
TRANSMITTAL

TO:

FROM:

Clerk of the Board of Supervisors

M. R. Wolfe & Associates, P.C.

COMPANY:

DATE:

City and County of San Francisco

September 17, 2020

DOCUMENTS TRANSMITTED:

SENDER'S REFERENCE NUMBER:

Appeal of CEQA Exemption Determination
2019-004110ENV
2675 Geary Boulevard- Whole Foods
Market

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:


Via FedEx

To the Clerk of the Board of Supervisors:

Enclosed please find an original and two copies of a letter appealing the Planning Department's September 11, 2020 "common sense" CEQA exemption determination for the above-referenced project. Also enclosed is a check for \$640.00 for the Appeal Fee.

Please call this firm with any questions. Thank You.

M. R. Wolfe & Associates, P.C.
(415) 369-9400

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
BY  2020 SEP 18 PM 4:13

September 16, 2020

By FedEx

Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

**Re: Appeal to Board of Supervisors of CEQA “Common Sense”
Exemption Determination 2019-004110ENV – 2675 Geary
Boulevard [Whole Foods Market], Conditional Use Authorization**

To the Clerk of the Board of Supervisors:

On behalf of San Francisco residents Julie Fisher and Tony Vargas, and United Food & Commercial Workers Union (UFCW) Local 5 and its members who live and/or work in San Francisco, this is to appeal the Planning Department’s September 11, 2020 “common sense” CEQA exemption determination for a proposed Whole Foods Market at 2675 Geary Boulevard. Please find enclosed a copy of that exemption determination and a check for \$640.00 for the appeal fee.

We previously appealed the Planning Commission/Department’s Class 32 categorical exemption determination for this Project on July 16, 2020. That determination has apparently been rescinded and replaced by the “common sense” determination appealed now. The Clerk of the Board of Supervisors notified us by letter dated September 4, 2020, copy attached, that the earlier appeal “is no longer applicable.”

The specific grounds for the current appeal are as stated in our June 24, 2020 letter to the Planning Commission, copy also attached, objecting to the previous Class 32 exemption determination. This letter sets forth the factual and legal basis for our claim that the Project is not statutorily, categorically, or otherwise exempt from CEQA. The letters also set forth our objection to the Planning Department’s failure to make available for public review certain technical analyses that Department staff referenced and relied upon in making the exemption determination, which are additional grounds for the current appeal..

Clerk of the Board of Supervisors
September 16, 2020
Page 2

Thank you, and please call or email mrw@mrwolfeassociates.com with questions or concerns, or to notify us of future actions or hearings on this matter.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C

A handwritten signature in dark ink, appearing to read 'M Wolfe', with a long horizontal flourish extending to the right.

Mark R. Wolfe

MRW:sa
cc: Environmental Review Officer
enclosures

ATTACHMENT 1

ATTACHMENT 1

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ATTACHMENT 1



CEQA COMMON SENSE EXEMPTION DETERMINATION

Property Information/Project Description

Project Address 2675 Geary Boulevard	Block/Lot(s) 1094001
Case No. 2019-004110ENV	Permit No.
<input checked="" type="checkbox"/> Addition Alteration <input type="checkbox"/> Demolition (requires HRE for Category B Building) <input type="checkbox"/> New Construction	
Project Description <p>The project sponsor (Whole Foods Market) proposes a new grocery store, restaurant, and coffee bar at the “City Center” an existing shopping center located at the southeast corner of Masonic Avenue and Geary Boulevard, in the Western Addition Neighborhood of San Francisco (Assessor's Block 1094, Lot 001). Whole Foods Market would occupy a vacant retail space, formerly occupied by Best Buy, above the existing Target store. The proposed project would include a 49,780-square-foot grocery store, a 3,320-square-foot restaurant, and a 1,190-square-foot coffee shop. The existing Lot C (117 parking spaces) would be available for Whole Foods customers. Loading and deliveries would occur from an existing 3,528-square-foot loading dock which is accessed from O’Farrell Street just east of Anza Vista Avenue. No changes to vehicle parking, bicycle parking, loading, driveway access, or onsite circulation are proposed. In addition, no changes are proposed in the public right-of way. The project would not require excavation or exterior construction.</p>	

STEP 1: EXEMPTION DETERMINATION

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).

Common Sense Exemption (CEQA Guidelines section 15061(b)(3))

STEP 2: CEQA Impacts

To Be Completed By Project Planner

If any box is checked below, a Project Application is required.

Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? *(refer to EP_ArcMap > CEQA CateX Determination Layers > Air Pollution Exposure Zone)*

Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? *if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer.)*

CEQA Common Sense Exemption Determination

- Transportation:** Does the project involve a childcare facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
- Archeological Resources:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, arche review is required. *(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)*
- Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* If yes, Environmental Planning must issue the exemption.
- Slope = or > 25%:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
- Seismic: Landslide Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
- Seismic: Liquefaction Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.

Comments and Planner Signature (optional):

PLEASE SEE ATTACHED

STEP 3: Property Status - Historic Resource

To Be Completed By Project Planner

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: Proposed Work Checklist

To Be Completed By Project Planner

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department’s <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA Impacts - Advanced Historical Review

To Be Completed By Project Planner

Check all that apply to the project.							
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.						
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.						
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not “in-kind” but are consistent with existing historic character.						
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.						
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.						
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building’s historic condition, such as historic photographs, plans, physical evidence, or similar buildings.						
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior’s Standards for Rehabilitation</i> .						
<input type="checkbox"/>	8. Other work consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties (specify or add comments):						
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments):						
(Requires approval by Senior Preservation Planner; Preservation Coordinator)							
<input type="checkbox"/>	10. Reclassification of property status. (Requires approval by Senior Preservation Planner/Preservation						
<input type="checkbox"/>	<table border="0"> <tr> <td>Reclassify to Category A</td> <td>Reclassify to Category C</td> </tr> <tr> <td>a. Per HRER dated</td> <td>(attach HRER)</td> </tr> <tr> <td>b. Other (specify):</td> <td></td> </tr> </table>	Reclassify to Category A	Reclassify to Category C	a. Per HRER dated	(attach HRER)	b. Other (specify):	
Reclassify to Category A	Reclassify to Category C						
a. Per HRER dated	(attach HRER)						
b. Other (specify):							
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.							
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.						
Comments (optional):							
Preservation Planner Signature:							

STEP 6: Exemption Determination

To Be Completed By Project Planner

No further environmental review is required. The project is exempt under CEQA. It can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

Project Approval Action: Planning Commission issuance of a Conditional Use Authorization, which occurred on June 25, 2020

If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.

Signature:

Rachel Schuett

Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.

In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.

STEP 7: Modification of a CEQA Exempt Project

To Be Completed By Project Planner

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a “substantial modification” and, therefore, be

Modified Project Description:

Example: The proposed project is a new building with a larger footprint than the approved project.

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- Result in expansion of the building envelope, as defined in the Planning Code;
- Result in the change of use that would require public notice under Planning Code Sections 311;
- Result in demolition as defined under Planning Code Section 317 or 19005(f)?
- Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?

If at least one of the above boxes is checked, further environmental review is required.

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

The proposed modification would not result in any of the above changes.

If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.

Planner Name: _____ **Signature or Stamp:** _____

CEQA IMPACTS

Historic Resources: The Planning Department prepared a Historic Resource Evaluation Response (HRER) on August 4, 2011. The HRER concluded that the no historic resource was present. The department's Neighborhood Storefront Commercial Building Survey did not identify this property as significant for the purpose of the survey. The Modern Context statement did call out this property but did not raise new information that would change the previous determination in the HRER.

Hazardous Materials: The project site is on the Cortese List due to prior leaking underground storage tank. However, the case is closed, and the project would result in no excavation. No significant hazardous materials impacts would occur.

Transportation: The department's transportation staff reviewed the proposed project on June 10, 2019 and determined that further transportation review was required. Planning department staff prepared a transportation memo (May 4, 2020) and determined that the proposed project would not result in significant transportation-related impacts. Further, the project would still meet the loading demand and no significant loading impacts would occur even if the project would result in three times as many truck trips than estimated in the transportation memo.

Noise: The project would not include exterior construction activities. The project would not generate sufficient vehicle trips to noticeably increase ambient noise levels, and the project's fixed noise sources, such as heating, ventilation, and air conditioning systems, would be subject to noise limits in Article 29 of the Police Code (section 2909, Noise Limits). No significant noise impacts would occur.

Air Quality: The project would not include exterior construction activities. The proposed land uses are below the Bay Area Air Quality Management District's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis. The project site is located within an air pollutant exposure zone but would not introduce new sensitive receptors or substantial sources of pollutant concentrations. For example, truck drivers would not be idling the entire time the truck is present (or dwelling) as the truck drivers would be subject to, and would have to comply with, California regulations limiting idling ((California Code of Regulations, Title 13, Division 3, § 2485). In addition, the Bay Area Air Quality Management District identifies "Minor Low Impact Sources" as roads with less than 10,000 total vehicles/day and less than 1,000 trucks per day, which this project is resulting substantially less vehicles and trucks than that. Lastly, the project's loading dock is more than 150 feet away from the nearest sensitive receptor. No significant air quality impacts would occur.

Water Quality: The project would not require excavation or exterior construction activities. Stormwater and wastewater discharged from the project site during operations would flow to the City's combined sewer system and would be treated to the standards in the City's National Pollution Discharge Elimination System permit. No significant water quality impacts would occur.

Natural Habitat: The project site is paved and within a developed urban area. The project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species. Thus, the project site has no value as habitat for rare, threatened, or endangered species.

Public Notice: A "Notification of Project Receiving Environmental Review" was mailed on February 21, 2020 to adjacent occupants and owners of buildings within 300 feet of the project site and to the Western Addition neighborhood group list. Further correspondence regarding environmental effects were received prior June 25, 2020 Planning Commission hearing. Comments are addressed herein.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

September 4, 2020

Mark Wolfe
M. R. Wolfe & Associates, P.C.
580 California Street, Suite 1200
San Francisco, CA 94104

**Subject: File No. 200899 - Appeal of California Environmental Quality Act (CEQA)
Determination of Exemption from Environmental Review - 2675 Geary
Boulevard Project**

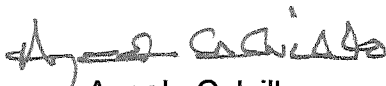
Dear Mr. Wolfe:

The Office of the Clerk of the Board is in receipt of a memorandum dated September 2, 2020, from the Planning Department regarding their determination on the timely filing of appeal of the Categorical Exemption Determination issued by the Planning Department under CEQA for the proposed project at 2675 Geary Boulevard. In their determination, the Planning Department communicated that the Categorical Exemption issued on May 14, 2020, was rescinded on September 2, 2020.

Given that the subject Exemption Determination was rescinded by the Planning Department, the appeal you filed with our office on July 17, 2020, is no longer applicable. The appeal hearing will not be noticed or agendized for a Board meeting. Enclosed please find your filing fee check in the amount of \$640.

If you have any questions, please feel free to contact Legislative Clerks Lisa Lew at (415) 554-7718, Jocelyn Wong at (415) 554-7702, or Brent Jalipa at (415) 554 7712.

Very truly yours,


Angela Calvillo
Clerk of the Board

jw:ll:ams

- c: Anne Pearson, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Kristen Jensen, Deputy City Attorney
- Rich Hillis, Director, Planning Department
- Corey Teague, Zoning Administrator, Planning Department
- Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
- Lisa Gibson, Environmental Review Officer, Planning Department
- Devyani Jain, Deputy Environmental Review Officer, Planning Department
- Joy Navarette, Environmental Planning, Planning Department
- Don Lewis, Environmental Planning, Planning Department
- Adam Varat, Acting Director of Citywide Planning, Planning Department
- Dan Sider, Director of Executive Programs, Planning Department
- Aaron Starr, Manager of Legislative Affairs, Planning Department
- AnMarie Rodgers, Director of Citywide Planning, Planning Department
- Jonas Ionin, Planning Commission Secretary, Planning Department
- Laura Lynch, Staff Contact, Planning Department
- Rachel Schuett, Staff Contact, Planning Department
- Christopher May, Staff Contact, Planning Department
- Wade Wietgreffe, Staff Contact, Planning Department
- Julie Rosenberg, Executive Director, Board of Appeals
- Katy Sullivan, Legal Assistant, Board of Appeals
- Alec Longaway, Legal Process Clerk, Board of Appeals



CATEGORICAL EXEMPTION APPEAL

2675 Geary Boulevard

September 2, 2020

To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer, lisa.gibson@sfgov.org
Wade Wietgreffe, Principal Planner, wade.wietgreffe@sfgov.org
Rachel Schuett, Senior Planner, rachel.schuett@sfgov.org
RE: Board File No. TBD, Planning Case no. 2019-004110ENV, 2675 Geary Boulevard (Whole Foods change of use)

Project Sponsor: Chloe V. Angelis, cangelis@reubenlaw.com
Appellant: Mark R. Wolfe, mrw@mrwolfeassociates.com

Class 32 Categorical Exemption Rescinded and Appeal is Moot

On July 16, 2020, M.R. Wolfe & Associates, P.C. on behalf of others (Appellant) filed an appeal with the Office of the Clerk of the Board of Supervisors (clerk) of the Planning Department's May 14, 2020 categorical exemption determination for the 2675 Geary Boulevard project.

On August 3, 2020, the Planning Department informed the clerk's office that the appeal was timely.

The Planning Department is rescinding the May 14, 2020 categorical exemption determination. Therefore, the CEQA appeal filed by the appellant is moot, the appeal is no longer timely, and we request the clerk's office to not schedule any appeal hearings before the board of supervisors on this rescinded categorical exemption.

Next Steps

The Planning Department will remove the rescinded categorical exemption from its website and electronic file system and will issue a new environmental determination. The appellant and any other interested parties will have additional opportunities to appeal the new environmental determination, if they desire, pursuant to the processes identified in Chapter 31 of the San Francisco Administrative Code.

June 24, 2020

By E-Mail

Joel Koppel, President
Members of the Planning Commission
City and County of San Francisco
c/o Jonas Ionin, Commission Secretary
1650 Mission Street, Suite 400
San Francisco, CA 94103
Jonas.ionin@sfgov.org
commissions.secretary@sfgov.org

**Re: 2019-004110CUA – 2675 Geary Boulevard [Whole Foods Market]
Request for Conditional Use Authorization**

Dear President Koppel and Planning Commissioners:

On behalf of San Francisco residents Julie Fisher and Tony Vargas, and United Food & Commercial Workers Union (UFCW) Local 5 and its members who live and/or work in San Francisco, please accept and consider the following comments and concerns regarding the above-referenced matter, a request for conditional use authorization to permit formula retail use by Whole Foods Market (“Project”). As described in this letter, the Project does not qualify for the Class 32 categorical exempt from environmental review under CEQA.

Preliminarily, we respectfully object to the non-provision of documents cited and relied upon in the staff report to support the proposed finding of categorical exemption from CEQA. Specifically, the categorical exemption determination states that “Planning department staff prepared a transportation memo (May 4, 2020) and determined that the proposed project would not result in transportation-related impacts.” The referenced “Transportation Coordination Memo” lists six attachments at the end that it cites. On June 3, we emailed Planning Staff to request several of these attachments. We repeated the request for these materials, plus an additional item referenced in the May 4 memo, on June 15. *See* copies of emails, attached. Staff provided one of the attachments, the Project plans, on June 22, but as of the above date has not supplied the remainder. Because these attachments contain information

expressly cited and relied upon by the May 4 Transportation Coordination Memo, they are material to any meaningful public review of the evidentiary basis for the claim of CEQA exemption. Unless and until these items are provided to the public for scrutiny, the Planning Commission may not lawfully approve the Project based on the claimed categorical exemption. The following points are therefore submitted under protest, with all rights reserved.

I. Traffic

A. Freight loading

The City concludes that freight loading impacts would be less than significant based on the availability of two loading docks. This conclusion is based on the projection that the total time that the loading docks be in use would be 8 hours per day (sixteen hours of “dwell” time unloading, divided by two loading docks.) This analysis suffers from several flaws.

For example, the analysis assumes that the number of daily deliveries for this 49,780 square foot Whole Foods store will be less than or equal to the deliveries for the 15,000 square foot Whole Foods store at 1765 California Street. That is, the analysis assumes that Whole Foods expects its business volume per retail square foot for the new store will be less than one-third the volume of its 1765 California Street store. This extraordinary assumption is purportedly justified by several questionable claims. First, the Transportation Coordination Memo claims the smaller store “has been in operations for years now and therefore has a customer base that is used to going to that store.” While that logic may apply during a start-up period for the new store, it is not a reasonable long-term assumption. Presumably Whole Foods would not open a store that it did not expect to generate a sizable customer base. Second, the Transportation Coordination Memo claims that population density near the smaller store is “nearly twice that of the immediate vicinity near 2675 Geary.” Even if the store volume were directly proportional to population density in the immediate vicinity, the fact that the new store area’s population density is only half that of the exiting store does not justify the assumption that its sales volumes will be only one-third as high. Customers will obviously drive to the store from outside the immediate vicinity to shop there.

Third, the Transportation Coordination Memo admits that the number of Stock Keeping Units (SKUs) at a store directly affects the number of vendors and deliveries needed for the store.” It therefore strains credulity that Whole Foods would open a new store three times larger than its California Street store, but stock it with fewer SKUs. If the number of deliveries per day or per week is determined even in part by the number of SKUs, then the assumption that deliveries are determined

only by population density and/or the established customer base is invalid. Fourth, the Transportation Coordination Memo assumes without evidence or analysis that all deliveries will be spread evenly over a 24-hour day, apparently based on the assumption that the City Center shopping center does not have time restrictions on deliveries. However, nothing would prevent a situation where 3 of the 28 daily deliveries arrived during the same unloading period, in which case the two loading docks would not be sufficient. Without a condition to limit more than two simultaneous deliveries, there will certainly be instances where two loading docks will not be enough; and if as is likely the actual delivery trips will be greater than the 28 trips assumed, this will be a frequent occurrence.

B. Construction traffic

The Transportation Coordination Memo assumes there would be no impacts from construction traffic because there would be no exterior construction. However, substantial interior construction would be required to transform a retail electronics store into a supermarket. This activity would generate construction traffic that would interfere with existing City Center operations and with traffic in adjacent streets.

II. Toxic Air Contaminants

Toxic air contaminants (TACs) are airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic, i.e., cancer-causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic chemical substances. They may be emitted from a variety of common sources including gasoline stations, automobiles, dry cleaners, industrial operations, and painting operations. The current California list of TACs includes more than 200 compounds, including particulate emissions from diesel-fueled engines.

The Californian Air Resources Board (“CARB”) has long identified diesel particulate matter (“DPM”) as a toxic air contaminant.¹ DPM differs from other TACs in that it is not a single substance but rather a complex mixture of hundreds of substances produced when an engine burns diesel fuel. DPM is a concern because it causes lung cancer; many compounds found in diesel exhaust are carcinogenic. DPM includes the particle-phase constituents in diesel exhaust. The chemical composition

¹ CARB, Executive Summary For the “Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant,” Prepared by the Staff of the Air Resources Board and the Office of Environmental Health Hazard Assessment, As Approved by the Scientific Review Panel on April 22, 1998, available at <https://oehha.ca.gov/media/downloads/air/document/diesel20exhaust.pdf>.

and particle sizes of DPM vary between different engine types (heavy-duty, light-duty), engine operating conditions (idle, accelerate, decelerate), fuel formulations (high/low sulfur fuel), and the year of the engine. Some short-term (acute) effects of diesel exhaust include eye, nose, throat, and lung irritation, and diesel exhaust can cause coughs, headaches, light-headedness, and nausea. DPM poses the greatest health risk among the TACs. Almost all diesel exhaust particle mass is 10 microns or less in diameter. Because of their extremely small size, these particles can be inhaled and eventually trapped in the bronchial and alveolar regions of the lung.

A. The Project would generate toxic air contaminants from diesel delivery vehicles that would expose nearby sensitive receptors to TACs.

The Project would provide two loading docks for delivery vehicles to support a 49,780 square-foot supermarket.² The City assumes that this will generate 4 daily deliveries from 65-foot trucks and 4 daily deliveries from 30-48 foot trucks.³ These trucks would be diesel-powered. In addition, the City assumes that up to 20 additional daily deliveries would be made by other vehicles, which include “bobtail trucks and large or small vans.”⁴ Some number of these delivery vehicles may also be diesel-powered. The City estimates that the large trucks would dwell on-site for an hour and the smaller trucks would dwell for half an hour.⁵ Thus, trucks that may emit DPM would be on-site for 13.5 hours per day.⁶

The Project site at 2675 Geary Boulevard is within an Air Pollution Exposure Zone (“APEZ”).⁷ The Project’s directly adjacent neighbor at 100 Masonic Street, the Epiphany Center/Mount St. Joseph-St. Elizabeth, is also within the APEZ.⁸ The Epiphany Center provides “holistic client-centered care to a diverse population of children, women, and families who are the most vulnerable in our society.”⁹ The Epiphany Center provides both residential programs and various parent-child programs.¹⁰ Thus, the Project would contribute TACs that would affect adjacent sensitive receptors also located in the APEZ. In addition, there are sensitive receptors located directly across O’Farrell Street from the Project site, including residential uses and the Wallenberg School.

² Rachel Schuett, Transportation Planner, Transportation Coordination Memo, May 4, 2020.

³ *Id.*, Table 2.

⁴ *Id.*

⁵ Transportation Coordination Memo, May 4, 2020.

⁶ *Id.*

⁷ San Francisco Property Information Map, search for 2675 Geary Blvd, visited June 18, 2020, available at <https://sfplanninggis.org/PIM/>.

⁸ *Id.*

⁹ Epiphany Center website, visited June 18, 2020, available at <https://www.theepiphanycenter.org/who-we-are/mission-values/>.

¹⁰ *Id.*

III. The Project does not qualify for any categorical exemption from CEQA.

Under CEQA Guidelines Section 15332, the Class 32 infill exemption does not apply under its own terms if there is substantial evidence that a project would cause significant impacts to traffic, noise, air quality, or water quality.¹¹ As discussed above, there is substantial evidence here that air quality impacts would be significant due to toxic air contaminants from diesel delivery vehicles. The Project would generate TACs that would adversely affect adjacent sensitive receptors. Based on the numbers of diesel deliveries and TRUs, it is likely that the TACs would exceed BAAQMD's significance thresholds for a significant impact from a single source, which is 10 excess cancers or an increase in PM_{2.5} concentrations of 0.3ug/m³.¹² The project would certainly exceed the BAAQMD thresholds for significant cumulative impacts.

Furthermore, even if the Class 32 or any other categorical exemption applied, it would still be inapplicable because two of the exceptions to categorical exemptions set out in CEQA Guidelines Section 15300.2 preclude reliance on the exemption. Under Section 15300.2(c), a categorical exemption is inapplicable if "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." As discussed above, the Project would bring diesel delivery vehicle emissions into an area containing sensitive receptors. And this area is known to have an existing significant cumulative TAC exposure. These are unusual circumstances. Furthermore, the introduction of this additional TAC emission source creates a reasonable probability of a significant effect.

Finally, under Section 15300.2(b) a categorical exemption is inapplicable if "the cumulative impact of successive projects of the same type in the same place, over time is significant." The project and its neighbors are located in an area that both BAAQMD and the City have already designated as significantly impacted by cumulative toxic air contaminants. The basis of that designation is the emissions from successive development projects that require diesel-powered vehicles for delivery, access, and public transportation. BAAQMD provides that any additional contribution from this Project must be considered significant because its thresholds for cumulative TAC impacts are exceeded by the cumulative emission sources.

In conclusion, for the above reasons the Project does not qualify for any categorical exemption from CEQA. The City should proceed to prepare an initial study in accordance with Guidelines Section 15063 before taking any action to

¹¹ *Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 267-269.

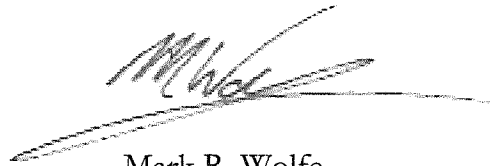
¹² BAAQMD, CEQA Guidelines 2017, p. 2-5.

approve the Project. The Planning Commission should accordingly DENY the conditional use authorization at this time.

Thank you for your consideration of these concerns.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C

A handwritten signature in black ink, appearing to read 'Mark R. Wolfe', with a long horizontal flourish extending to the right.

Mark R. Wolfe
On behalf of Julie Fisher, Tony Vargas, and
UFCW Local 5

MRW:sa
attachment

ATTACHMENT 1

ATTACHMENT 1

ATTACHMENT 1

ATTACHMENT 1

ATTACHMENT 1

ATTACHMENT 1

From: Mark Wolfe mrw@mrwolfeassociates.com
Subject: Re: Transportation Memo for 2019-004110CUA | 2675 Geary Blvd. Whole Foods
Date: June 23, 2020 at 7:57 AM
To: Schuett, Rachel (CPC) rachel.schuett@sfgov.org
Cc: Wietgreffe, Wade (CPC) wade.wietgreffe@sfgov.org, May, Christopher (CPC) christopher.may@sfgov.org



Rachel,

Thanks for sending the Plans, which I received and downloaded.

Any sense of when we might be able to see the remainder of the materials (listed again below)?

- the "Kittleson & Associates 1600 Jackson Street Loading Analysis Memo," April 19, 2018, referenced footnotes 4 and 5 of the May 4, 2020 "Transportation Coordination Memo."
- Attachment 1 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment 1: Plans dated May 15, 2019."
- Attachment 5 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment 5: Lot E Loading Dock Exhibit"
- Exhibit B to Attachment 6 to the May 4, 2020 "Transportation Coordination Memo." Attachment 6 is the "Loading Information Request" response dated August 13, 2019. Its Exhibit B is identified as "loading dock exhibit for Lot E, attached as Exhibit B." This may be the same document as the document requested in the previous item.
- The email from Don Lewis dated July 1, 2019 requesting certain information regarding freight loading operations for the proposed Whole Foods Market, which is referenced in Attachment 6 to the May 4, 2020 "Transportation Coordination Memo."
- the "commercial loading estimates by vehicle type collected for similar Whole Foods Market in San Francisco as collected for the 1600 Jackson Street transportation study," as referenced in the "Transportation Study Scope of Work Checklist, Record No. 2019-004110ENV, 2675 Geary Blvd," dated August 28, 2019.
- the "1600 Jackson Street transportation study," as referenced in the "Transportation Study Scope of Work Checklist, Record No. 2019-004110ENV, 2675 Geary Blvd," dated August 28, 2019.

On Jun 17, 2020, at 3:48 PM, Schuett, Rachel (CPC) <rachel.schuett@sfgov.org> wrote:

Hi Mark,

I will get you the requested documents by Monday (6/22).

Best,
Rachel

Rachel A. Schuett (she/her/hers)
Senior Environmental Planner
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, San Francisco, CA 94103
www.sfplanning.org
Direct: (415) 575-9030

The Planning Department is open for business during the Stay Safe at Home Order. Most of our staff are working from home and we're [available by e-mail](#). Our [Public Portal](#), where you can file new applications, and our [Property Information Map](#) are available 24/7. The Planning and Historic Preservation Commissions are convening remotely and [the public is encouraged to participate](#). The Board of Appeals, Board of Supervisors, and Planning Commission are [accepting appeals](#) via e-mail despite office closures. All of our in-person services at 1650 and 1660 Mission Street are suspended until further notice. [Click here for more information.](#)

From: Wietgreffe, Wade (CPC) <wade.wietgreffe@sfgov.org>
Sent: Tuesday, June 16, 2020 9:54 AM
To: Mark Wolfe <mrw@mrwolfeassociates.com>
Cc: Schuett, Rachel (CPC) <rachel.schuett@sfgov.org>; May, Christopher (CPC) <christopher.may@sfgov.org>
Subject: Re: Transportation Memo for 2019-004110CUA | 2675 Geary Blvd. Whole Foods

Hi Mark,
I'm coordinating with Rachel tomorrow on this request.
Thank you for your patience,

Wade Wietgreffe, AICP, Principal Planner
Environmental Planning Division
San Francisco Planning Department
1650 Mission Street, Suite 400 San Francisco, CA 94103
Direct: 415.575.9050 | www.sfplanning.org
[San Francisco Property Information Map](#)

The Planning Department is open for business during the Stay Safe at Home Order. Most of our staff are working from home and we're [available by e-mail](#). Our [Public Portal](#), where you can file new applications, and our [Property Information Map](#) are available 24/7. The Planning and Historic Preservation Commissions are convening remotely and [the public is encouraged to participate](#). The Board of Appeals, Board of Supervisors, and Planning Commission are [accepting appeals](#) via e-mail despite office closures. All of our in-person services at 1650 and 1660 Mission Street are suspended until further notice. [Click here for more information.](#)

From: Mark Wolfe <mrw@mrwolfeassociates.com>

Sent: Monday, June 15, 2020 11:53 AM
To: Wietgrefe, Wade (CPC) <wade.wietgrefe@sfgov.org>
Cc: May, Christopher (CPC) <christopher.may@sfgov.org>; Schuett, Rachel (CPC) <rachel.schuett@sfgov.org>
Subject: Re: Transportation Memo for 2019-004110CUA | 2675 Geary Blvd. Whole Foods

Hi Wade,

Just following up to see if we might get these additional materials a decent amount of time in advance of 6/25.

There's one more item I realized I omitted from the list:

- the "Kittleson & Associates 1600 Jackson Street Loading Analysis Memo," April 19, 2018, referenced footnoes 4 and 5 of the May 4, 2020 "Transportation Coordination Memo."

And below, again, are the items referenced in the Transportation Memo that we have asked for:

- Attachment 1 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment 1: Plans dated May 15, 2019."
- Attachment 5 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment5: Lot E Loading Dock Exhibit"
- Exhibit B to Attachment 6 to the May 4, 2020 "Transportation Coordination Memo." Attachment 6 is the "Loading Information Request" response dated August 13, 2019. Its Exhibit B is Identified as "loading dock exhibit for Lot E, attached as Exhibit B." This may be the same document as the document requested in the previous item.
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- the "1600 Jackson Street transportation study," as referenced in the "Transportation Study Scope of Work Checklist, Record No. 2019-004110ENV, 2675 Geary Blvd.," dated August 28, 2019.

Thanks again,

Mark Wolfe

On Jun 9, 2020, at 1:08 PM, Mark Wolfe <mrw@mrwolfeassociates.com> wrote:

Hi Wade,

Thanks very much for what you do for us. Appreciate it.

We'd appreciate to see some of the other attachments to the "Transportation Coordination Memo" for the Project. Specifically:

- Attachment 1 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment 1: Plans dated May 15, 2019"
- Attachment 5 to the May 4, 2020 "Transportation Coordination Memo," identified as "Attachment5: Lot E Loading Dock Exhibit"
- Exhibit B to Attachment 6 to the May 4, 2020 "Transportation Coordination Memo." Attachment 6 is the "Loading Information Request" response dated August 13, 2019. Its Exhibit B is Identified as "loading dock exhibit for Lot E, attached as Exhibit B." This may be the same document as the document requested in the previous item.
- The email from Don Lewis dated July 1, 2019 requesting certain information regarding freight loading operations for the proposed Whole Foods Market, which is referenced in Attachment 6 to the May 4, 2020 "Transportation Coordination Memo."
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- the "1600 Jackson Street transportation study," as referenced in the "Transportation Study Scope of Work Checklist, Record No. 2019-004110ENV, 2675 Geary Blvd.," dated August 28, 2019.

I understand it may take some time, which is fine, but hopefully we can get them submitted in advance of the next Planning Commission meeting on 6/25 to have a chance to review them.

Thanks again

Mark Wolfe

Wade Wietgrefe, Director of Planning & Community Development | wade.wietgrefe@sfgov.org

City of San Francisco
Department of Planning & Community Development

1000 Market Street, Suite 1000 | San Francisco, CA 94102 | Phone: (415) 376-2000 | Fax: (415) 376-2001

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San Francisco, CA 94102
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Christopher May, Director of Planning & Community Development | christopher.may@sfgov.org

Mark Wolfe, Director of Planning & Community Development | mrw@mrwolfeassociates.com

Wade Wietgrefe, Director of Planning & Community Development | wade.wietgrefe@sfgov.org

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christopher.may@sfgov.org

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[Faint, mostly illegible text]

Alan A. Wolfe
Al. A. Wolfe & Associates, P.C. Attorneys
Land Use, Environmental and Eminent Domain
666 Sutter Street, Suite 400 San Francisco, CA 94102
415.398-6000 Fax: 415.389-7400 www.mrwolfeassociates.com

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2323

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555 Sutter Street, Suite 405
San Francisco, CA 94102
Tel: (415) 369-9400

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11-4288/1210



7/22/2020

PAY TO THE
ORDER OF

San Francisco Planning Department

\$ **640.00

Six Hundred Forty and 00/100*****

DOLLARS

San Francisco Planning Department
c/o Clerk of BOS
1 Dr. Carlton B. Goodlett Pl., Room 244
San Francisco, CA 94102

MEMO

Appeal Fee - 2019-004110 CUA ENV



AUTHORIZED SIGNATURE

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2328

M. R. Wolfe & Associates, P.C.
555 Sutter Street, Suite 405
San Francisco, CA 94102
Tel: (415) 369-9400

Wells Fargo Bank, N.A.



11-4288/1210

9/21/2020

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San Francisco Planning Department

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Twenty-Five and 00/100*****

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c/o Clerk of BOS
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San Francisco, CA 94102

MEMO

Balance due for Appeal 2019-004110ENV

⑈002328⑈ ⑆121042

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