

PLANNING COMMISSION

Case No. 2004.0890CEK
1868 Van Ness Street
Assessor's Block 0619, Lot 012
Motion No. 17439
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Subject to:

- ☒ Inclusionary Housing
- ☐ Childcare Requirement
- ☐ Park Fund
- ☐ Art Fund
- ☐ Public Open Space Fund
- ☐ Jobs Housing Linkage Program
- ☐ Transit Impact Development Fee
- ☒ First Source Hiring
- ☐ Other:

SAN FRANCISCO PLANNING COMMISSION

MOTION NO. 17439

ADOPTING FINDINGS RELATED TO CEQA AND TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 253.2 AND 303 TO ALLOW CONSTRUCTION OF A STRUCTURE THAT EXCEEDS 40 FEET IN HEIGHT IN THE VAN NESS SPECIAL USE DISTRICT FOR A PROJECT THAT WOULD CONSTRUCT AN APPROXIMATELY 80-FOOT TALL, EIGHT-STORY MIXED-USE BUILDING WITH APPROXIMATELY 3,000 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE, APPROXIMATELY 35 DWELLING UNITS AND UP TO 35 OFF-STREET PARKING SPACES, AT 1868 VAN NESS AVENUE, LOT 012 IN ASSESSOR'S BLOCK 0619, IN AN RC-4 DISTRICT, AN 80-D HEIGHT AND BULK DISTRICT, AND THE VAN NESS SPECIAL USE DISTRICT.

RECITALS

On August 9, 2005, Tuija Catalano of Reuben and Junius, LLP, authorized agent of Vermont Street Town Homes, LLC (hereinafter "Applicant") filed Application No. 2004.0890C (hereinafter "Application") requesting a conditional use authorization for the property at **1868 Van Ness Avenue, Lot 012 in Assessor's Block 0619** to construct a structure exceeding 40 feet in height containing up to 35 dwelling units and off-street parking spaces and approximately 3,000 square feet of ground-floor retail space within an RC-4 (Residential-Commercial Combine, High Density) Use District, an 80-D Height and Bulk District, and the Van Ness Special Use District.

A Mitigated Negative Declaration was prepared and issued for the project pursuant to the provisions of the California Environmental Quality Act (hereinafter "CEQA"), the State Guidelines for the Implementation of CEQA and Chapter 31 of the San Francisco Administrative Code, that there will not be a significant effect on the environment because of the mitigation measures included. This document is included in Planning Department File No. 2004.0890E.

On December 23, 2005, the Department performed a shadow study, Case No. 2004.0890K, per Planning Code Section 295 and determined that the proposed 80-foot high building would not create new shadow impact on any property under the jurisdiction of the Recreation and Park Commission. On June 7, 2007, the Commission reviewed and affirmed that the project does not create any shadow impacts per Section 295.

On June 7, 2007, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2004.0890C, at which time the Commission reviewed and discussed the findings prepared for their review by the staff of the Planning Department of the City and County of San Francisco (hereinafter "Department").

The Commission has reviewed and considered reports, studies, plans and other documents pertaining to this Project.

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

FINDINGS

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

1. The above Recitals are accurate and also constitute findings of this Commission.

2. **Project Site and Present Use:**

The rectangular, 8,963 sq. ft. Project Site is located on the westernmost edge of the Nob Hill neighborhood, at the southeast corner of Van Ness Avenue and Washington Street. The Project Site is within an RC-4 (Residential-Commercial Combined, High-Density) Use District, an 80-D Height and Bulk District, and the Van Ness Avenue Special Use District. The Project Site is essentially flat and has a slight downward slope to the east.

A gasoline station formerly occupied the Project Site. The underground storage tanks and pumps of the gasoline station were removed in 2004, and case 2006.1414C authorized the conversion of the former gas station. In 2004 the site was subsequently converted to a surface parking lot without Conditional Use authorization. Pursuant to case 2006.0741C, Conditional Use authorization was granted for the surface parking lot for a period of two contiguous years.

3. **Surrounding Area:**

The surrounding area is diversely zoned for a variety of residential and commercial districts, and is developed with multi-family housing and commercial uses. Nearby uses include residential, office, retail (including restaurants and bars), auto service, church, hotel, and parking. On the east side of Van Ness Avenue, immediately south of the site in the project block, is a four-story apartment building converted to office suites, with ground-floor retail. Immediately east of the Project Site on Washington Street is a three-story residential building. Other buildings on Washington Street east of Van Ness Avenue range from one to five stories in height, and are occupied by residential and retail uses. West of the Project Site across Van Ness Avenue is a 50-foot high commercial building and a mixed-use development at a height of

approximately 90 feet, which is north of Washington Street. A high-rise 23-story Holiday Inn is located three blocks south of the Project Site on Van Ness Avenue. Lafayette Park is located two blocks west of the Project Site, in the area bounded by Gough, Washington, Sacramento, and Laguna Streets. The Washington-Hyde Mini-Park is located approximately two and one-half blocks east of the site, on the north side of Washington Street near Hyde Street.

On January 25, 2007, the Planning Commission approved case 2004.0339CEK, at 1800 Van Ness, (two lots south of 1868 Van Ness) to construct a building of approximately 80 feet tall and consisting of 62 dwelling units, up to 73 parking spaces and approximately 5,100 square feet of ground-floor commercial space.

4. Description of the Project:

The Project consists of the demolition of the existing improvements used by the former gasoline station and current surface parking lot, and the construction of a mixed-use building with commercial/retail uses on the ground floor and up to 35 residential units on floors two through eight, and up to 35 off-street, below-grade parking spaces. The Project contains a total of approximately 58,000 square feet of area, which can be broken down into approximately 32,000 square feet of residential area, 3,000 square feet of retail/commercial ground floor space, approximately 5,400 of circulation area, approximately 16,100 square feet of parking area, and approximately 1,400 square feet of other service, storage and common areas. As proposed the project would contain approximately 14 one-bedroom units and 21 two-bedroom units. The project sponsor intends to satisfy the Inclusionary Housing Requirement through payment of an in-lieu fee. An approximately 13-foot wide garage opening would be located on Washington Street to provide ingress and egress to the residential parking.

5. Nature of the Use District and the Required Conditional Use Authorization.

The proposed building would be 80 feet tall at its highest point. The Project is located within the Van Ness Special Use District. Pursuant to Planning Code Section 253.2, conditional use authorization is required for any structure that exceeds 40 feet in height located within the Van Ness Special Use District.

6. Public Comment:

As of May 30, 2007, the Department has not received public comment regarding the proposal.

7. Planning Code Compliance:

- a. Use: Residential and commercial/retail uses are permitted in the RC-4 and the Van Ness Special Use Districts pursuant to Planning Code Sections 209 et. seq. and Section 243.

Comment: The proposal includes up to 35 dwelling units and approximately 3,000 square feet of ground-floor retail space divided into three separate retail/commercial areas.

- b. Dwelling Unit Density: Planning Code Section 207 allows one dwelling unit for every 200 square feet of lot area for properties zoned as RC-4, however, because the Project is in the Van Ness Special Use District, the Project is not subject to the density limits applicable in the RC-4 District per Section 243(c)(2).

Comment: While the RC-4 District would permit 45 units for the approximately 9,000 square-foot lot, the VNSUD does not place limits on dwelling unit density. The project proposes up to 35 dwelling units.

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

Comment: On December 23, 2005, the Department performed a shadow study (Case No. 2004.0890K) and determined that the 80-foot building would not create a shadow impact on any property under the jurisdiction of the Recreation and Park Department.

- d. Floor Area Ratio: The FAR limit in Van Ness Special Use District is 4.5:1 pursuant to Section 243(c)(1). The Project Site contains 8,963 square feet of area, and thus the maximum development can contain up to 40,333 gross square feet.

Comment: The Project contains approximately 40,329 gross square feet of development (excluding underground parking, utility, and storage areas), and thus complies with the applicable FAR limit.

- e. Rear Yard: Section 134 of the Planning Code requires a rear yard equal to 25 percent of the lot depth to be provided at every residential level. The Project provides an irregularly shaped rear yard that varies in depth, and thus the Project requires a modification of the rear yard requirement pursuant to Section 243(c)(6). A rear yard modification will be considered by the Zoning Administrator at the same public hearing as the conditional use.

Comment: The required rear yard is equal to approximately 30 feet measured from the rear property line. As proposed, the building would extend to within approximately 20 feet of the rear property line. Pursuant to Section 243(c)(6) the rear yard is proposed to be located adjacent to the north property line to provide light and air to approximately 14 units located in the mid-portion of the proposed building, as well as to preserve light and air to the adjacent structure to the north, which has approximately 40 windows located in a large lightwell within three feet of the shared property line.

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

Comment: The exposure requirement for 11 units in the mid-portion of the proposed building would not be met, as the dimension from the building wall to the north property line varies between 20 and 24 feet. The remaining units face towards Van Ness Avenue, Washington Street, or the 20-foot wide rear yard plus an approximately 24-foot wide driveway serving the proposed project at 1800 Van Ness Avenue. An exposure variance for these 11 units will be considered by the Zoning Administrator at the same public hearing as the conditional use.

- g. Usable Open Space: Planning Code Section 135 requires at least 36 square feet of private open space per dwelling unit, or approximately 48 square feet of common open space per dwelling unit. The Project requires 1,260 square feet of private open space, or 1,680 square feet of common open space.

Comment: The open space requirement for 28 units is met through the provision of private decks and/or balconies adjacent to the units. Seven units located in the mid-portion of the proposed building have decks and/or balconies meeting the minimum square footage requirement, but not the minimum dimension of six feet in depth. However, a landscaped area of approximately 1,900 square feet located at grade in the required/modified rear yard area will provide the open space for these units. In addition, an approximately 1,400 square foot roof deck is proposed. Thus, the Project complies with the open space requirement.

- h. Height: The Project complies with the 80-foot height limit applicable in the 80-D height and bulk district. Since the Project is located in the Van Ness Special Use District, and exceeds 40 feet in height, a conditional use authorization pursuant to Section 253.2 is required.

Comment: Findings pursuant to Section 253.2 are provided below.

- i. Bulk: Table 270 of the Planning Code sets forth the bulk limits for the subject site. Above a height of 40 feet, the Project is limited to a maximum plan length of 110 feet and a maximum plan diagonal of 140 feet.

Comment: The proposed building measures 100 feet in length and 110 feet in plan diagonal. The Project would be within the allowable bulk limits.

- j. Off-Street Parking: Planning Code Sections 151 and 243(c)(8)(I) require one parking space for every dwelling unit. No parking is required for the approximately 2,350-square feet of commercial/retail use.

Comment: The project includes 35 below-grade off-street parking spaces, which would be accessible from a garage of approximately 13 feet wide along Washington Street. The driveway located within the building is wide enough to accommodate maneuvering area for vehicles entering and exiting the garage. Parking for the commercial areas is not required as the occupied floor area is less than 5,000 square feet. The proposal complies with the parking requirements.

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

Comment: The ground-floor commercial area is approximately 2,300. Off-street loading is not required.

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

Comment: The Project will satisfy the affordable housing requirements by payment of an in-lieu fee.

- m. Reduction of Ground Level Wind Currents: Pursuant to Section 243(c)(8)(9) the proposed building cannot contribute to wind currents exceeding certain thresholds at ground level.

Comment: Ground-level wind currents were addressed within the environmental review for the proposal. It was found that the proposal would have little potential to increase ground-level wind currents.

8. **Van Ness Special Use District Findings**: Planning Code Section 253.2 states that any new construction over 40 feet in height shall be permitted as a Conditional Use upon approval of the Commission. Per Section 253.2, the Commission may impose the following requirements in addition to any others deemed appropriate:

- a. On Van Ness Avenue, the Commission may require a setback of up to 20 feet at a height of 50 feet or above in order to maintain the continuity of the prevailing street wall height established by the existing buildings along Van Ness Avenue within two blocks of the project.

Comment: A setback for the Van Ness Avenue façade is not necessary. Within only one block of the project, on either side of the Avenue, there are buildings with no setbacks. The proposed façade along Van Ness Avenue of the project is consistent with the existing surrounding development and will appropriately match the existing street wall. The project has been redesigned and now provides a stronger and more cohesive façade by eliminating the formerly proposed vertical organizing element, strengthening the recessed balconies by framing them with honed stone in approximately 2-foot recesses from the front building wall, simplifying the overall window vocabulary and making the corner element more prominent through its height, window type and materials.

- b. On Washington Street, the Commission may require a setback of up to 15 feet in order to preserve existing view corridors.

Comment: The proposed Washington Street massing has been revised to create a more compatible transition between the three-story building height along Washington Street and the overall building height of 80 feet. The proposed building would be approximately 50 feet tall at its rear along Washington Street for approximately 30 feet in depth. At a building depth of approximately 86 feet from Van Ness Avenue, the building would rise to 80 feet. The 50-foot tall portion of the building provides a better transition between the massing and heights of buildings along Washington Street and Van Ness Avenue.

9. Conditional Use Authorization:

The Project requires a conditional use authorization to allow construction of a structure that exceeds 40 feet in height in the Van Ness Special Use District pursuant to Sections 253.2 and 303 of the Planning Code.

The Commission finds and determines that the Project complies with the criteria of Section 303 of the Code in that:

- a. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project will create up to 35 new dwelling units in an in-fill project within an established residential and mixed-use neighborhood, fulfilling General Plan policies that encourage the construction of new housing. The Project will make a contribution to the City's housing supply, and will also contribute to the affordable housing supply by payment of an in lieu fee. The approximately 3,000 square feet of new retail/commercial space will provide services to the immediate neighborhood, and will create pedestrian-oriented, active uses on the Van Ness Avenue and Washington Street frontages.

At 80 feet tall, the proposed building has been designed to hold the street wall along Van Ness Avenue in a manner compatible with surrounding buildings in that corridor. A proposed development at 1800 Van Ness, approved by the Commission on January 25, 2007, will also be 80 feet in height. Across the street from the subject building, another residential development is 80 feet high as well. Buildings between 40 and 80 feet in height are common in the Van Ness Avenue corridor.

The proposed building has been redesigned to provide a better transition between the three-story buildings on Washington Street and taller buildings on Van Ness Avenue. The rear of the building has been lowered to approximately 50 feet in height for a depth of approximately 30 feet. This revision to the massing creates an appropriate transition between surrounding building heights.

- b. The Project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the Project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
 - i. The nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

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

The design of the Project is compatible with the scale and context of the surrounding neighborhood, and will result in a continuous and unified street wall on Van Ness Avenue and Washington Street.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading.

The Project provides up to 35 off-street parking spaces. The Project's parking spaces will be contained within two below-grade levels, with ingress and egress from Washington Street. All of the parking spaces will be independently accessible. Access to the parking would be off Washington Street to prevent traffic conflicts on Van Ness Avenue. The proposed curb cut along Washington Street is approximately 13 feet in width. Although not required, a loading zone may be established along Van Ness Avenue in front of the building's main entrance. Trash pick-up would be along Washington Street in

front of the service entry, or outside the egress gate along Van Ness Avenue.

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

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

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

The project proposes street trees along Van Ness Avenue and Washington Street. Off-street parking will be provided at two below-grade basement levels. The proposed off-street parking will be completely screened from view from the street, and will be accessible from a single garage entrance/exit located on Washington Street. The Project will provide both private and common usable open space, and the open space provided by the Project exceeds the amount required in the RC-4 District. Areas that provide common usable open space would be appropriately landscaped. Lighting along the building façade and at the street level will be consistent with the neighborhood character. Signage pursuant to Article 6 of the Planning Code has not been proposed, or reviewed, under the subject proposal.

- c. The Commission finds and determines that the proposed uses and features comply with the applicable provisions of the Planning Code and affirmatively promotes the objectives and policies of the General Plan.

Van Ness Avenue Area Plan – Residential Livability

OBJECTIVE 7: PROVIDE SAFE AND ATTRACTIVE ENVIRONMENTS WITHIN EACH MIXED USE DEVELOPMENT.

Policy 1: Ensure safety, security and privacy within new residential developments while encouraging efficient use of common open space areas.

Policy 3: Generally maintain existing open space requirements for residential use. Allow common open space requirements to be met by a variety of recreation and open space features.

Policy 4: Design mixed use developments to create a quiet residential environment with a variety of intimate, personal spaces well insulated from the intrusion of noise from street of commercial activities.

Housing Element:

OBJECTIVE 1: PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

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

Policy 1.7: Encourage and support the construction of quality, new family housing.

OBJECTIVE 11: IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS.

Policy 11.1: Use new housing development as a means to enhance neighborhood vitality and diversity.

Policy 11.2: Ensure housing is provided with adequate public improvements, services, and amenities.

Policy 11.3: Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

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

Policy 11.8: Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.

The Project is an appropriate in-fill proposal that will facilitate the conversion of a former gasoline station and current surface parking lot in an established mixed-use neighborhood. The Project will locate up to 35 housing units at a site zoned for residential use and will increase the supply of housing in conformity with the allowable density limits of the RC-4 Zoning District and Van Ness Special Use District. The Project's revised design will be compatible with the existing scale and character of the neighborhood.

Through the rear yard modification, common open areas of the development at grade have been designed to create a quiet residential environment that is well insulated from the intrusion of noise from street and commercial activities along Van Ness Avenue and the driveway of the project at 1800 Van Ness Avenue, which is located directly adjacent to the rear property line of the subject property.

The Project will contribute to the City's affordable housing supply by payment of an in lieu fee.

The Project will promote neighborhood-serving commercial activities by providing approximately 3,000 square feet of ground-floor commercial/retail space.

Commerce and Industry Element:

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

Policy 1: Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The Project will redevelop an underused lot with a mix of residential and commercial/retail uses. The Project is consistent with the objectives of the RC-4 Zoning District and VNSUD by proposing a mixed-use development with ground floor commercial/retail and up to 35 dwelling units. The Project's ground floor commercial/retail component will augment a viable neighborhood commercial area that is accessible to City residents. The Project will

minimize parking problems by providing up to 35 accessible parking spaces (at one to one ratio) below grade for a Project located along a transit thoroughfare. Curb cuts will not occur along Van Ness Avenue to prevent traffic impacts and parking problems along that transit intensive street.

Urban Design Element:

OBJECTIVE 1: EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OR ORIENTATION.

Policy 1.2: Protect and reinforce the existing street pattern, especially as it is related to topography.

Policy 1.3: Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

The Project will enhance this RC-4 District and the VNSUD by reinforcing the urban nature of the street pattern, and by creating a unified street wall along Van Ness Avenue and Washington Street. The Project's design echoes the design features of surrounding buildings, and will result in a better utilization of the Project Site than that of the existing improvements relating to the prior gasoline station and existing surface parking lot. The Project will remove the existing improvements, and will eliminate the need for vehicular access from Van Ness Avenue by having vehicle access limited to Washington Street.

Visual Harmony:

OBJECTIVE 3: MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1: Promote harmony in visual relationships and transitions between new and older buildings.

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

Neighborhood Environment:

OBJECTIVE 4: IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.12: Install, promote and maintain landscaping in public and private areas.

The Project will provide pedestrian-level interest by including ground floor commercial/retail space along the Van Ness Avenue frontage. The new building will be compatible in use and design with other buildings in the neighborhood. The Project will remove the existing improvements that were used by the gasoline station that is no longer in operation and existing surface parking lot.

10. Priority Planning Principles: Section 101.1(b)(1-8) establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies. The Commission finds and determines that the Project complies with said policies in that:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The Project Site was previously used as a gasoline station and is currently used as a surface parking lot. The Project will create approximately 3,000 square feet of new commercial/retail space on the ground floor, and thus could provide new resident employment and ownership opportunities of such businesses.

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

No existing housing would be impacted. The site was previously used as a gasoline station and is currently used as a surface parking lot. The Project Site is located within the RC-4 District and VNSUD which is a mixed-use area consisting of residential and commercial uses. The new dwelling units will provide opportunities for up to 35 families to move into the building. The Project is compatible with the scale and design of the neighborhood within which the Project Site is located. The cultural and economic diversity of the neighborhood would be augmented by the proposed project.

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

The Project will further this priority policy by payment of an in lieu fee.

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

Housing created by the Project will be located along a transit thoroughfare on Van Ness Avenue, and one off-street parking space will be provided for each

residential unit. Because the Project Site located on a transit thoroughfare, it is anticipated that the Project will generate less traffic than a similar mixed-use building located elsewhere.

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

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

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

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

- (7) That landmarks and historic buildings be preserved; and,

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

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

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

11. The Commission hereby finds and determines that granting the conditional use authorization in this case would promote the public welfare, convenience and necessity of the City.

12. The Commission hereby finds that all significant environmental effects of the Project have been fully and adequately analyzed in the material before the Commission, and that no additional information is required in order for the Commission to make an informed decision regarding the environmental impacts of the project, appropriate mitigation measures, alternatives or overriding considerations and that the Final Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis.

DECISION

That based upon the Record, the submissions by the Applicant, Department staff 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 adopts the Final Mitigated Negative Declaration and **APPROVES the Conditional Use Application, Case No. 2004.0890CEK**, subject to the following conditions attached hereto as Exhibit A (Conditions of Approval) which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and dated May 30, 2007 and on file in Case Docket No. 2004.0890C.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this conditional use authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17439. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission on **June 7, 2007**.

Linda Avery
Commission Secretary

AYES: Commissioners Alexander, Antonini, S. Lee, W. Lee, Moore, Olague and Sugaya
NOES: None
ABSENT: None
ADOPTED: June 7, 2007

EXHIBIT A

CONDITIONS OF APPROVAL

GENERAL

1. Wherever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the project or other persons having an interest in the project or underlying property.
2. This Conditional Use Authorization is granted to allow a building that exceeds 40 feet in height in the Van Ness Special Use District, and to construct a new building that would contain approximately 35 dwelling units, approximately 3,000 square feet of ground floor commercial/retail space, and up to 35 off-street parking spaces at 1868 Van Ness Avenue, Lot 012 in Assessor's Block 0619 in an RC-4 (Residential Commercial Mixed, High Density) District, an 80-D Height and Bulk District, and Van Ness Special Use District, in general conformity with the plans identified as Exhibit B, dated May 30, 2007, by Leavitt Architecture and reviewed by the Commission on June 7, 2007.
3. The Project Sponsor must also obtain variances from the dwelling unit exposure requirement and a modification of the rear yard requirement as requested under Variance Application No. 2004.0890V. The conditions set forth below are additional conditions required in connection with the Project. If these conditions conflict with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.
4. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to owners and occupants of nearby properties at all times during construction of the Project. Prior to the commencement of construction activities, the Project Sponsor shall provide the Zoning Administrator and the owners of the properties within 300 feet of the Project site written notice of the name, business address, and telephone number of the community liaison.
5. Construction of the herein-authorized project shall commence within three years of the date of this action and shall be thenceforth pursued diligently to completion of the said authorization shall become null and void. This authorization may be extended by the Zoning Administrator for where the failure to implement the project is caused by delay by another public agency or legal challenge.
6. Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code, enforceable by the Zoning Administrator. Should the monitoring of the Conditions of Approval be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(f)(2).

7. This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the bureau of the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s). The Project Sponsor shall obtain required site or building permits within three years of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.
8. The Project Sponsor shall submit two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.
9. The Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this program, including having an Occupancy Program approved by the First Source Hiring Administrator prior to the issuance of the first Certificate of Occupancy.
10. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Code Section 176.
11. Should implementation of this Project result in complaints from neighborhood residents or business owners and tenants, which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the City Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of the Motion, the Zoning Administrator shall report such complaints to the City Planning Commission which may thereafter hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Sections 174, 306.3 and 306.4 of the Code to consider revocation of this Conditional Use Authorization.
12. Should the monitoring of the conditions of approval contained in this Exhibit A be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(f)(2).
13. Prior to the issuance of any building permit application for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in

writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

DESIGN

14. The project sponsor will continue to work with Department staff to find an alternative to the exterior stucco finish material.
15. The project sponsor will continue to work with Department staff to accentuate the windows by possibly extending the honed stone to the building's façade.
16. Exterior glazing shall not be tinted.
17. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted as a primary glazing material. Only clear glass shall be used at the ground floor level.
18. 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.
19. All proposed street trees shall be 24-inch box sized minimum. Four street trees are required along Van Ness Avenue, and six street trees are required along Washington Street.

MITIGATION MEASURES

20. *Mitigation Measure 1 - Construction Air Quality*

The project sponsor shall require the contractor(s) to spray the site with water during demolition, excavation, and construction activities; spray unpaved construction areas with water at least twice per day; cover stockpiles of soil, sand, and other material; cover trucks hauling debris, soils, sand or other such material; and sweep surrounding streets during demolition, excavation, and construction at least once per day to reduce particulate emissions. Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose. The project sponsors shall require the project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants, by such means as a prohibition on idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.

21. Mitigation Measure 2 - Hazards (Contaminated Soil)*Step 1: Soil Testing*

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

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

Step 2: Preparation of Site Mitigation Plan

If, based on the results of the soil tests conducted, the San Francisco Department of Public Health (DPH) determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, the DPH shall determine if preparation of a Site Mitigation Plan (SMP) is warranted. If such a plan is requested by the DPH, the SMP shall include a discussion of the level of contamination of soils on the project site and mitigation measures for managing contaminated soils on the site, including, but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the DPH for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file.

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

- (a) Specific Work Practices: If, based on the results of the soil tests conducted, DPH determines that the soils on the project site are contaminated at or

above potentially hazardous levels, the construction contractor shall be alert for the presence of such soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations) when such soils are encountered on the site. If there are excavated materials containing over one percent friable asbestos, they would be treated as hazardous waste, and would be transported and disposed of in accordance with applicable State and federal regulations. These procedures are intended to mitigate any potential health risks related to chrysotile asbestos, which may or may not be located on the site.

- (b) Dust Suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.
- (c) Surface Water Runoff Control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.
- (d) Soils Replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where contaminated soils have been excavated and removed, up to construction grade.
- (e) Hauling and Disposal: Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at a permitted hazardous waste disposal facility registered with the State of California.

Step 4: Preparation of Closure/Certification Report

After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.

22. Mitigation Measure 3 - Archeology

Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an

archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of *construction* can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).

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

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the project archeologist shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archaeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
- The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;
- The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;
- If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO

of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.

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

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

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

(1) The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.

- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

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

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

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

AFFORDABLE DWELLING UNITS

23. Under Planning Code Section 315 of the Planning Code, the project is subject to the Inclusionary Housing requirement. The project requires four below-market-rate units; however, the project sponsor has provided a "Declaration of Intent" electing to pay the in-lieu fee to satisfy the Inclusionary Housing requirement. The project applicant shall make payment of the in-lieu fee prior to issuance of the site/building permit for the approved project.
24. Payment of an in-lieu fee shall be determined according to the procedures set forth in Section 315.6 of the Planning Code. The project applicant can pay an in lieu fee to satisfy the requirements of Inclusionary Housing requirement. The in lieu fee shall be paid to the Treasurer for use by the Mayor's Office of Housing for the purpose of constructing on an alternative site. The amount of the fee shall take into account the number of units required by the project applicant to meet the off-site housing development and the affordability gap as identified in the "Jobs Housing Nexus Analysis: prepared by Keyser Marston Associates, Inc. in June 1997 for the Maximum Annual Rent or Maximum Purchase Price for the equivalent unit sizes.