



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion No. 19566

*Date:* February 11, 2016  
*Case No.:* 2013.1390IKA  
*Project Address:* 1532 Harrison Street  
*Plan Area:* Western Soma Area Plan  
*Project Sponsor:* Michael Yarne, Build, Inc.  
Brooke Ray Smith  
Build Public  
315 Linden Street  
San Francisco, CA 94102

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Staff Contact:* Mat Snyder (415) 575-6891  
*Mathew.snyder@sfgov.org*

**APPROVING AN IMPACT FEE WAIVER FOR 1532 HARRISON STREET IN THE AMOUNT OF \$1,505,878 TO PROVIDE STREETScape, PEDESTRIAN SAFETY, AND PUBLIC SPACE IMPROVEMENTS ON HARRISON STREET BASED ON THE COMPLETION OF AN IN-KIND AGREEMENT BETWEEN THE PROJECT SPONSOR AND THE CITY; AND RECOMMENDING THAT THE BOARD OF SUPERVISOR ADOPT AN ORDINANCE THAT WOULD ACCEPT ANY ADDITIONAL VALUE OF THE IN-KIND IMPROVEMENTS ABOVE THE FEE WAIVER AMOUNT AND OVERRIDE THE PLANNING CODE'S RESTRICTION OF AN IN-KIND IMPROVEMENT HAVING A VALUE GREATER THAN THE FEE WAIVER AMOUNT .**

### **PREAMBLE**

On January 19, 2009 the Eastern Neighborhoods Plan became effective, including now Section 423.3 of the San Francisco Planning Code, the Eastern Neighborhoods Infrastructure Impact Fee applicable to all projects in the plan area, including the subject property. The Planning Code also enabled project sponsors to seek a waiver from the impact fees when providing public improvements through an In-Kind Agreement with the Planning Department.

On October 1, 2015, the Planning Commission granted approval to the project proposed for 1532 Harrison Street. The project consists of a new seven-story 65-foot tall, mixed-use building with 136 dwelling units and about 1,600 square feet of ground floor commercial space for a total of about 128,000 gsf.

On January 21, 2015, the Project Sponsor, Build, Inc., filed an application with the City for approval of an In-Kind Agreement for provision of streetscape, pedestrian safety, and public space improvements on 12th Street between Harrison and Bernice (Project). The space is proposed to be called "Eagle Plaza", which is named after the Eagle Tavern, which is immediately adjacent to it across from the development site. The proposal included restricting vehicular circulation to prioritize the space for pedestrians.

On September 16, 2015, in Motion 2015-09-03, the Eastern Neighborhoods Citizens Advisory Committee passed a resolution supporting the proposed improvements for the Eagle Plaza In-Kind Agreement. The EN CAC's motion is attached. .

**MOVED**, that the Commission hereby authorizes the Eastern Neighborhoods Community Impact Fee Waiver 1532 Harrison Street in the amount of \$1,505,878.

**FURTHER MOVED**, that the Commission hereby recommends to the Board of Supervisors that they adopt an Ordinance that would accept the additional value of the in-kind improvements as a gift and would override the Planning Code's restriction of an in-kind improvement having a value greater than the fee waiver amount.

### 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. The proposed In-Kind Agreement is consistent with the Planning Code Section 423.3.
3. **In-Kind Agreement Approval Criteria.** The proposed improvements would present a suitable priority for an In-Kind Agreement to satisfy portions of the Area Plan infrastructure impact fees as they meet the following criteria established in the Planning Commission approved "Procedures of In-Kind Agreements".
  - Improvement Fulfills the Purpose of Community Improvements: Per Planning Code section 423.3(d) (which describes in-kind improvements under the EN Impact Fee Fund) open space, such as plazas, are eligible for funding.
  - The Infrastructure Type is Identified in the Fee Ordinance: The plaza project falls under the "Open Space and Recreation" category of improvements in the Eastern Neighborhoods Impact Fee Fund, and therefore is eligible.
  - The Expenditure Category for Infrastructure Type is Not Exhausted: The "Open Space and Recreation" category of funds have not been exhausted.
4. **Priority Improvements.** The proposed improvements are a priority for the Plan Area as they meet the following criteria:
  - Improvement is identified in the Five Year Capital Plan; Improvement does not Compete with a CAC and IPIC Endorsed Improvement:  
*This project had not been specifically listed in the IPIC Report; however, funds allocated here would not be removed from any specifically identified project, including general funds.*
  - CAC Supports the Proposed Improvement:  
*The Eastern Neighborhoods CAC approved a resolution in September 2015 supporting the improvements in an amount of \$1,505,878.*

- Efficiencies are Gained Through Coordination with Development Project:

*Project sponsors can utilize the construction tools and labor already working onsite for the 1532 Harrison Street to deliver the improvements in a more timely and efficient manner. The project would be timed with the development of the adjacent development and delivered no later than when the development is ready for occupancy. The project could be built in conjunction with the development project, resulting in less disruption from construction than if the project were independently built at another time.*

5. **Other City Agency Review.** The Project is recommended by the Planning Department and has been reviewed by other public agencies, including the Department of Public Works and SFMTA. The Street Design Advisory Team, a multi-agency multi-disciplinary review team chaired by Planning, reviewed the project twice and is supportive of the concept design.
6. **Other Required City Actions.** The creation of the plaza will require additional actions from other City Agencies, including but not necessarily limited approval of a Major Encroachment Permit, Street Improvement Permit, removal of on-street parking, the relocation of mapped curb lines, and possibly the vacation of the right-of-way. These approvals are required in addition to this approval and the finalization of an In-Kind Agreement between the City and Project Sponsor.
7. **Additional Value of Improvements to be Gifted to the City.** The subject improvements are anticipated to cost \$2,027,933, which is \$522,055 over the fee waiver value. Of this amount, \$122,055 would have otherwise been required through the Planning Code Section 138.1 ("The Better Streets Requirement") leaving about \$400,000 that would need to be gifted to the City. The in-kind value above the fee waiver amount will need to be officially accepted as a gift by the Board of Supervisors. Because the Planning Code generally does not allow the value of the improvements to be greater than the value of the fee waiver, the Board of Supervisors Ordinance accepting the gift would also have to officially override the Planning Code for this case. Eagle Plaza is a broad community effort that has several funding sources, of which this in-kind agreement and fee waiver is one. Limiting the scope of the improvements to match the value of the in-kind would inadvertently limit the full potential of the project and the aspirations of community members who have planned, raised money, and advocated for it.
8. The Project Sponsor has indicated that it is their intention to create a Mello Roos District and non-profit governing entity thereto as a means of funding and performing ongoing maintenance. The Project Sponsor acknowledges that the City department with jurisdiction over Eagle Plaza and the Board of Supervisors will need to approve such approach in their sole and respective discretion and may impose additional conditions and obligations on the project or its design under such circumstances. A Declaration of Maintenance Covenant and an attached scope of work, similar to the one related to Daggett Street open space (Case No. 2003.0527U), could be recorded against the property of 1532 Harrison Street at the election of the Department of Public Works or any future City department with jurisdiction over Eagle Plaza to assure its ongoing maintenance. As part of subsequent City department processing of this project, the City department with jurisdictional authority over Eagle Plaza may elect to proceed with a similar document and incorporate it into the encroachment agreements or other required City approvals from the Department of Public Works or

any future City department with jurisdiction over Eagle Plaza. Nothing in this motion is intended to bind any City department or the Board of Supervisors from taking any action that it deems appropriate and is within the discretion of that City department or Board in regard to the design of and proposal for Eagle Plaza.

9. **General Plan Compliance.** The Proposed Project is, on balance, consistent with the following Objectives and Policies of the General Plan. All required City approval actions where General Plan findings are required, including but not limited to a major encroachment permit and curb relocation legislation, may rely on findings below:

The proposed In-Kind improvements support the General Plan by implementing the below policies and objectives.

#### WESTERN SOMA AREA PLAN

OBJECTIVE 4.4 ENSURE A MINIMUM LEVEL OF SAFETY ON NEIGHBORHOOD-SERVING STREETS.

Policy 4.2.2 Introduce traffic calming measures that promote pedestrian and bicycle transportation and safety.

OBJECTIVE 4.5 DESIGN NEIGHBORHOOD-SERVING STREETS ACCORDING TO LOCAL NEEDS AND DESIRES.

*The Eagle Plaza proposal will meet the above objectives and policies in that the project sponsor has worked closely with the local community in proposing and designing the plaza in making sure that local needs are reflected in its design and programming.*

OBJECTIVE 6.6 PROVIDE PUBLIC INFORMATION AND EDUCATION ABOUT HISTORIC AND SOCIAL HERITAGE RESOURCES.

Policy 6.6.5 Explore new strategies, including the use of public art, for integrating social history into traditional historic preservation.

*The proposed plaza will be anchored by Eagle Tavern, which is considered an important business establishment for the LGBT community. The Project Sponsor has indicated that they will continue to work with the local community in finding ways to celebrate and curate the LGBT's history within the South of Market neighborhood.*

OBJECTIVE 7.3 IMPROVE THE NEIGHBORHOOD'S PUBLIC REALM CONDITIONS.

Policy 7.3.2 Redesign underutilized portions of streets and public open spaces, including widened sidewalks and medians, curb bulb-outs, "living streets", or green connector streets.

Policy 7.3.4            Require new development to improve adjacent street frontages, employing established street design standards.

*The proposed Eagle Plaza will clearly improve the immediate area with an increased space dedicated to pedestrian and open space, so that the public right-of-way is not only a space to move through but to dwell within. The proposal is to provide flexible space that can be programmed in different ways for different needs and for different events. The Project Sponsor is required to improve the immediate sidewalk space to Better Streets standards pursuant to the Planning Code. The cost of such improvements has been deducted from the value of the in-kind so that value of the required improvements are incorporated in the value of the fee waiver.*

#### URBAN DESIGN ELEMENT

OBJECTIVE 4            IMPROVE OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT PRIVDE AND OPPORTUNITY.

Policy 4.11            Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

#### RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 3            IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE

Policy 3.1            Creatively develop existing publicly-owned right-of-ways and streets into open space.

*The proposed Eagle Plaza would repurpose underutilized public right-of-way to open space thereby implementing the above Urban Design and Recreation and Open Space objectives and policies.*

OBJECTIVE 6            SECURE LONG-TERM RESOURCES AND MANAGEMENT FOR OPEN SPACE ACQUISITION, AND RENOVATION, OPERATIONS, AND MAINTENANCE OF RECREATIONAL FACILITIES AND OPEN SPACE.

Policy 6.1            Pursue and develop innovative long-term funding mechanisms for maintenance, operation, renovation and acquisition of open space and recreation.

*The Project Sponsor has indicated its plan to establish a Mello Roos District to fund and operate the plaza. Approvals for the plaza will be required by Public Works and/or other agencies having jurisdiction over the plaza. Through these approvals, ongoing maintenance plans and funding plans for said maintenance will be required. Furthermore, the Project Sponsor acknowledges that the City could require that it participate in the City's Plaza Program whereby the programming of the plaza is turned over to a third party to assure that it is sufficiently maintained and is managed as a public resource.*

10. Planning Code Sections 101.1 Findings. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed project will have no adverse effects on neighborhood-serving retail uses.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed project will protect and enhance the existing neighborhood character by creating a public plaza and improving the public life in the neighborhood.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed project will have no adverse effects on the City's supply of affordable housing.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed project would not impede MUNI transit service.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed project would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

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

*The proposed project would not affect the preparedness against injury and loss of life in an earthquake is unaffected.*

- G) That landmark and historic buildings will be preserved:

*The proposed project would not adversely affect landmark and historic buildings.*

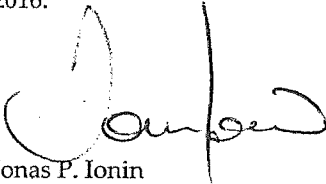
- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed project will not affect access to sunlight and vistas in parks and open spaces.*

Planning Commission Motion No. 19566  
Hearing Date: February 11, 2016  
Page 7

CASE NO. 2013.1390IKA  
1532 Harrison Street In-Kind Agreement

I hereby certify that the foregoing Motion was adopted by the Planning Commission on February 11, 2016.



Jonas P. Ionin  
Commission Secretary

- AYES: Fong, Antonini, Hillis, Moore, Richards  
NAYS: None  
ABSENT: Wu, Johnson  
ADOPTED: February 11, 2016



EXHIBIT A  
CONDITIONS OF APPROVAL

1. This fee waiver is to enable the construction of "Eagle Plaza", which will be located in front of the 1532 Harrison Street development site within the 12<sup>th</sup> Street right-of-way between Bernice and Harrison Street. The Plaza shall be constructed in general conformity with the Plans labeled "Exhibit B" to this Motion. However, it is acknowledged that final approval for design of the plaza rests with the Department of Public Works and any other agencies having jurisdiction over the proposed plaza space. Should these subsequent approvals result in a material change to the design or costs and fee waivers associated with this project, staff will seek Planning Commission approval of an amended in-kind agreement. Currently the proposal is to maintain 12<sup>th</sup> Street as a right-of-way, but the Project Sponsor could seek to vacate the right-of-way and create a City-owned parcel on which the plaza would be located. In such a case, the vacation process would be subject to approvals from the Department of Public Works, and the Board of Supervisors, among other possible Agencies. This fee waiver approval would remain valid in such case as long as the plaza includes typical access provisions as other City parks and plazas.
2. The Project Sponsor acknowledges that the City may seek to include the Eagle Plaza in the San Francisco Plaza Program established under Administrative Code Chapter 94, whereby the City will assign responsibility for Eagle Plaza's ongoing programming to plaza steward through an RFP process or a Plaza Encroachment Permit holder selected under Public Works Code Section 792. Among other things, this is to assure sufficient plaza activation and that the plaza is programmed as a public space.

