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Preliminary Project Assessment

Date: May 15, 2012
Case No.: **2012.0356U**
Project Address: 280 – 7th Street
Block/Lot: 3730/009
Zoning: SLR (Service/Light Industrial/Residential)
Western South of Market (SoMa) Special Use District
SoMa Youth and Family Special Use District
50-X Height and Bulk District
Area Plan: Western South of Market (SoMa) Community Plan
Proposed Zoning: Folsom Street NCT (Neighborhood Commercial Transit)
Western South of Market (SoMa) Special Use District
SoMa Youth and Family Special Use District
65-X Height and Bulk District
Project Sponsor: Alan K. Toma, project architect
(415) 664-6606
Staff Contact: Andrea Contreras – (415) 575-9044
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DISCLAIMERS:

Please be advised that this determination does not constitute an application for development with the Planning Department. It also does not represent a complete review of the proposed project, a project approval of any kind, or in any way supersede any required Planning Department approvals listed below. The Planning Department may provide additional comments regarding the proposed project once the required applications listed below are submitted. While some approvals are granted by the Planning Department, some are at the discretion of other bodies, such as the Planning Commission or Historic Preservation Commission. Additionally, it is likely that the project will require approvals from other City agencies such as the Department of Building Inspection, Department of Public Works, Department of Public Health, and others. The information included herein is based on plans and information provided for this assessment and the Planning Code, General Plan, Planning Department policies, and local/state/federal regulations as of the date of this document, all of which are subject to change.

PROJECT DESCRIPTION:

The project site is located midblock on a block bounded by Howard Street to the north, Seventh Street to the east, Folsom Street to the south, and Langton Street to the west. The project includes demolition of two existing buildings on a 4,125 square-foot (sq. ft.) through-lot, and construction of a new three-story building with roof deck improvements on the third floor roof. Along the 7th Street (eastern) portion of the lot, the new building would include a bar/night club on the first and second floors, a restaurant on the third floor, and an improved roof deck (including patio dining, glass railing, glass windows, and retractable skylight in

support of the restaurant use). Along the Langton Street (western) portion of the lot, the building would contain two residential units above a two-space, ground-floor parking garage.

The existing one- to two-story buildings include a 5,636 sq. ft. nightclub with about 750 sq. ft. of accessory retail and office space for a building total of 6,386 gross sq. ft. There is one off-street parking space and the maximum height of the two-story building is approximately 35 feet. The proposed new three-story building would contain 9,090 sq. ft. of bar/nightclub use, 5,538 sq. ft. of restaurant use, 610 sq. ft. of accessory office use, and 2,390 sq. ft. of residential use. The total square footage for the new building would be 18,447 sq. ft. for a net addition of 12,461 sq. ft. The height of the new building would be approximately 53 feet inclusive of an elevator penthouse. Bar and nightclub access would be from Seventh Street and residential access would be from Langton Street.

ENVIRONMENTAL REVIEW:

The level of environmental review required for this project is dependant on when the Environmental Evaluation Application is submitted. This is due to the project site's location within the proposed Western SoMa Community Plan area, which is currently undergoing environmental review. If an Environmental Evaluation Application is submitted prior to the adoption of the Western SoMa Community Plan, thereby subjecting the project to current SLR (Service/Light Industrial/Residential) zoning restrictions, then the project may not be approvable if the existing use is determined not to be an active legal non-conforming use as described on page 8 of this letter (see #2. "Nighttime Entertainment"). If the project is determined to be approvable under current SLR zoning (see section below entitled "Planning Department Approvals"), then a Class 32 Categorical Exemption may be appropriate if the project does not have any potentially significant impacts. Under this scenario, additional analysis will determine if the project would result in any potential environmental impacts. An Initial Study will determine that either (1) the project may be issued a Negative Declaration stating that the project would not have a significant effect on the environment with mitigation, or (2) an Environmental Impact Report (EIR) is required.

If the Environmental Evaluation Application is submitted after adoption of the Western SoMa Community Plan and if the project is approvable, it is likely to qualify for a Community Plan Exemption (CPE). Within the CPE process, there can be three different outcomes as follows:

1. CPE Only

All potentially significant project-specific and cumulatively considerable environmental impacts are fully consistent with significant impacts identified in the Western SoMa Community Plan EIR, and there would be no new "peculiar" significant impacts unique to the proposed project. In these situations, all pertinent mitigation measures and CEQA findings from the Western SoMa Community Plan EIR are applied to the proposed project, and a CPE checklist and certificate is prepared. With this outcome, the applicable fees are: (a) the CPE determination fee (currently \$12,720); (b) the CPE certificate fee (currently \$7,061); and (c) a proportionate share fee for recovery for costs incurred by the Planning Department for the Western SoMa Community Plan EIR.

2. CPE and Focused Initial Study/Mitigated Negative Declaration

If new site- or project-specific significant impacts are identified for the proposed project that were not identified in the Western SoMa Community Plan EIR, and if any of these new significant impacts can be mitigated to a less-than-significant level, then a focused mitigated negative declaration is prepared to address these impacts, and a supporting CPE certificate is prepared to address all other impacts that were encompassed by the Western SoMa Community Plan EIR, with all pertinent mitigation measures and CEQA findings from the Western SoMa Community Plan EIR also applied to the proposed project. With this outcome, the applicable fees are: (a) the CPE determination fee (currently \$12,720); (b) the standard environmental evaluation fee (which is based on construction value); and (c) a proportionate share fee for recovery for costs incurred by the Planning Department for the Western SoMa Community Plan EIR.

3. CPE and Focused EIR

If any site- or project-specific impacts cannot be mitigated to a less-than-significant level, then a focused EIR is prepared to address these impacts, and a supporting CPE certificate is prepared to address all other impacts that were encompassed by the Western SoMa Community Plan EIR, with all pertinent mitigation measures and CEQA findings from the Western SoMa Community Plan EIR also applied to the proposed project. With this outcome, the applicable fees are: (a) the CPE determination fee (currently \$12,720); (b) the standard environmental evaluation fee (which is based on construction value); (c) one-half of the standard EIR fee (which is also based on construction value); and (d) a proportionate share fee for recovery for costs incurred by the Planning Department for the Western SoMa Community Plan EIR.

The project initially requires the following environmental review. This review may be done in conjunction with the required approvals listed below, but must be completed before any project approval may be granted.

1. An **Environmental Evaluation Application** is required for the full scope of the project (demolition and expansion) and may include the following:
 - a. *Historic Architectural Resources.* According to Planning Department records, the existing buildings on the project site were constructed in 1906, making them 106 years old at the time of this review. The buildings at 280 – 7th Street were included in the Western SoMa Community Plan Historic Resource Survey (SoMa Survey) survey. Planning Department records show the subject property was found ineligible for National Register, California Register or Local designation (Rating 6Z). While the buildings themselves would not be considered individual resources, they are located within the eligible West SOMA Light Industrial and Residential Historic District and are adjacent to identified historic resources. The environmental analysis will require a *Historic Resource Evaluation* (HRE) to determine the compatibility of the proposed new design and façade with the adjacent West SOMA Light Industrial and Residential Historic District and to assess potential impacts to the Historic District. In evaluating compatibility with the West SOMA Light Industrial and Residential Historic District, the architecture, massing, height, materials, and articulation of the proposed building and its neighboring buildings should be considered. The HRE shall be prepared by a qualified professional who meets the Secretary of the Interior’s Professional Qualification Standards in Historic Architecture or Architectural History. The qualified professional must be selected from one of three historic resource

consultants assigned by Tina Tam, Senior Preservation Planner at the Planning Department. Please contact Tina Tam at (415) 558-6325 or at tina.tam@sfgov.org.

- b. *Noise Compatibility.* Given the proximity of the proposed residential use to the proposed bar/restaurant use, the Department will require an acoustical study to determine whether the project would result in a substantial adverse effect on sensitive noise receptors. The San Francisco Noise Ordinance serves as the standard threshold for environmental review of noise impacts and is contained in Article 29 of the San Francisco Police Code. The project would be required to meet applicable local ordinances and codes related to noise, such as the Noise Ordinance, so as not to result in a significant noise impact under CEQA. If the project exceeds the applicable noise thresholds, a significant impact would result thereby requiring mitigation.

The project's design may employ the use of certain features to reduce noise levels below significance thresholds. Design features may include solid acoustical barriers along the edges of the rooftop angled inward, the use of sound-attenuating laminated glass, and the placement of residential windows in a location that minimizes exposure to the bar/restaurant use. If the acoustical study demonstrates that design features keep project-generated noise below significance thresholds, the project would not result in a significant impact. Please contact the assigned Environmental Planner to scope the required acoustical study after submittal of the project's Environmental Evaluation Application.

- c. *Air Quality.* The proposal includes two residential units, 9,909 sq. ft. of bar/nightclub use, 5,538 sq. ft. of restaurant use, and 610 sq. ft. of accessory office use, all of which fall below the Bay Area Air Quality Management District's (BAAQMD) construction and operational screening levels for criteria air pollutants. If the project would generate sources of toxic air contaminants including, but not limited to: diesel generators or boilers, or includes any other stationary sources, the project would result in toxic air contaminants that may affect off-site and on-site sensitive receptors (i.e., daycare, schools, senior care facilities, hospitals, and dwelling units). If the proposed project's construction and/or demolition activities require the use of heavy duty diesel equipment, emissions of diesel particulate matter (DPM), a known toxic air contaminant, may affect sensitive receptors located up to and perhaps beyond 300 feet from the project site.

During the environmental review process an Air Quality Screening Analysis will be conducted for the proposed project. The results of the screening analysis will indicate whether an Air Quality Technical Report is required for additional air pollutant modeling. If an Air Quality Technical Report is required, the project sponsor must retain a consultant with experience in air quality modeling to prepare a scope of work that must be approved by Environmental Planning prior to the commencement of any required analysis and/or modeling determined necessary.

- d. *Flood Notification.* This lot is on a block that has the potential to flood during storms. Please see the attached notice and contact Cliff Wong at the San Francisco Public Utilities Commission at (415) 554-8339.

- e. *Seismic Hazard Zone.* Interdepartmental Project Reviews are mandatory for new construction projects that propose buildings eight stories or more and new construction on parcels identified by the State of California Department of Conservation, Division of Mines and Geology as Seismic Hazard Zones in the City and County of San Francisco. The project site is located in a Seismic Hazard Zone. Projects identified as such must request and participate in an interdepartmental project review prior to any application that requires a public hearing before the Planning Commission or new construction building permit. Project Sponsors may elect to request an interdepartmental review for any project at any time. However, it is strongly recommended that the request is made prior to the submittal of a building permit or Conditional Use application.

The Planning Department acts as the lead agency in collaboration with the Department of Building Inspection (DBI); the Department of Public Works (DPW); and the San Francisco Fire Department (SFFD). Staff from each of these disciplines will attend the Interdepartmental Project Review meeting.

- f. *Archeological Study.* According to the PPA application, the project would require less than 10 feet of excavation below grade to accommodate a concrete mat foundation. The proposed project would require a Preliminary Archeological Review (PAR) which would be conducted in-house by the Planning Department archeologist. During the PAR, it would first be determined what type of soils disturbance/modification would result from project development, such as, excavation, installation of foundations, soils improvement, site remediation, etc. Any available geotechnical/soils report prepared for the project site will be reviewed at this time. It would need to be determined if the project site is in an area that is archeologically sensitive. The results of this review will be provided in a memorandum to the Environmental Planner assigned to the project. If and when it is found that the project has the potential to affect an archeological resource, the PAR memorandum will identify an appropriate archeological mitigation measure and/or require additional archeological studies as part of the environmental evaluation.
- g. *Geology and Soils.* The project site is located in a liquefaction hazard zone, as identified in the San Francisco General Plan. The investigation of geotechnical and soil conditions and the application of the building codes for new development based on these conditions would reduce the potential for impacts related to structural damage, ground subsidence, liquefaction, landslides, and surface settlement to a less-than-significant level. To assist our staff in their determination, it is recommended that you provide a copy of a geotechnical investigation with boring logs for the proposed project. This study will also help inform the archeological review.
- h. *Phase I Study.* A Phase I study will be required upon submittal of the Environmental Evaluation Application. The context of existing environmental hazards in the immediate setting must be reviewed.
- i. *Shadow Fan Analysis.* Planning Code Section 295 generally prohibits new buildings that would cast new shadow 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. Since the project's height is over 40 feet, a shadow fan analysis is required.

Environmental Evaluation applications are available in the Planning Department lobby at 1650 Mission Street Suite 400, at the Planning Information Center at 1660 Mission Street, and online at www.sfplanning.org. The San Francisco Preservation Bulletin No. 16 is available at www.sfplanning.org under "Historic Preservation."

PLANNING DEPARTMENT APPROVALS:

The project requires the following Planning Department approvals either under the current Planning Code, *or pursuant to proposed Planning Code amendments associated with the upcoming Western SoMa Community Plan*. These approvals may be reviewed in conjunction with the required environmental review, but may not be granted until after the required environmental review is completed.

1. A **Conditional Use Authorization** from the Planning Commission in accordance with Planning Code Section 303 may be required as follows:
 - a. Per Planning Code Section 151.1 to provide up to .75 parking spaces per dwelling unit. This parking control is the same for the proposed Folsom Street NCT Zoning District under the Western SoMa Community Plan.
 - b. Per proposed amendments to Planning Code Section 823 – as part of the Western SoMa Community Plan – to reestablish a legal nonconforming nighttime entertainment use in a newly constructed building after demolition of the existing building. Under the proposed Western SoMa Planning Code amendments, a legal nonconforming nighttime entertainment use that is within a building that is demolished would be allowed to reestablish within the newly constructed replacement building pursuant to the granting of a Conditional Use authorization by the Planning Commission. More information on this is provided in the "Preliminary Project Comments, #2. Nighttime Entertainment" section below.
 - c. Per proposed amendments to Planning Code Section 121.1 – as part of the Western SoMa Community Plan – for new construction on a property greater than 4,000 square feet in a Neighborhood Commercial Zoning District. This Conditional Use authorization will only be triggered if/when the property is rezoned to Folsom Street NCT.
 - d. Per proposed amendments to Planning Code Section 121.2 – as part of the Western SoMa Community Plan – to allow a non-residential use (nighttime entertainment and restaurant) larger than 4,000 square feet. This Conditional Use authorization will only be triggered if/when the property is rezoned to Folsom Street NCT.
2. A **Shadow Analysis** application is required because the proposed building height is greater than 40 feet and there is potential shadow impact on nearby property owned by the San Francisco Recreation and Park Department (Howard and Langton Mini Park).
3. A **Building Permit Application** is required for the demolition of the existing building.

4. A **Building Permit Application** is required for the construction of the proposed building.

Conditional Use and Shadow Analysis applications are available in the Planning Department lobby at 1650 Mission Street Suite 400, at the Planning Information Center at 1660 Mission Street, and online at www.sfplanning.org. Building Permit applications are available at the Department of Building Inspections at 1660 Mission Street.

NEIGHBORHOOD NOTIFICATIONS AND PUBLIC OUTREACH:

Project Sponsors are encouraged to conduct public outreach with the surrounding community and neighborhood groups early in the development process. Additionally, many approvals require a public hearing with an associated neighborhood notification. Differing levels of neighborhood notification are mandatory for some or all of the reviews and approvals listed above.

This project, as proposed, is required to conduct a **Pre-application** meeting with surrounding neighbors and registered neighborhood groups before a development application may be filed with the Planning Department. The Pre-application packet, which includes instructions and template forms, is available at www.sfplanning.org under the “Permits & Zoning” tab. All registered neighborhood group mailing lists are available online at www.sfplanning.org under the “Resource Center” tab.

PRELIMINARY PROJECT COMMENTS:

The following comments address specific Planning Code and other general issues that may significantly impact the proposed project.

1. **Western SoMa Community Plan.** Please be aware that this property is proposed to be rezoned from the SLR (Service/Light Industrial/Residential) Zoning District to the Folsom NCT (Neighborhood Commercial Transit) Zoning District as part of the Western SoMa Community Plan. The final plan and associated rezoning and Planning Code amendments are scheduled to be initiated at the Planning Commission in the third or fourth quarter of 2012 and may be in effect by early 2013. There is currently no “grandfathering” provision proposed, so it is likely that this project may ultimately fall under different zoning controls than what apply today.

For more information about the Western SoMa Community Plan, please contact Corey Teague at (415) 575-9081 or corey.teague@sfgov.org, or visit the website at:

<http://www.sfplanning.org/index.aspx?page=1895>

2. **Nighttime Entertainment.** Per Section 816.37 of the current Planning Code, nighttime entertainment is not permitted in the SLR Zoning District. A legal nonconforming nighttime entertainment use may be enlarged pursuant to Section 181(f). However, per Section 181, demolishing the existing building would effectively abandon any legal nonconforming uses within the building. Therefore, a nighttime entertainment use would not be permitted in the proposed building. Please also be aware that, per Section 183, if the space housing the previous nighttime entertainment use was vacated for more than

three years, then that nonconforming use is considered abandoned and a new nighttime entertainment use can not be reestablished within the existing building either.

However, under the proposed Western SoMa Planning Code amendments, a legal nonconforming nighttime entertainment use that is within a building that is demolished would be allowed to reestablish within the newly constructed replacement building pursuant to the granting of a Conditional Use authorization by the Planning Commission. However, the “three year” abandonment criteria, and the other abandonment criteria for nonconforming uses in Section 183, would still apply.

3. **Entertainment Commission.** The establishment of a new nighttime entertainment use requires the approval of a “Place of Entertainment” permit from the San Francisco Entertainment Commission. You can contact the Entertainment Commission at (415) 554-6678 or www.sfgov.org/entertainment.
4. **Floor Area Ratio (FAR).** Per Section 124, the maximum FAR for both the SLR and proposed Folsom NCT Zoning Districts is 2.5 to 1. The subject property is 4,125 square feet, which means that no more than 10,313 square feet of non-residential use may be permitted at the site. The proposal includes a 9,909 square foot night club and a 5,538 square foot restaurant, which totals to 15,447 square feet. This represents 5,134 square feet of non-residential space above what is (and will be) permitted at this site. The FAR must be reduced to a ratio of no more than 2.5 to 1 pursuant to Section 124.
5. **Interdepartmental Project Review.** As mentioned above, this review is required for all proposed new construction in seismic hazard zones, in which the subject property falls. An application is enclosed.
6. **Rear Yard.** Section 134 requires the project to provide a rear yard of at least 25 percent of the lot depth on the first floor containing a dwelling unit and each floor above that. That amounts to approximately 41 feet for the subject property. Please be aware that, especially considering the location of this property and the existing surroundings, this project is eligible for a rear yard modification by the Zoning Administrator pursuant to Section 134(e) if it meets all of the applicable criteria. Alternatively, if the project does not meet those criteria, a rear yard variance would be required pursuant to Section 305.
7. **Open Space – Residential.** Section 135 requires 80 square feet of open space (private or common) for each dwelling unit. Additionally, any such open spaces must meet the dimensional requirements of Subsections (f) and (g). It appears that both proposed dwelling units fronting Langton Street have access to the roof deck, although it is labeled as though it is limited to only the third floor residence. Please ensure that each new dwelling unit has access to open space in accordance with this Section.
8. **Open Space – Non-Residential.** Section 135.3 requires this project to provide one foot of open space for every 250 square feet of retail (and similar) uses. This applies to any net new retail space created within this project. Alternatively, per Sections 426 and 409, an in-lieu fee may be paid instead of providing the open space on site.
9. **Bay Window.** It appears that the proposed 17-foot wide bay window fronting on 7th Street does not comply with the provisions of Section 136.

10. **Street trees.** Planning Code Section 138.1 requires one street tree for every 20 feet of frontage for new construction, with an option to pay an in-lieu fee if a waiver is granted by the Zoning Administrator. No street trees are shown on the plans.
11. **Parking.** Section 151.1 permits .5 parking space for each dwelling unit as of right. However, Conditional Use authorization is required to provide up to .75 parking space for each dwelling unit, which this project proposes.
12. **SoMa Youth and Family SUD.** The project site falls within the SoMa Youth and Family Special Use District (SUD). As such, it is subject to the criteria of Section 249.40A. The SUD requires a conditional use authorization for a variety of uses, including nighttime entertainment.
13. **Eastern Neighborhoods Impact Fee.** This project is not currently subject to the applicable fees outlined in Section 423 et seq. However, development on the subject property will be subject to these impact fees once the Western SoMa Community Plan is adopted and effective.
14. **Transit Impact Development Fee (TIDF).** This project is subject to the TIDF per Section 411. Please contact Jay De Los Reyes at the SFMTA at (415) 701-5418 for more information.
15. **Good Neighbor Policies.** This project is subject to the applicable provisions of Section 803.5 because it contains a nighttime entertainment use. These policies ensure that the quiet, safety and cleanliness of the premises and vicinity are maintained in consideration of adjacent residential uses.
16. **Flood Notification.** The project site is located in a flood-prone area. Please see the attached bulletin regarding review of the project by the San Francisco Public Utilities Commission.
17. **Recycled Water.** The City requires property owners to install dual-plumbing systems for recycled water use in accordance with Ordinances 390-91, 391-91, and 393-94, within the designated recycled water use areas for new construction projects larger than 40,000 square feet. Please see the attached SFPUC document for more information.

PRELIMINARY DESIGN COMMENTS:

The following comments address preliminary design issues that may substantially alter the proposed project:

1. Building Massing, Location, and Orientation

The proposed building does not leave enough rear yard or mid-block open space. The depth of the buildings should be reduced to provide a rear yard commensurate with the existing adjacent rear yard and to preserve and enhance the mid-block open space. Partially submerging the garage and increasing the height of the residential portion may result in an additional residential story, which may offset a reduction of the floor depth necessary to achieve this.

2. Ground Level Street Front

The Planning Department recommends the parking entrance be reduced to a maximum of 10 feet wide. The ground floor residential entry should be designed according to the draft Ground Floor Residential Design Guidelines. The Planning Department recommends the entry be more pronounced -- wider, raised above grade, and set back from the street.

3. Architecture

The proposed building is adjacent to buildings that are resources in an historic district. Features of the new building should reference the prevailing scale and patterns of that development.

Both façades would benefit from employing a similar logic of the adjacent buildings that includes large scale window openings framed by structural bays and floor spandrels.

The entry and ground floor at 7th Street are relatively low and unpronounced. The Planning Department recommends the height of the ground floor be expressed on the elevation.

The residential façade should take cues for proportions scale and materials from the surrounding context.

PRELIMINARY PROJECT ASSESSMENT EXPIRATION:

This Preliminary Project Assessment is valid for a period of **18 months**. An Environmental Evaluation, Conditional Use Authorization, or Building Permit Application, as listed above, must be submitted no later than **November 15, 2013**. Otherwise, this determination is considered expired and a new Preliminary Project Assessment is required. Such applications and plans must be generally consistent with those found in this Preliminary Project Assessment.

Enclosure: Flood Notification Bulletin
 Neighborhood Group Mailing List
 Interdepartmental Project Review Meeting Application

cc: Alan K. Toma, Project Sponsor
 Corey Teague, Current Planning
 Andrea Contreras, Environmental Planning
 Nick Perry, Citywide Policy & Analysis