AND CONCESSIONS AND INCENTIVES FOR THE INCLUSIONARY UNITS.

2.1 Exceptions, Concessions and Incentives. The Developer has received the following exceptions, concessions and incentives for the production of the Inclusionary Units on-site.

2.1.1 Project Approval and Density Bonus. The Project Approval included the Variance Decision allowing an exception for the rear yard pursuant to Planning Code Section 134 and for exposure requirements for certain units on the eighth and ninth floors pursuant to Planning Code Section 140. This Project Approval permitted development of the Project at a greater density than would otherwise have been permitted under the Planning Code.

2.1.2 Waiver of Affordable Housing Fee. City hereby determines that the Developer has satisfied the requirements of the Affordable Housing Program by covenanting to provide the Inclusionary Units on-site, as provided in Section 3.1, and accordingly hereby waives the obligation of the Developer to pay the Affordable Housing Fee. City would not be willing to enter into this Agreement and waive the Affordable Housing Fee without the understanding and agreement that Costa-Hawkins Act provisions set forth in California Civil Code section 1954.52(a) do not apply to the Inclusionary Units as a result of the exemption set forth in California Civil Code section 1954.52(b). Upon completion of the Project and identification of the Inclusionary Units, Developer agrees to record a notice of restriction against the Inclusionary Units in the form required by the Affordable Housing Program.

2.2 Costa-Hawkins Act Inapplicable to Inclusionary Units Only.

2.2.1 Inclusionary Units. The parties acknowledge that, under Section 1954.52(b) of the Costa-Hawkins Act, the Inclusionary Units are not subject to the Costa Hawkins Act. Through this Agreement, Developer hereby enters into an agreement with a public entity in consideration for forms of concessions and incentives specified in California Government Code Sections 65915 et seq. The concessions and incentives are comprised of, but not limited to, the concessions and incentives set forth in Section 2.1.

2.2.2 Market Rate Units. The Parties hereby agree and acknowledge that this Agreement does not alter in any manner the way that the Costa-Hawkins Act or any other law, including the City's Rent Stabilization and Arbitration Ordinance (Chapter 37 of the San Francisco Administrative Code) apply to the Market Rate Units.

3. COVENANTS OF DEVELOPER

3.1 On-Site Inclusionary Affordable Units. In consideration of the concessions and incentives set forth in Section 2.1 and in accordance with the terms and conditions set forth in the Affordable Housing Program and the Project Approval, upon Developer obtaining its first certificate of occupancy for the Project, Developer shall provide twelve percent (12%) of the dwelling units as on-site Inclusionary Units in lieu of payment of the Affordable Housing Fee. For example, based on the contemplated total of 100 units comprising the Project, a total of 12 Inclusionary Units would be required in the aggregate for the entire Project in lieu of payment of the Affordable Housing Fee.

3.2 Developer's Waiver of Rights Under the Costa-Hawkins Act Only as to the Inclusionary Units. The Parties acknowledge that under the Costa-Hawkins Act, the owner of newly constructed residential real property may establish the initial and all subsequent rental rates for dwelling units in the property without regard to the City's Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the San Francisco Administrative Code). The Parties

also understand and agree that the Costa-Hawkins Act does not and in no way shall limit or otherwise affect the restriction of rental charges for the Inclusionary Units because this Agreement falls within an express exception to the Costa-Hawkins Act as a contract with a public entity in consideration for a direct financial contribution or other forms of assistance specified in Chapter 4.3 (commencing with section 65915) of Division 1 of Title 7 of the California Government Code including but not limited to the density bonus, concessions and incentives specified in Section 2. Developer acknowledges that the density bonus and concessions and incentives result in identifiable and actual cost reductions to the Project. Should the Inclusionary Units be deemed subject to the Costa-Hawkins Act, as a material part of the consideration for entering into this Agreement, Developer, on behalf of itself and all its successors and assigns to this Agreement, hereby expressly waives, now and forever, any and all rights it may have under the Costa-Hawkins Act with respect only to the Inclusionary Units (but only the Inclusionary Units and not as to the Market Rate Units) consistent with Section 3.1 of this Agreement. Without limiting the foregoing, Developer, on behalf of itself and all successors and assigns to this Agreement, agrees not to bring any legal or other action against City seeking application of the Costa-Hawkins Act to the Inclusionary Units for so long as the Inclusionary Units are subject to the restriction on rental rates pursuant to the Affordable Housing Program. The Parties understand and agree that the City would not be willing to enter into this Agreement without the waivers and agreements set forth in this Section 3.2.

3.3 Developer's Waiver of Right to Seek Waiver of Affordable Housing Program. Developer specifically agrees to be bound by all of the provisions of the Affordable Housing Program applicable to on-site inclusionary units with respect to the Inclusionary Units. Developer covenants and agrees that it will not seek a waiver of the provisions of the Affordable Housing Program applicable to the Inclusionary Units.

3.4 No Obligation to Construct. By entering into this Agreement, Developer is not assuming any obligation to construct the Project, and the covenants of Developer hereunder become operative only in the event Developer elects to proceed with construction of the Project.

4. MUTUAL OBLIGATIONS

4.1 Good Faith and Fair Dealing. The Parties shall cooperate with each other and act in good faith in complying with the provisions of this Agreement and implementing the Project Approval.

4.2 Other Necessary Acts. Each Party shall execute and deliver to the other all further instruments and documents as may be reasonably necessary to carry out this Agreement, the Project Approval, the Affordable Housing Program (as applied to the Inclusionary Units) and applicable law in order to provide and secure to each Party the full and complete enjoyment of its rights and privileges hereunder.

4.3 Effect of Future Changes to Affordable Housing Program. The City hereby acknowledges and agrees that, in the event that the City adopts changes to the Affordable Housing Program after the date this Agreement is executed by both Parties, nothing in this Agreement shall be construed to limit or prohibit any rights Developer may have to modify

Project requirements with respect to the Inclusionary Units to the extent permitted by such changes to the Affordable Housing Program.

5. DEVELOPER REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 Interest of Developer. Developer represents that it is the legal and equitable fee owner of the Property, that it has the power and authority to bind all other persons with legal or equitable interest in the Property to the terms of this Agreement, and that all other persons holding legal or equitable interest in the Inclusionary Units are to be bound by this Agreement. Developer is a limited liability company, duly organized and validly existing and in good standing under the laws of the State of California. Developer has all requisite power and authority to own property and conduct business as presently conducted. Developer has made all filings and is in good standing in the State of California.

5.2 No Conflict With Other Agreements; No Further Approvals; No Suits. Developer warrants and represents to the best of its knowledge that it is not a party to any other agreement that would conflict with the Developer's obligations under this Agreement. Neither Developer's articles of organization, bylaws, or operating agreement, as applicable, nor any other agreement which Developer is a party to in any way prohibits, limits or otherwise affects the right or power of Developer to enter into and perform all of the terms and covenants of this Agreement. To the best of Developer's knowledge, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery and performance by Developer of this Agreement or any of the terms and covenants contained in this Agreement. To Developer's knowledge, there are no pending or threatened suits or proceedings or undischarged judgments affecting Developer or any of its members before any court, governmental agency, or arbitrator which might materially adversely affect Developer's business, operations, or assets or Developer's ability to perform under this Agreement.

5.3 No Inability to Perform; Valid Execution. Developer warrants and represents that it has no knowledge of any inability to perform its obligations under this Agreement. The execution and delivery of this Agreement and the agreements contemplated hereby by Developer have been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms.

5.4 Conflict of Interest. Through its execution of this Agreement, the Developer acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

5.5 Notification of Limitations on Contributions. Through execution of this Agreement, the Developer acknowledges that it is familiar with Section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the

City, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until three (3) months after the date the contract is approved by the City elective officer or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

5.6 Nondiscrimination. In the performance of this Agreement, Developer agrees not to discriminate on the basis of the fact or perception of a person's, race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes, against any City employee, employee of or applicant for employment with the Developer, or against any bidder or contractor for public works or improvements, or for a franchise, concession or lease of property, or for goods or services or supplies to be purchased by the Developer. A similar provision shall be included in all subordinate agreements let, awarded, negotiated or entered into by the Developer for the purpose of implementing this Agreement.

6. AMENDMENT; TERMINATION

6.1 Amendment or Termination. Except as provided in Sections 6.2 (Automatic Termination) and 8.3 (Remedies for Default), this Agreement may only be amended or terminated with the mutual written consent of the Parties.

6.1.1 Amendment Exemptions. No amendment of the Project Approval shall require an amendment to this Agreement. Upon approval, any such matter shall be deemed to be incorporated automatically into the Project and this Agreement (subject to any conditions set forth in the amendment). Notwithstanding the foregoing, in the event of any direct conflict between the terms of this Agreement and any amendment to the Project Approval, then the terms of this Agreement shall prevail and any amendment to this Agreement shall be accomplished as set forth in Section 6.1 above.

6.2 Automatic Termination. This Agreement shall automatically terminate in the event that the Inclusionary Units are no longer subject to regulation as to the rental rates of the Inclusionary Units and/or the income level of households eligible to rent the Inclusionary Units under the Affordable Housing Program, or successor program.

7. TRANSFER OR ASSIGNMENT; RELEASE; RIGHTS OF MORTGAGEES; CONSTRUCTIVE NOTICE

7.1 Agreement Runs With The Land. City acknowledges that Developer may assign or transfer its rights, duties and obligations under the Project Approval and this Agreement and/or convey any interest it owns in the Property to another person or entity without City consent. Any assignee or successor to Developer's rights to the Project Approval and/or Property shall be referred to herein as a "Transferee". Any Transferee may also subsequently assign or transfer its rights, duties and obligations under this Agreement and/or convey any interest it owns in the Property to another person or entity. As provided in Section 9.2, this Agreement runs with the land and any Transferee will be bound by all of the terms and conditions of this Agreement.

7.2 Rights of Developer. The provisions in this Section 7 shall not be deemed to prohibit or otherwise restrict Developer from (i) granting easements or licenses or similar agreements to facilitate development of the Property, (ii) encumbering the Property or any portion of the improvements thereon by any mortgage, deed of trust, or other device securing financing with respect to the Property or Project, (iii) granting one or more leasehold interests in all or any portion of the Property, or (iv) transferring all or a portion of the Property pursuant to a sale, transfer pursuant to foreclosure, conveyance in lieu of foreclosure, or other remedial action in connection with a mortgage. None of the terms, covenants, conditions, or restrictions of this Agreement or the Project Approval shall be deemed waived by City by reason of the rights given to the Developer pursuant to this Section 7.2. Furthermore, although the Developer initially intends to operate the Project on a rental basis, nothing in this Agreement shall prevent Developer from later selling all or part of the Project on a condominium basis, provided that such sale is permitted by, and complies with, all applicable City and State laws including, but not limited to that, with respect to any inclusionary units, those shall only be sold pursuant to the City Procedures for sale of inclusionary units under the Affordable Housing Program.

7.3 Developer's Responsibility for Performance. If Developer transfers or assigns all or any portion of the Property or any interest therein to any other person or entity, Developer shall continue to be responsible for performing the obligations under this Agreement as to the transferred property interest until such time as there is delivered to the City a legally binding agreement pursuant to which the Transferee assumes and agrees to perform Developer's obligations under this Agreement from and after the date of transfer of the Property (or an interest therein) to the Transferee (an "Assignment and Assumption Agreement"), but not thereafter. The City is entitled to enforce each and every such obligation assumed by the Transferee directly against the Transferee as if the Transferee were an original signatory to this Agreement with respect to such obligation. Accordingly, in any action by the City against a Transferee to enforce an obligation assumed by the Transferee, the Transferee shall not assert any defense against the City's enforcement of performance of such obligation that is attributable to Developer's breach of any duty or obligation to the Transferee arising out of the transfer or assignment, the Assignment and Assumption Agreement, the purchase and sale agreement, or any other agreement or transaction between the Developer and the Transferee. The transferor Developer shall remain responsible for the performance of all of its obligations under the Agreement prior to the date of transfer, and shall remain liable to the City for any failure to perform such obligations prior to the date of the transfer.

7.4 Release Upon Transfer or Assignment. Upon the Developer's transfer or assignment of all or a portion of the Property or any interest therein, including the Developer's

rights and interests under this Agreement, the Developer shall be released from any obligations required to be performed from and after the date of transfer under this Agreement with respect to the portion of the Property so transferred; provided, however, that (i) the Developer is not then in default under this Agreement and (ii) the Transferee executes and delivers to the City the legally binding Assignment and Assumption Agreement. Following any transfer, in accordance with the terms of this Section 7, a default under this Agreement by the Transferee shall not constitute a default by the Developer under this Agreement and shall have no effect upon the Developer's rights under this Agreement as to the remaining portions of the Property owned by the Developer. Further, a default under this Agreement by the Developer as to any portion of the Property not transferred or a default under this Agreement by the Developer prior to the date of transfer shall not constitute a default by the Transferee and shall not affect any of Transferee's rights under this Agreement.

7.5 Rights of Mortgagees; Not Obligated to Construct; Right to Cure Default.

7.5.1 Notwithstanding anything to the contrary contained in this Agreement (including without limitation those provisions that are or are intended to be covenants running with the land), a mortgagee or beneficiary under a deed of trust, including any mortgagee or beneficiary who obtains title to the Property or any portion thereof as a result of foreclosure proceedings or conveyance or other action in lieu thereof, or other remedial action, ("Mortgagee") shall not be obligated under this Agreement to construct or complete the Inclusionary Units required by this Agreement or to guarantee their construction or completion solely because the Mortgagee holds a mortgage or other interest in the Property or this Agreement. A breach of any obligation secured by any mortgage or other lien against the mortgaged interest or a foreclosure under any mortgage or other lien shall not by itself defeat, diminish, render invalid or unenforceable, or otherwise impair the obligations or rights of the Developer under this Agreement.

7.5.2 Subject to the provisions of Section 7.5.1, any person, including a Mortgagee, who acquires title to all or any portion of the mortgaged property by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise shall succeed to all of the rights and obligations of the Developer under this Agreement and shall take title subject to all of the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote any portion of the Property to any uses, or to construct any improvements, other than the uses and improvements provided for or authorized by the Project Approval and this Agreement.

7.5.3 If City receives a written notice from a Mortgagee or from Developer requesting a copy of any Notice of Default delivered to Developer and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any Notice of Default delivered to Developer under this Agreement. In accordance with Section 2924 of the California Civil Code, City hereby requests that a copy of any notice of default and a copy of any notice of sale under any mortgage or deed of trust be mailed to City at the address shown on the first page of this Agreement for recording, provided that no Mortgagee or trustee under a deed of trust shall incur any liability to the City for any failure to give any such notice of default or notice of sale except to the extent the City records a request for notice of default and notice of sale in compliance with Section 2924b of the California Civil Code (a

“Request for Special Notice”) with respect to a specific mortgage or deed of trust and the Mortgagee or trustee fails to give any notice required under Section 2924b of the California Civil Code as a result of the recordation of a Request for Special Notice.

7.5.4 A Mortgagee shall have the right, at its option, but no obligation, to cure any default or breach by the Developer under this Agreement within the same time period as Developer has to remedy or cause to be remedied any default or breach, plus an additional period of (i) thirty (30) calendar days to cure a default or breach by the Developer to pay any sum of money required to be paid hereunder and (ii) ninety (90) days to cure or commence to cure a non-monetary default or breach and thereafter to pursue such cure diligently to completion; provided that if the Mortgagee cannot cure a non-monetary default or breach without acquiring title to the Property, then so long as Mortgagee is diligently pursuing foreclosure of its mortgage or deed of trust, Mortgagee shall have until ninety (90) days after completion of such foreclosure to cure such non-monetary default or breach. Mortgagee may add the cost of such cure to the indebtedness or other obligation evidenced by its mortgage, provided that if the breach or default is with respect to the construction of the improvements on the Property, nothing contained in this Section or elsewhere in this Agreement shall be deemed to permit or authorize such Mortgagee, either before or after foreclosure or action in lieu thereof or other remedial measure, to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the obligation to the City, by written agreement reasonably satisfactory to the City, to complete in the manner provided in this Agreement the improvements on the Property or the part thereof to which the lien or title of such Mortgagee relates. Notwithstanding a Mortgagee’s agreement to assume the obligation to complete in the manner provided in this Agreement the improvements on the Property or the part thereof acquired by such Mortgagee, the Mortgagee shall have the right to abandon completion of the improvement at any time thereafter.

7.5.5 If at any time there is more than one mortgage constituting a lien on any portion of the Property, the lien of the Mortgagee prior in lien to all others on that portion of the mortgaged property shall be vested with the rights under this Section 7.5 to the exclusion of the holder of any junior mortgage; provided that if the holder of the senior mortgage notifies the City that it elects not to exercise the rights sets forth in this Section 7.5, then each holder of a mortgage junior in lien in the order of priority of their respective liens shall have the right to exercise those rights to the exclusion of junior lien holders. Neither any failure by the senior Mortgagee to exercise its rights under this Agreement nor any delay in the response of a Mortgagee to any notice by the City shall extend Developer’s or any Mortgagee’s rights under this Section 7.5. For purposes of this Section 7.5, in the absence of an order of a court of competent jurisdiction that is served on the City, a then current title report of a title company licensed to do business in the State of California and having an office in the City setting forth the order of priority of lien of the mortgages shall be reasonably relied upon by the City as evidence of priority. Nothing in this Agreement shall impair the foreclosure rights of any mortgagee.

7.6 Constructive Notice. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Project or the Property is and shall be constructively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Project or the Property.

8. ENFORCEMENT OF AGREEMENT; REMEDIES FOR DEFAULT; DISPUTE RESOLUTION

8.1 Enforcement. The only parties to this Agreement are the City and the Developer. This Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person or entity whatsoever.

8.2 Default. For purposes of this Agreement, the following shall constitute a default under this Agreement: the failure to perform or fulfill any material term, provision, obligation, or covenant hereunder and the continuation of such failure for a period of thirty (30) calendar days following a written notice of default and demand for compliance; provided, however, if a cure cannot reasonably be completed within thirty (30) days, then it shall not be considered a default if a cure is commenced within said 30-day period and diligently prosecuted to completion thereafter, but in no event later than one hundred twenty (120) days.

8.3 Remedies for Default. In the event of an uncured default under this Agreement, the remedies available to a Party shall include specific performance of the Agreement in addition to any other remedy available at law or in equity. In addition, the non-defaulting Party may terminate this Agreement subject to the provisions of this Section 8 by sending a Notice of Intent to Terminate to the other Party setting forth the basis for the termination. The Agreement will be considered terminated effective upon receipt of a Notice of Termination. The Party receiving the Notice of Termination may take legal action available at law or in equity if it believes the other Party's decision to terminate was not legally supportable.

8.4 No Waiver. Failure or delay in giving notice of default shall not constitute a waiver of default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by a Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies; nor shall it deprive any such Party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert, or enforce any such rights or remedies.

9. MISCELLANEOUS PROVISIONS

9.1 Entire Agreement. This Agreement, including the preamble paragraph, Recitals and Exhibits, constitute the entire understanding and agreement between the Parties with respect to the subject matter contained herein.

9.2 Binding Covenants; Run With the Land. From and after recordation of this Agreement, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties, and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, and all persons or entities acquiring the Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law, or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. Regardless of whether the procedures in Section 7 are followed, following recordation of this Agreement all of its provisions shall be enforceable during the term hereof as equitable

servitudes and constitute covenants and benefits running with the land pursuant to applicable law, including but not limited to California Civil Code Section 1468.

9.3 Applicable Law and Venue. This Agreement has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the laws of the State of California. All rights and obligations of the Parties under this Agreement are to be performed in the City and County of San Francisco, and such City and County shall be the venue for any legal action or proceeding that may be brought, or arise out of, in connection with or by reason of this Agreement.

9.4 Construction of Agreement. The Parties have mutually negotiated the terms and conditions of this Agreement and its terms and provisions have been reviewed and revised by legal counsel for both City and Developer. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. Language in this Agreement shall be construed as a whole and in accordance with its true meaning. The captions of the paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction. Each reference in this Agreement to this Agreement or the Project Approval shall be deemed to refer to the Agreement or the Project Approval as it may be amended from time to time pursuant to the provisions of the Agreement, whether or not the particular reference refers to such possible amendment.

9.5 Project Is a Private Undertaking; No Joint Venture or Partnership.

9.5.1 The development proposed to be undertaken by Developer on the Property is a private development. The City has no interest in, responsibility for, or duty to third persons concerning any of said improvements. The Developer shall exercise full dominion and control over the Property, subject only to the limitations and obligations of the Developer contained in this Agreement or in the Project Approval.

9.5.2 Nothing contained in this Agreement, or in any document executed in connection with this Agreement, shall be construed as creating a joint venture or partnership between the City and the Developer. Neither Party is acting as the agent of the other Party in any respect hereunder. The Developer is not a state or governmental actor with respect to any activity conducted by the Developer hereunder.

9.6 Signature in Counterparts. This Agreement may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

9.7 Time of the Essence. Time is of the essence in the performance of each and every covenant and obligation to be performed by the Parties under this Agreement.

9.8 Notices. Any notice or communication required or authorized by this Agreement shall be in writing and may be delivered personally or by registered mail, return receipt requested. Notice, whether given by personal delivery or registered mail, shall be deemed to have been given and received upon the actual receipt by any of the addressees designated below as the person to whom notices are to be sent. Either Party to this Agreement may at any time,

upon written notice to the other Party, designate any other person or address in substitution of the person and address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City:

John Rahaim
Director of Planning
San Francisco Planning Department
1650 Mission Street
San Francisco, California 94102

with a copy to:

Dennis J. Herrera, Esq.
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Elizabeth Anderson, Dep. City Attorney

To Developer:

DIVCO Group, LLC
1489 Webster Street, #218
San Francisco, CA 94115
Attn: Patrick Szeto

and a copy to:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Tel: (415) 567-9000
Fax: (415) 399-9480
E-mail: jkevin@reubenlaw.com
Attn: John Kevlin

9.9 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect unless enforcement of the remaining portions of the Agreement would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

9.10 MacBride Principles. The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq.

The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Developer acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

9.11 Tropical Hardwood and Virgin Redwood. The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

9.12 Sunshine. The Developer understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure.

9.13 Effective Date. This Agreement will become effective on the date that the last Party duly executes and delivers this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation


Approved as to form:
Dennis J. Herrera, City Attorney

By: _____
John Rahaim
Director of Planning

By: _____
Elizabeth S. Anderson
Deputy City Attorney

DEVELOPER

DIVCO GROUP, LLC
a California Limited Liability Company

By:  _____
BY: DIVCO, LLC
Its: MANAGER

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On July 13, 2014 before me, RICK MEIN, NOTARY PUBLIC

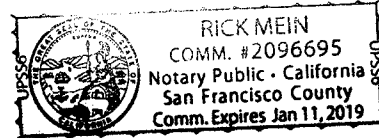
a Notary Public, personally appeared, Patrick Sze To
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies) and by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Rick Mein

Signature of Notary Public



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____

a Notary Public, personally appeared, _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies) and by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

EXHIBIT A

Legal Description of Property

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July 1, 2016

San Francisco Planning Commission
City Hall Room 400

Cc: Tina Chang, Tina.Chang@sfgov.org SF Planning Department, and Patrick Szeto

RE: 1740 Market

Dear President Wong and Planning Commission,

The Hayes Valley Neighborhood Association's Transportation & Planning Committee, based on our sixteen-years supporting the Market and Octavia Better Neighborhoods Plan, encourages you to approve the proposed housing development at 1740 Market Street. HVNA has met twice with the project sponsor, Patrick Szeto, and we are pleased with the density, unit mix, on-site BMR, and design of the proposal. This project is also a very green development since it has zero parking and cleverly infills a difficult triangle parcel along Market Street.

Significantly, 1740 Market includes 12-13 percent on-site BMR – 12 or 13 units out of 100 units. While we'd like to see a higher increment of affordable housing and recognize change has come with the voter-approved Proposition C on June 7th, 2016, the developer of 1740 Market has worked in good faith within the city rules. Significantly, the developer is opting to put the BMR in the project, rather than paying in lieu fees for off-site units. With zero parking, overall building costs are reduced and so all of the units will be less expensive than if parking were supplied.

There are two design matters we hope you can address. First, we support the design as presented to HVNA on June 27th 2016. That design included a signature "knife edge" element on the east side of the building fronting Market Street. We understand that the owner of a nearby building has concerns about light and privacy and has asked that the iconic element of the knife edge of the property be modified. While we understand the concerns, the small impact made by this strong design element is more than offset by the overall style of the building as designed, and we would like to see it approved without reducing that signature element.

Our second concern is shading the south facing façade of the building. We wholeheartedly endorse a building without air conditioning for reasons of environmental sustainability, but would like to see a creative approach to making sure the south facing units do not get too hot. Window shades or window screens, and ample ventilation within the units would mitigate this.

HVNA is generally very satisfied with the proposal for 1740 Market. We are most thrilled that another car free development is proving that the car free housing model is viable. We hope this lends itself to making the entire "Hub" area car free as the area is considered for rezoning. Thank you and have a good hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'JH', with a long horizontal line extending to the right.

Jason Henderson
Chair, Transportation and Planning Committee,
Hayes Valley Neighborhood Association
300 Buchanan Street, #503
San Francisco, CA
94102
(415)-255-8136
[jhenders@sbcglobal.net](mailto:jhenderson@sbcglobal.net)

Exhibit B

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PLANNING DATA:

PROJECT ADDRESS:	1740 -1770 MARKET STREET SAN FRANCISCO, CA 94110
BLOCK & LOT NO.:	BLOCK 0855/ LOT 010
LOT DIMENSION & AREA:	177' x 173' x 162' (TRIANGULAR) A=(b*h)/2 =13,123.43 S.F.
ZONING DISTRICT:	NCT-3
HEIGHT LIMIT:	85-X
CURRENT USE:	COMMERCIAL
PROPOSED USE:	RESIDENTIAL/COMMERCIAL
NUMBER OF STORIES:	8 STORIES OF DWELLING UNITS OVER 1 STORY OF COMMERCIAL 9 STORIES TOTAL
BUILDING HEIGHT:	83'-5"
PROJECT DESCRIPTION:	NEW 9-STORY RESIDENTIAL BUILDING (100UNITS) W/ 4,385 G.S.F OF COMMERCIAL SPACE

OPEN SPACE PROGRAM:

REAR YARD REQUIRED PER PLANNING CODE SECTION 134			923 S.F.
REAR YARD PROVIDED (@ 2ND FLOOR)			2,784 S.F.
COMMON OPEN SPACE REQUIRED (PER TABLE 135 (d)(2)):	56 UNITS x 100 S.F./UNIT =		5,600 S.F.
PRIVATE OPEN SPACE REQUIRED	43 UNITS x 100 S.F./UNIT x 0.33 =		1,433 S.F.
TOTAL OPEN SPACE REQ'D:	1 UNITS x 80 S.F./UNIT =		80 S.F.
SEE EXHIBIT E FOR DETAILS			7,113 S.F.
TOTAL COMMON OPEN SPACE PROVIDED:			
	ROOF :		7,551 S.F
TOTAL PRIVATE OPEN SPACE PROVIDED:			349 S.F.
TOTAL OPEN SPACE PROVIDED			7,900 S.F.
SECOND FLOOR PODIUM DECK NOT COUNTED TOWARDS REQUIRED OPEN SPACE			
BUILDING AREA SUMMARY:			
RESIDENTIAL	83,396 GSF		
COMMERCIAL	4,385 GSF		
TOTAL BUILDING	87,781 GSF		

DRAWINGS INDEX:

A-00	COVER PAGE
A-01	SURVEY
A-02	AERIAL PHOTO
A-03	SITE PHOTOGRAPHS
A-101	GROUND FLOOR PLAN
A-102	SECOND FLOOR PLAN
A-103	THIRD FLOOR PLAN
A-104	FOURTH FLOOR PLAN
A-105	FIFTH FLOOR PLAN
A-106	SIXTH FLOOR PLAN
A-107	SEVENTH FLOOR PLAN
A-108	EIGHT FLOOR PLAN
A-109	NINTH FLOOR PLAN
A-110	ROOF PLAN
A-111	MARKET BLOCK SITE PLAN
A-201	FRONT (MARKET ST) ELEVATION
A-202	NORTH ELEVATION
A-203	MARKET BLOCK ELEVATION
A-204	EAST & SOUTHEAST COURTYARD WALL ELEVATIONS
A-205	WEST ELEVATION
A-301	SECTION
A-901	PERSPECTIVE VIEW 1
A-902	PERSPECTIVE VIEW 2
A-903	PERSPECTIVE VIEW 3
A-904	PERSPECTIVE VIEW 4
EXHIBIT-A	REQUIRED REAR YARD CALCULATION
EXHIBIT-B	BAY WINDOW AREA DIAGRAM
EXHIBIT-C	COMMERCIAL COMPLIANCE SEC. 145.4(d)(3)
EXHIBIT-D	BIKE PARKING DETAIL PLAN
EXHIBIT-D.1	BIKE PARKING SPECIFICATION
EXHIBIT-E	OPEN SPACE TABLE
EXHIBIT-F	EXPOSURE DIAGRAMS
EXHIBIT-F.1	EXPOSURE DIAGRAMS
EXHIBIT-F.2	EXPOSURE DIAGRAMS
EXHIBIT-G	REAR YARD/BUILDING MASSING COMPARISON
EXHIBIT-H	ROOF OPEN SPACE DIMENSION PLAN

PARKING PROGRAM:

CAR PARKING: NONE REQUIRED - NONE PROVIDED		
BICYCLE PARKING REQUIRED:	RESIDENTIAL	CLASS 1 - 100 CLASS 2 - 5 CLASS 2 - 2
	COMMERCIAL	
TOTAL BICYCLE PARKING REQUIRED:		CLASS 1 - 100 CLASS 2 - 7
BICYCLE PARKING PROPOSED:		CLASS 1 - 160 (1.09 SPACES PER BEDROOM) CLASS 2 - 10

RESIDENTIAL UNIT MIX:

STUDIO UNITS	6 (387 sf)	6%
1 BEDROOM UNITS	44 (326 sf - 416 sf)	44%
2 BEDROOM UNITS	35 (639 sf - 738 sf)	35%
3 BEDROOM UNITS	15 (738 sf - 1,175sf)	15%
TOTAL DWELLING UNITS	100	

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

A-00

08/27/15
REVISION: 07/11/16

FORUMDESIGN
ARCHITECTS

LEGAL DESCRIPTION

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF MARKET STREET, DISTANT THEREON 55 FEET AND 7/8 OF AN INCH NORTHEASTERLY FROM THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE NORTHERLY LINE OF WALLER STREET; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF MARKET STREET 184 FEET; THENCE DEFLECTING 117° 24' 10" TO THE LEFT AND RUNNING NORTHWESTERLY 162 FEET; THENCE SOUTHWESTERLY 34 FEET, MORE OR LESS, TO A POINT WHICH IS DISTANT 87 FEET AND 6 INCHES EASTERLY FROM THE EASTERLY LINE OF OCTAVIA STREET, MEASURED ALONG A LINE DRAWN AT A RIGHT ANGLE THERETO AND WHICH IS ALSO DISTANT 81 FEET AND 11-3/4 INCHES SOUTHERLY FROM THE SOUTHERLY LINE OF HAIGHT STREET, MEASURED ALONG A LINE DRAWN AT A RIGHT ANGLE THERETO; THENCE SOUTHERLY PARALLEL WITH THE EASTERLY LINE OF OCTAVIA STREET 69 FEET; THENCE SOUTHWESTERLY 18 FEET AND 10-3/4 INCHES TO A POINT WHICH IS DISTANT 72 FEET AND 11 INCHES EASTERLY FROM THE EASTERLY LINE OF OCTAVIA STREET, MEASURED ALONG A LINE DRAWN AT A RIGHT ANGLE THERETO AND WHICH IS ALSO DISTANT 163 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF HAIGHT STREET, MEASURED ALONG A LINE DRAWN AT A RIGHT ANGLE THERETO; THENCE SOUTHERLY PARALLEL WITH THE EASTERLY LINE OF OCTAVIA STREET 27 FEET AND 7-7/8 INCHES TO THE INTERSECTION WITH A LINE EXTENDED NORTHWESTERLY FROM THE POINT OF BEGINNING AND AT A RIGHT ANGLE TO THE NORTHWESTERLY LINE OF MARKET STREET; THENCE SOUTHEASTERLY ALONG THE LINE SO DRAWN 64 FEET AND 3-1/4 INCHES TO THE POINT OF BEGINNING.

BEING A PART OF WESTERN ADDITION BLOCK NO. 144.

EXCEPTING THEREFROM SO MUCH THEREOF AS DESCRIBED IN THE DEED FROM HERMAN HERBST, ET AL, TO THE STATE OF CALIFORNIA, DATED APRIL 11, 1956, RECORDED MAY 16, 1956, IN BOOK 6845 OF OFFICIAL RECORDS; AT PAGE 293, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF MARKET STREET, DISTANT THEREON 55 FEET AND 7/8 OF AN INCH NORTHEASTERLY FROM THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE NORTHERLY LINE OF WALLER STREET; THENCE ALONG SAID NORTHWESTERLY LINE OF MARKET STREET NORTH 45° 11' 18" EAST, 7.21 FEET TO A LINE THAT BEARS NORTH 11° 16' 02" WEST, AND INTERSECTS THE "MARKET ST. N. LINE" AT A POINT DISTANT THEREON 45° 08' 51" EAST 186-40 FEET FROM THE INTERSECTION THEREOF WITH THE "OCTAVIA ST. LINE" AS SAID MARKET ST. N. LINE AND OCTAVIA ST. LINE ARE SHOWN ON THE "RECORD OF SURVEY, CALIFORNIA STATE HIGHWAY CONTROL, CITY AND COUNTY OF SAN FRANCISCO, MISSION AND 13TH TO VAN NESS AND TURK", FILED APRIL 6, 1955, IN STATE HIGHWAY MAP BOOK NO. 1, SAN FRANCISCO, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG SAID LINE THAT BEARS NORTH 11° 16' 02" WEST 122.67 FEET TO THE LINE COMMON TO THE PROPERTIES, NOW OR FORMERLY OF MAURICE HERBST AND OF SHERWOOD JAY ALLEN; THENCE ALONG SAID COMMON PROPERTY LINE SOUTH 45° 56' 59" WEST 27.42 FEET TO THE GENERAL WESTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED RECORDED FEBRUARY 3, 1940, IN BOOK 3565, PAGE 182, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG SAID SAID GENERAL WESTERLY LINE OF THE FOLLOWING COURSES: SOUTH 9° 05' EAST 69.00 FEET, SOUTH 40° 40' 47" WEST, 18.77 FEET, SOUTH 9° 05' EAST 27.72 FEET AND SOUTH 44° 48' 42" EAST, 64.28 FEET TO THE POINT OF BEGINNING.

A.P.N. 06-0855-010-01

BASIS OF SURVEY

CITY OF SAN FRANCISCO MONUMENT MAP NO. 26 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

BASIS OF BEARINGS

THE EASTERLY LINE OF OCTAVIA STREET IS TAKEN TO BE N09°05'00"W AS SHOWN ON RECORD OF SURVEY NO. 9557 RECORDED JANUARY 12, 2011 IN BOOK 00 OF SURVEY MAPS, PAGES 100-110, OFFICIAL RECORDS.

GENERAL NOTES

1. DETAILS NEAR PROPERTY LINES MAY NOT BE TO SCALE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

BENCHMARK NOTE

"* CUT TOP SOUTHEAST BOLT OF GATE AT THE NORTHWEST INTERSECTION (13° EAST & 3° WEST) OF WALLER AND LAGUNA STREETS. ELEVATION = 93.98 FEET, SAN FRANCISCO CITY DATUM.

UTILITY NOTE

THE UTILITIES EXISTING ON THE SURFACE AND SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. ALL UNDERGROUND UTILITIES SHOWN ON THIS DRAWING ARE FROM RECORDS OF THE VARIOUS UTILITY COMPANIES AND THE SURVEYOR DOES NOT ASSUME RESPONSIBILITY FOR THEIR COMPLETENESS, INDICATED LOCATION OR SIZE. RECORD UTILITY LOCATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY. DUE TO THE PROLIFERATION OF TELECOMMUNICATION COMPANIES, NOT ALL UNDERGROUND RECORDS ARE AVAILABLE. THEREFORE, THERE MAY BE TELECOMMUNICATION LINES NOT SHOWN HEREON.

FLOOD NOTE

THE SUBJECT PROPERTY HAS NOT BEEN IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS A SPECIAL FLOOD HAZARD AREA. THERE IS NO FLOOD INSURANCE RATE MAP FOR SAN FRANCISCO.

SURVEY REFERENCE

OLD REPUBLIC TITLE COMPANY PRELIMINARY REPORT NO. 0224031093-CB DATED SEPTEMBER 18, 2013.

THE FOLLOWING IS AN EXCEPTION TO TITLE WITHIN THE ABOVE REFERENCED PRELIMINARY REPORT:

6. "MEMORANDUM OF AGREEMENT" RECORDED DECEMBER 13, 2002 IN REEL 1283, IMAGE 1753, OFFICIAL RECORDS, NOT PLOTTABLE.

ZONING

NOT-3 - MODERATE SCALE, NEIGHBORHOOD COMMERCIAL, TRANSIT DISTRICT

HEIGHT AND BULK DISTRICT: 85-X 85 FOOT HEIGHT LIMIT.

THE MEASURED HEIGHT FROM THE ROOF PARAPET TO THE TOP OF CURB AT THE CENTER OF THE LOT ALONG MARKET STREET IS 31 FEET PLUS OR MINUS.

PARKING

THERE ARE 3 TOTAL MARKED PARKING SPACES (INCLUDES 1 HANDICAP SPACE) LOCATED WITHIN THE SUBJECT PROPERTY.

LEGEND

- CLR. CLEAR OF PROPERTY LINE
OV. OVER PROPERTY LINE
BLDG. BUILDING
(B) BUILDING DIMENSION
CONC. CONCRETE
ASPH. ASPHALT
GRD. GROUND
R/W RIGHT OF WAY
CC CONCRETE CURB
CW CONCRETE WALL
CS CONCRETE STEPS
MTL.F METAL FENCE
MTLL METAL LANDING
MTLS METAL STAIRS
TC TOP OF CURB
FL FLOW LINE
BW BACK OF WALK
GB GRADE BREAK
INVERT
TW TOP OF WALL
TW(BU) TOP OF CONCRETE BUILDING WALL (BUILDING UNDER CONSTRUCTION)
RP ROOF PARAPET
FDN. FOUNDATION
HR HANDICAP RAMP
PS PARKING SPACE
HPS HANDICAP PARKING SPACE
- W WATER VALVE
○ NT TREE PIT (NO TREE)
○ OV ELECTROLYZER & GAS VALVE
○ E ELECTRIC MANHOLE
○ SSB ELECTRIC SPUR BOX
○ SV SEWER VENT
○ PB COVER MARKED "PB"
○ TR TRAFFIC SIGN
○ B BOLLARD
○ TS TRAFFIC SIGNAL PULLBOX
○ T TELEPHONE PULLBOX
○ E ELECTRIC PULLBOX
- BIKE LANE SIGN
○ W WATER METER
○ OHE OVERHEAD ELECTRIC WIRE
○ E ELECTRIC LINE
○ G GAS LINE
○ S SEWER LINE
○ SL STREET LIGHT LINE
○ T TELEPHONE LINE
○ TS TRAFFIC SIGNAL LINE
○ W WATER LINE
○ P PIPE
○ D DUCT

VICINITY MAP
NO SCALE

NORTH



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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

AERIAL PHOTO

A-02

08/27/15
REVISION: 07/11/16

FORUMDESIGN
ARCHITECTS



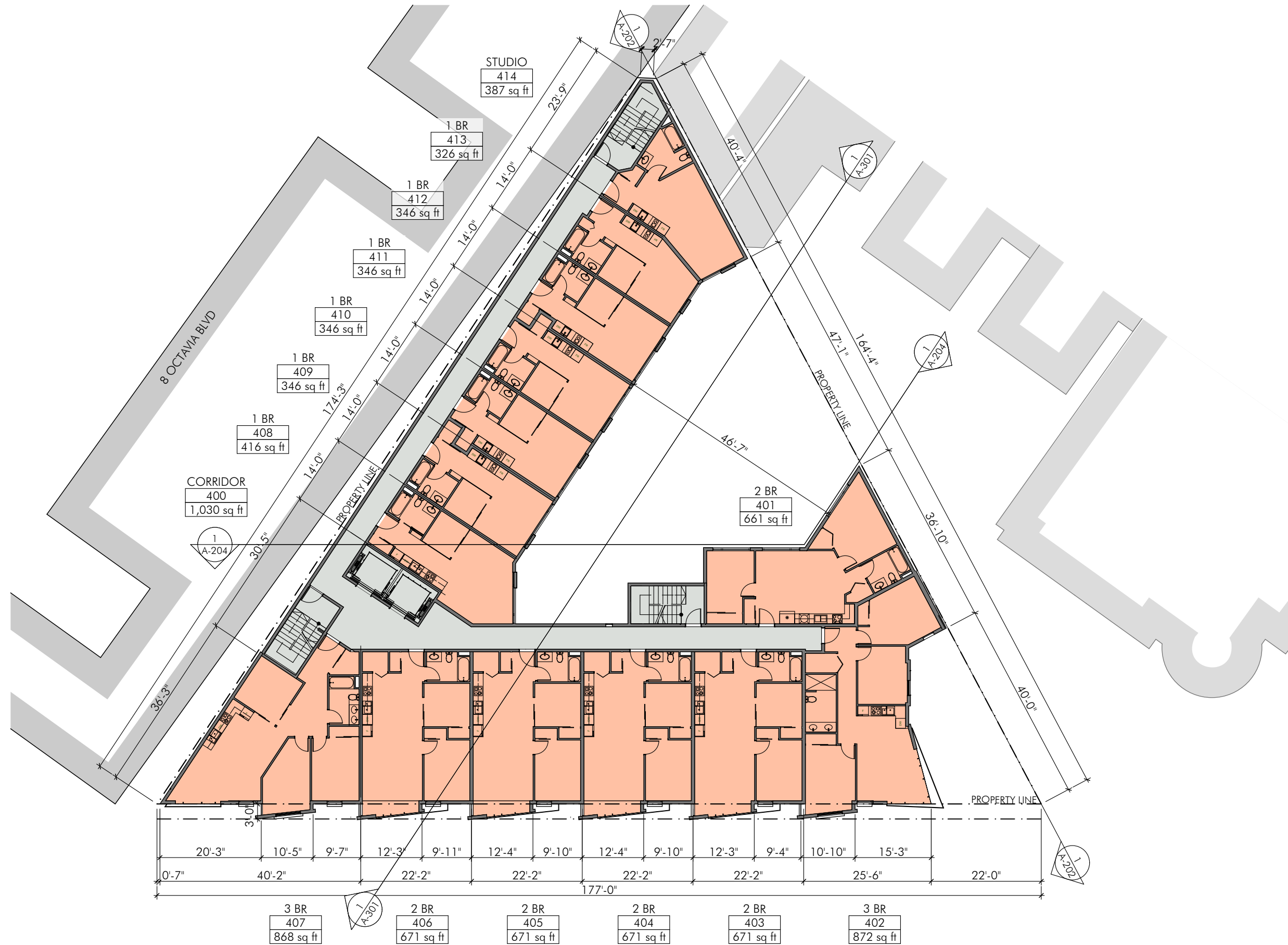
CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

A-03

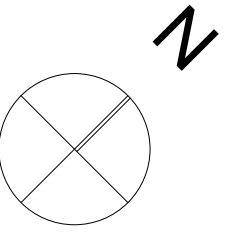
08/27/15
 REVISION: 07/11/16

FORUMDESIGN
 ARCHITECTS

SITE PHOTOGRAPHS



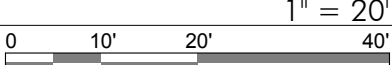
CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

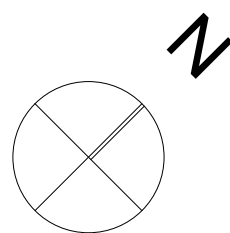


A-104

08/27/15
REVISION: 07/11/16

FORUMDESIGN
ARCHITECTS






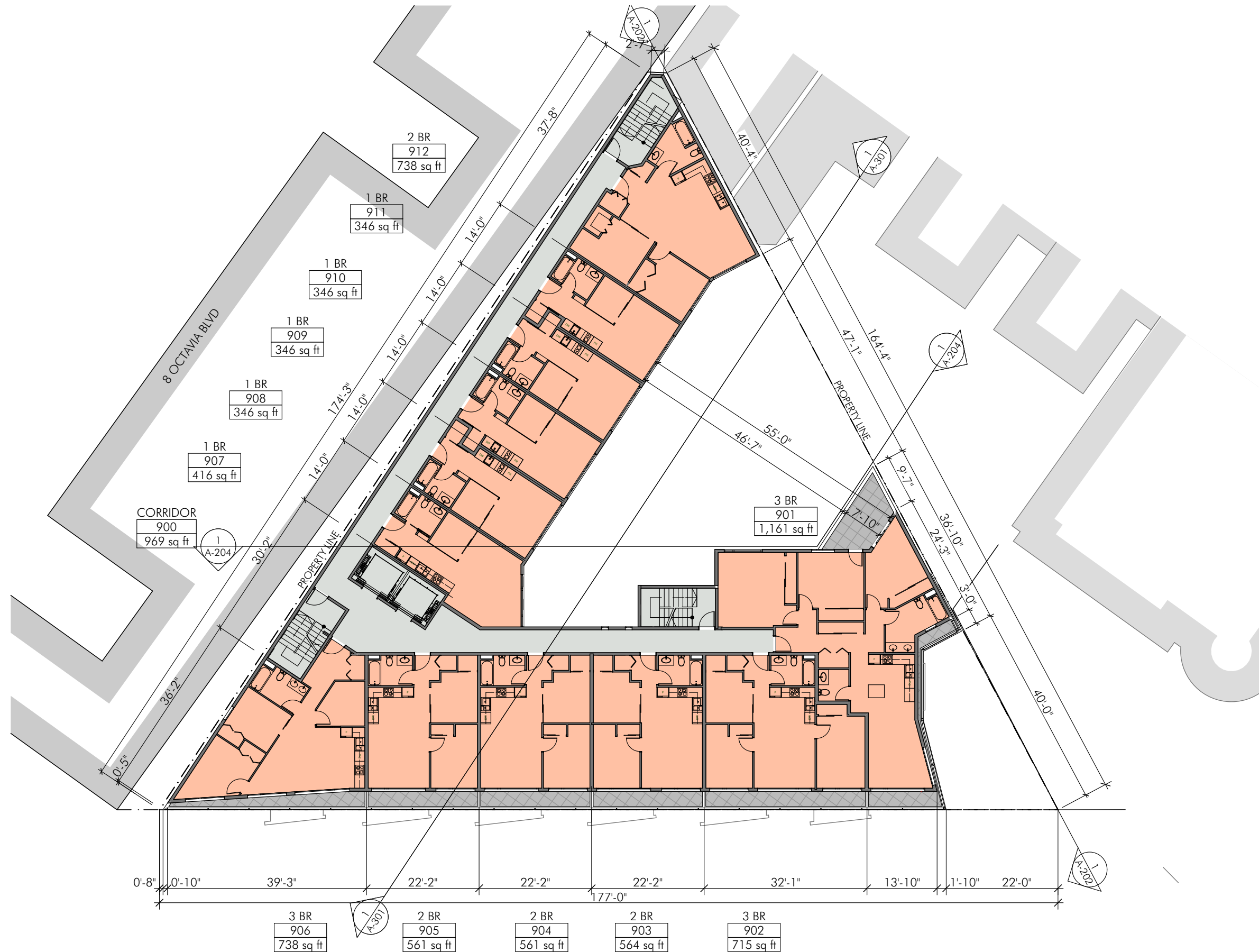
A-108
08/27/15
ION: 07/11/16

BRUM DESIGN
ARCHITECTS

1" = 20'

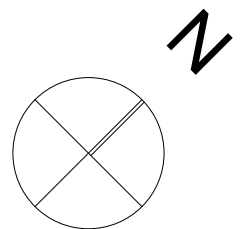


0 10' 20' 40'



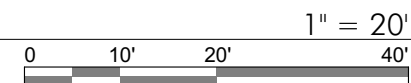
NINTH FLOOR PLAN

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102



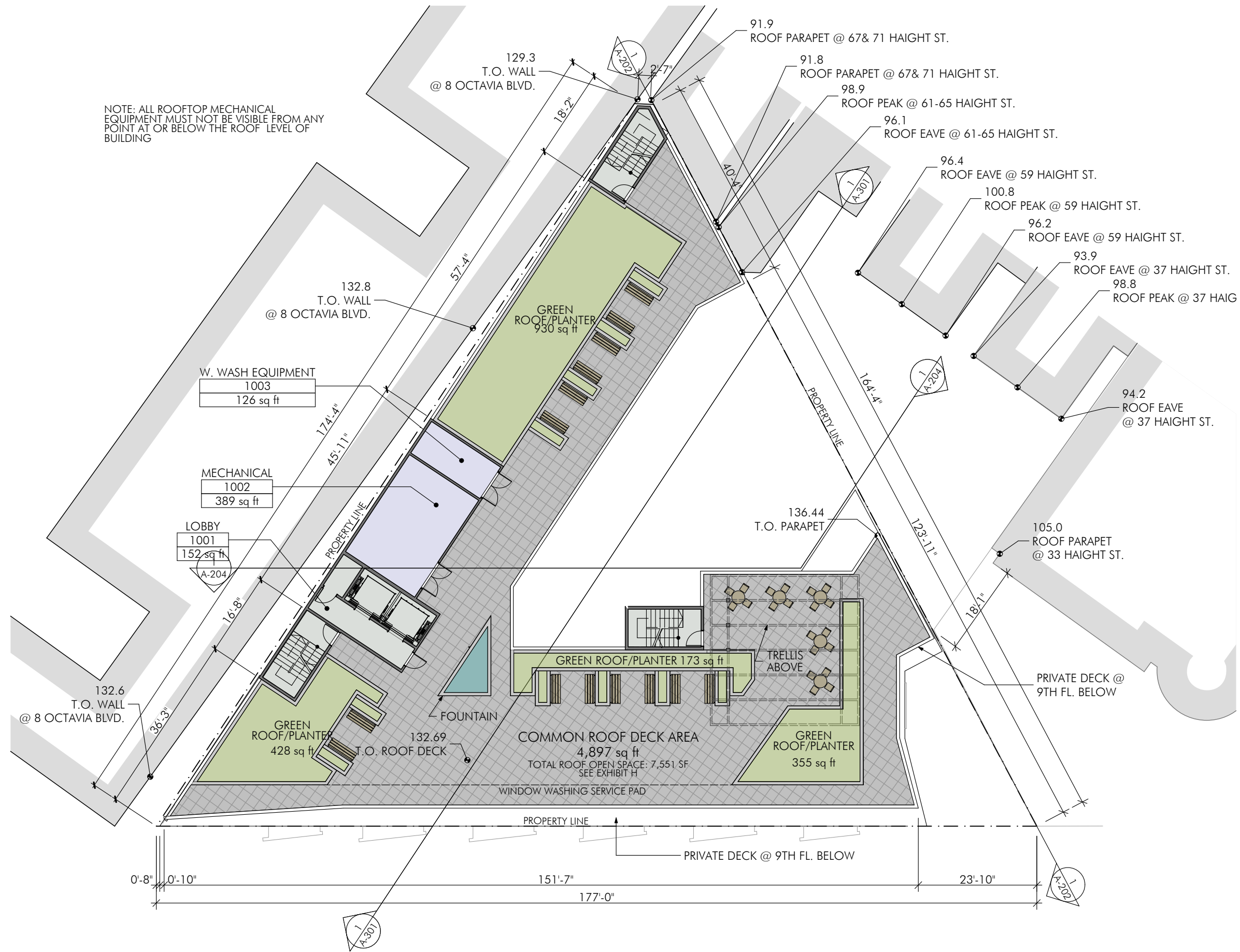
A-109

08/27/15
 REVISION: 07/11/16

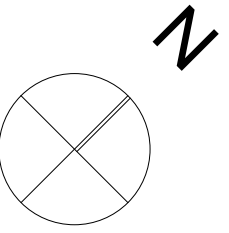


FORUMDESIGN
 ARCHITECTS

NOTE: ALL ROOFTOP MECHANICAL EQUIPMENT MUST NOT BE VISIBLE FROM ANY POINT AT OR BELOW THE ROOF LEVEL OF BUILDING



CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

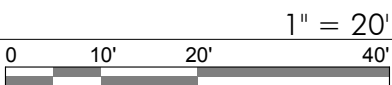


A-110

08/27/15
REVISION: 07/11/16

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ARCHITECTS

ROOF PLAN





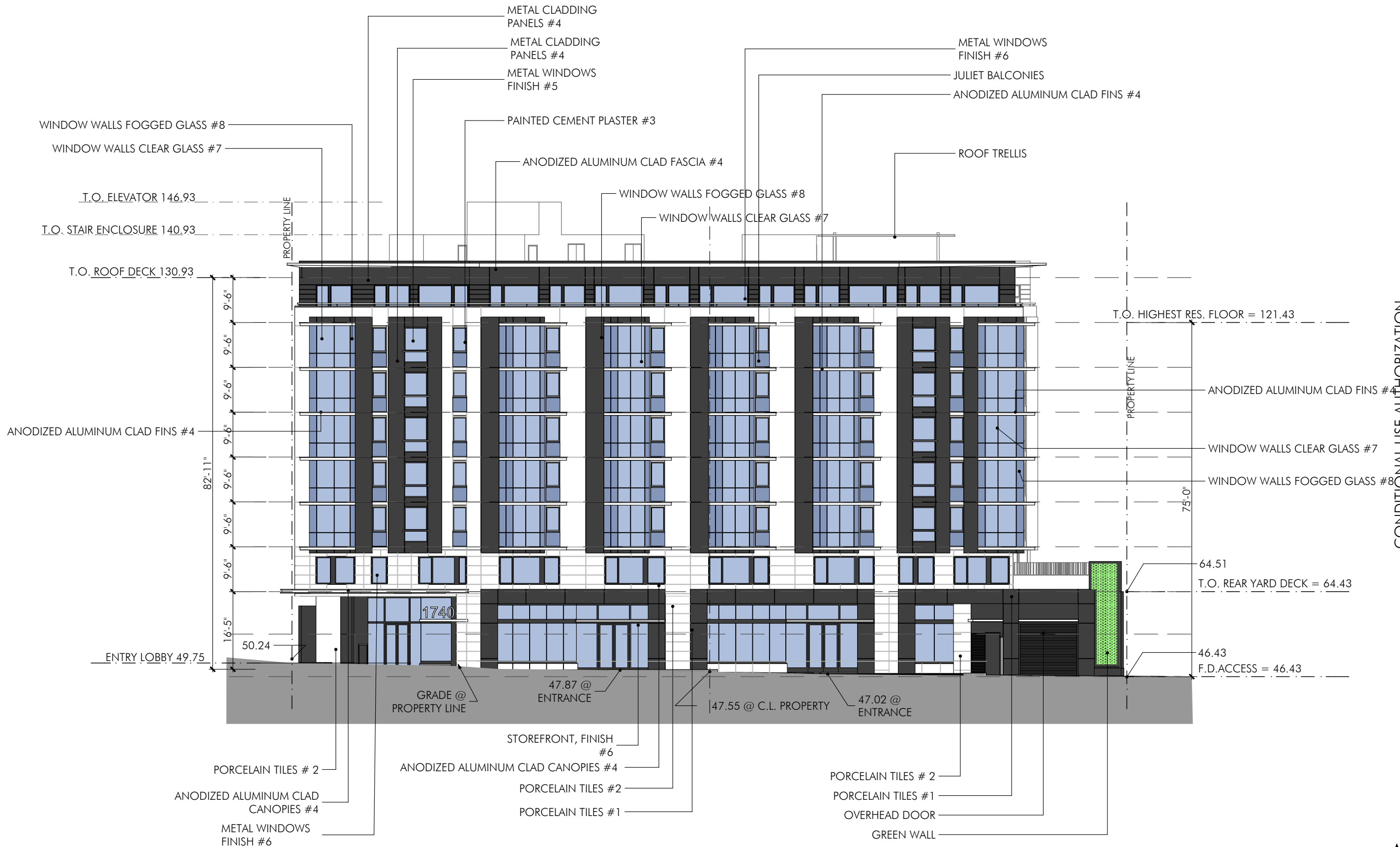
CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

MARKET BLOCK SITE PLAN

A-111

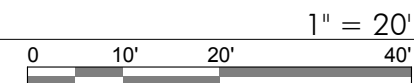
08/27/15
REVISION: 07/11/16

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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

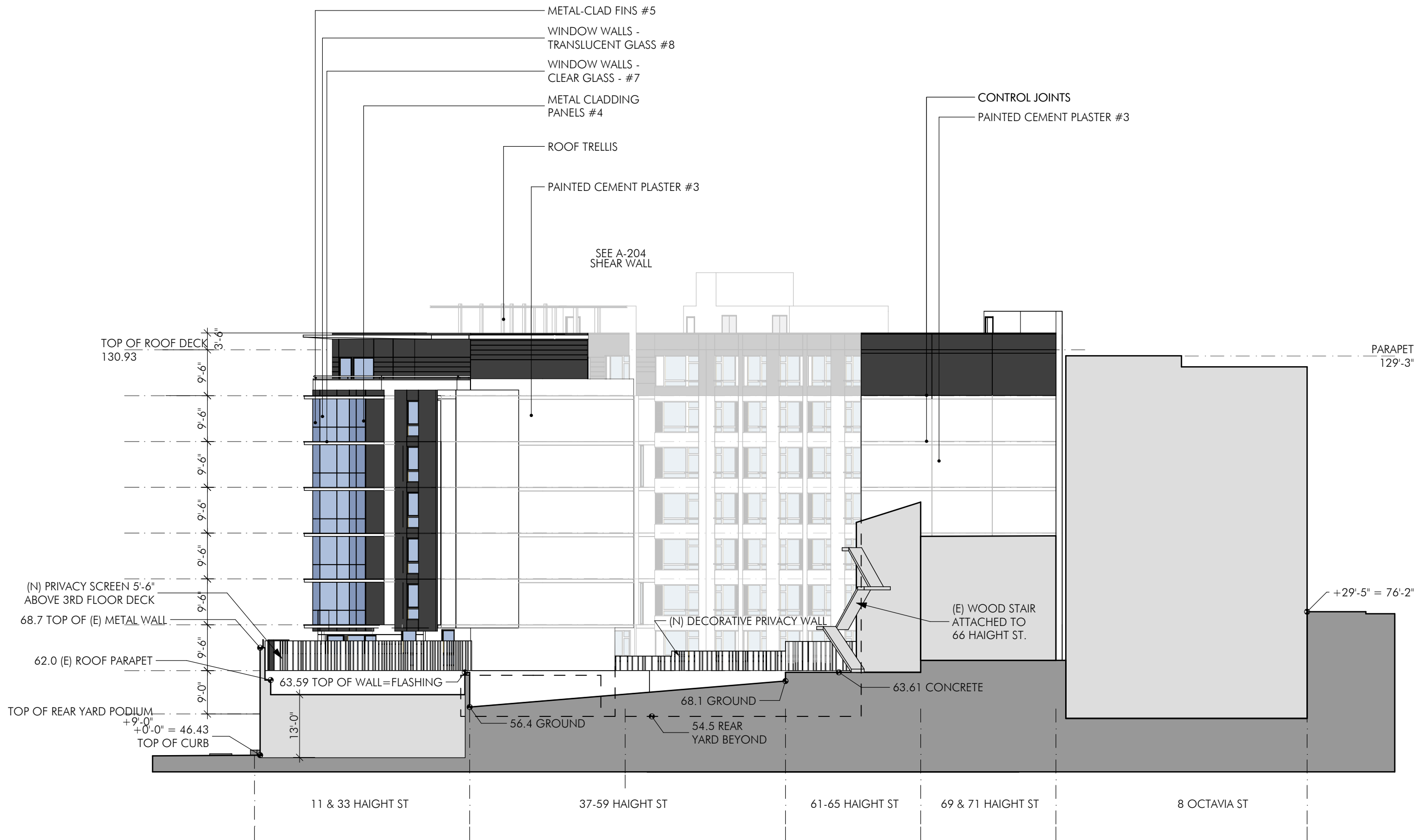
FRONT ELEVATION - MARKET STREET



A-201

08/27/15
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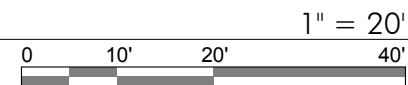


CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

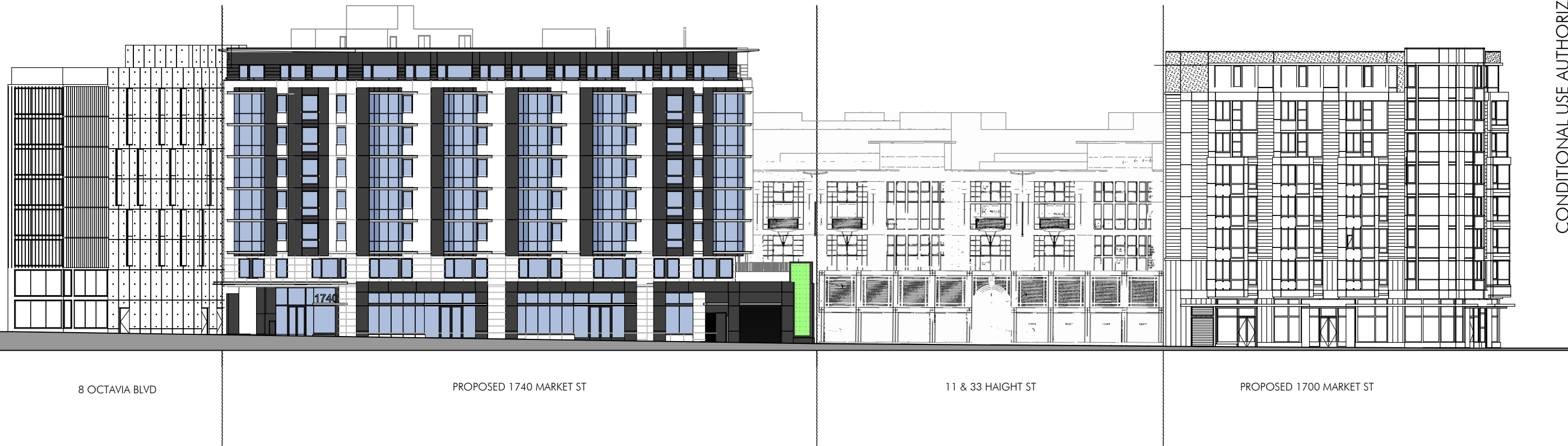
NORTH ELEVATION

A-202

08/27/15
 REVISION: 07/11/16



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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

8 OCTAVIA BLVD

PROPOSED 1740 MARKET ST

11 & 33 HAIGHT ST

PROPOSED 1700 MARKET ST

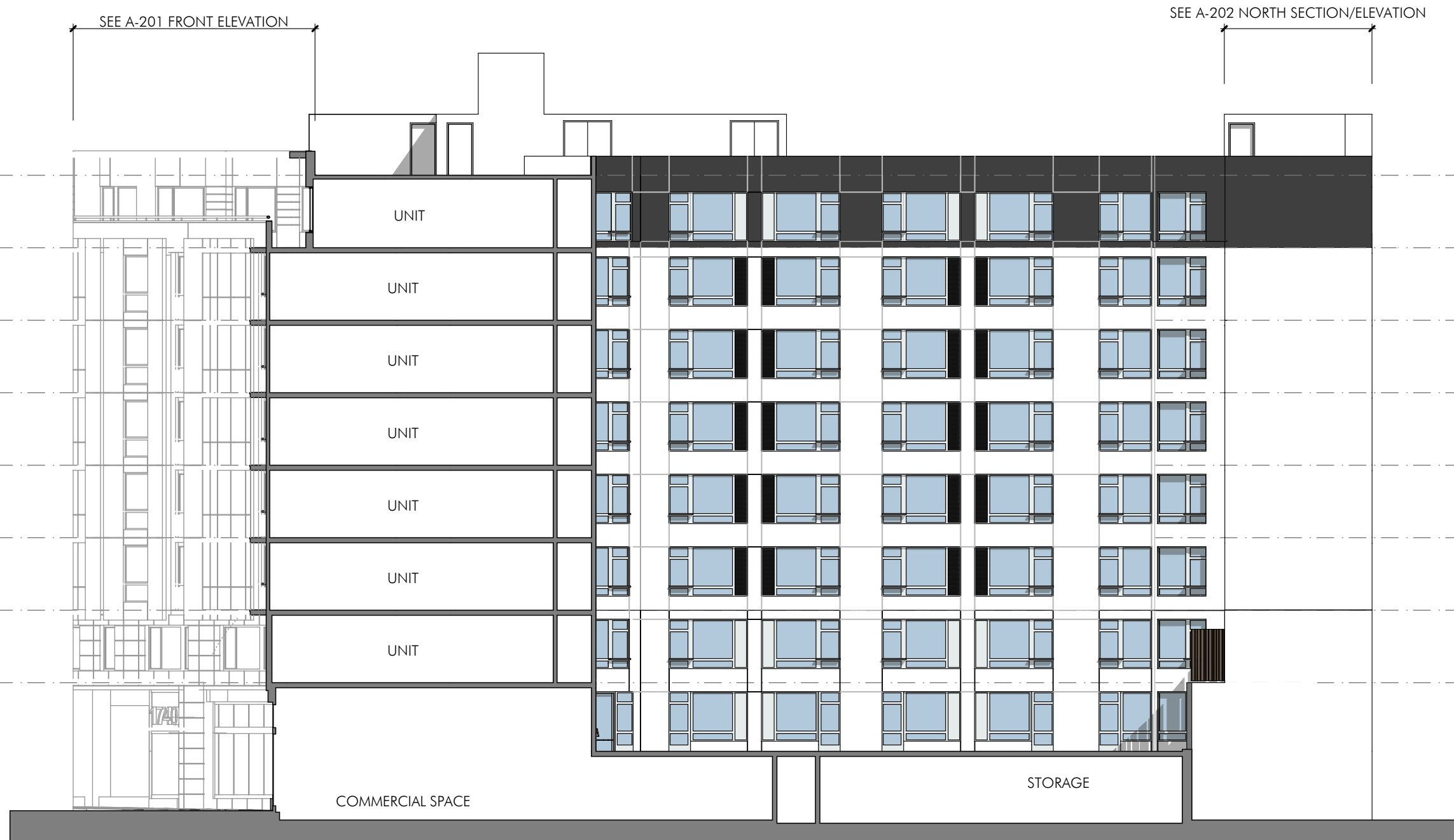
MARKET BLOCK ELEVATION

A-203

08/27/15

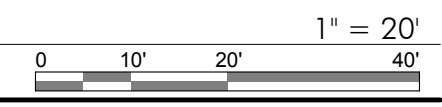
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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

SECTION



A-301
 08/27/15

REVISION: 07/11/16

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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

PERSPECTIVE VIEW 1

A-901

08/27/15

REVISION: 07/11/16

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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

PERSPECTIVE VIEW 2

A-902

08/27/15
REVISION: 07/11/16

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CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

PERSPECTIVE VIEW 3

A-903

08/27/15
REVISION: 07/11/16

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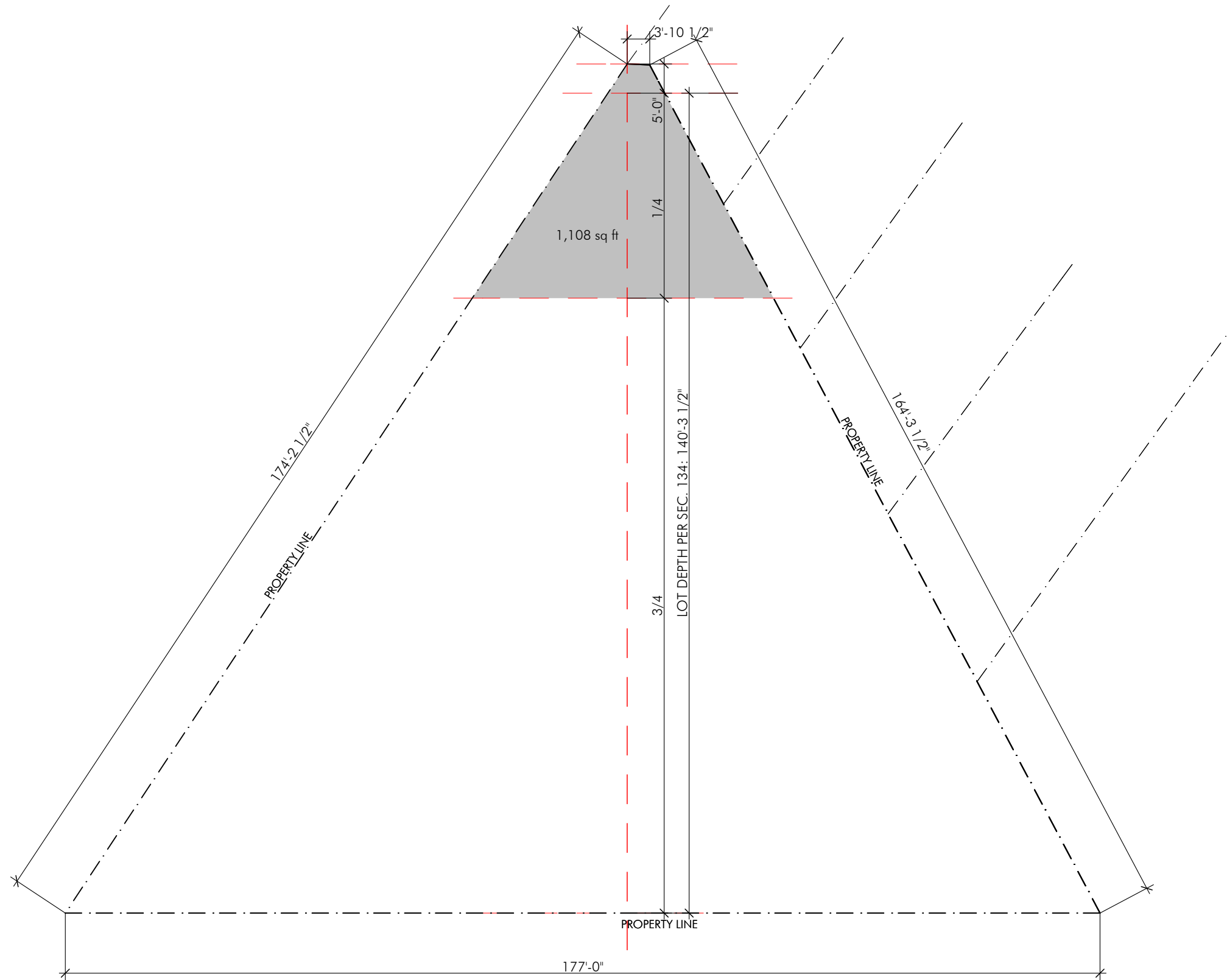
PERSPECTIVE VIEW 4

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

A-904

08/27/15
REVISION: 07/11/16

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REQUIRED REAR YARD AREA CALCULATION -OPTION 1

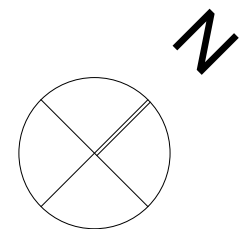
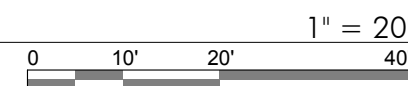
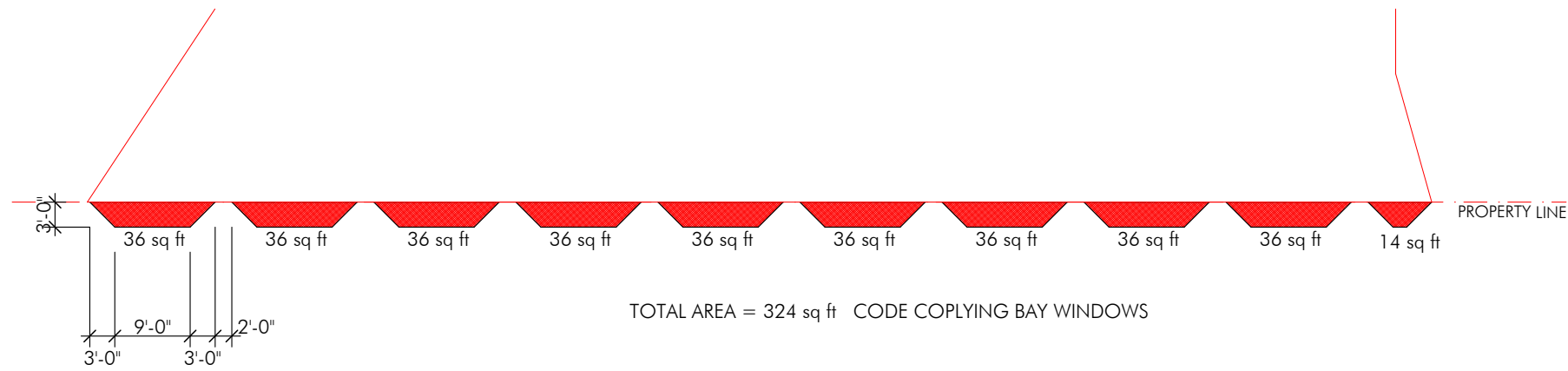


EXHIBIT-A

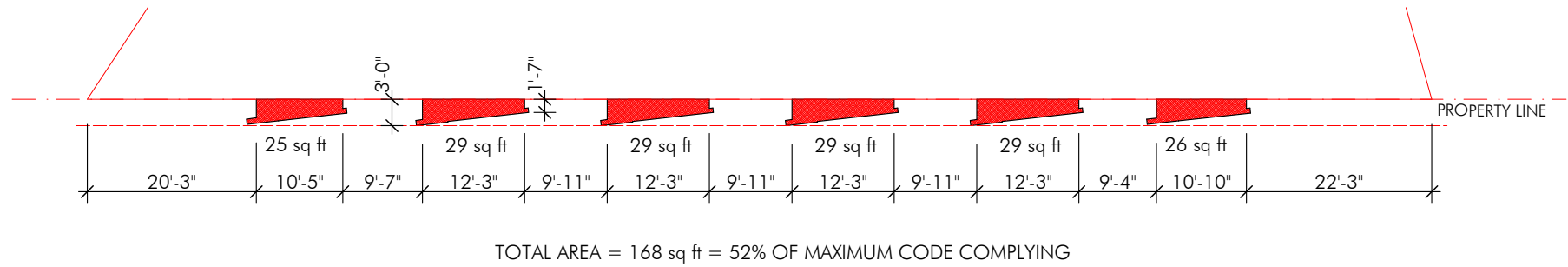
08/27/15
REVISION: 07/11/16

FORUMDESIGN
ARCHITECTS

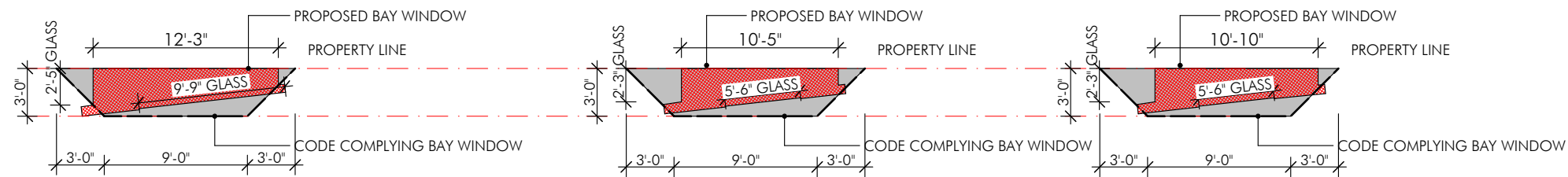
CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102



CODE COMPLYING BAY WINDOW AREAS



PROPOSED BAY WINDOW AREAS @ TYP. FLOOR (4TH-8TH)



PROPOSED BAY WINDOWS VS. COMPLYING BAY WINDOWS COMPARISON

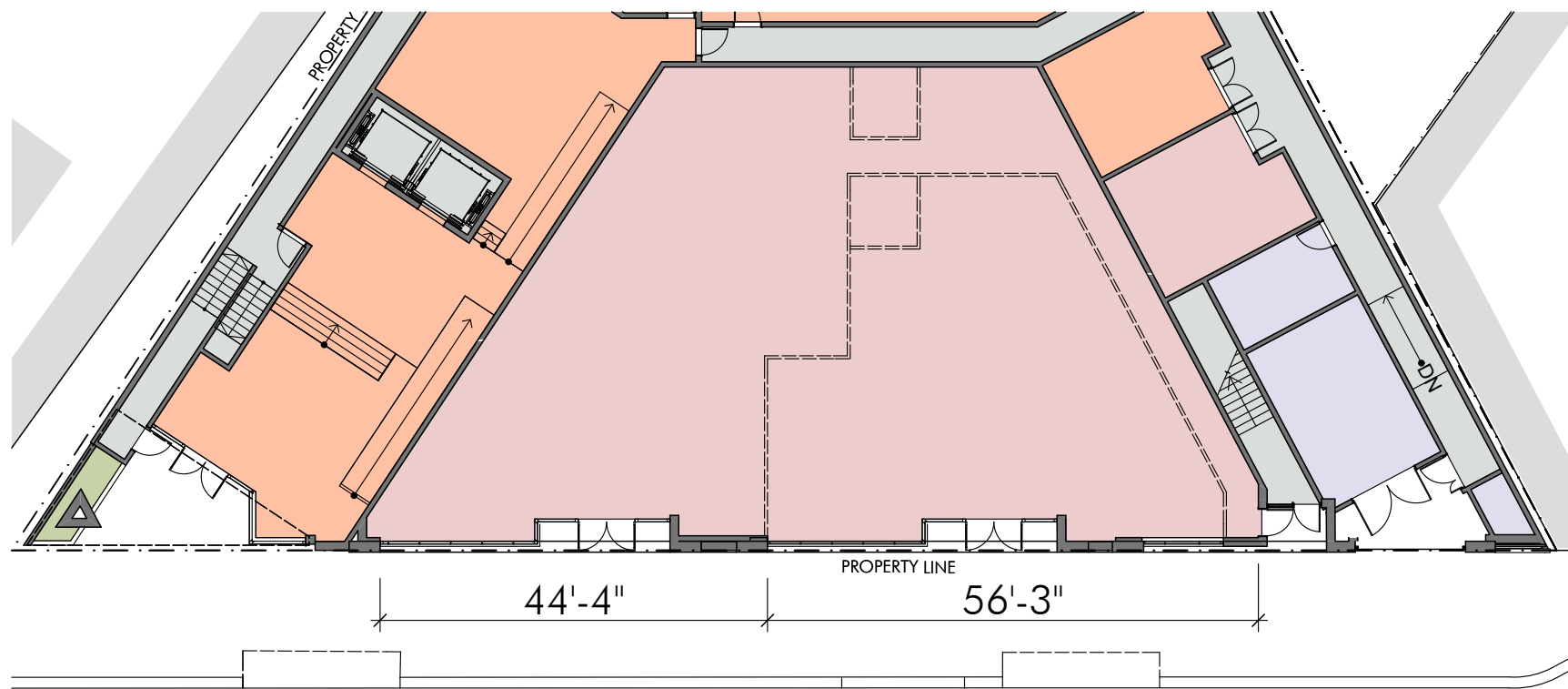
BAY WINDOW COMPLIANCE DIAGRAM

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

EXHIBIT-B

08/27/15
REVISION: 07/11/16

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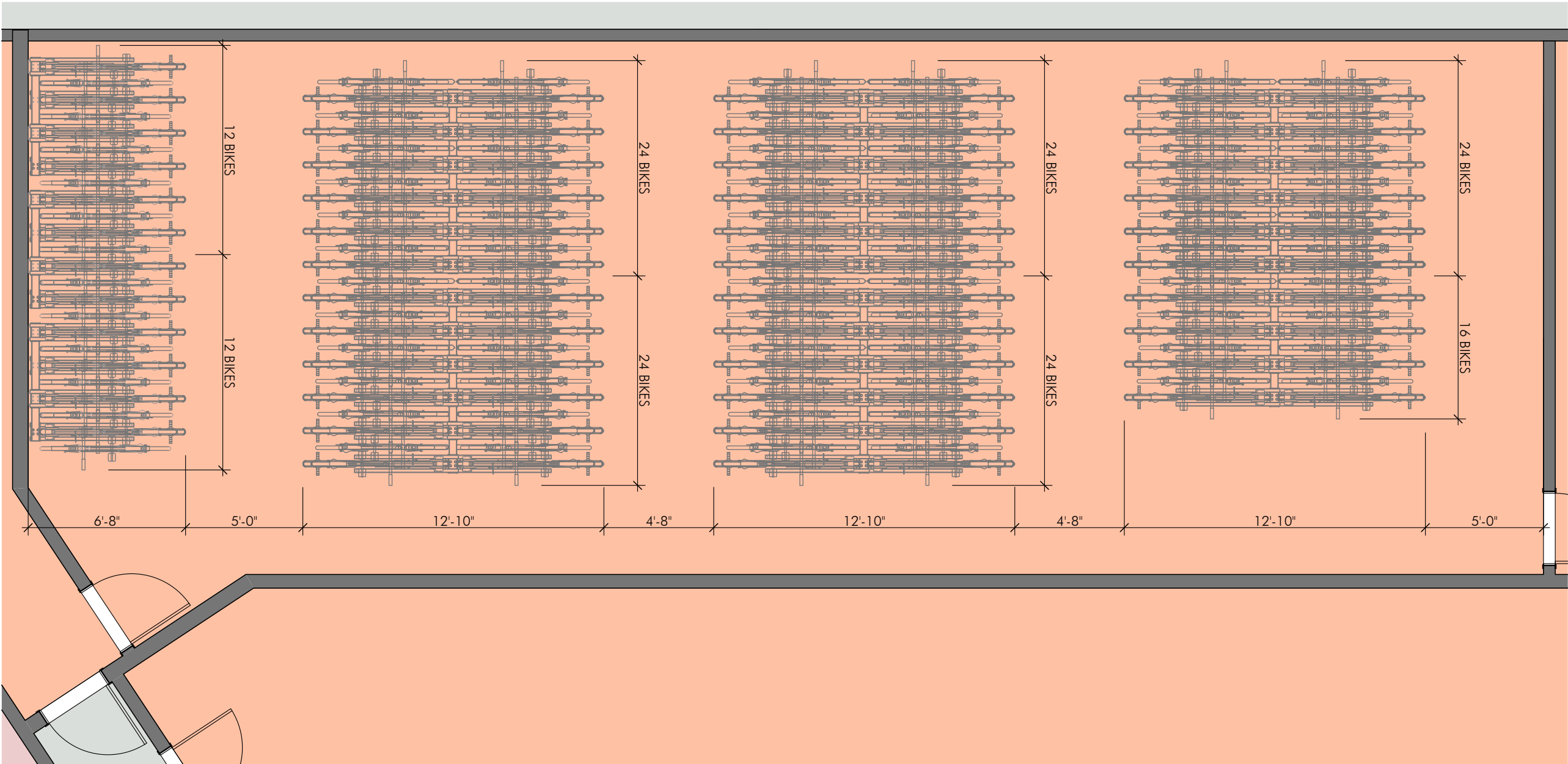


CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

COMMERCIAL COMPLIANCE SEC. 145.4(d)(3)

EXHIBIT-C
08/27/15
REVISION: 07/11/16

FORUMDESIGN
ARCHITECTS



160 CLASS 1 BIKE PARKING SPACES

DERO DECKER PARKING SYSTEM - SPEC ON EXHIBIT-E.1

2x	DD-SS-12 SINGLE SIDED BIKE RACKS	12 BIKES EACH
5x	DD-DS-24 DOUBLE SIDED BIKE RACKS	24 BIKES EACH
1x	DD-D2-16 DOUBLE SIDED BIKE RACKS	16 BIKES
TOTAL:		160 BIKES

BIKE PARKING DETAIL PLAN

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

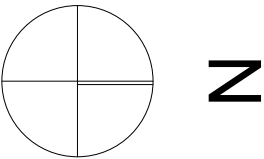
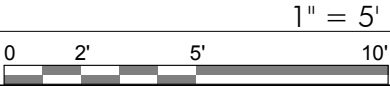


EXHIBIT-D

08/27/15
REVISION: 07/11/16





Front wheel levers hold bikes securely in trays
Springs and dampers lower trays smoothly, and make lifting bikes easier
Red handle grips for greater visibility



NEW LOOK!

Patent Pending



DERO DECKER™

- Lift-assist top trays
- Top trays fold vertically for easy loading
- Modular Single & Double-sided Options

The Dero Decker™ takes bike parking to the next level — literally. By stacking bikes on a two-tiered system, capacity doubles. Unlike other double decker systems our lift-assist top trays slide down inches from the ground, thus requiring only minimal lifting of the bike into the tray. The front wheel safety locking lever and tray dampers provide safe lowering of upper trays. The vertical load trays also reduce the required aisle space, giving the Dero Decker™ the smallest footprint on the market.

The Dero Decker™ is modular and available in single and double-sided configurations. Call for a free layout today!

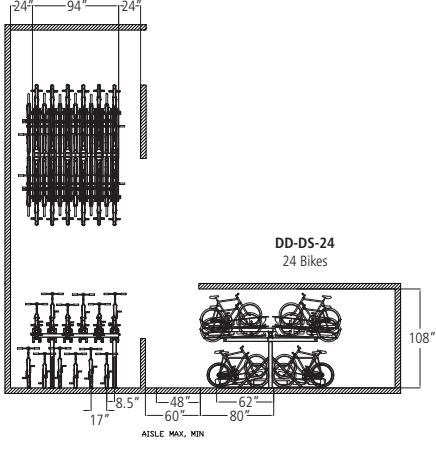
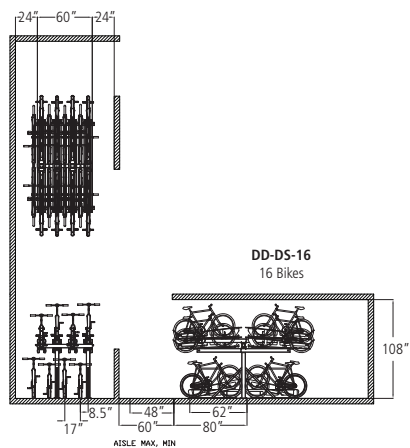
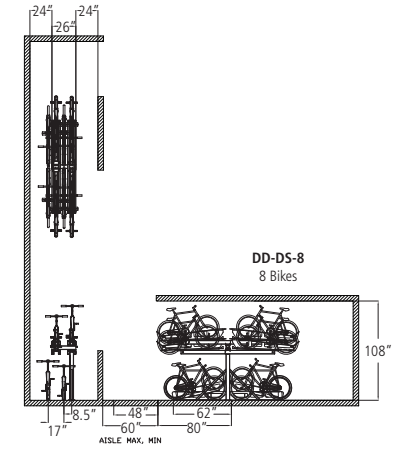
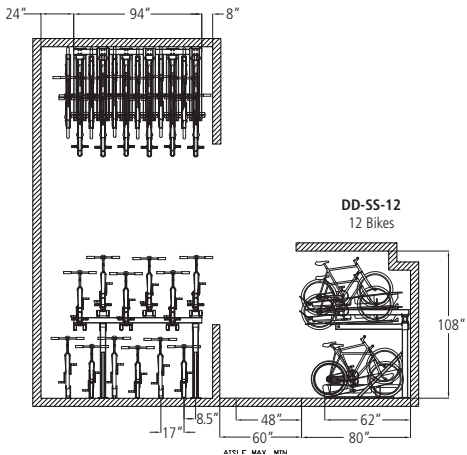
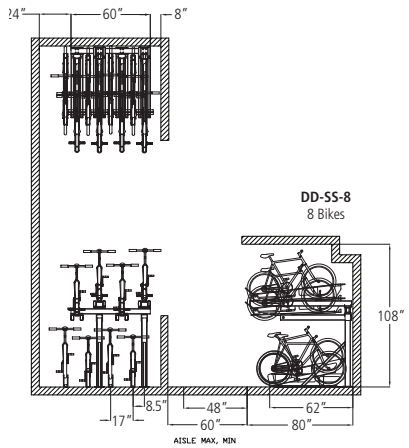
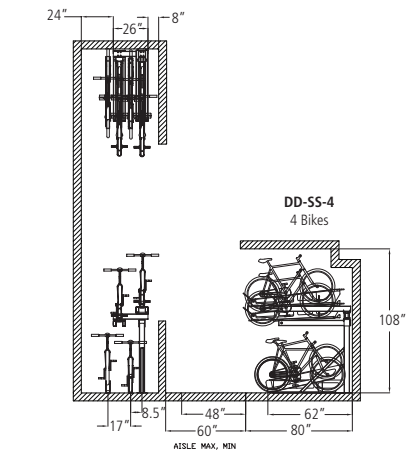
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1740 MARKET STREET
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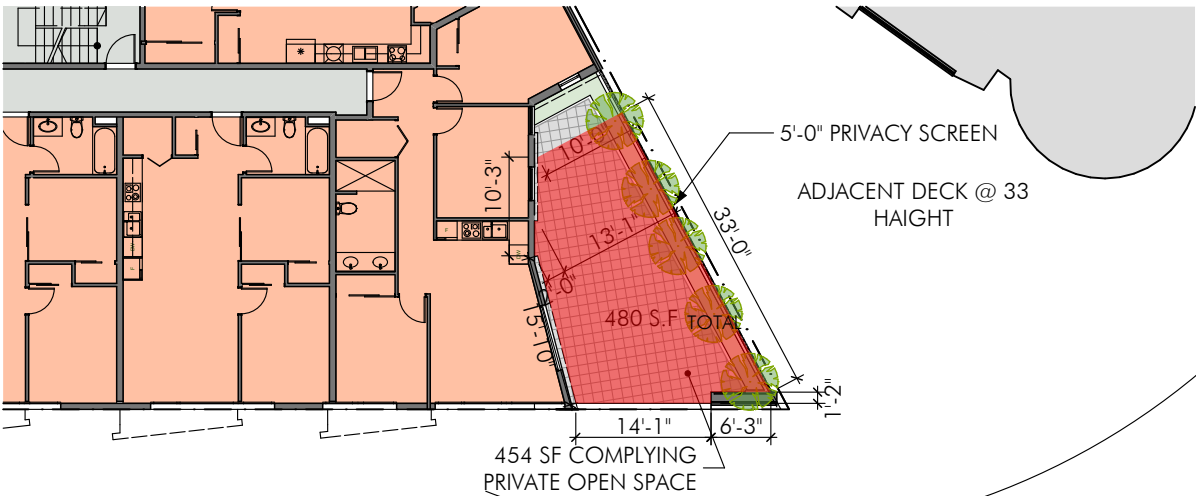
EXHIBIT-D.1

08/27/15

REVISION: 07/11/16



FLOOR	ROOM #	AREA	OPEN SPACE STRATEGY
2	201	346	REDUCED COMMON OPEN SPACE
	202	346	REDUCED COMMON OPEN SPACE
	203	346	REDUCED COMMON OPEN SPACE
	204	326	REDUCED COMMON OPEN SPACE
	205	387	REDUCED COMMON OPEN SPACE
3	301	663	454 SF COMPLYING PRIVATE OPEN SPACE PROVIDED
	302	851	COMMON OPEN SPACE
	303	639	COMMON OPEN SPACE
	304	639	COMMON OPEN SPACE
	305	639	COMMON OPEN SPACE
	306	639	COMMON OPEN SPACE
	307	842	COMMON OPEN SPACE
	308	416	COMMON OPEN SPACE
	309	346	REDUCED COMMON OPEN SPACE
	310	346	REDUCED COMMON OPEN SPACE
	311	346	REDUCED COMMON OPEN SPACE
	312	346	REDUCED COMMON OPEN SPACE
	313	326	REDUCED COMMON OPEN SPACE
	314	387	REDUCED COMMON OPEN SPACE
4-7	401-701	661	COMMON OPEN SPACE
	402-702	929	COMMON OPEN SPACE
	403-703	671	COMMON OPEN SPACE
	404-704	671	COMMON OPEN SPACE
	405-705	671	COMMON OPEN SPACE
	406-706	671	COMMON OPEN SPACE
	407-707	871	COMMON OPEN SPACE
	408-708	416	COMMON OPEN SPACE
	409-709	346	REDUCED COMMON OPEN SPACE
	410-710	346	REDUCED COMMON OPEN SPACE
	411-711	346	REDUCED COMMON OPEN SPACE
	412-712	346	REDUCED COMMON OPEN SPACE
8	413-713	326	REDUCED COMMON OPEN SPACE
	414-714	387	REDUCED COMMON OPEN SPACE
	801	661	COMMON OPEN SPACE
	802	929	COMMON OPEN SPACE
	803	671	COMMON OPEN SPACE
	804	671	COMMON OPEN SPACE
	805	671	COMMON OPEN SPACE
	806	671	COMMON OPEN SPACE
	807	871	COMMON OPEN SPACE
	808	416	COMMON OPEN SPACE
	809	346	REDUCED COMMON OPEN SPACE
	810	346	REDUCED COMMON OPEN SPACE
	811	346	REDUCED COMMON OPEN SPACE
9	812	346	REDUCED COMMON OPEN SPACE
	813	738	COMMON OPEN SPACE
	901	1,175	COMMON OPEN SPACE
	902	722	COMMON OPEN SPACE
	903	564	COMMON OPEN SPACE
	904	561	COMMON OPEN SPACE
	905	561	COMMON OPEN SPACE
	906	738	COMMON OPEN SPACE
	907	416	COMMON OPEN SPACE
	909	346	REDUCED COMMON OPEN SPACE
	910	346	REDUCED COMMON OPEN SPACE
	911	346	REDUCED COMMON OPEN SPACE
	912	346	REDUCED COMMON OPEN SPACE
	913	738	COMMON OPEN SPACE

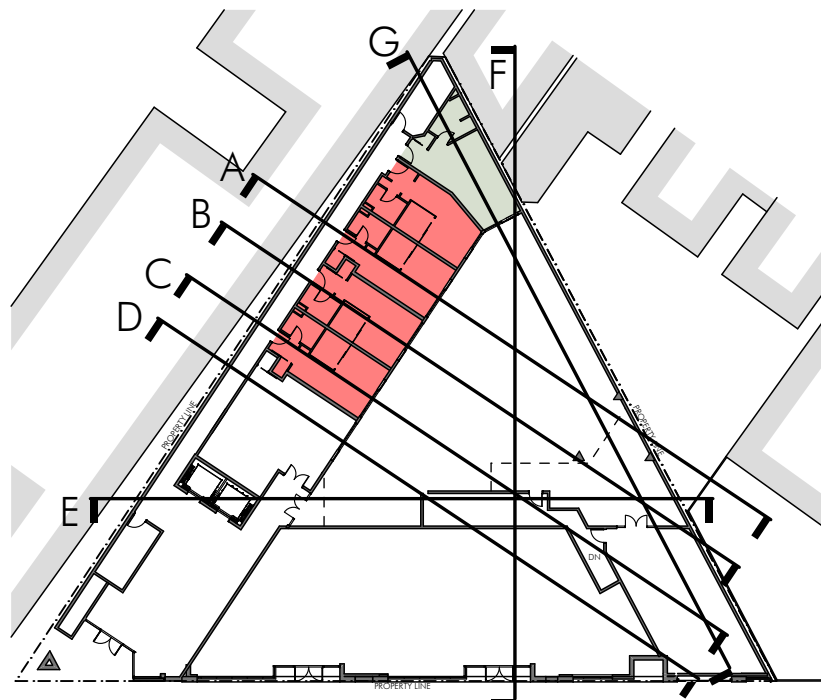


3RD FLOOR PRIVATE OPEN SPACE

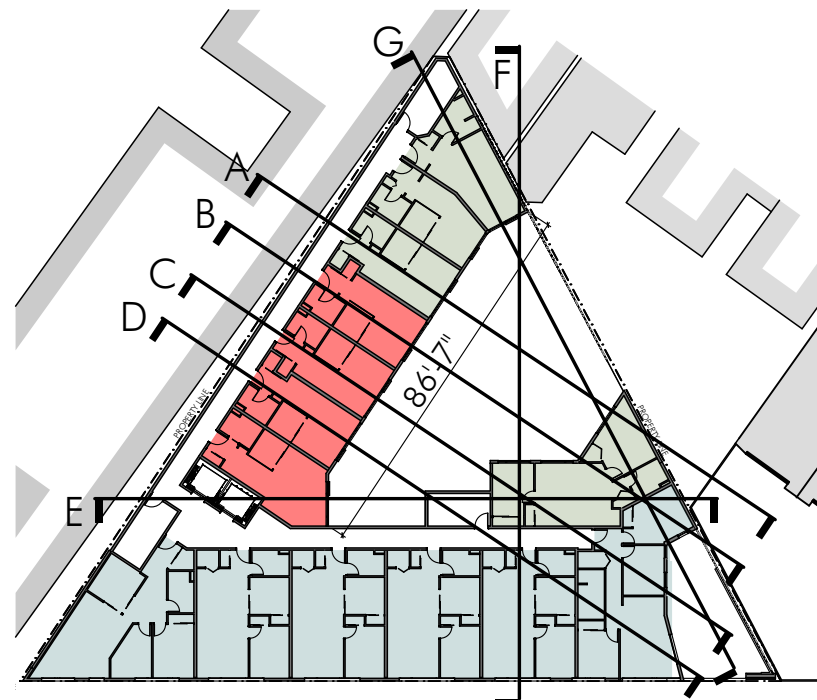
CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

EXHIBIT-E
08/27/15
REVISION: 07/11/16

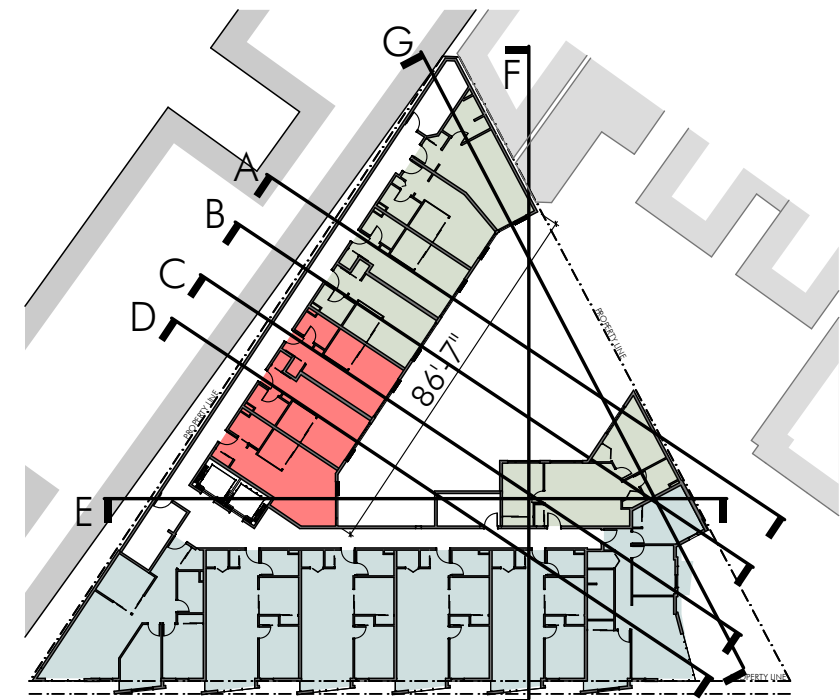




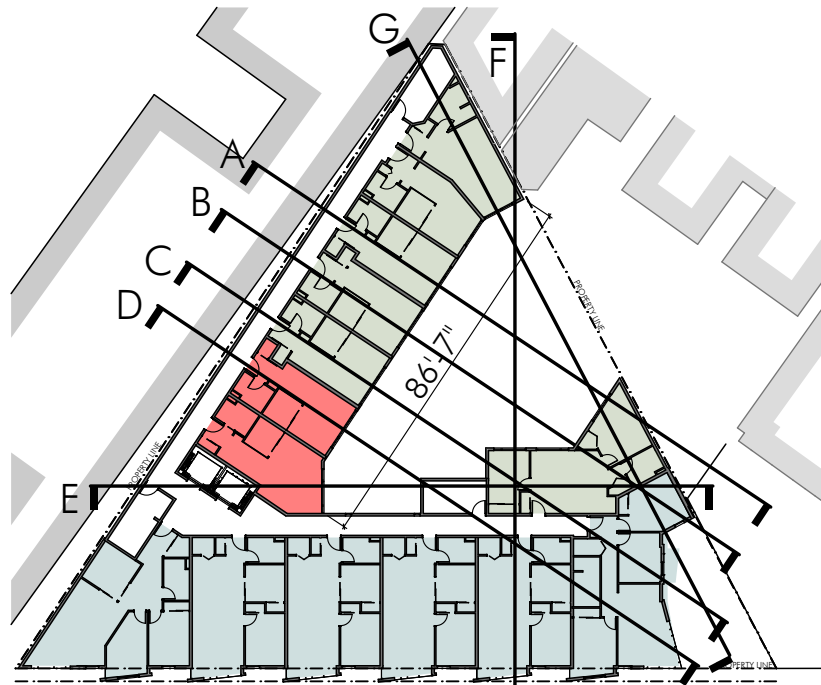
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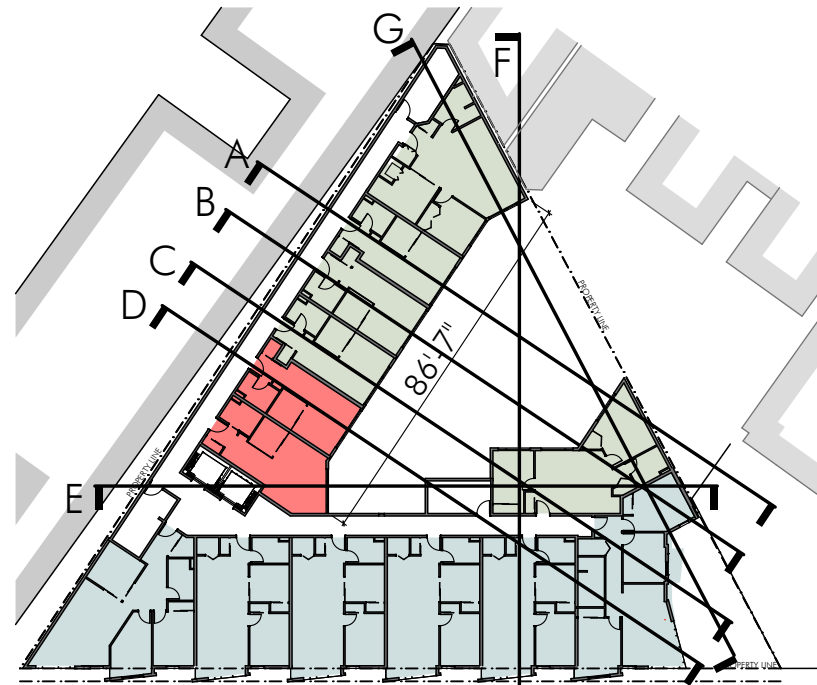
3RD FLOOR



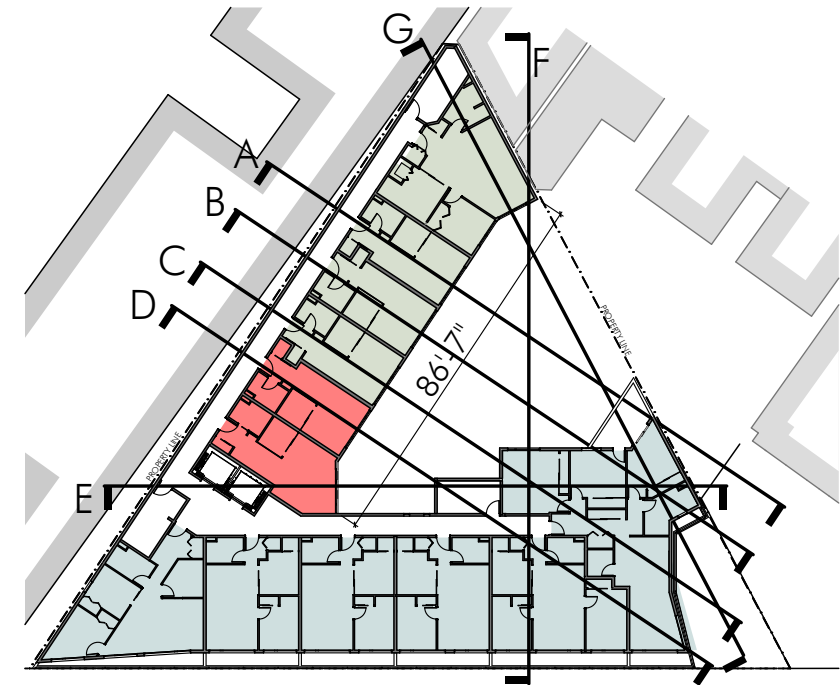
4TH-6TH FLOORS



7TH FLOOR



8TH FLOOR



9TH FLOOR

- UNITS COMPLYING WITH SEC. 140(a)(1)
(FACING MARKET ST.)
- UNITS COMPLYING WITH SEC. 140(a)(2)
- UNITS REQUIRING AN EXPOSURE VARIANCE

ASSUMPTIONS:

WE TOOK SECTIONS THROUGH THE CENTER OF THE MAIN WINDOWS OF UNITS POSSIBLY AFFECTED BY EXPOSURE VARIANCES TO COVER ALL INNER COURT CONDITIONS. WE EVALUATED THE UNITS FOR COMPLIANCE WITH SEC. 140(a)(2) BASED ON THE PERPENDICULAR DISTANCE FROM EACH WINDOW CENTER TO THE OPPOSITE COURT WALL. WE ASSUMED THAT THE 86'-07" WIDTH OF THE INNER COURT WOULD BE SUFFICIENT FOR ALL UNITS RELYING ON THE INNER COURT TO FULFILL EXPOSURE REQUIREMENTS.

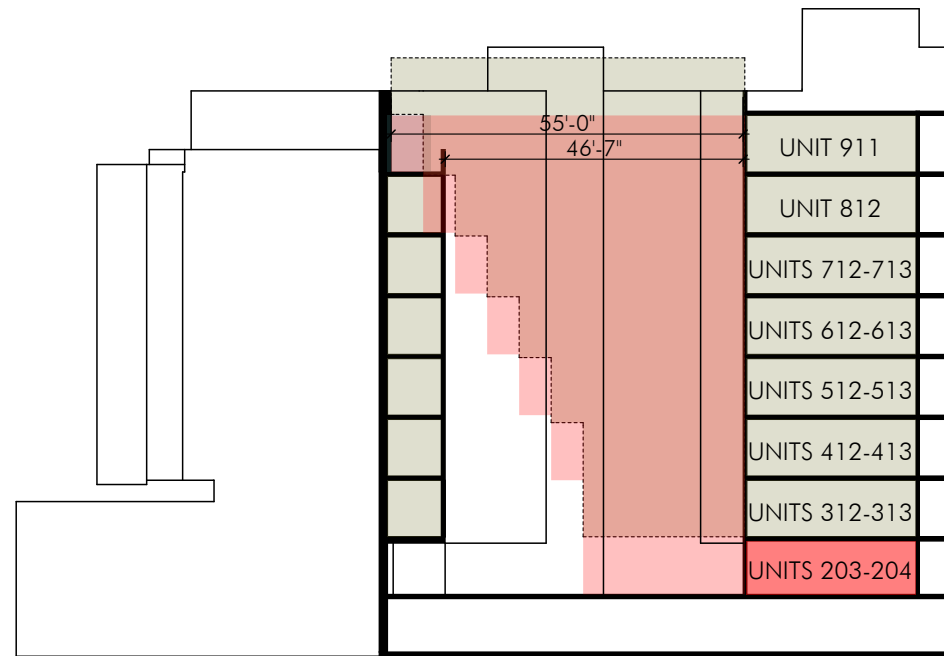
EXPOSURE DIAGRAM

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

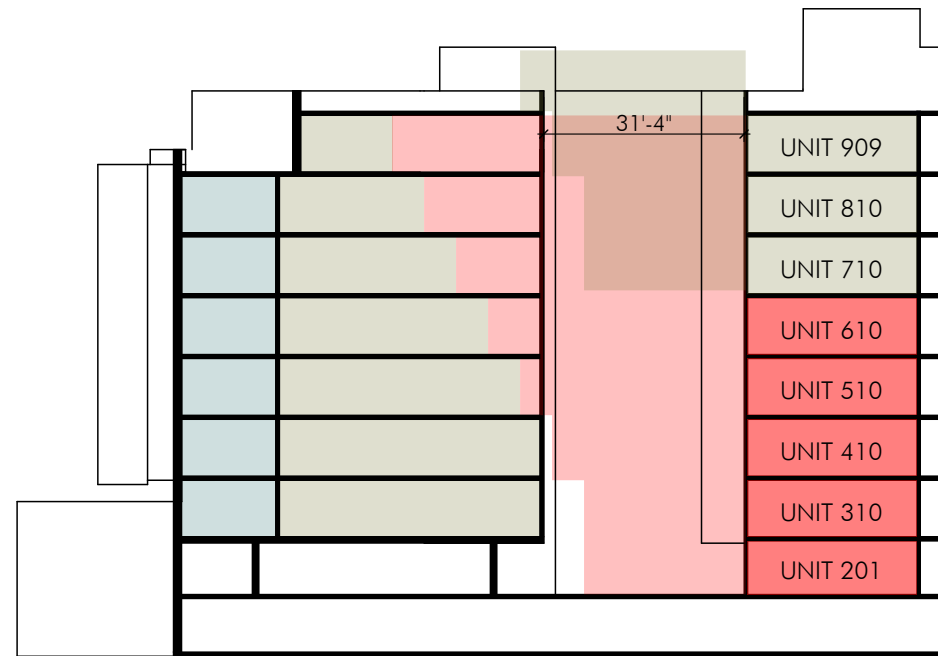
EXHIBIT-F

08/27/15
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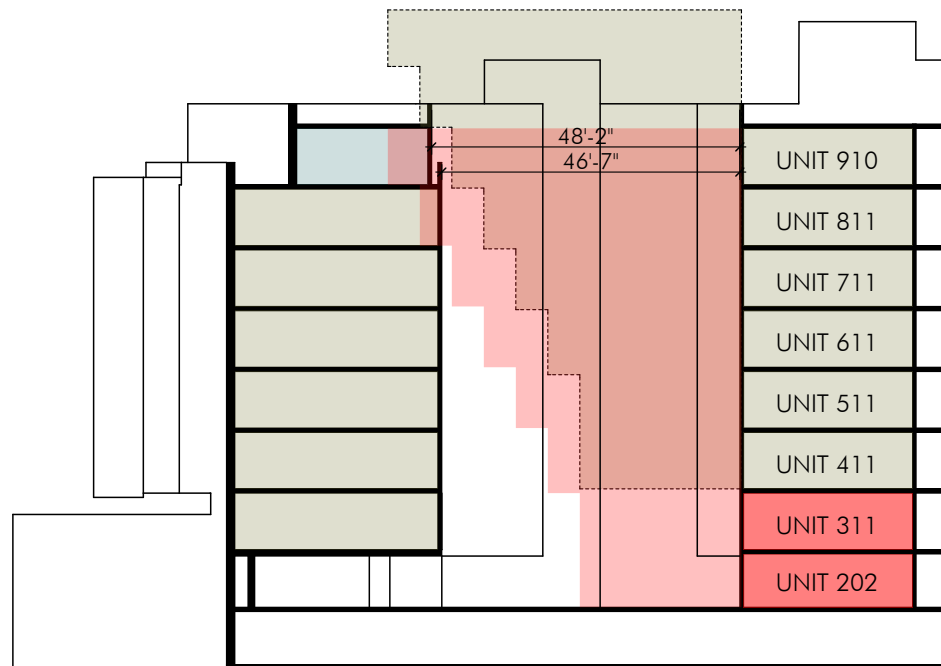


SECTION A
2 UNITS REQUIRING VARIANCE

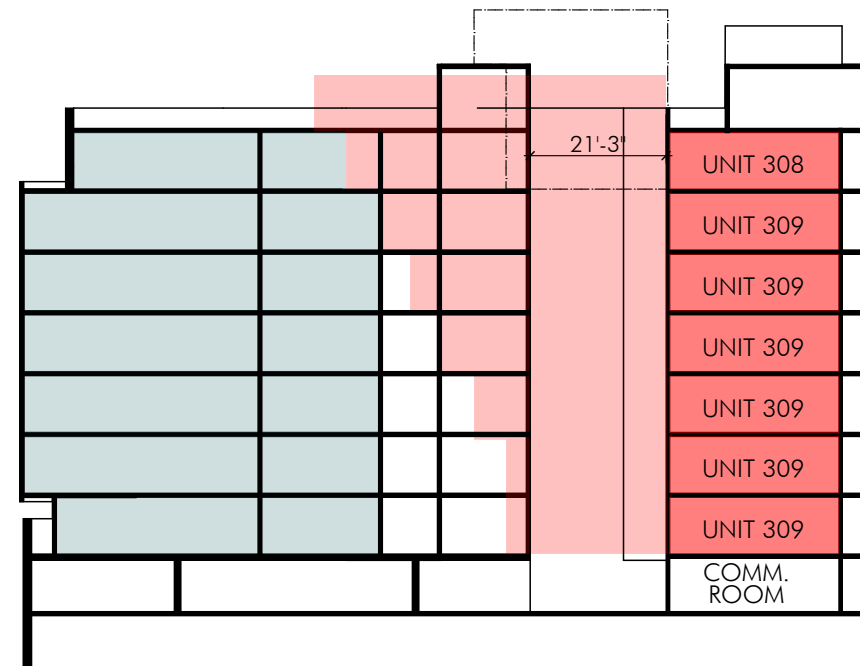


SECTION C
5 UNITS REQUIRING VARIANCE

- UNITS COMPLYING WITH SEC. 140(a)(1)
(FACING MARKET ST.)
- UNITS COMPLYING WITH SEC. 140(a)(2)
- UNITS REQUIRING AN EXPOSURE VARIANCE



SECTION B
2 UNITS REQUIRING VARIANCE



SECTION D
7 UNITS REQUIRING VARIANCE

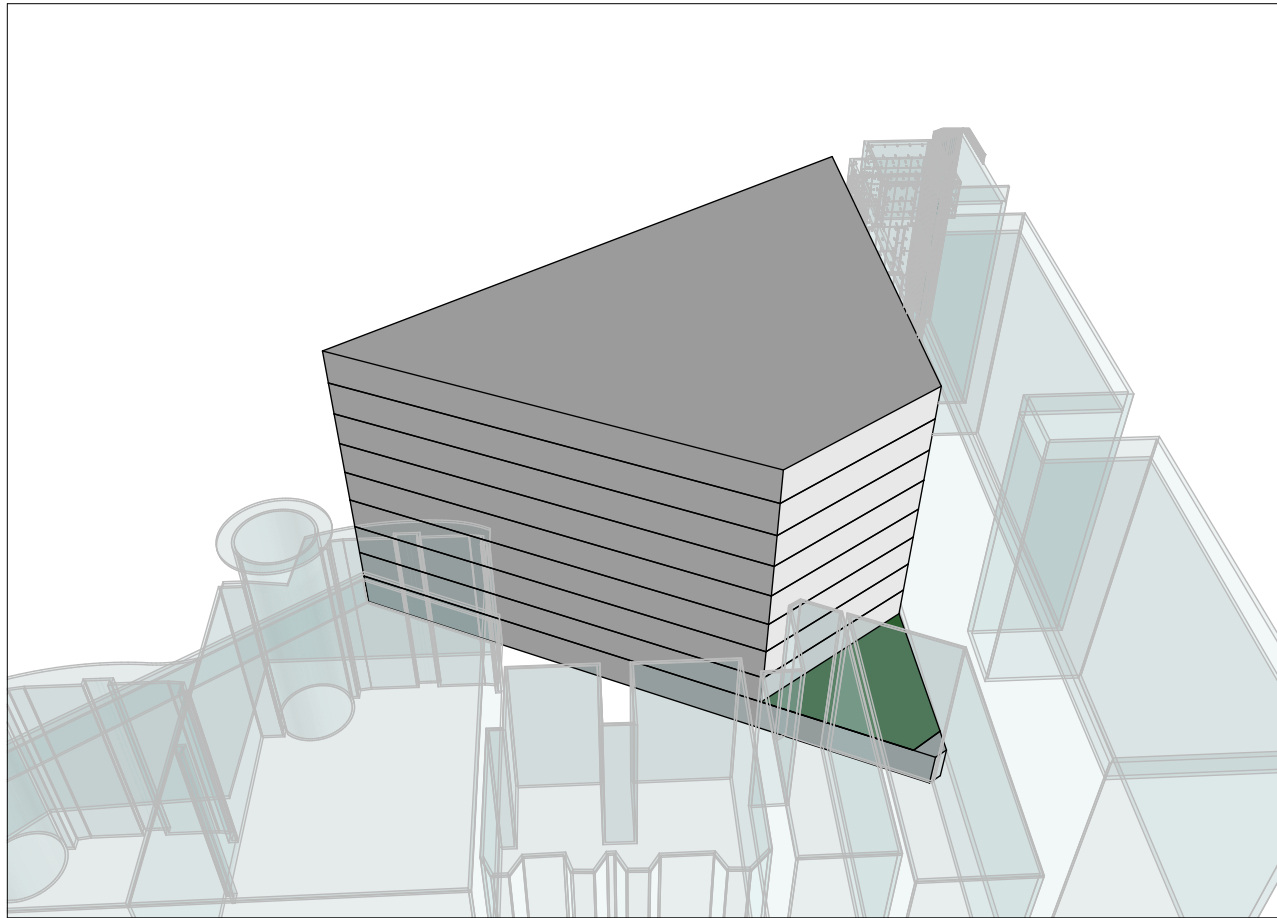
TOTALS	
42	UNITS COMPLYING WITH SEC. 140(a)(1)
35	UNITS COMPLYING WITH SEC. 140(a)(2)
<u>23</u>	UNITS REQUIRING AN EXPOSURE VARIANCE
100	TOTAL UNITS

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
 SAN FRANCISCO, CALIFORNIA 94102

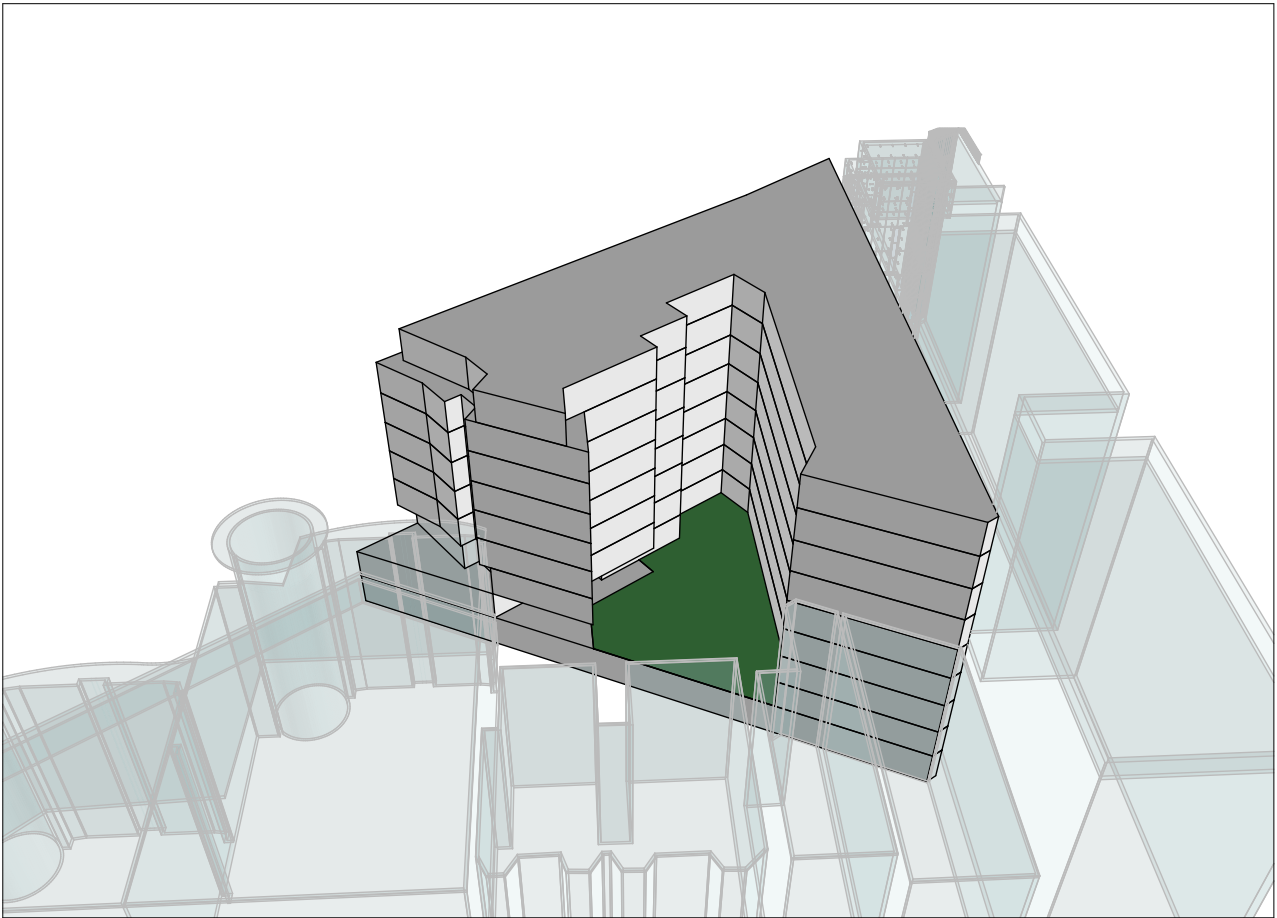
EXPOSURE DIAGRAM

EXHIBIT-F.1
 08/27/15
 REVISION: 07/11/16

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CODE COMPLYING REAR YARD
1,108 S.F. REAR YARD



PROPOSED REAR YARD
2,749 S.F. REAR YARD

CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

REAR YARD/BUILDING MASSING COMPARISON

EXHIBIT-G
08/27/15
REVISION: 07/11/16

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SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2014.0409ENV
Project Address: 1740-1770 Market Street
Zoning: NCT-3 (Moderate Scale Neighborhood Commercial Transit) District
85-X Height and Bulk District
Block/Lot: 0855/010
Lot Size: 13,123 square feet
Plan Area: Market and Octavia
Project Sponsor: Mariusz Piotrowski – Forum Design
(415) 252-7063, m.piotrowski@forumdesign.com
Staff Contact: Melinda Hue
(415) 575-9041, Melinda.hue@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project site is a triangular parcel on a block bordered by Octavia Boulevard, Haight Street, Gough Street, and Market Street in San Francisco's Western Addition neighborhood, adjacent to the South of Market neighborhood. The project site is occupied by a two-story, 30-foot-tall, approximately 25,110-gross-square-foot (gsf) commercial building. The project site has a small surface parking area along Market Street that includes three vehicle parking spaces, accessed by an 18-foot curb cut on Market Street.

(Continued on next page.)

EXEMPT STATUS

Exempt per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines and California Public Resources Code Section 21083.3

DETERMINATION

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

SARAH B. JONES
Environmental Review Officer

July 21, 2016
Date

cc: Mariusz Piotrowski, Project Sponsor
Supervisor London Breed, District 5
Tina Chang, Current Planner
Marcelle Boudreaux, Preservation Planner

Historic Preservation Distribution List
Distribution List
Virna Byrd, M.D.F.
Exemption/Exclusion File

The proposed project consists of the demolition of the existing building and construction of a nine-story, 84-foot-tall (100 feet tall with rooftop equipment) mixed-use residential building with ground floor commercial space. The 86,050-gsf building would include 100 residential units and 4,385-gsf of ground floor commercial uses. The building is proposed to be designed to meet GreenPoint Gold. Common usable open space for the residents of the proposed project would be provided in the form of a terrace on the second floor and a roof deck. The proposed project would include 170 bicycle parking spaces: 160 Class 1 spaces would be provided on the ground floor and 10 Class 2 spaces would be provided on the Market Street sidewalk adjacent to the project site. No off-street or on-street vehicle parking spaces are proposed for the project. The existing 18-foot curb cut on Market Street that previously provided vehicle access to the project site would be removed. Six existing street trees located along the project frontage on Market Street would remain.

Construction of the project is expected to last about 24 months. The proposed building would be supported by a concrete mat slab foundation; pile-driving is not required. Construction of the proposed project would require excavation to a depth of five feet below ground surface (bgs) and the removal of about 1,460 cubic yards of soil.

PROJECT APPROVAL

The proposed project would require the following actions by the Planning Commission:

- Conditional Use Authorization per Planning Code Section 731.11 for developments on lots greater than 10,000 square feet.

The proposed project would require the following actions by City Departments:

- **San Francisco Planning Department – Zoning Administrator.** Rear Yard Modification per Planning Code Section 134(e) to modify the location and configuration of the rear yard and Variance from Section 140 for approximately 23 units that do not meet exposure requirements.
- **Department of Building Inspection (DBI).** Demolition, grading, and building permits for the demolition of the existing building and the construction of the new building.
- **San Francisco Public Works (SFPW).** Street and sidewalk permits for any modifications to public streets and sidewalks.
- **San Francisco Municipal Transportation Agency (SFMTA).** Approval of the proposed curb modifications.
- **San Francisco Public Utilities (SFPUC).** Approval of a stormwater control plan and any changes to sewer laterals.

The approval of the Conditional Use Authorization by the Planning Commission constitutes the Approval Action for the proposed project. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

COMMUNITY PLAN EXEMPTION OVERVIEW

California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified, except as might be necessary to examine whether there are project-

specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (a) are peculiar to the project or parcel on which the project would be located; (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent; (c) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR; or (d) are previously identified in the EIR, but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

This determination evaluates the potential project-specific environmental effects of the 1740-1770 Market Street project described above, and incorporates by reference information contained in the Programmatic EIR for the *Market and Octavia Area Plan* (Market and Octavia PEIR).¹ Project-specific studies were prepared for the proposed project to determine if the project would result in any significant environmental impacts that were not identified in the Market and Octavia PEIR.

On April 5, 2007, the Planning Commission certified the Market and Octavia PEIR by Motion No. 17406.^{2,3} The PEIR analyzed amendments to the *San Francisco General Plan* (*General Plan*) to create the *Market and Octavia Area Plan* and amendments to the Planning Code and Zoning Maps, including the creation of the NCT-3 (Moderate Scale Neighborhood Commercial Transit) District. The PEIR analysis was based upon an assumed development and activity that were anticipated to occur under the *Market and Octavia Area Plan*. The proposed 1740-1770 Market Street project is in conformance with the height, use, and density for the site described in the Market and Octavia PEIR and would represent a small part of the growth that was forecast for the *Market and Octavia Plan* area. Thus, the plan analyzed in the Market and Octavia PEIR considered the incremental impacts of the proposed 1740-1770 Market Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Market and Octavia PEIR.

NCT-3 Districts are transit-oriented moderate- to high-density mixed-use neighborhoods of varying scale concentrated near transit services. The NCT-3 Districts support neighborhood-serving commercial uses on lower floors and housing above. These districts are well-served by public transit and aim to maximize residential and commercial opportunities on or near major transit services. The district's form can be either linear along transit-priority corridors, concentric around transit stations, or broader areas where transit services criss-cross the neighborhood. Housing density is limited not by lot area, but by the regulations on the built envelope of buildings, including height, bulk, setbacks, and lot coverage, and standards for residential uses, including open space and exposure, and urban design guidelines. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e.

¹ San Francisco Planning Department Case No. 2003.0347E, State Clearinghouse No. 2004012118.

² San Francisco Planning Department, *Market and Octavia Area Plan Final Environmental Impact Report*, Case No. 2003.0347E, certified April 5, 2007. This document is available online at www.sf-planning.org/index.aspx?page=1714, accessed January 6, 2016.

³ San Francisco Planning Commission Motion No. 17406, April 5, 2007. Available online at: <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=568>, accessed January 6, 2016.

driveways, garage entries) to off-street parking and loading on critical stretches of neighborhood commercial and transit streets to preserve and enhance the pedestrian-oriented character and transit function.

In May 2008, subsequent to the certification of the PEIR, the Board of Supervisors approved and the Mayor signed into law revisions to the Planning Code, Zoning Maps, and *General Plan* that constituted the “project” analyzed in the Market and Octavia PEIR. The legislation created several new zoning controls, which allow for flexible types of new housing to meet a broad range of needs, reduce parking requirements to encourage housing and services without adding cars, balance transportation by considering people movement over auto movement, and build walkable neighborhoods meeting everyday needs. The *Market and Octavia Area Plan*, as evaluated in the PEIR and as approved by the Board of Supervisors, accommodates the proposed use, design, and density of the 1740-1770 Market Street project.

Individual projects that could occur in the future under the *Market and Octavia Area Plan* will undergo project-level environmental evaluation to determine if they would result in further impacts specific to the development proposal, the site, and the time of development and to assess whether additional environmental review would be required. This determination concludes that the proposed project at 1740-1770 Market Street is consistent with and was encompassed within the analysis in the Market and Octavia PEIR. This determination also finds that the Market and Octavia PEIR adequately anticipated and described the impacts of the proposed 1740-1770 Market Street project, and identified the mitigation measures applicable to the 1740-1770 Market Street project. The proposed project is also consistent with the zoning controls and the provisions of the Planning Code applicable to the project site.^{4, 5} Therefore, no further CEQA evaluation for the 1740-1770 Market Street project is required. Overall, the Market and Octavia PEIR and this Certificate of Exemption for the proposed project comprise the full and complete CEQA evaluation necessary for the proposed project.

PROJECT SETTING

The project site is on a block bordered by Octavia Boulevard, Haight Street, Gough Street, and Market Street in San Francisco’s Western Addition neighborhood, adjacent to the South of Market neighborhood. The project vicinity is characterized by a mix of residential and commercial uses, and the scale of development in the project vicinity ranges from one to five stories (15 to 75 feet tall).

The lot adjacent to project site, on the west, is occupied by 8 Octavia, a five-story, mixed-use building featuring upper-story residential uses above ground-floor retail use. The lot adjacent to the project site, on the east, is occupied by a four-story building featuring upper-story residential uses above ground-floor retail uses. The lots adjacent to the project site, on the north, are occupied by a two-story commercial building and two three-story residential buildings.

⁴ Adam Varat, San Francisco Planning Department, *Community Plan Exemption Eligibility Determination, Citywide Planning and Policy Analysis, Case No. 2014.0409E, 1740 Market Street*, June 10, 2016. This document (and all other documents cited in this report, unless otherwise noted), is available for review at 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case No. 2014.0409E.

⁵ Jeff Joslin, San Francisco Planning Department, *Community Plan Exemption Eligibility Determination, Current Planning Analysis, Case No. 2014.0409E, 1740 Market Street*, June 8, 2016.

Further east of the project site at 1700 Market Street is a two-story commercial building; a project consisting of an eight-story building featuring upper-story residential uses (43 residential units) above ground floor retail uses has been approved for the site. On the south side of Market Street across from the project site, there is a four-story, mixed-use building and a three-story motel. South of the project site at 1699 Market Street is a two-story commercial building; a project consisting of a nine-story building featuring upper-story residential uses (162 units) above ground floor retail uses has been approved for the site. On the north side of Haight Street across from the project site, there are one- to three-story commercial and residential buildings.

The project site fronts Market Street, which is a major transportation corridor through downtown San Francisco that runs northeast to southwest from the Ferry Building on The Embarcadero to the Castro, Upper Market, and Twin Peaks neighborhoods. The project site is well served by public transportation. The San Francisco Municipal Railway (Muni) operates the F Market historic streetcar plus a number of surface buses that run on Market Street. Muni also operates the Muni Metro light rail system, which runs underground beneath Market Street in the project vicinity. The Van Ness Muni Metro station is approximately two blocks east of the project site. The US 101/Central Freeway on/off ramp is located approximately 200 feet west of the project site.

POTENTIAL ENVIRONMENTAL EFFECTS

The Market and Octavia PEIR analyzed environmental issues including: plans and policies; land use and zoning; population, housing, and employment; urban design and visual quality; shadow and wind; cultural (historic and archeological) resources; transportation; air quality; noise; hazardous materials; geology, soils, and seismicity; public facilities, services, and utilities; hydrology; biology; and growth inducement. The proposed 1740-1770 Market Street project is in conformance with the height, use and density for the site described in the Market and Octavia PEIR and would represent a small part of the growth that was forecast for the area covered by the *Market and Octavia Plan*. Thus, the plan analyzed in the Market and Octavia PEIR considered the incremental impacts of the proposed 1740-1770 Market Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Market and Octavia PEIR.

The Market and Octavia PEIR identified significant impacts related to shadow, wind, archeology, transportation, air quality, hazardous materials, and geology. Mitigation measures were identified for these impacts and reduced all of these impacts to less-than-significant levels with the exception of those related to shadow (impacts on two open spaces: the War Memorial Open Space and United Nations Plaza) and transportation (project- and program-level as well as cumulative traffic impacts at nine intersections; project-level and cumulative transit impacts on the 21 Hayes Muni line). A shadow fan analysis prepared by the Planning Department determined that the proposed project would not shade any public parks or open spaces.⁶ Therefore, the proposed project would not contribute to the significant and unavoidable shadow impacts identified in the Market and Octavia PEIR. Traffic and transit ridership generated by the project would not make a considerable contribution to the traffic and transit impacts identified in the Market and Octavia PEIR.

The Market and Octavia PEIR identified feasible mitigation measures to address significant impacts related to noise, air quality, archeological resources, historic resources, hazardous materials, and

⁶ San Francisco Planning Department, *Shadow Fan Analysis for 1740-1770 Market Street*, June 15, 2016.

transportation. **Table 1** lists the mitigation measures identified in the Market and Octavia PEIR and states whether each measure would apply to the proposed project.

Table 1 – Market and Octavia PEIR Mitigation Measures

Mitigation Measure	Applicability	Compliance
A. Shadow		
A1: Parks and Open Space Not Subject to Section 295	Applicable: Project exceeds a height of 50 feet.	Completed: The Planning Department generated a shadow fan and determined that the proposed project would not shadow any public parks or open spaces.
B. Wind		
B1: Buildings in Excess of 85 Feet in Height	Applicable: Project involves new construction of a 85-foot-tall (up to 100 feet with rooftop equipment) building.	Completed: The project sponsor has designed the proposed project to minimize its effects on ground-level wind conditions.
B2: All New Construction	Applicable: Project involves new construction of a 85-foot-tall (up to 100 feet with rooftop equipment) building.	Completed: The project sponsor has designed the proposed project to minimize its effects on ground-level wind conditions.
C. Archeological Resources		
C1: Soil-Disturbing Activities in Archeologically Documented Properties	Not Applicable: Project site is not an archeologically documented property.	Not Applicable
C2: General Soil-Disturbing Activities	Applicable: Project would include soil-disturbing activities.	The Planning Department has conducted a Preliminary Archeological Review. The project sponsor has agreed to implement a mitigation measure related to the accidental discovery of archeological resources (see Project Mitigation Measure 1).
C3: Soil-Disturbing Activities in Public Street and Open Space Improvements	Not Applicable: Project would not include soil-disturbing activities associated with public street or open space improvements.	Not Applicable

Mitigation Measure	Applicability	Compliance
C4: Soil-Disturbing Activities in the Mission Dolores Archeological District	Not Applicable: Project site is not in the Mission Dolores Archeological District.	Not Applicable
D. Transportation		
D3: Traffic Mitigation Measure for Laguna/Market/Hermann/Guerrero Streets Intersection (LOS D to LOS E PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D4: Traffic Mitigation Measure for Market/Sanchez/Fifteenth Streets Intersection (LOS E to LOS E with increased delay PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D5: Traffic Mitigation Measure for Market/Church/Fourteenth Streets Intersection (LOS E to LOS E with increased delay PM peak hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D6: Traffic Mitigation Measure for Mission Street/Otis Street/South Van Ness Intersection (LOS F to LOS F with increased delay PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
E. Air Quality		
E1: Construction Mitigation Measure for Particulate Emissions	Not Applicable: Superseded by Construction Dust Control Ordinance.	Not Applicable
E2: Construction Mitigation Measure for Short-Term Exhaust Emissions	Applicable: Project site is in an Air Pollutant Exposure Zone.	The project sponsor has agreed to develop and implement a Construction Emissions Minimization Plan for Health Risks and Hazards (see Project Mitigation Measure 2).
F. Hazardous Materials		
F1: Program- or Project-Level Mitigation Measures	Not Applicable: Superseded by Construction Dust Control Ordinance and federal, state, and local regulations related to abatement and handling of hazardous materials.	Not Applicable
G. Geology, Soils, and Seismicity		

Mitigation Measure	Applicability	Compliance
G1: Construction-Related Soils Mitigation Measure	Not Applicable: Superseded by San Francisco Public Utilities Commission's Construction Site Runoff Ordinance (Public Works Code, Ordinance No. 260-13).	Not Applicable

Please see the attached Mitigation Monitoring and Reporting Program for the complete text of the applicable mitigation measures. With implementation of these mitigation measures, the proposed project would not result in significant impacts beyond those analyzed in the Market and Octavia PEIR.

PUBLIC NOTICE AND COMMENT

A "Notification of Project Receiving Environmental Review" was mailed on March 1, 2016 to adjacent occupants and owners of properties within 300 feet of the project site. Comments received from the public were requests to be placed on the distribution list to be notified of future planning documents.

CONCLUSION

As summarized above and further discussed in the attached Community Plan Exemption (CPE) Checklist:

1. The proposed project is consistent with the development density established for the project site in the *Market and Octavia Area Plan*;
2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Market and Octavia PEIR;
3. The proposed project would not result in potentially significant off-site or cumulative impacts that were not identified in the Market and Octavia PEIR;
4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Market and Octavia PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and
5. The project sponsor will undertake feasible mitigation measures specified in the Market and Octavia PEIR to mitigate project-related significant impacts.

Therefore, the proposed project is exempt from further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

MITIGATION MONITORING AND REPORTING PROGRAM

ATTACHMENT C:
MITIGATION MONITORING AND REPORTING PROGRAM
(Includes Text for Adopted Mitigation Measures)

<i>Adopted Mitigation Measures</i>	<i>Responsibility for Implementation</i>	<i>Mitigation Schedule</i>	<i>Mitigation Action</i>	<i>Monitoring/Reporting Responsibility</i>	<i>Monitoring Schedule</i>
MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR					
Cultural Resources					
Project Mitigation Measure M-CP-1 – Accidental Discovery (Mitigation Measure C2 in the Market and Octavia PEIR). The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in <i>CEQA Guidelines</i> Section 15064.5(a)(c). The project sponsor shall distribute the Planning Department archeological resource “ALERT” sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the “ALERT” sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc.	Project sponsor	Prior to any soil disturbing activities	Distribute Planning Department Archeological Resource “ALERT” sheet to Prime Contractor, sub-contractors and utilities firms.	Project sponsor, archaeologist and Environmental Review Officer (ERO)	Prior to any soil disturbing activities.
The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.	Project Sponsor			Submit signed affidavit of distribution to ERO.	Following distribution of “ALERT” sheet but prior to any soils disturbing activities.
Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.	Head Foreman and/or project sponsor	Accidental discovery	Suspend any soils disturbing activity.	Notify ERO of accidental discovery.	

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<p>If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/ cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource.</p>	Project Sponsor	In case of accidental discovery	If ERO determines an archeological resource may be present, services of a qualified archeological consultant to be retained.		
<p>The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p>	Archeological consultant		Identify and evaluate archeological resources.	Make recommendation to the ERO	
<p>Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning Division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p>	Project Sponsor	After determination by the ERO of appropriate action to be implemented following evaluation of accidental discovery.	Implementation of Archeological measure required by ERO.		
<p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p>	Project Sponsor	Following completion of any* archeological field program. (* required.)	Submittal of Draft/Final FARR to ERO.		

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Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.	Project Sponsor		Distribution of Final FARR.		

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Air Quality					
<p>Project Mitigation Measure 2 – Construction Air Quality (Mitigation Measure E2 in the Market and Octavia PEIR)</p> <p><i>The project sponsor or the project sponsor's Contractor shall comply with the following:</i></p> <p>A. Engine Requirements</p> <ol style="list-style-type: none"> 1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement. 2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited. 3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two minute idling limit. 4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications. 	Project sponsor/ contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Submit certification statement.	Project sponsor / contractor(s) and the ERO.	Considered complete on submittal of certification statement.

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Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule												
<p>B. <i>Waivers.</i></p> <p>1. The Planning Department's Environmental Review Officer or designee (ERO) may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the ERO grants the waiver, the Contractor must submit documentation that the equipment used for onsite power generation meets the requirements of Subsection (A)(1).</p> <p>2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to Table below.</p> <p>Table – Off-Road Equipment Compliance Step-down Schedule</p> <table><tr><th>Compliance Alternative</th><th>Engine Emission Standard</th><th>Emissions Control</th></tr><tr><td>1</td><td>Tier 2</td><td>ARB Level 2 VDECS</td></tr><tr><td>2</td><td>Tier 2</td><td>ARB Level 1 VDECS</td></tr><tr><td>3</td><td>Tier 2</td><td>Alternative Fuel*</td></tr></table> <p>How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3.</p> <p>* Alternative fuels are not a VDECS.</p>	Compliance Alternative	Engine Emission Standard	Emissions Control	1	Tier 2	ARB Level 2 VDECS	2	Tier 2	ARB Level 1 VDECS	3	Tier 2	Alternative Fuel*					
Compliance Alternative	Engine Emission Standard	Emissions Control															
1	Tier 2	ARB Level 2 VDECS															
2	Tier 2	ARB Level 1 VDECS															
3	Tier 2	Alternative Fuel*															

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<p>C. <i>Construction Emissions Minimization Plan.</i> Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.</p> <ol style="list-style-type: none"> The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used. The Project Sponsor shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way. 	Project sponsor/ contractor(s).	Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.	Prepare and submit a Plan.	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is complete.

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<i>D. Monitoring.</i> After start of construction activities, the Contractor shall submit quarterly reports to the ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.	Project sponsor/ contractor(s).	Quarterly.	Submit quarterly reports.	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is being/was implemented.



SAN FRANCISCO PLANNING DEPARTMENT

Community Plan Exemption Checklist

Case No.: **2014.0409ENV**
Project Address: **1740-1770 Market Street**
Zoning: **NCT-3 (Moderate Scale Neighborhood Commercial Transit) District**
85-X Height and Bulk District
Block/Lot: **0855/010**
Lot Size: **13,123 square feet**
Plan Area: **Market and Octavia Area Plan**
Project Sponsor: **Mariusz Piotrowski – Forum Design**
(415) 252-7063, m.piotrowski@forumdesign.com
Staff Contact: **Melinda Hue**
(415) 575-9041, Melinda.hue@sfgov.org

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Suite 400
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Fax:
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Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project site is a triangular parcel on a block bordered by Octavia Boulevard, Haight Street, Gough Street, and Market Street in San Francisco's Western Addition neighborhood, adjacent to the South of Market neighborhood. (See Figure 1). The project site is occupied by a two-story, 30-foot-tall, approximately 25,110-gross-square-foot (gsf) commercial building. The project site has a small surface parking area along Market Street that includes three vehicle parking spaces, accessed by an 18-foot curb cut on Market Street.

The proposed project consists of the demolition of the existing building and construction of a nine-story, 84-foot-tall (100 feet tall with rooftop equipment) mixed-use residential building with ground floor commercial space. The 86,050-gsf building would include 100 residential units and 4,385-gsf of ground floor commercial uses. (See Figures 2 through 6). The building is proposed to be designed to meet GreenPoint Gold. Common usable open space for the residents of the proposed project would be provided in the form of a terrace on the second floor and a roof deck. The proposed project would include 170 bicycle parking spaces: 160 Class 1 spaces would be provided on the ground floor and 10 Class 2 spaces would be provided on the Market Street sidewalk adjacent to the project site. No off-street or on-street vehicle parking spaces are proposed for the project. The existing 18-foot curb cut on Market Street that previously provided vehicle access to the project site would be removed. Six existing street trees located along the project frontage on Market Street would remain.

Construction of the project is expected to last about 24 months. The proposed building would be supported by a concrete mat slab foundation; pile-driving is not required. Construction of the proposed project would require excavation to a depth of five feet below ground surface (bgs) and the removal of about 1,460 cubic yards of soil.

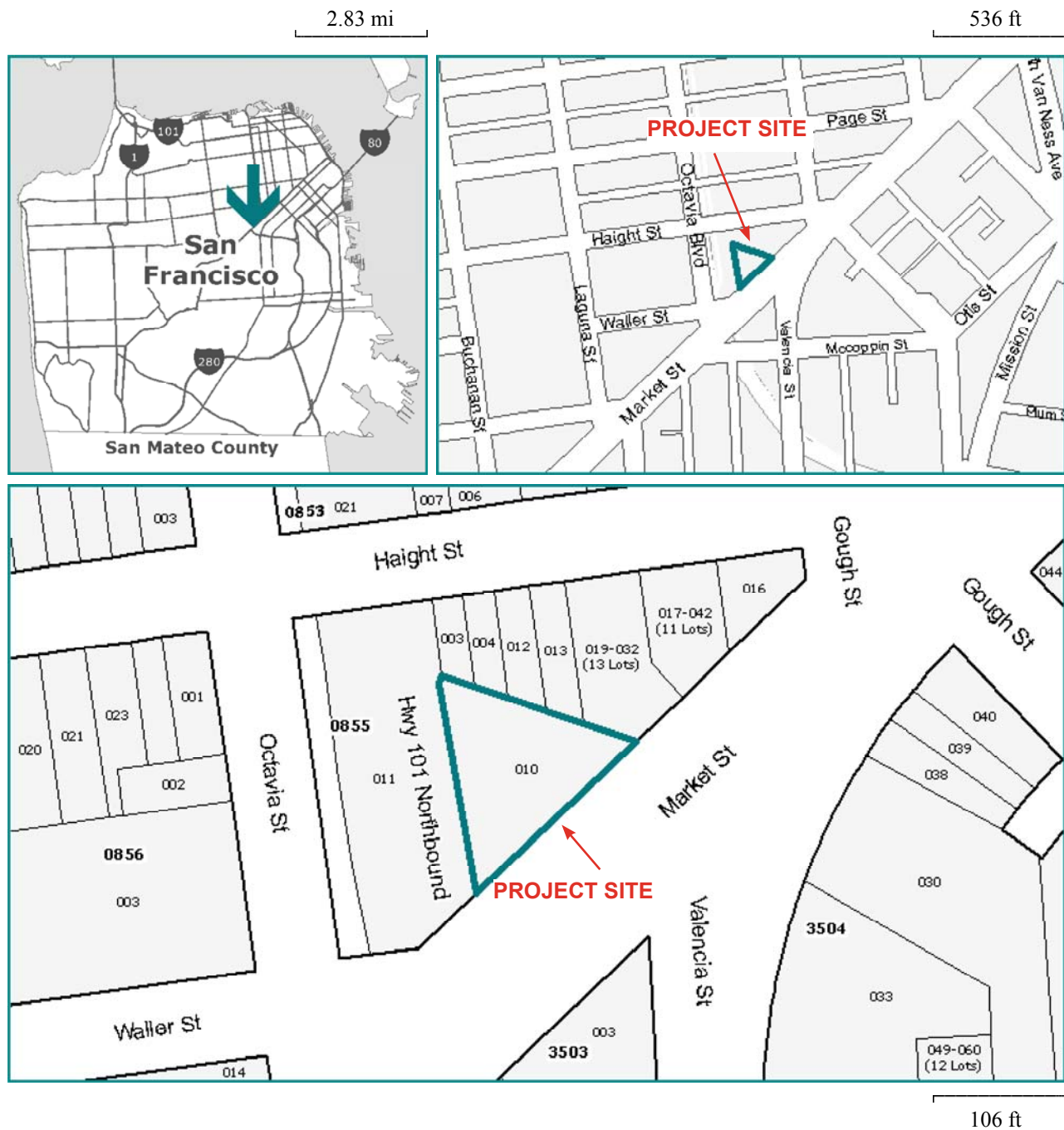


Figure 1
Project Location

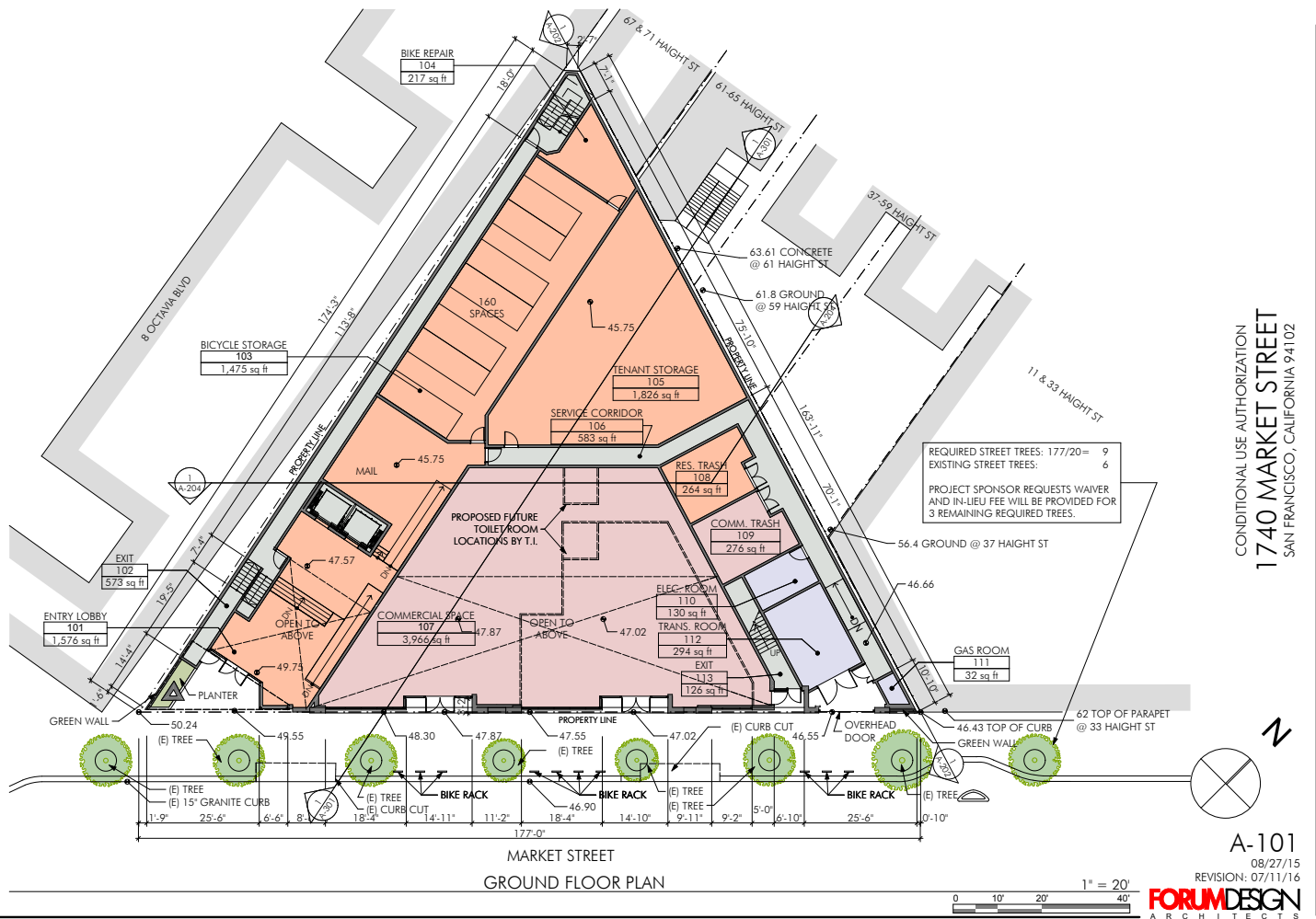
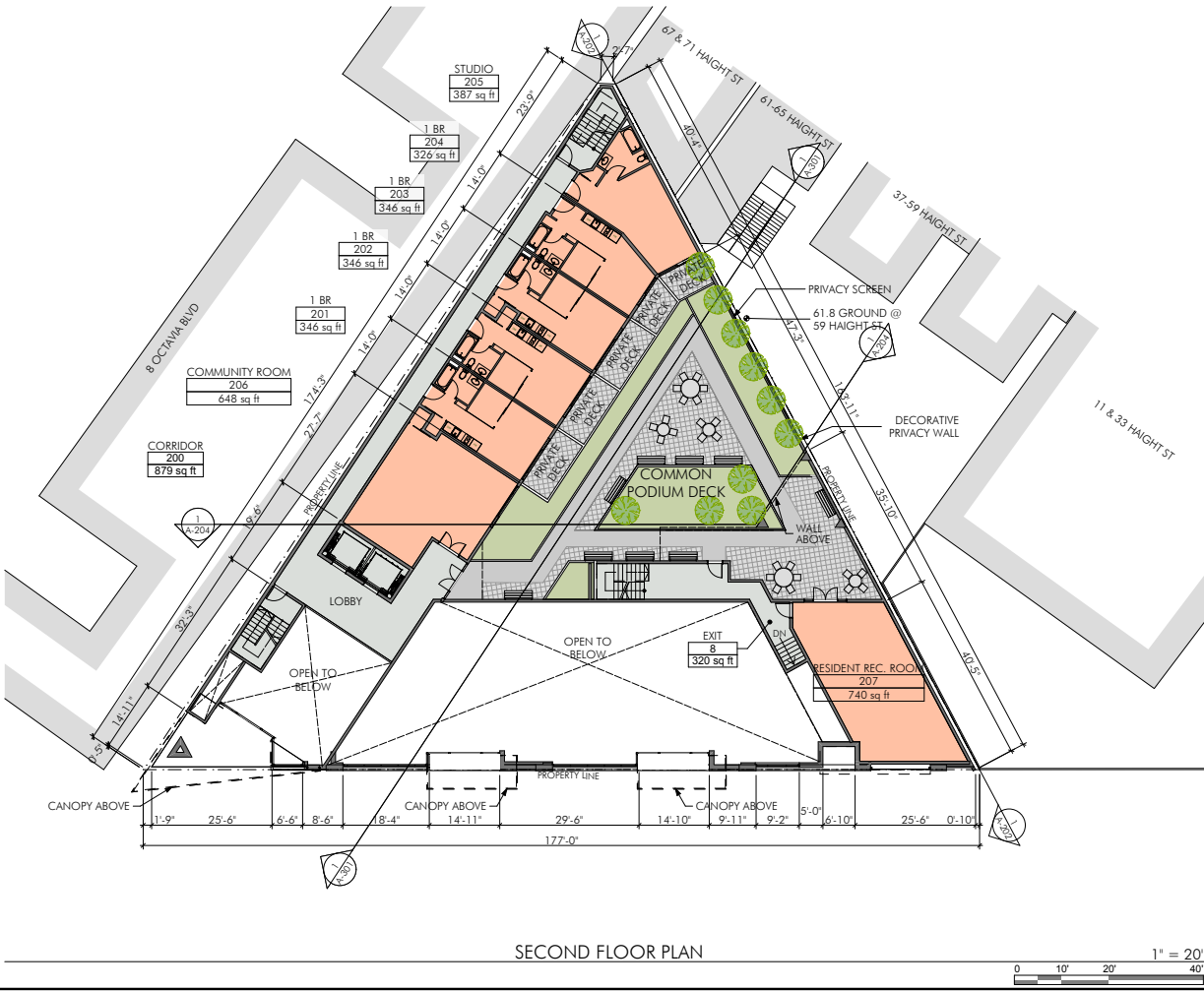


Figure 2
Proposed Ground Floor Plan



CONDITIONAL USE AUTHORIZATION
1740 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102

A-102

08/27/15
REVISION: 07/11/16

FORUM DESIGN
ARCHITECTS

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Figure 3
Proposed Second Floor Plan

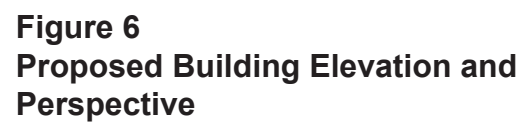


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SAN FRANCISCO
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Project Approval

The proposed project would require the following actions by the Planning Commission:

- Conditional Use Authorization per Planning Code Section 731.11 for developments on lots greater than 10,000 square feet.

The proposed project would require the following actions by City Departments:

- **San Francisco Planning Department – Zoning Administrator.** Rear Yard Modification per Planning Code Section 134(e) to modify the location and configuration of the rear yard and Variance from Section 140 for approximately 23 units that do not meet exposure requirements.
- **Department of Building Inspection (DBI).** Demolition, grading, and building permits for the demolition of the existing building and the construction of the new building.
- **San Francisco Public Works (SFPW).** Street and sidewalk permits for any modifications to public streets and sidewalks.
- **San Francisco Municipal Transportation Agency (SFMTA).** Approval of the proposed curb modifications.
- **San Francisco Public Utilities (SFPUC).** Approval of a stormwater control plan and any changes to sewer laterals.

The approval of the Conditional Use Authorization by the Planning Commission constitutes the Approval Action for the proposed project. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

EVALUATION OF ENVIRONMENTAL EFFECTS

This Community Plan Exemption (CPE) Checklist examines the potential environmental impacts that would result from implementation of the proposed project and indicates whether such impacts are addressed in the Programmatic Environmental Impact Report for the Market and Octavia Area Plan (Market and Octavia PEIR).¹ The CPE Checklist indicates whether the proposed project would result in significant impacts that (1) are peculiar to the project or project site; (2) were not identified as significant project-level, cumulative, or off-site effects in the Market and Octavia PEIR; or (3) are previously identified significant effects, which as a result of substantial new information that was not known at the time that the Market and Octavia PEIR was certified, are determined to have a more severe adverse impact than discussed in the PEIR. Such impacts, if any, will be evaluated in a project-specific Mitigated Negative Declaration or Environmental Impact Report. If no such topics are identified, the proposed project is exempt from further environmental review in accordance with Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

Mitigation measures identified in the PEIR are discussed under each topic area, and measures that are applicable to the proposed project are provided under Mitigation and Improvement Measures section at the end of this checklist.

¹ San Francisco Planning Department, *Market and Octavia Area Plan Final Environmental Impact Report*, Case No. 2003.0347E, State Clearinghouse No. 2004012118, certified April 5, 2007. This document is available online at www.sf-planning.org/index.aspx?page=1714 or at the San Francisco Planning Department, 1650 Mission Street, Suite 400.

The Market and Octavia PEIR identified significant impacts related to shadow, wind, archeology, transportation, air quality, hazardous materials, and geology. Mitigation measures were identified for these impacts and reduced all of these impacts to less-than-significant levels with the exception of those related to shadow (impacts on two open spaces: the War Memorial Open Space and United Nations Plaza) and transportation (project- and program-level as well as cumulative traffic impacts at nine intersections; project-level and cumulative transit impacts on the 21 Hayes Muni line).

Implementation of the proposed project would result in the demolition of the existing building and surface parking on the project site and the construction of a nine-story, 85-foot-tall (100 feet tall with rooftop equipment), approximately 86,050-gsf building containing 100 dwelling units and approximately 4,385-gsf of ground-floor commercial space. As discussed below in this CPE Checklist, the proposed project would not result in new, significant environmental effects or effects of greater severity than were already analyzed and disclosed in the Market and Octavia PEIR.

SENATE BILL 743

Aesthetics and Parking

In accordance with CEQA Section 21099: Modernization of Transportation Analysis for Transit Oriented Projects, aesthetics and parking shall not be considered in determining if a project has the potential to result in significant environmental effects, provided the project meets all of the following three criteria:

- a) The project is in a transit priority area;
- b) The project is on an infill site; and
- c) The project is residential, mixed-use residential, or an employment center.

The proposed project meets each of the above criteria; therefore, this checklist does not consider aesthetics or parking in determining the significance of project impacts under CEQA.² An elevation and rendering of the proposed project are included in the project description.

Automobile Delay and Vehicle Miles Traveled

In addition, CEQA Section 21099(b)(1) requires that the State Office of Planning and Research (OPR) develop revisions to the CEQA Guidelines establishing criteria for determining the significance of transportation impacts of projects that “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” CEQA Section 21099(b)(2) states that upon certification of the revised guidelines for determining transportation impacts pursuant to Section 21099(b)(1), automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment under CEQA.

In January 2016, the OPR published for public review and comment a [*Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA*](#),³ recommending that transportation

² San Francisco Planning Department, *Eligibility Checklist for CEQA Section 21099: Modernization of Transportation Analysis, 1740-1770 Market Street*, June 20, 2016. This document (and all other documents cited in this report, unless otherwise noted), is available for review at 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case No. 2014.0409E

³ This document is available online at: https://www.opr.ca.gov/s_sb743.php.

impacts for projects be measured using a vehicle miles traveled (VMT) metric. On March 3, 2016, in anticipation of the future certification of the revised CEQA Guidelines, the San Francisco Planning Commission adopted the OPR's recommendation to use the VMT metric instead of automobile delay to evaluate the transportation impacts of projects (Resolution No. 19579). The VMT metric does not apply to the analysis of project impacts on non-automobile modes of travel such as riding transit, walking, and bicycling. Therefore, impacts and mitigation measures from the Market and Octavia PEIR associated with automobile delay are not discussed in this checklist, including PEIR Mitigation Measures D3: Traffic Mitigation Measure for Laguna/Market/Hermann/Guerrero Streets Intersection (LOS D to LOS E PM peak-hour), D4: Traffic Mitigation Measure for Market/Sanchez/ Fifteenth Streets Intersection (LOS E to LOS E with increased delay PM peak-hour), D5: Traffic Mitigation Measure for Market/Church/Fourteenth Streets Intersection (LOS E to LOS E with increased delay PM peak hour), and D6: Traffic Mitigation Measure for Mission Street/Otis Street/South Van Ness Intersection (LOS F to LOS F with increased delay PM peak-hour). Instead, VMT and induced automobile travel impact analyses are provided in the Transportation and Circulation section of this checklist.

Topics:	<u>Significant Impact Peculiar to Project or Project Site</u>	<u>Significant Impact not Identified in PEIR</u>	<u>Significant Impact due to Substantial New Information</u>	<u>No Significant Impact not Previously Identified in PEIR</u>
1. LAND USE AND LAND USE PLANNING— Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial impact upon the existing character of the vicinity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR determined that implementation of the *Market and Octavia Area Plan* would not result in a significant adverse impact related to land use and land use planning, and no mitigation measures were identified. Implementation of the proposed project would result in the demolition of the existing building and surface parking on the project site and the construction of a nine-story, 85-foot-tall (100 feet tall with rooftop equipment), approximately 86,050-gsf building containing 100 dwelling units and approximately 4,385-gsf of ground-floor commercial space. The proposed project is within the scope of development projected under the *Market and Octavia Area Plan*. Furthermore, the Citywide Planning and Current Planning divisions of the Planning Department have determined that the proposed project is permitted in the NCT-3 District and is consistent with the bulk, density, and land uses as envisioned in the *Market and Octavia Area Plan*.^{4, 5}

⁴ Adam Varat, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Citywide Planning and Policy Analysis, Case No. 2014.0409E, 1740 Market Street, June 10, 2016..

⁵ Jeff Joslin, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Current Planning Analysis, Case No. 2014.0409E, 1740 Market Street, June 8, 2016.

For these reasons, the proposed project would not result in significant project-specific or cumulative impacts related to land use and land use planning that were not identified in the Market and Octavia PEIR.

Topics:	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
2. POPULATION AND HOUSING— Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

One goal of the *Market and Octavia Area Plan* is to implement citywide policies to increase the supply of high-density housing in neighborhoods having sufficient transit facilities, neighborhood-oriented uses, and infill development sites. The Market and Octavia PEIR analyzed a projected increase of 7,620 residents in the Plan Area by the year 2025 and determined that this anticipated growth would not result in significant adverse physical effects on the environment. No mitigation measures were identified in the PEIR.

Implementation of the proposed project would result in the demolition of the existing building and surface parking on the project site and the construction of a nine-story, 85-foot-tall (100 feet tall with rooftop equipment), approximately 86,050-gsf building containing 100 dwelling units and approximately 4,385-gsf of ground-floor commercial space. Implementation of the proposed project would result in a net decrease of about 69 employees and an increase of about 187 residents on the project site.^{6, 7} The population growth associated with the proposed project is within the scope of the population growth that was anticipated under the *Market and Octavia Area Plan* and analyzed in the Market and Octavia PEIR. For these reasons, the proposed project would not result in significant project-specific or cumulative impacts related to population and housing that were not identified in the Market and Octavia PEIR.

⁶ San Francisco Planning Department, *Transportation Impact Analysis Guidelines for Environmental Review*, October 2002, Appendix C, Table C-1. An employment factor of 276 gsf per employee is used for general office uses. An employment factor of 350 gsf per employee is used for general retail uses. Based on 12,554-gsf of existing retail space (ground floor) and 12,554-gsf of existing office space (second floor), the site could employ 82 people currently. Based on 4,385-gsf of proposed retail space, there would be 13 employees. The difference between existing and proposed conditions is a net reduction of 69 employees.

⁷ The Market and Octavia PEIR assumed that the Plan Area would have an average household size of 1.87 residents per dwelling unit in the year 2025.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
3. CULTURAL RESOURCES —Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5, including those resources listed in Article 10 or Article 11 of the San Francisco Planning Code?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Historic Architectural Resources

The Market and Octavia PEIR noted that although development would be allowed in the Plan Area, the implementation of urban design guidelines and other rules, such as evaluation under CEQA, would reduce the overall impact on historic architectural resources to a less-than-significant level. No mitigation measures were identified.

Under CEQA, evaluation of the potential for proposed projects to impact historical resources is a two-step process. The first step is to determine whether the property is a historical resource as defined in CEQA Guidelines Section 15064.5(a)(3). If it is determined to be a historical resource, the second step is to evaluate whether the action or project proposed would cause a substantial adverse change.

Implementation of the proposed project would result in the demolition of the existing building on the project site. The Planning Department previously determined that the existing building, which was constructed between 1940-1941, is not a historic resource.⁸

In November of 2015, the Historic Preservation Commission adopted the Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Historic Context Statement (HCS), prepared by Graves, Donna J. and Shayne E. Watson for the City and County of San Francisco, Planning Department. This HCS discusses numerous properties citywide for potential associations with one of nine themes identified within the HCS. The subject property consists of a two-story commercial building with multiple storefronts, and one storefront entrance leading to the second floor space, 1748 Market Street (project site), has been noted as the location of the Lyon-Market Health Services.

The Planning Department evaluated the subject property in light of the information provided in the LGBTQ HCS.⁹ Lyon-Market Health Services was most likely the first clinic to operate specifically serving lesbians and the needs of lesbians in a non-discriminatory way in San Francisco. The clinic's current location on Market Street is the fourth space since its inception circa 1979. Its first space is referenced as free space (location unknown), which it quickly outgrew.

⁸ Page & Turnbull, Inc, *State of California – Department of Parks and Recreation (DPR) 523 Form for 1740 Market Street*, August 11, 2006.

⁹ Marcelle Boudreaux, San Francisco Planning Department, *Memo - Preservation review of revised design for 1740-70 Market Street*, May 31, 2016.

In 1980, the clinic moved into its first location dedicated to the Lyon-Market Clinic, at 2252 Fillmore Street, where it was located for approximately 2 ½ years. This location may be significant as the first permanent location dedicated to the Clinic, and is associated with the “Gay Liberation, Pride, and Politics” theme identified in the LGBTQ HCS, within the period of significance from 1960s to 1990s. Specifically, the lesbian clinic is associated with the subtheme “Organizing, Organizing for Health, Gay Community Clinics”.

The Clinic outgrew the Fillmore space and moved the Mission District in the early 1980s. From the early 80s until circa 1991, Lyon-Martin Health Services was located at 2480 Mission (Los Portales building). This location, within the Mission District/Valencia Corridor, may be significant for its association with the theme “Evolution of LGBTQ enclaves and development of new neighborhoods” with a period of significance from 1960s to 1980s, as identified in the HCS.

After several years, the Clinic moved to the 1748 Market Street location (project site) circa 1991, its third location dedicated to the Clinic. The siting within the Castro District may be significant for the theme “Evolution of LGBTQ enclaves and development of new neighborhoods” but is outside the period of significance (1960s to 1980s) as identified in the LGBTQ HCS. While the subject site, which includes 1748 Market Street, houses the Lyon-Martin Health Services, its move to this location occurred outside of an identified period of significance within the LGBTQ HCS.

The Planning Department determined that there is no new information that indicates the building is associated with any known events or persons significant in the history of San Francisco or California (California Register Criterion 1). Therefore the existing building is not considered a historic resource.

For these reasons, the proposed project would not result in a significant project-specific or cumulative historic resource impacts on historic resources that were not identified in the Market and Octavia PEIR.

Archeological Resources

The Market and Octavia PEIR determined that implementation of the Area Plan could result in significant impacts on archeological resources and identified four mitigation measures that would reduce these potential impacts to less-than-significant levels (Mitigation Measures C1 through C4). Mitigation Measure C1: Soil-Disturbing Activities in Archeologically Documented Properties,¹⁰ applies to properties that have a final Archeological Resource Design/Treatment Plan (ARDTP) on file; it requires that an addendum to the ARDTP be completed. Mitigation Measure C2: General Soil-Disturbing Activities,¹¹ was determined to be applicable to any project involving any soil-disturbing activities below a depth of four feet below ground surface (bgs) and located in areas for which no archeological assessment report has been prepared. Mitigation Measure C2 requires that a Preliminary Archeological Sensitivity Study (PASS) be prepared by a qualified consultant or that a Preliminary Archeological Review (PAR) be conducted by Planning Department staff. Mitigation Measure C3: Soil-Disturbing Activities in Public Street and Open Space Improvements,¹² applies to improvements to public streets and open spaces if those improvements disturb soils below a depth of four feet bgs; it requires an Archeological Monitoring Program. Mitigation Measure C4: Soil-Disturbing Activities in the Mission Dolores Archeological District,¹³ applies to projects in the Mission Dolores Archeological District that result in substantial soils disturbance; it requires an Archeological Testing Program as well as an Archeological Monitoring Program and an Archeological Data Recovery Program, if appropriate.

The proposed project would be subject to Market and Octavia PEIR Mitigation Measure C2 because the it would require soil disturbance to the depth of five feet bgs in an area for which no archeological assessment has been prepared. Mitigation Measure C2 states that for such projects, a Preliminary Archeological Sensitivity Study (PASS) shall be prepared by a qualified consultant or a Preliminary Archeological Review (PAR) shall be conducted by Planning Department staff. Based on the review, a determination shall be made if additional measures are needed to reduce potential effects of a project on archeological resources to a less-than-significant level. The Planning Department's archeologist conducted a Preliminary Archeological Review of the project site and the proposed project in conformance with the study requirements of Mitigation Measure C2. Based on the Preliminary Archeological Review, it has been determined that the Planning Department's Accidental Discovery archeological mitigation measure would apply to the proposed project.¹⁴ The Preliminary Archeological Review and the Accidental Discovery requirements for suspension of soil disturbing activities upon accidental discovery of archeological resources and upon further review by the Planning Department are consistent with Mitigation Measure C2 from the Market and Octavia FEIR. This mitigation measure, identified as Project Mitigation Measure 1: Accidental Discovery, is presented below under the Mitigation Measures section. The project sponsor has agreed to implement Project Mitigation Measure 1.

¹⁰ Throughout this CPE, mitigation measures from the Market and Octavia PEIR are numbered based on the adopted Mitigation Monitoring and Reporting Program for the proposed project at 1740-1770 Market Street; mitigation numbers from the PEIR are also provided for reference. Mitigation Measure C1 is Mitigation Measure 5.6.A1 in the PEIR.

¹¹ Mitigation Measure C2 is Mitigation Measure 5.6.A2 in the PEIR.

¹² Mitigation Measure C3 is Mitigation Measure 5.6.A3 in the PEIR.

¹³ Mitigation Measure C4 is Mitigation Measure 5.6.A4 in the PEIR.

¹⁴ Randall Dean, San Francisco Planning Department, email to Melinda Hue, San Francisco Planning Department, March 3, 2016.

For these reasons, the proposed project would not result in significant project-specific or cumulative impacts on archeological resources that were not identified in the Market and Octavia PEIR.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
4. TRANSPORTATION AND CIRCULATION— Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels, obstructions to flight, or a change in location, that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR anticipated that growth resulting from the zoning changes under the *Market and Octavia Area Plan* would not result in significant impacts related to pedestrians, bicyclists, loading, emergency access, or construction.

The Market and Octavia PEIR identified significant traffic impacts at seven intersections and one significant transit impact. In the vicinity of the project site, the Market and Octavia PEIR identified cumulatively considerable impacts at the intersections of Market Street/Sanchez Street/15th Street (adjacent to the project site) and at Market Street/Church Street/14th Street (one block northeast). The Market and Octavia PEIR identified a significant and unavoidable cumulative transit impact on the 21 Hayes Muni route during the weekday p.m. peak hour. This impact was a result of the increased vehicle delay along Hayes Street from Van Ness Avenue to Gough Street due to the proposed reconfiguration of Hayes Street under the *Market and Octavia Area Plan*.

The PEIR identified eight transportation mitigation measures involving plan-level traffic management strategies, intersection and roadway improvements, and transit improvements to be implemented by the Planning Department, Public Works, and the San Francisco Municipal Transportation Agency (SFMTA). The PEIR did not identify project-level transportation mitigation measures to be implemented by project sponsors of future development under the *Market and Octavia Area Plan*. The PEIR determined that, even with implementation of the identified plan-level mitigation measures, the significant adverse effects at seven intersections and the cumulative impacts on certain transit lines resulting from delays at several Hayes Street intersections could not be fully mitigated. These impacts were found to be significant and unavoidable.

The project site is not located within an airport land use plan area, or in the vicinity of a private airstrip. Therefore, the Community Plan Exemption Checklist topic 4c is not applicable.

As previously noted under "Senate Bill 743," in response to state legislation that called for removing automobile delay from CEQA analysis, the Planning Commission adopted Resolution No. 19579 replacing automobile delay with a VMT metric for analyzing transportation impacts of a project. Therefore, impacts and mitigation measures from the Market and Octavia PEIR associated with automobile delay are not discussed in this checklist.

The Market and Octavia PEIR did not evaluate VMT or the potential for induced automobile travel. The VMT analysis and the Induced Automobile Travel analysis presented below evaluate the proposed project's transportation effects using the VMT metric.

As discussed above, the *Market and Octavia Area Plan* would not result in significant impacts on pedestrians, bicyclists, loading, emergency access, or construction. The proposed project is within the scope of development projected under the *Market and Octavia Area Plan*, and there are no conditions that are specific to the project site or the proposed project that would result in additional impacts to these transportation modes beyond those analyzed in the PEIR.

Pursuant to Senate Bill 743, parking effects of the project are not to be considered significant impacts on the environment. The transportation analysis below accounts for potential secondary effects from a parking shortfall, such as drivers circling and looking for parking spaces in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. The secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area, and thus choose to reach their destination by other modes (i.e., walking, biking, transit, taxi). If this occurs, any secondary environmental impacts that may result from a shortfall in parking in the vicinity of the project site would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise, and pedestrian safety analyses, would reasonably address potential secondary effects.

Vehicle Miles Traveled Analysis

Many factors affect travel behavior. These factors include density, diversity of land uses, design of the transportation network, access to regional destinations, distance to high-quality transit, development scale, demographics, and transportation demand management. Typically, low-density development at great distance from other land uses, located in areas with poor access to non-private vehicular modes of

travel, generate more automobile travel compared to development located in urban areas, where a higher density, mix of land uses, and travel options other than private vehicles are available.

Given these travel behavior factors, San Francisco has a lower VMT ratio than the nine-county San Francisco Bay Area region. In addition, some areas of the City have lower VMT ratios than other areas of the City. These areas of the City can be expressed geographically through transportation analysis zones. Transportation analysis zones are used in transportation planning models for transportation analysis and other planning purposes. The zones vary in size from single city blocks in the downtown core, multiple blocks in outer neighborhoods, to even larger zones in historically industrial areas like the Hunters Point Shipyard.

The San Francisco County Transportation Authority (Transportation Authority) uses the San Francisco Chained Activity Model Process (SF-CHAMP) to estimate VMT by private automobiles and taxis for different land use types. Travel behavior in SF-CHAMP is calibrated based on observed behavior from the California Household Travel Survey 2010-2012, Census data regarding automobile ownership rates and county-to-county worker flows, and observed vehicle counts and transit boardings. SF-CHAMP uses a synthetic population, which is a set of individual actors that represents the Bay Area's actual population, who make simulated travel decisions for a complete day. The Transportation Authority uses tour-based analysis for office and residential uses, which examines the entire chain of trips over the course of a day, not just trips to and from the project. For retail uses, the Transportation Authority uses trip-based analysis, which counts VMT from individual trips to and from the project (as opposed to entire chain of trips). A trip-based approach, as opposed to a tour-based approach, is necessary for retail projects because a tour is likely to consist of trips stopping in multiple locations, and the summarizing of tour VMT to each location would over-estimate VMT.^{15, 16}

For residential development, the existing regional average daily VMT per capita is 17.2.¹⁷ For office development, regional average daily work-related VMT per employee is 19.1. For retail development, regional average daily retail VMT per employee is 14.9.¹⁸ Average daily VMT for all three land uses is projected to decrease in future 2040 cumulative conditions. Refer to Table 1: Daily Vehicle Miles Traveled, which includes the transportation analysis zone in which the project site is located, 587.

¹⁵ To state another way: a tour-based assessment of VMT at a retail site would consider the VMT for all trips in the tour, for any tour with a stop at the retail site. If a single tour stops at two retail locations, for example, a coffee shop on the way to work and a restaurant on the way back home, then both retail locations would be allotted the total tour VMT. A trip-based approach allows us to apportion all retail-related VMT to retail sites without double-counting.

¹⁶ San Francisco Planning Department, Executive Summary: Resolution Modifying Transportation Impact Analysis, Appendix F, Attachment A, March 3, 2016.

¹⁷ Includes the VMT generated by the households in the development and averaged across the household population to determine VMT per capita.

¹⁸ Retail travel is not explicitly captured in SF-CHAMP, rather, there is a generic "Other" purpose which includes retail shopping, medical appointments, visiting friends or family, and all other non-work, non-school tours. The retail efficiency metric captures all of the "Other" purpose travel generated by Bay Area households. The denominator of employment (including retail; cultural, institutional, and educational; and medical employment; school enrollment, and number of households) represents the size, or attraction, of the zone for this type of "Other" purpose travel.

Table 1: Daily Vehicle Miles Traveled

Land Use	Existing			Cumulative 2040		
	Bay Area Regional Average	Bay Area Regional Average minus 15%	TAZ 587	Bay Area Regional Average	Bay Area Regional Average minus 15%	TAZ 587
Households (Residential)	17.2	14.6	3.8	16.1	13.7	3.3
Employment (Retail)	14.9	12.6	8.5	14.6	12.4	8.7

A project would have a significant effect on the environment if it would cause substantial additional VMT. The State Office of Planning and Research's (OPR) Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA ("proposed transportation impact guidelines") recommends screening criteria to identify types, characteristics, or locations of projects that would not result in significant impacts to VMT. If a project meets one of the three screening criteria provided (Map-Based Screening, Small Projects, and Proximity to Transit Stations), then it is presumed that VMT impacts would be less than significant for the project and a detailed VMT analysis is not required. Map-Based Screening is used to determine if a project site is located within a transportation analysis zone that exhibits low levels of VMT; Small Projects are projects that would generate fewer than 100 vehicle trips per day; and the Proximity to Transit Stations criterion includes projects that are within a half mile of an existing major transit stop, have a floor area ratio of greater than or equal to 0.75, vehicle parking that is less than or equal to that required or allowed by the Planning Code without conditional use authorization, and are consistent with the applicable Sustainable Communities Strategy.

The project site is located in transportation analysis zone (TAZ) 587, and the proposed project would include 100 dwelling units and approximately 4,385 square feet of commercial space.

In TAZ 587, the existing average daily household VMT per capita is 3.8, and the existing average daily retail employee VMT per capita is 8.5. The TAZ 587 VMT averages are more than 15 percent below the existing regional VMT averages of 16.1 and 14.9, respectively, and the proposed project would not result in substantial additional VMT.¹⁹

In TAZ 587, the future 2040 average daily household VMT per capita is 3.3, and the future 2040 average daily retail employee VMT per capita is 8.7. The TAZ 587 VMT averages are more than 15 percent below the future 2040 regional VMT averages of 14.9 and 14.6, respectively, and the proposed project would not result in substantial additional VMT.²⁰

¹⁹ San Francisco Planning Department, *Eligibility Checklist for CEQA Section 21099: Modernization of Transportation Analysis, 1740-1770 Market Street*, June 20, 2016.

²⁰ *Ibid.*

Furthermore, the project site meets the Proximity to Transit Stations screening criterion, which also indicates the proposed project's residential and retail uses would not cause substantial additional VMT.²¹ For these reasons, the proposed project would not result in significant traffic impacts.

Induced Automobile Travel Analysis

A project would have a significant effect on the environment if it would substantially induce additional automobile travel by increasing physical roadway capacity in congested areas (i.e., by adding new mixed-flow lanes) or by adding new roadways to the network. OPR's proposed transportation impact guidelines includes a list of transportation project types that would not likely lead to a substantial or measureable increase in VMT. If a project fits within the general types of projects (including combinations of types), then it is presumed that VMT impacts would be less than significant and a detailed VMT analysis is not required.

The proposed project is not a transportation project. However, the proposed project would include features that would alter the transportation network. The three parking spaces and existing curb cut on Market Street to access the parking would be removed. The proposed project would also include the installation of Class 2 bicycle parking facilities on the Market Street sidewalk adjacent to the project site. These features fit within the general types of projects that would not substantially induce automobile travel, and the impacts would be less than significant.²²

Trip Generation

Localized trip generation for the proposed project was calculated using information in the *2002 Transportation Impacts Analysis Guidelines for Environmental Review (Transportation Guidelines)* developed by the San Francisco Planning Department.²³ The proposed project would generate an estimated 1,533 person trips (inbound and outbound) on a weekday daily basis, consisting of 753 person trips by auto, 323 transit trips, 406 walk trips, and 51 trips by other modes.

During the p.m. peak hour, the proposed project would generate an estimated 211 person trips, consisting of 95 person trips by auto (75 vehicle trips accounting for vehicle occupancy data for the census tract in which the project site is located), 52 transit trips, 56 walk trips and seven trips by other modes.

Transit

The project site is well served by public transportation. Within one-quarter mile of the project site, the San Francisco Municipal Railway (Muni) operates the F Market, J Church, KT Ingleside/Third Street, L Taraval, M Oceanview and N Ocean Beach Muni Metro lines and the 47-Van Ness, 49-Van Ness/Mission, 14-Mission, 6-Haight/Parnassus, and 7-Haight/Noriega lines.

The proposed project would be expected to generate 323 daily transit trips, including 52 transit trips during the p.m. peak hour. Given the wide availability of nearby transit, the addition of 52 p.m. peak-hour transit trips would be accommodated by existing capacity. Therefore, the proposed project would not result in unacceptable levels of transit service or cause an increase in transit delays or operating costs such that significant adverse impacts to transit service would result.

²¹ *Ibid.*

²² *Ibid.*

²³ San Francisco Planning Department, *Transportation Calculations, 1740-1770 Market Street*, June 17, 2016.

As discussed above, the Market and Octavia PEIR identified significant and unavoidable cumulative transit delay impacts to the 21 Hayes Muni route. The proposed project would not contribute considerably to these conditions as its contribution of 52 p.m. peak-hour transit trips would not be a substantial proportion of the overall additional transit volume generated by projects developed under the *Market and Octavia Area Plan*. The proposed project would also not contribute considerably to 2025 significant cumulative transit impacts identified in the Market and Octavia PEIR.

Bicycle

The proposed project would include 170 bicycle parking spaces: 160 Class 1 spaces would be provided on the ground floor and 10 Class 2 spaces would be provided on the Market Street sidewalk adjacent to the project site. The proposed project is required to include a minimum of 100 Class 1 bicycle parking spaces and seven Class 2 bicycle parking spaces. The proposed bicycle parking spaces would be sufficient to meet these requirements.

The project site is located within convenient biking distance of Downtown and is located near several Citywide Bicycle Routes. As a result, a portion of the “other” trips would be assumed to be bicycle trips. Assuming all of the “other” trips were bicycle trips, the proposed project would generate seven bicycle trips on surrounding streets in the p.m. peak-hour. The project site has frontage along Market Street, on a block that includes a separated bikeway with green-backed sharrows and green paint buffered lane. Given the existing utilization of nearby bicycle facilities, the additional bicycle trips would not adversely affect nearby bicycle facilities or overall bicycle circulation in the area. Therefore, the proposed project would have a less-than-significant impact on bicycle operations.

Conclusion

For these reasons, the proposed project would not result in significant project-specific impacts related to transportation and circulation beyond those identified in the Market and Octavia PEIR and would not contribute considerably to cumulative transportation and circulation impacts that were identified in the Market and Octavia PEIR.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
5. NOISE —Would the project:				
a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
e) For a project located within an airport land use plan area, or, where such a plan has not been adopted, in an area within two miles of a public airport or public use airport, would the project expose people residing or working in the area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project located in the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Be substantially affected by existing noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Construction Impacts

The Market and Octavia PEIR noted that the background noise levels in San Francisco are elevated primarily due to traffic noise and that some streets, such as Market Street, have higher background noise levels. The PEIR identified an increase in the ambient noise levels during construction, dependent on the types of construction activities and construction schedules, and noise from increased traffic associated with construction truck trips along access routes to development sites. The PEIR determined that compliance with the San Francisco Noise Ordinance (Noise Ordinance), codified as Article 29 of the San Francisco Police Code, would reduce construction impacts to less-than-significant levels. No mitigation measures related to noise from construction were identified in the Market and Octavia PEIR.

All construction activities for the proposed project (approximately 24 months) would be subject to and would comply with the Noise Ordinance, which requires that construction work be conducted in the following manner: (1) noise levels of construction equipment, other than impact tools, must not exceed 80 dBA²⁴ at a distance of 100 feet from the source (the equipment generating the noise); (2) impact tools must have intake and exhaust mufflers that are approved by the Director of San Francisco Public Works (SFPW) or the Director of the Department of Building Inspection (DBI) to best accomplish maximum noise reduction; and (3) if the noise from the construction work would exceed the ambient noise levels at the site property line by 5 dBA, the work must not be conducted between 8:00 p.m. and 7:00 a.m. unless the Director of SFPW authorizes a special permit for conducting the work during that period.

DBI is responsible for enforcing the Noise Ordinance for private construction projects during normal business hours (8:00 a.m. to 5:00 p.m.). The Police Department is responsible for enforcing the Noise Ordinance during all other hours. Although pile driving is not required or proposed, occupants of nearby properties could be disturbed by construction noise during the 24 month construction period for the proposed project. There may be times when noise could interfere with indoor activities in nearby residences and other businesses near the project site and may be considered an annoyance by occupants of nearby properties. The increase in noise levels in the project vicinity during construction of the proposed project would not be considered a significant impact, because the construction noise would be

²⁴ The standard method used to quantify environmental noise involves evaluating the sound with an adjustment to reflect the fact that human hearing is less sensitive to low-frequency sound than to mid- and high-frequency sound. This measurement adjustment is called "A" weighting, and the data are reported in A-weighted decibels (dBA).

temporary, intermittent, and restricted in occurrence and level due to required compliance with the Noise Ordinance.

For these reasons, the proposed project would not result in significant project-specific or cumulative construction-related noise and vibration impacts that were not identified in the PEIR, and no mitigation measures are necessary.

Operational Impacts

The PEIR noted that Area Plan-related land use changes would have the potential to create secondary noise impacts associated with projects' fixed-location heating, ventilating, or air-conditioning equipment and other localized noise-generating activities. The PEIR determined that existing ambient noise levels in the Plan Area would generally mask noise from new on-site equipment. Therefore, the increase in noise levels from operation of equipment would be less than significant. The PEIR also determined that all new development in the Plan Area would be required to comply with Title 24 of the California Code of Regulations and with the Land Use Compatibility Guidelines for Community Noise in the Environmental Protection Element of the of the *General Plan*,²⁵ which would prevent significant operational impacts on sensitive receptors.

The proposed project would be required to comply with the interior noise standards set forth in Title 24. The proposed project includes the installation of mechanical equipment, such as heating and ventilation systems, that could produce operational noise. The operation of this equipment would be required to comply with the standards set forth in Section 2909 of the Noise Ordinance, which would minimize noise from building operations. Therefore, noise impacts related to the proposed project's operation would be less than significant. The proposed building would also not contribute, to a considerable increment, to any cumulative noise impacts related to noise from mechanical equipment.

Ambient noise levels in San Francisco are largely influenced by traffic. An approximate doubling in traffic volumes in the area would be necessary to produce an increase in ambient noise levels barely perceptible to most people (a 3-dB increase). As discussed under CPE Checklist Topic 4, Transportation and Circulation, the proposed project would generate 75 vehicle trips during the p.m. peak hour. Given the existing traffic volumes in the project vicinity, the 75 vehicle trips during the p.m. peak hour would not double the traffic volumes on any given street in the project vicinity. Therefore, the proposed project would not result in a perceptible increase in noise levels from project-related traffic and would not contribute, to a considerable increment, to any cumulative noise impacts resulting from project-generated traffic.

The project site is not in an airport land use plan area, within two miles of a public airport, or in the vicinity of a private airstrip. Therefore, CPE Checklist Topics 5e and 5f above are not applicable.

For these reasons, the proposed project would not result in significant project-specific or cumulative noise and vibration impacts that were not identified in the PEIR, and no mitigation measures are necessary.

²⁵ *San Francisco General Plan*. Environmental Protection Element, Policy 11.1, Land Use Compatibility Chart for Community Noise. Last amended December. Available online at: www.sf-planning.org/ftp/general_plan/l6_Environmental_Protection.htm, accessed March 1, 2016.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
6. AIR QUALITY —Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal, state, or regional ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR identified potentially significant air quality impacts resulting from temporary exposure to elevated levels of fugitive dust and diesel particulate matter (DPM) during construction of development projects under the Area Plan. The PEIR identified two mitigation measures that would reduce these air quality impacts to less-than-significant levels. Market and Octavia PEIR Mitigation Measures E-1 and E-2 address air quality impacts during construction. All other air quality impacts were found to be less than significant.

Construction Dust Control

Market and Octavia PEIR Mitigation Measure E-1: Construction Mitigation Measure for Particulate Emissions, requires individual projects involving construction activities to include dust control measures and to maintain and operate construction equipment to minimize exhaust emissions of particulates and other pollutants. The San Francisco Board of Supervisors subsequently approved a series of amendments to the San Francisco Building and Health Codes, generally referred to as the Construction Dust Control Ordinance (Ordinance 176-08, effective July 30, 2008). The intent of the Construction Dust Control Ordinance is to reduce the quantity of fugitive dust generated during site preparation, demolition, and construction work in order to protect the health of the general public and of on-site workers, minimize public nuisance complaints, and to avoid orders to stop work by DBI. Project-related construction activities would result in construction dust, primarily from ground-disturbing activities. In compliance with the Construction Dust Control Ordinance, the project sponsor and contractor responsible for construction activities at the project site would be required to control construction dust on the site through a combination of watering disturbed areas, covering stockpiled materials, street and sidewalk sweeping and other measures.

The regulations and procedures set forth in the Construction Dust Control Ordinance would ensure that construction dust impacts would not be significant. These requirements supersede the dust control provisions of PEIR Mitigation Measure E-1. Therefore, PEIR Mitigation Measure E-1 is no longer applicable to the proposed project.

Criteria Air Pollutants

In accordance with the state and federal Clean Air Acts, air pollutant standards are identified for the following six criteria air pollutants: ozone, carbon monoxide, particulate matter, nitrogen dioxide, sulfur dioxide, and lead. These air pollutants are termed criteria air pollutants because they are regulated by developing specific public health- and welfare-based criteria as the basis for setting permissible levels. The Bay Area Air Quality Management District's *CEQA Air Quality Guidelines (Air Quality Guidelines)* provide screening criteria²⁶ for determining whether a project's criteria air pollutant emissions would violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. Pursuant to the *Air Quality Guidelines*, projects that meet the screening criteria do not have a significant impact related to criteria air pollutants. Criteria air pollutant emissions during construction and operation of the proposed project would meet the *Air Quality Guidelines* screening criteria. The proposed project, with a total of 100 dwelling units, is below both the construction screening criterion ("apartment, mid-rise, 240 dwelling units" land use type) and the operational screening criterion ("apartment, mid-rise, 494 dwelling units" land use type). Therefore, the proposed project would not result in any significant project-specific or cumulative impacts related to criteria air pollutants that were not identified in the Market and Octavia PEIR. A detailed air quality assessment is not required, and no mitigation measures are necessary.

Health Risk

Since certification of the PEIR, San Francisco Board of Supervisors approved a series of amendments to the San Francisco Building and Health Codes, generally referred to as the Enhanced Ventilation Required for Urban Infill Sensitive Use Developments or Health Code, Article 38 (Ordinance 224-14, amended December 8, 2014)(Article 38). The Air Pollutant Exposure Zone as defined in Article 38 are areas that, based on modeling of all known air pollutant sources, exceed health protective standards for cumulative PM_{2.5} concentration, cumulative excess cancer risk, and incorporates health vulnerability factors and proximity to freeways. For sensitive use projects within the Air Pollutant Exposure Zone, such as the proposed project, the ordinance requires that the project sponsor submit an Enhanced Ventilation Proposal for approval by the Department of Public Health (DPH) that achieves protection from PM_{2.5} (fine particulate matter) equivalent to that associated with a Minimum Efficiency Reporting Value 13 filtration. DBI will not issue a building permit without written notification from the Director of Public Health that the applicant has an approved Enhanced Ventilation Proposal. In compliance Article 38, the project sponsor has submitted an initial application to DPH.²⁷

Construction

The project site is located within an identified Air Pollutant Exposure Zone; therefore, the ambient health risk to sensitive receptors from air pollutants is considered substantial. The proposed project would require heavy-duty off-road diesel vehicles and equipment during the anticipated 24-month construction period. Thus, Project Mitigation Measure 2: Construction Air Quality has been identified to implement Market and Octavia PEIR Mitigation Measure E2²⁸ related to emissions exhaust by requiring engines with higher emissions standards on construction equipment. Project Mitigation Measure 2: Construction Air Quality, presented below under the Mitigation Measures section, would reduce DPM exhaust from construction equipment by 89 to 94 percent compared to uncontrolled construction equipment.²⁹

²⁶ Bay Area Air Quality Management District, *CEQA Air Quality Guidelines*, May 2011, pp. 3-2 to 3-3.

²⁷ *Article 38 Application, 1740 Market Street*, submitted February 11, 2016.

²⁸ Mitigation Measure E2 is Mitigation Measure 5.8.B in the Market and Octavia PEIR.

²⁹ PM emissions benefits are estimated by comparing off-road PM emission standards for Tier 2 with Tier 1 and 0. Tier 0 off-road engines do not have PM emission standards, but the United States Environmental Protection

Therefore, impacts related to construction health risks would be less than significant through implementation of Project Mitigation Measure 2: Construction Air Quality.

Siting New Sources

The proposed project would not include any sources that would emit substantial levels of DPM or other TACs. Therefore, impacts related to siting new sources of pollutants would be less than significant.

Conclusion

For these reasons, the proposed project would not result in significant air quality impacts beyond those identified in the PEIR.

Topics:	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
7. GREENHOUSE GAS EMISSIONS —Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Market and Octavia PEIR

The State CEQA Guidelines were amended in 2010 to require an analysis of a project's greenhouse gas (GHG) emissions on the environment. The Market and Octavia PEIR was certified in 2007 and, therefore, did not analyze the effects of GHG emissions. In addition, the Bay Area Air Quality Management District (BAAQMD) has prepared guidelines that provide methodologies for analyzing air quality impacts under CEQA, including the impact of GHG emissions. These guidelines are consistent with CEQA Guidelines Sections 15064.4 and 15183.5, which address the analysis and determination of significant impacts from a proposed project's GHG emissions and allow for projects that are consistent with a GHG reduction strategy to conclude that the project's GHG emissions are less than significant. The following analysis is based on BAAQMD and CEQA guidelines for analyzing GHG emissions. As discussed below, the proposed project would not result in any new significant impacts related to GHG emissions.

Agency's Exhaust and Crankcase Emissions Factors for Nonroad Engine Modeling – Compression Ignition has estimated Tier 0 engines between 50 hp and 100 hp to have a PM emission factor of 0.72 g/hp-hr and greater than 100 hp to have a PM emission factor of 0.40 g/hp-hr. Therefore, requiring off-road equipment to have at least a Tier 2 engine would result in between a 25 percent and 63 percent reduction in PM emissions, as compared to off-road equipment with Tier 0 or Tier 1 engines. The 25 percent reduction comes from comparing the PM emission standards for off-road engines between 25 hp and 50 hp for Tier 2 (0.45 g/bhp-hr) and Tier 1 (0.60 g/bhp-hr). The 63 percent reduction comes from comparing the PM emission standards for off-road engines above 175 hp for Tier 2 (0.15 g/bhp-hr) and Tier 0 (0.40 g/bhp-hr). In addition to the Tier 2 requirement, ARB Level 3 VDECSs are required and would reduce PM by an additional 85 percent. Therefore, the mitigation measure would result in between an 89 percent (0.0675 g/bhp-hr) and 94 percent (0.0225 g/bhp-hr) reduction in PM emissions, as compared to equipment with Tier 1 (0.60 g/bhp-hr) or Tier 0 engines (0.40 g/bhp-hr).

Proposed Project

San Francisco's *Strategies to Address Greenhouse Gas Emissions*³⁰ presents a comprehensive assessment of policies, programs, and ordinances that collectively represent San Francisco's GHG reduction strategy in compliance with the BAAQMD and CEQA guidelines. These GHG reduction actions have resulted in a 23.3 percent reduction in GHG emissions in 2012 compared to 1990 levels,³¹ exceeding the year 2020 reduction goals outlined in the BAAQMD's *Bay Area 2010 Clean Air Plan*,³² Executive Order S-3-05,³³ and Assembly Bill 32 (also known as the Global Warming Solutions Act).^{34, 35} In addition, San Francisco's GHG reduction goals are consistent with, or more aggressive than, the long-term goals established under Executive Orders S-3-05³⁶ and B-30-15.^{37, 38} Therefore, projects that are consistent with San Francisco's GHG Reduction Strategy would not result in GHG emissions that would have a significant effect on the environment and would not conflict with state, regional, and local GHG reduction plans and regulations.

The proposed project would increase the intensity of use of the site by introducing 100 dwelling units and approximately 4,385 gsf of commercial to replace a 25,110-gsf commercial building and surface parking for three vehicles. Therefore, the proposed project would contribute to annual long-term increases in GHGs as a result of increased vehicle trips (mobile sources) and residential and commercial operations that result in an increase in energy use, water use, wastewater treatment, and solid waste disposal. Construction activities would also result in temporary increases in GHG emissions.

The proposed project would be subject to regulations adopted to reduce GHG emissions as identified in the GHG reduction strategy. As discussed below, compliance with the applicable regulations would reduce the project's GHG emissions related to transportation, energy use, waste disposal, wood burning, and use of refrigerants.

³⁰ San Francisco Planning Department, *Strategies to Address Greenhouse Gas Emissions in San Francisco*, November 2010. Available at http://sfmea.sfplanning.org/GHG_Reduction_Strategy.pdf, accessed March 3, 2016.

³¹ ICF International, *Technical Review of the 2012 Community-wide Inventory for the City and County of San Francisco*, January 21, 2015.

³² Bay Area Air Quality Management District, *Clean Air Plan*, September 2010. Available at <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>, accessed March 3, 2016.

³³ Office of the Governor, Executive Order S-3-05, June 1, 2005. Available at <https://www.gov.ca.gov/news.php?id=1861>, accessed March 3, 2016.

³⁴ California Legislative Information, Assembly Bill 32, September 27, 2006. Available at http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf, accessed March 3, 2016.

³⁵ Executive Order S-3-05, Assembly Bill 32, and the *Bay Area 2010 Clean Air Plan* set a target of reducing GHG emissions to below 1990 levels by the year 2020.

³⁶ Executive Order S-3-05, sets forth a series of target dates by which statewide emissions of GHGs need to be progressively reduced, as follows: by 2010, reduce GHG emissions to 2000 levels (approximately 457 million MTCO₂E); by 2020, reduce emissions to 1990 levels (approximately 427 million MTCO₂E); and by 2050 reduce emissions to 80 percent below 1990 levels (approximately 85 million MTCO₂E).

³⁷ Office of the Governor, Executive Order B-30-15, April 29, 2015. Available at <https://www.gov.ca.gov/news.php?id=18938>, accessed March 3, 2016. Executive Order B-30-15 sets a state GHG emissions reduction goal of 40 percent below 1990 levels by the year 2030.

³⁸ San Francisco's GHG Reduction Goals are codified in Section 902 of the Environment Code and include: (i) by 2008, determine City GHG emissions for year 1990; (ii) by 2017, reduce GHG emissions by 25 percent below 1990 levels; (iii) by 2025, reduce GHG emissions by 40 percent below 1990 levels; and (iv) by 2050, reduce GHG emissions by 80 percent below 1990 levels.

Compliance with the City's Commuter Benefits Program, transportation management programs, and bicycle parking requirements would reduce the proposed project's transportation-related emissions. Additionally, the lack of on-site vehicle parking spaces proposed would also help minimize the proposed project's transportation-related emissions. These regulations reduce GHG emissions from single-occupancy vehicles by promoting the use of alternative transportation modes with zero or lower GHG emissions on a per capita basis. The proposed project would be required to comply with the energy efficiency requirements of the City's Green Building Code and the Residential Water Conservation Ordinance, which would promote energy and water efficiency, thereby reducing the proposed project's energy-related GHG emissions.³⁹

The proposed project's waste-related emissions would be reduced through compliance with the City's Recycling and Composting Ordinance, Construction and Demolition Debris Recovery Ordinance, and Green Building Code requirements. These regulations reduce the amount of materials sent to a landfill, reducing GHGs emitted by landfill operations. These regulations also promote reuse of materials, conserving their embodied energy⁴⁰ and reducing the energy required to produce new materials. Regulations requiring low-emitting finishes would reduce volatile organic compounds (VOCs).⁴¹ Thus, the proposed project was determined to be consistent with San Francisco's GHG reduction strategy.⁴²

Therefore, the proposed project's GHG emissions would not conflict with state, regional, and local GHG reduction plans and regulations, and the proposed project's contribution to GHG emissions would not be cumulatively considerable or generate GHG emissions, either directly or indirectly, that would have a significant impact on the environment. As such, the proposed project would result in a less-than-significant impact with respect to GHG emissions. For these reasons, the proposed project would not result in significant impacts beyond those identified in the Market and Octavia PEIR, and no mitigation measures are necessary.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
8. WIND AND SHADOW —Would the project:				
a) Alter wind in a manner that substantially affects public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

³⁹ Compliance with water conservation measures reduce the energy (and GHG emissions) required to convey, pump, and treat water required for the project.

⁴⁰ Embodied energy is the total energy required for the extraction, processing, manufacture, and delivery of building materials to the building site.

⁴¹ While not a GHG, VOCs are precursor pollutants that form ground-level ozone. Increased ground-level ozone is an anticipated effect of future global warming that would result in added health effects locally. Reducing VOC emissions would reduce the anticipated local effects of global warming.

⁴² San Francisco Planning Department, *Greenhouse Gas Analysis: Compliance Checklist for 1740 Market Street*, February 11, 2016.

Wind

The Market and Octavia PEIR determined that new construction developed under the Area Plan, including new buildings and additions to existing buildings, could result in significant impacts related to ground-level winds. PEIR Mitigation Measure B1: Buildings in Excess of 85 Feet in Height,⁴³ and PEIR Mitigation Measure B2: All New Construction,⁴⁴ identified in the PEIR, require individual project sponsors to minimize the wind effects of new buildings developed under the Area Plan through site and building design measures. The Market and Octavia PEIR concluded that implementation of PEIR Mitigation Measures B1 and B2, in combination with existing Planning Code requirements, would reduce both project-level and cumulative wind impacts to less-than-significant levels. PEIR Mitigation Measure B1 and PEIR Mitigation Measure B2 are applicable to the proposed project. As discussed below, the project sponsor has fulfilled the requirements of PEIR Mitigation Measures B1 and B2.

To determine compliance with these mitigation measures, a pedestrian wind assessment was prepared by a qualified wind consultant for the proposed project.⁴⁵ The evaluation states that the proposed project's exposure to prevailing winds is limited by shelter from existing structures and the orientation of the building and absence of a long building façade axis. Based on the consideration of the exposure, massing and orientation of the proposed project, the proposed project as designed would not have the potential to result in a significant wind hazard impact.

The proposed 1700 Market Street project (8-story residential mixed-use project) east of the project site on the same block could potentially interact with the proposed project during prevailing winds. The wind assessment determined that since the 1700 Market Street project is downwind of the project site, that project would not affect winds to the west at the project site. The two projects would likely result be a very slight decrease in winds to east of the project site at the 1700 Market Street site as that project would be in the wind shelter created by the upwind development which would include the proposed project.

For these reasons, the proposed project would not result in any significant project-specific or cumulative wind impacts that were not identified in the Market and Octavia PEIR.

Shadow

Planning Code Section 295 generally prohibits new structures above 40 feet in height that would cast additional shadows on open space that is under the jurisdiction of the San Francisco Recreation and Park Commission between one hour after sunrise and one hour before sunset, at any time of the year, unless that shadow would not result in a significant adverse effect on the use of the open space. Public open spaces that are not under the jurisdiction of the Recreation and Park Commission as well as private open spaces are not subject to Planning Code Section 295.

The Market and Octavia PEIR analyzed shadow impacts on nearby existing and proposed open spaces under the jurisdiction of the San Francisco Recreation and Park Commission as well as those that are not (the War Memorial Open Space and United Nations Plaza). The Market and Octavia PEIR determined that implementation of the Area Plan would not result in a significant shadow impact on

⁴³ Mitigation Measure B1 is Mitigation Measure 5.5.B1 in the Market and Octavia PEIR.

⁴⁴ Mitigation Measure B2 is Mitigation Measure 5.5.B2 in the Market and Octavia PEIR.

⁴⁵ Donald Ballanti, Consulting Meteorologist, *Memo – Wind Evaluation of the Proposed 1740 Market Street Project, San Francisco*, February 25, 2016.

Section 295 open spaces at the program or project level but identified potentially significant shadow impacts on non-Section 295 open spaces. Mitigation Measure A1: Parks and Open Space Not Subject to Section 295,⁴⁶ would reduce but may not eliminate significant shadow impacts on the War Memorial Open Space and United Nations Plaza. The PEIR determined that shadow impacts on non-Section 295 open spaces could be significant and unavoidable.

Implementation of the proposed project would result in the construction of an 85-foot-tall building (100 feet at the building's tallest point). The Planning Department prepared a preliminary shadow fan analysis to determine whether the proposed project would have the potential to cast new shadow on nearby parks. The shadow fan analysis prepared by the Planning Department determined that the project as proposed would not cast shadow on any nearby parks or open spaces.⁴⁷ Therefore, Market and Octavia PEIR Mitigation Measure A1 would not be applicable to the proposed project.

The proposed project would also shade portions of streets, sidewalks, and private properties in the project vicinity at various times of the day throughout the year. Shadows on streets and sidewalks would not exceed levels commonly expected in urban areas and would be considered a less-than-significant effect under CEQA. Although occupants of nearby properties may regard the increase in shadow as undesirable, the limited increase in shading of private properties as a result of the proposed project would not be considered a significant impact under CEQA.

For these reasons, the proposed project would not result in significant project-specific or cumulative shadow impacts that were not identified in the Market and Octavia PEIR.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
9. RECREATION —Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Physically degrade existing recreational resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR concluded that implementation of the Area Plan would not result in substantial or accelerated deterioration of existing recreational resources or require the construction or expansion of recreational facilities that may have an adverse effect on the environment. No mitigation measures related to recreational resources were identified in the Market and Octavia PEIR.

⁴⁶ Mitigation Measure A1 is Mitigation Measure 5.5.A2 in the Market and Octavia PEIR.

⁴⁷ San Francisco Planning Department, *Shadow Fan Analysis for 1740-1770 Market Street*, June 15, 2016.

Since certification of the PEIR, the voters of San Francisco passed the 2012 San Francisco Clean and Safe Neighborhood Parks Bond, providing the Recreation and Park Department an additional \$195 million to continue capital projects for the renovation and repair of parks, recreation, and open space assets. An update of the Recreation and Open Space Element (ROSE) of the *General Plan* was adopted in April 2014. The amended ROSE provides a 20-year vision for open spaces in the City. It includes information and policies about accessing, acquiring, funding, and managing open spaces in San Francisco. The amended ROSE identifies locations where proposed open space connections should be built, specifically streets appropriate for potential “living alleys.” In addition, the amended ROSE identifies the role of both the *Better Streets Plan* and the Green Connections Network in open space and recreation. Green Connections are streets and paths that connect people to parks, open spaces, and the waterfront while enhancing the ecology of the street environment. Two routes identified within the Green Connections Network cross the Market and Octavia Plan Area: Marina Green to Dolores Park (Route 15) and Bay to Beach (Route 4).

The proposed project would provide usable open space in the form of a terrace at the second floor and a roof deck. This usable open space would help alleviate the demand for recreational facilities.

The proposed project would be within the scope of development projected under the *Market and Octavia Area Plan* and would not result in any significant project-specific or cumulative impacts related to recreation that were not identified in the Market and Octavia PEIR.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
10. UTILITIES AND SERVICE SYSTEMS —Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supply available to serve the project from existing entitlements and resources, or require new or expanded water supply resources or entitlements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider that would serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR determined that the anticipated increase in population under the Area Plan would not result in a significant impact to the provision of water, wastewater collection and treatment, and solid waste collection and disposal. No mitigation measures were identified in the PEIR.

The proposed project would be within the scope of development projected under the *Market and Octavia Area Plan* and would not result in any significant project-specific or cumulative impacts on utilities and service systems that were not identified in the Market and Octavia PEIR.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
11. PUBLIC SERVICES —Would the project:				
a) Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any public services such as fire protection, police protection, schools, parks, or other services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR determined that the anticipated increase in population under the Area Plan would not result in a significant impact to public services, including fire protection, police protection, and public schools. No mitigation measures were identified in the PEIR.

The proposed project would be within the scope of development projected under the *Market and Octavia Area Plan* and would not result in any project-specific or cumulative impacts on public services that were not identified in the Market and Octavia PEIR.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
12. BIOLOGICAL RESOURCES —Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

As described in the Market and Octavia PEIR, the Plan Area is a developed urban environment completely covered by structures, impervious surfaces, and introduced landscaping. No known, threatened, or endangered animal or plant species are known to exist in the project vicinity that could be affected by the development anticipated under the Area Plan. In addition, development envisioned under the Area Plan would not substantially interfere with the movement of any resident or migratory wildlife species. For these reasons, the PEIR concluded that implementation of the Area Plan would not result in significant impacts on biological resources, and no mitigation measures were identified.

The project site is within the area covered by the *Market and Octavia Area Plan*, and the proposed would not result in any project-specific or cumulative impacts on biological resources that were not identified in the Market and Octavia PEIR.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
13. GEOLOGY AND SOILS —Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Change substantially the topography or any unique geologic or physical features of the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR did not identify any significant operational impacts related to geology, soils, and seismicity. Although the PEIR concluded that implementation of the Area Plan would indirectly increase the population that would be exposed to geologic hazards such as earthquakes, seismic ground shaking, liquefaction, and landslides, the PEIR noted that new development is generally safer than comparable older development due to improvements in building codes and construction techniques. Compliance with applicable codes and recommendations made in project-specific geotechnical analyses would not eliminate earthquake risks, but would reduce them to acceptable levels given the seismically active characteristics of the Bay Area.

The Market and Octavia PEIR identified a potential significant impact related to soil erosion during construction. The PEIR found that implementation of Mitigation Measure G1: Construction-Related Soils Mitigation Measure,⁴⁸ which consists of construction best management practices (BMPs) to prevent erosion and discharge of soil sediments into the storm drain system, would reduce any potential impacts to less-than-significant levels.

Subsequent to certification of the Market and Octavia PEIR, the Board of Supervisors amended the San Francisco Public Works Code adding Section 146, Construction Site Runoff Control⁴⁹, and Section 147, Stormwater Management⁵⁰. Section 146.3 requires any person performing land disturbing activities⁵¹ to

⁴⁸ Mitigation Measure G1 is Mitigation Measure 5.11.A in the Market and Octavia PEIR.

⁴⁹ Added by Ord. 260-13, File No. 130814, App. 11/14/2013, Eff. 12/14/2013.

⁵⁰ Added by Ord. 83-10, File No. 100102, 4/22/2010.

⁵¹ Pursuant to Public Works Code Section 146.1, *land-disturbing activities* is defined as any movement of earth or a change in the existing soil cover or existing topography that may result in soil erosion from wind, or water, and the movement of sediments into or upon waters, lands, or public rights-of-way within the City and County of San Francisco, including, but not limited to building demolition, clearing, grading, grubbing, filling, stockpiling, excavating and transporting of land.

implement and maintain BMPs as necessary to minimize surface runoff erosion and sedimentation. In addition, Section 146.5 requires projects disturbing 5,000 square feet or more of ground surface to obtain a Construction Site Runoff Control Permit from the SFPUC and to implement an Erosion and Sediment Control Plan that includes BMPs to prevent stormwater runoff and soil erosion during construction. Section 147.2 requires projects disturbing 5,000 square feet or more to implement a Stormwater Control Plan that meets the requirements of the SFPUC's Stormwater Design Guidelines. (Projects on Port of San Francisco property must meet the Port's stormwater guidelines.) Public Works Code Sections 146 and 147 supersede Market and Octavia PEIR Mitigation Measure G1.

Because the proposed project would involve land disturbing activities, the construction contractor is required to implement and maintain BMPs as necessary to minimize surface runoff erosion and sedimentation pursuant to Section 146.3. In addition, since it would disturb more than 5,000 square feet of ground surface, the proposed project is subject to the Section 146.5 Construction Site Runoff Control Permit and Section 147.2 Stormwater Control Plan requirements described above. Compliance with these requirements would ensure that the proposed project would not have a significant impact related to soil erosion that was not identified in the Market and Octavia PEIR.

A preliminary geotechnical investigation was conducted for the proposed project to assess the geologic conditions underlying the project site and provide recommendations related to the proposed project's design and construction. The findings and recommendations of the geotechnical investigation are presented in a geotechnical report and summarized below.⁵²

The geotechnical investigation included the drilling of two test borings on the project site to a depth of 21.5 feet (Boring 1) and 51.5 feet (Boring 2). Boring 1 encountered about four feet of medium dense, poorly graded sand fill overlaying stiff, sandy lean clay. At a depth of about 12 feet, the boring encountered about six feet of dense, clayey sand overlaying dense, poorly grade sand with clay to the bottom of the boring at a depth explored of 21.5 feet. Boring 2 encountered about four feet of medium dense, poorly graded sand fill overlaying medium dense to very dense clayey sand. At a depth of about 15 feet, Boring 2 encountered about 10 feet of very dense, poorly graded sand with clay overlaying very dense clayey sand. At a depth of 30 feet, the boring penetrated about five feet of very dense, poorly graded sand with clay overlaying medium dense to dense, clayey sand to the maximum depth explored of 51.5 feet. Groundwater was encountered in Boring 2 at the depth of about 35 feet below ground surface.

There are no known active earthquake faults that run underneath the project site or in the project vicinity; the closets active fault is the San Andreas Fault located about seven miles southwest of the project site. The project site is not in a landslide zone. The project site has an approximately 20 percent slope downward towards the southeast (towards Market Street) and is located within a liquefaction zone. The geotechnical report indicated that the earth materials encountered in the borings had a low potential for liquefaction due to the depth to free water, high relative densities, and/or high fines content. The geotechnical report determined that there would be a low potential for damage to the proposed project from liquefaction.

⁵² H. Allen Gruen, *Geotechnical Investigation, Planned Development at 1740-1770 Market Street, San Francisco, California* (hereinafter "*Geotechnical Report*"), December 6, 2014.

Construction of the proposed project would require excavation to a depth of 5 feet below ground surface and the removal of about 1,460 cubic yards of soil. The geotechnical report recommends that the proposed project be supported by a mat foundation. Drilled, cast-in-place, reinforced concrete piers may be used to support the foundation as needed. The geotechnical report includes recommendations related to site preparation and grading, seismic design, foundations, retaining walls, slab-on-grade floors, and site drainage.

The proposed project is required to comply with the San Francisco Building Code (Building Code), which ensures the safety of all new construction in San Francisco. DBI will review the project-specific geotechnical report during its review of the building permit application for the proposed project. In addition, DBI may require additional site-specific soils report(s) as needed. Implementation of the recommendations in the geotechnical report, in combination with the requirement for a geotechnical report and the review of the building permit application pursuant to DBI's implementation of the Building Code would minimize the risk of loss, injury, or death due to seismic or other geologic hazards.

For these reasons, the proposed project would not result in significant project-specific or cumulative impacts related to geology and soils that were not identified in the Market and Octavia PEIR.

Topics:	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
14. HYDROLOGY AND WATER QUALITY —Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other authoritative flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR determined that the anticipated increase in population as a result of implementation of the Area Plan would not result in a significant impact on hydrology and water quality, including the combined sewer system and the potential for combined sewer outflows. Groundwater encountered during construction would be required to be discharged in compliance with the City's Industrial Waste Ordinance (Ordinance No. 199-77) and would meet specified water quality standards. No mitigation measures were identified in the PEIR.

The project site, which is occupied by an existing commercial building and surface parking, is completely paved. Implementation of the proposed project would not increase the amount of impervious surface area on the project site.

Overall, runoff and drainage would not be substantially changed with the proposed project. Runoff from the project site would drain into the City's combined stormwater/sewer system, ensuring that such runoff is properly treated at the Southeast Water Pollution Control Plant before being discharged into the San Francisco Bay. In accordance with the City's Stormwater Management Ordinance (Ordinance No. 83-10), the proposed project would be subject to Low Impact Design (LID) approaches and stormwater management systems to comply with the Stormwater Design Guidelines. Therefore, the proposed project would not substantially alter the existing drainage pattern of the site or substantially increase the rate or amount of surface runoff in a manner that would result in flooding or in substantial erosion or siltation, nor would it exceed the capacity of existing or planned stormwater drainage systems. As a result, the proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality. Furthermore, the proposed project would be constructed in compliance with all applicable federal, state, and local regulations governing water quality and discharges to surface- and groundwater bodies.

During the geotechnical investigation, groundwater was encountered at a depth of approximately 35 feet on the project site.⁵³ The proposed project would entail up to five feet of subsurface excavation, and therefore it is unlikely that groundwater would be encountered during excavation. Any groundwater that

⁵³ H. Allen Gruen, *Geotechnical Investigation, Planned Development at 1740-1770 Market Street, San Francisco, California* (hereinafter "Geotechnical Report"), December 6, 2014.

is encountered during construction would be subject to requirements of the City's Sewer Use Ordinance (Ordinance Number 19-92, amended 116-97), as supplemented by SFPW Order No. 158170, requiring a permit from the Wastewater Enterprise Collection System Division of the SFPUC. A permit may be issued only if an effective pretreatment system is maintained and operated. Each permit for such discharge shall contain specified water quality standards and may require the project sponsor to install and maintain meters to measure the volume of the discharge to the combined sewer system. Project-related effects from lowering the water table due to dewatering, if any, would be temporary and would not be expected to substantially deplete groundwater resources. As a result, the proposed project would not deplete groundwater supplies or substantially interfere with groundwater recharge.

Development in the City and County of San Francisco must account for flooding potential. Areas located on fill or bay mud can subside to a point at which the sewers do not drain freely during a storm (and sometimes during dry weather) and there can be backups or flooding near these streets and sewers. The proposed project does not fall within an area in the City prone to flooding during storms.

For these reasons, the proposed project would not result in significant project-specific or cumulative impacts on hydrology and water quality that were not identified in the Market and Octavia PEIR, and no mitigation measures are necessary.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
15. HAZARDS AND HAZARDOUS MATERIALS— Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR found that impacts related to hazards and hazardous materials would primarily originate from construction-related activities. Demolition or renovation of existing buildings could result in exposure to hazardous building materials such as asbestos, lead, mercury or polychlorinated biphenyls (PCBs). In addition, the discovery of contaminated soils and groundwater at a construction site could result in exposure to hazardous materials during construction. The PEIR identified a significant impact associated with soil disturbance during construction for sites in areas of naturally occurring asbestos (NOA). The PEIR found that compliance with existing regulations and implementation of Mitigation Measure F1: Program- or Project-Level Mitigation Measures for Hazardous Materials,⁵⁴ which would require implementation of construction best management practices to reduce dust emissions and tracking of contaminated soils beyond the site boundaries by way of construction vehicles' tires, would reduce impacts associated with construction-related hazardous materials to less-than-significant levels.

As discussed under Topic 6, Air Quality, subsequent to the certification of the Market and Octavia PEIR, the San Francisco Board of Supervisors adopted the Construction Dust Control Ordinance. The regulations and procedures set forth by the Construction Dust Control Ordinance would ensure that construction dust impacts would not be significant. These requirements supersede the dust control provisions of Market and Octavia PEIR Mitigation Measure F1. In addition, construction activities in areas containing NOA are subject to regulation under the State Asbestos Airborne Toxic Control Measures (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, which is implemented in San Francisco by BAAQMD. Compliance with the State Asbestos ATCM would ensure that the proposed project would not create a significant hazard to the public or the environment from the release of NOA. Therefore, PEIR Mitigation Measure F1 is not applicable to the proposed project.

Hazardous Building Materials

Implementation of the proposed project would result in the demolition of the existing commercial building on the project site, which was built in 1940. Because this structure was built before the 1970s, hazardous building materials such as polychlorinated biphenyls (PCBs), mercury, asbestos and lead-based paint are likely to be present in this structure. Demolishing the existing structure could expose workers or the community to hazardous building materials.

Asbestos is a common material that was used in the construction of buildings prior to 1978. Prior to obtaining a demolition or renovation permit, the BAAQMD requires sampling of suspected asbestos-containing material. If asbestos is detected, it must be abated in accordance with applicable regulations prior to the commencement of demolition or renovation activities. Pursuant to state law, DBI will not issue a permit for a proposed project until compliance with applicable regulations has been completed.

⁵⁴ Mitigation Measure F1 is Mitigation Measure 5.10.A in the Market and Octavia PEIR.

Lead-based paint and PCB-containing materials could also be encountered as a result of dust-generating activities during project construction. Required compliance with Chapter 36 of the San Francisco Building Code would ensure that there would be no adverse effects due to work involving lead paint. PCB-containing materials must be managed as hazardous waste in accordance with Occupational Safety and Health Administration worker protection requirements.

Required compliance with all applicable federal, state, and local regulations would ensure that the proposed project would not result in any significant impacts related to hazardous building materials that were not identified in the Market and Octavia PEIR.

Soil and Groundwater Contamination

The proposed project would require excavation to a maximum depth of five feet below ground surface and the disturbance of about 1,460 cubic yards of soil. As discussed under Topic 13, Geology and Soils, groundwater was detected 35 below ground surface during the geotechnical investigation; groundwater would not likely be encountered during excavation for the proposed project.

Construction of the proposed project would require the disturbance of more than 50 cubic yards of soil. A Phase I ESA has been prepared to assess the potential for site contamination.⁵⁵ The Phase I ESA identified the previous use at the project site as a gas station and car wash. For these reasons, the proposed project is subject to the Maher Ordinance, which is administered and overseen by DPH. The project sponsor is required to retain the services of a qualified professional to prepare a Phase I Environmental Site Assessment (ESA) that meets the requirements of Health Code Section 22.A.6. The Phase I ESA would determine the potential for site contamination and level of exposure risk associated with the proposed project. Based on that information, the project sponsor may be required to conduct soil and/or groundwater sampling and analysis. Where such analysis reveals the presence of hazardous substances in excess of state or federal standards, the project sponsor is required to submit a site mitigation plan (SMP) to DPH or other appropriate state or federal agencies and to remediate any site contamination in accordance with an approved SMP prior to the issuance of any building permit.

In compliance with the Maher Ordinance, the project sponsor has submitted a Maher Ordinance Application to DPH.⁵⁶ After reviewing the Maher Ordinance Application, the Phase I ESA, and other supporting documents, DPH will determine if additional steps will be required of the project sponsor (soil and/or groundwater sampling and analysis, SMP) to remediate any site contamination. Pursuant to compliance with the Maher Ordinance, the proposed project would not result in significant impacts related to contaminated soil and/or groundwater beyond those identified in the Market and Octavia PEIR.

Fire Hazards and Emergency Response

In San Francisco, fire safety is ensured through the provisions of the San Francisco Building and Fire Codes. During the review of the building permit application, DBI and the San Francisco Fire Department will review the project plans for compliance with all regulations related to fire safety. Compliance with fire safety regulations would ensure that the proposed project would not impair implementation of or

⁵⁵ Partner Engineering and Science, Inc., *Phase I Environmental Site Assessment, 1740-1772 Market Street, San Francisco, CA 94102*(hereinafter "Phase I ESA"), December 19, 2014.

⁵⁶ *Maher Ordinance Application, 2201 Market Street*, submitted June 15, 2016.

physically interfere with an adopted emergency response plan or emergency evacuation plan or expose people or structures to a significant risk of loss, injury, or death involving fires.

For these reasons, the proposed project would not result in significant project-specific or cumulative impacts related to hazards and hazardous materials that were not identified in the Market and Octavia PEIR, and no mitigation measures are necessary.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
16. MINERAL AND ENERGY RESOURCES— Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally imported mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Encourage activities, which result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR did not analyze the Area Plan's effects on mineral and energy resources, and no mitigation measures were identified. The project site is not a designated mineral resource recovery site, and implementation of the proposed project would not result in the loss of availability of any mineral resources.

The PEIR determined that the *Market and Octavia Area Plan* would facilitate the new construction of both residential and commercial uses. Development of these uses would not result in the use of large amounts of water, gas, and electricity in a wasteful manner, or in the context of energy use throughout the City and region. The energy demand for individual buildings would be typical for such projects and would meet or exceed current state and local codes and standards concerning energy consumption, including Title 24 of the California Code of Regulations enforced by DBI.

For these reasons, the proposed project would not result in any significant project-specific or cumulative impacts related to mineral and energy resources, and no mitigation measures are necessary.

<i>Topics:</i>	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
17. AGRICULTURE AND FOREST RESOURCES: —Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural uses, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)) or timberland (as defined by Public Resources Code Section 4526)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Market and Octavia PEIR did not analyze the Area Plan's effects on agriculture and forest resources, and no mitigation measures were identified. The project site is not zoned for or occupied by agricultural uses, forest land, or timberland, and implementation of the proposed project would not convert agricultural uses, forest land, or timberland to non-agricultural or non-forest uses.

For these reasons, the proposed project would have no project-specific or cumulative impacts related to agriculture and forest resources, and no mitigation measures are necessary.

MITIGATION MEASURES

Project Mitigation Measure 1: Accidental Discovery (Implementing PEIR Mitigation Measure C2)

The following mitigation measure is required to avoid any potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in *CEQA Guidelines* Section 15064.5(a) and (c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.

If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning Division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

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

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy, and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning Division of the Planning Department shall receive one bound copy, one unbound copy, and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.

Project Mitigation Measure 2: Construction Air Quality (Implementing PEIR Mitigation Measure E2)

The project sponsor or the project sponsor's Contractor shall comply with the following

A. Engine Requirements.

1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3

Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement.

2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited.
3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two minute idling limit.
4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.

B. Waivers.

1. The Planning Department's Environmental Review Officer or designee (ERO) may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the ERO grants the waiver, the Contractor must submit documentation that the equipment used for onsite power generation meets the requirements of Subsection (A)(1).
2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to Table below.

Table – Off-Road Equipment Compliance Step-down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
1	Tier 2	ARB Level 2 VDECS
2	Tier 2	ARB Level 1 VDECS
3	Tier 2	Alternative Fuel*

How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot

supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3.

* Alternative fuels are not a VDECS.

- C. *Construction Emissions Minimization Plan.* Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.
1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.
 2. The Project Sponsor shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan.
 3. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.
- D. *Monitoring.* After start of construction activities, the Contractor shall submit quarterly reports to the ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.