



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Notice of Electronic Transmittal

Appeal of EIR Certification for the "5M Project" (925 Mission Street and Various Parcels)

DATE: November 9, 2015

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Sarah Jones, Environmental Review Officer (415) 575-9034
Michael Jacinto, Environmental Planner (415) 575-9033

RE: BOS File No. 151054 [Planning Case No. 2011.0409E]
Public Hearing for 925 Mission Street

HEARING DATE: November 17, 2015

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

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Pursuant to the San Francisco Administrative Code Chapter 31, the Planning Department has prepared a memorandum regarding the affirmation of the Final Environmental Impact Report for 925 Mission Street, hereafter "5M Project". The Planning Department is transmitting one (1) copy of the memorandum and attachments. In compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-Page Documents," the Planning Department has submitted a multi-page memorandum for the public hearing to consider the FEIR for 925 Mission Street [BF 151054] in digital format.

If you have any questions regarding this matter, or require additional hard copies, please contact Michael Jacinto of the Planning Department at (415) 575-9033 or michael.jacinto@sfgov.org.



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

APPEAL OF EIR CERTIFICATION for the “5M Project” (925 Mission Street and Various Parcels)

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TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Sarah B. Jones, Environmental Review Officer – (415) 575-9034
Michael Jacinto, Environmental Coordinator – (415) 575-9033

RE: File No. 151054, Planning Case No. 2014.0198E
Affirmation of Certification of a Final Environmental Impact Report
for the 5M Project (925 Mission Street and Various Parcels)

HEARING DATE: November 17, 2015

PROJECT SPONSOR: Audrey Tendell, 5M Project LLC

INTRODUCTION

On October 19, 2015, Ms. Rachel Mansfield-Howlett, on behalf of the South of Market Action Committee (SMAC), South of Market Community Action Network (SOMCAN), Save our SoMa (SOS), and Friends of Boeddeker Park filed an appeal of the Planning Commission's motion to certify the Final Environmental Impact Report (“FEIR”) for the 5M Project. In the late afternoon on November 6, appellants submitted a 13-page supplemental brief that was logged in past due by the clerk of the Board. The materials in this packet constitute the Planning Department’s responses to the issues raised on appeal of the certification of the FEIR.

The decision before the Board is whether to uphold the Planning Commission’s decision to certify the FEIR and deny the appeal, or to overturn the Planning Commission’s decision to certify the FEIR and return the proposed project to the Planning Department for staff to conduct additional environmental review.

For the reasons set forth in the Appeals Response, the Planning Department believes that the FEIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the FEIR.

ENVIRONMENTAL REVIEW PROCESS

An environmental evaluation application (Case No. 2011.0409E) for the 5M Project was filed by the project sponsor, Audrey Tendell of Forest City Residential Development, Inc. (subsequently updated to reflect that the sponsor is 5M Project, LLC) on February 2, 2012. Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department, as lead agency, published and circulated a Notice of Preparation ("NOP") on January 30, 2013, that solicited comments regarding the scope of the EIR for the proposed project.

The Planning Department also published an Initial Study on January 30, 2013 (Appendix A to the DEIR), which concluded that many of the physical environmental effects of the proposed project would be less than significant, or that mitigation measures, agreed to by the project sponsor and required as a condition of project approval, would reduce significant impacts to a less-than-significant level. The Planning Department held a public scoping meeting on February 20, 2013, at 925 Mission Street.

On October 15, 2014, the Planning Department published a Draft Environmental Impact Report ("DEIR") for the 5M Project. On November 20, 2014, the Planning Commission held a duly noticed public hearing on the DEIR. After the DEIR hearing, the City's Environmental Review Officer extended the DEIR public review period from 45 days to 83 days, ending on January 7, 2015. During the period between publication of the DEIR and the Responses to Comments document, the project was revised in a manner that is substantially similar to the Preservation Alternative identified and analyzed in the DEIR (the "Revised Project"). The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the DEIR's 83-day public review period, prepared revisions to the DEIR text in response to comments received or based on additional information that became available during the public review period, including a description and analysis of the Revised Project, and corrected errors in the DEIR. This material was presented in a Responses to Comments document, published August 13, 2015. On September 17, 2015, at a duly noticed public hearing, the San Francisco Planning Commission certified the FEIR as adequate, accurate and complete for the 5M Project in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

SITE DESCRIPTION

The proposed project is located on an approximately 4-acre site at the nexus of the South of Market (SoMa), Downtown and Mid-Market Street neighborhoods, roughly bounded by Mission Street to the north, Fifth Street to the east, Howard Street to the south, and Mary Street and adjacent properties to the west (the "project site"). The project site consists of 22 parcels¹ and extends from

¹ The project site comprises the following lots of record on Assessor Block 3275: 005, 006, 008, 009, 012, 042, 043, 044, 045, 046, 047, 076, 077, 089, 090, 091, 093, 094, 097, 098, 099 and 100.

the southwest quadrant of Fifth and Mission Streets south along Fifth Street to Howard Street, and west along Mission and Howard Streets to approximately the middle of the block. Mary, Minna and Natoma Streets are streets internal to the site.

Currently the project site contains eight buildings (912 Howard Street, 924-26 Howard Street, 409-411 Natoma Street, and 190 Fifth Street [Zihn Building], 447-449 Minna Street [Dempster Building], 430 Natoma Street [Camelline Building], 901-933 Mission [Chronicle Building], and 110 Fifth Street [Examiner Building]) and seven surface parking lots with a total of approximately 219 parking spaces. The existing buildings on the site provide a total of approximately 317,700 gross square feet (gsf) of building space containing office and commercial uses.

PROJECT DESCRIPTION

The project is a mixed-use development containing approximately 1,697,600 gross square feet ("gsf") of new, renovated and rehabilitated office, residential, retail, cultural, educational uses and 59,500 square feet of open space uses on the approximately four-acre project site. During the period between publication of the DEIR and the Responses to Comments ("RTC") document, the project was revised in a manner that is substantially similar to the Preservation Alternative identified and analyzed in the DEIR, with the exception that the total square footage is reduced and the mix of uses is slightly different.

The proposed project would include up to 807,600 gsf of office uses (including active office uses at or below the ground floor), 68,700 gsf of other active ground floor uses (including mezzanine and basement spaces), and 821,300 gsf of residential uses (approximately 690 dwelling units). The project would entail construction of three new towers on the project site ranging in height from 220 feet to 470 feet (200 to 450 feet of occupiable building height), and would retain four existing buildings. The Revised Project is described in the tables, figures, and text on pages RTC-12 through RTC-25 of the RTC document, as further refined in the various project approvals. Among other modifications to the project description since publication of the DEIR, the Revised Project as reviewed and analyzed in the FEIR certified by the Planning Commission, would preserve the Camelline Building, a historical resource that had previously been proposed to be demolished.

The proposed project would also include vehicular parking, bicycle parking, and loading facilities, an extensive program of private and publicly accessible open space, and streetscape and public-realm improvements. The northerly portion of Mary Street between Minna and Mission Streets would be converted into a pedestrian alley lined with active uses and enhanced with seating, landscaping, and pedestrian-scaled lighting. Public open space will be provided at the center of the 5M Project, providing active and passive open space incorporating artwork, landscape treatments, and furnishings. Another significant open space would be situated on the rooftop of the Chronicle building, including a deck, lawn space, and opportunities for urban agriculture and outdoor gardens. The project also includes various public benefits, memorialized in a Development

Agreement recommended for approval by the Planning Commission, Arts Commission and San Francisco Municipal Transportation Agency Board.

STANDARDS OF ADEQUACY FOR CERTIFICATION OF AN EIR

On September 17, 2015, the Planning Commission reviewed and considered the FEIR at a duly noticed public hearing and found that the contents of the FEIR and the procedures through which the FEIR was prepared, publicized, and reviewed complied with the CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department and the Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and by Planning Commission Motion No. 19458 certified the FEIR for the proposed project in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

Under San Francisco Administrative Code Section 31.16(c)(3), the grounds for appeal of an EIR shall be limited to whether the EIR complies with CEQA, including whether

“it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.”

Therefore, although the grounds for appeal may include concerns related to the findings in the Planning Commission's certification motion, concerns regarding the Commission's CEQA findings and statement of overriding considerations related to the approval of a project are not within the scope of the grounds for appeal as set forth in Section 31.16(c)(3). However, the Board of Supervisors may adopt, modify, or reject the Commission's CEQA findings and statement of overriding considerations in connection with any project approvals that require action by the Board of Supervisors.

The standards for adequacy of an EIR are set forth in CEQA Guidelines Section 15151, which provides:

“An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.”

San Francisco Administrative Code Section 31.16(b)(6) provides that in reviewing a CEQA decision on appeal, the Board of Supervisors "shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions."

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The Planning Department has grouped Appellant concerns into six primary topics, with the Appellant issues displayed underneath the applicable topic.

- Topic 1: Concerns related to Project Description, Impact Analyses; Substantial Evidence in Support of Findings; FEIR Adequacy and Completeness
- Topic 2: Failure to Consider Reasonable Range of Alternatives and to Adopt Feasible Mitigation Measures
- TOPIC 3: Growth-inducing and Cumulative Impacts
- TOPIC 4: Concerns related to Construction Impacts
- Topic 5: Concerns related to Special Use District and Plans and Policy Compliance
- Topic 6: Concerns related to Open Space, Recreation, and other Public Services
- Topic 7: Concerns related to Shadow Impacts
- Topic 8: Concerns related to Wind Impacts
- Topic 9: Concerns related to Geology and Soils Impacts
- Topic 10: Transportation, Circulation and Public Safety

All of the issues raised in the appeal of the FEIR and other comments have been addressed in the attached materials, which includes this Executive Summary and the following exhibits:

- Exhibit A: Planning Department Response to the Appeal Letter and comment letters
- Exhibit B: Appellants' Letters (without attachments)
- Exhibit C: Comment Letters Received After DEIR Review Period
- Exhibit D: Planning Commission Motion No. 19458

CONCLUSION

The Planning Department conducted an in-depth and thorough analysis of the potential physical environmental effects of the proposed 5M Project, consistent with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Appellants have not demonstrated that the FEIR is insufficient as an informational document, or that the Planning Commission's findings and conclusions are unsupported by substantial evidence. The Planning Department conducted all necessary studies and analyses, and provided the Commission with all necessary information and documents in accordance with the Planning Department's environmental checklist and Consultant Guidelines, and pursuant to CEQA and the State CEQA Guidelines. Substantial evidence supports the Planning Commission's findings and conclusions.

For the reasons provided in this Appeals Response, the Planning Department believes that the FEIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project, is sufficient as an informational document, is correct in its conclusions, and reflects the independent judgment and analysis of the City, and that the Planning Commission's certification findings are correct. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the FEIR.

EXHIBIT A

Planning Department Response to Appeal Letter and Comment Letters

APPELLANTS' ISSUES AND PLANNING DEPARTMENT RESPONSES

On October 19, 2015, Appellants, represented by Rachel Mansfield-Howlett, filed with the Clerk of the Board of Supervisors a letter appealing certification of the FEIR for the 5M Project and claiming to appeal the Planning Commission's adoption of findings and a statement of overriding considerations for the 5M Project. The October 19 submittal consists of two pages of bulleted claims without supporting facts or arguments. The appeal attaches a voluminous record of transcripts, correspondence and other documents but does not cross reference those documents in the appeal bullets or otherwise explain how they are relevant to the appeal.

At the end of the business day on Friday, November 6, Appellants delivered a 13-page letter to the Board. This submittal is not timely, as noted by the Board Clerk's receipt stamp: "RECEIVED AFTER THE ELEVEN-DAY DEADLINE, BY NOON, PURSUANT TO ADMIN. CODE, SECTION 31.16(b)(5)". In addition, this letter was not a supplemental submittal. It was in fact that the first time that the Appellant set forth the claims that should have been articulated in the initial appeal.

Staff has reviewed the November 6, 2015 submittal and finds that although it elaborates in some instances on the bullet points raised in the original appeal letter, the claims remain conclusory and unsupported by substantial evidence in the record, and Appellants provide no new evidence supporting a claim that the FEIR is not adequate, accurate and objective; is insufficient as an informational document; is not correct in its conclusions; or does not reflect the independent judgment and analysis of the City; or that the Planning Commission's findings and conclusions are unsupported by substantial evidence.

SUMMARY OF ISSUES

This document comprises the Planning Department's responses to the issues raised in the letters of appeal dated October 19, 2015 and November 6, 2015. The Appellants' concerns are organized into ten topics, enumerated Topics 1 through 10, with the

Department's response following each Topic.

Appellants' concerns fall into several general categories of issues addressed in Topics 1-10 and include: adequacy and completeness of the FEIR; Open Space, Public Services, Recreation and Adjacent Open Space impacts; Geology and Soils impacts; Wind, Shadow and Shade impacts; Massing and Height impacts; Traffic and Circulation impacts; Pedestrian Safety impacts; Construction impacts; Growth Inducing impacts; Cumulative impacts; Consistency with Area Plans, Codes, Zoning Designations and Regulations; Project Description; inadequacy of alternatives analysis and failure to adopt feasible mitigation measures and alternatives; public review of traffic studies; recirculation of the EIR; responses to comments on the DEIR; findings and statement of overriding considerations; and notice of approvals and recommendations considered at the September 17, 2015, Planning Commission hearing. Appellants' concerns are stated herein either as summary statements or quoted excerpts from the appeal letters; where appropriate, the specific letter (e.g, October 19, 2015 or November 6, 2015) is cited. Each issue raised on appeal is followed by the Planning Department's response. The full text of the Appellants' letters of appeal are provided in Exhibit B to this memorandum.

STANDARDS OF ADEQUACY FOR CERTIFICATION OF AN EIR

On September 17, 2015, the Planning Commission reviewed and considered the FEIR at a duly noticed public hearing and found that the contents of the FEIR and the procedures through which the FEIR was prepared, publicized, and reviewed complied with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Planning Department and the Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and by Planning Commission Motion No. 19458 certified the FEIR for the proposed project in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

Under San Francisco Administrative Code Section 31.16(c)(3), the grounds for appeal of

an EIR shall be limited to whether the EIR complies with CEQA, including whether it is

“adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.”

Therefore, concerns regarding the Commission's adoption of CEQA findings and statement of overriding considerations related to the approval of a project, adoption of mitigation measures or alternatives in connection with project approvals, or compliance with notice requirements are not within the scope of the grounds for appeal as set forth in Section 31.16(c)(3). However, the Board of Supervisors may adopt, modify, or reject the Commission's CEQA findings and statement of overriding considerations in connection with any project approvals that require action by the Board of Supervisors.

The standards for adequacy of an EIR are set forth in CEQA Guidelines Section 15151, which provides:

“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure.”

San Francisco Administrative Code Section 31.16(b)(6) provides that in reviewing a CEQA decision on appeal, the Board of Supervisors

“shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider

anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions.”

APPELLANTS' EVIDENTIARY BURDEN

Appellants have not provided the necessary facts or evidence in support of their claims. Section 31.16(b)(6) of the Administrative Code requires “facts, evidence and issues” in support of the Appeal, and the bulleted claims and generalized reference to the record in the October 19 letter do not meet this requirement. Where Appellants elaborated on certain bullet points in the November 6 submittal, the additional information remains conclusory and where references to the record are provided, they do not support the claims. Furthermore, in order for the Board to ultimately accept Appellants’ claims and reject the Planning Commission’s FEIR certification, its findings would need to be supported with substantial evidence in the record.

CEQA defines “substantial evidence” to include “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” Cal. Pub. Res. Code §§ 21080(e)(1), 21082.2(c). “Substantial evidence” under CEQA “is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” Cal. Pub. Res. Code §§ 21080(e)(2), 21082.2(c). Pursuant to [CEQA Guidelines] Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

Appellants have not provided the evidence necessary to support the request that the certification be overturned. The appeal letters either do not explain the basis for Appellants comments; lack data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments; and Appellant allegations, in the main appeal letter, fail to explain how the analysis of environmental impacts is deficient.

The responses in this document are a reasonable, good faith effort by the Department under the circumstances to respond to Appellants' bulleted claims from the October 19 letter, provide information about where the topics raised in the letter are addressed in the FEIR, and respond to statements in the late submittal of November 6, 2015.

Both Appellant letters of appeal reference various letters that Appellants and other members of the public previously submitted to the Planning Commission and/or the project sponsor regarding the proposed project, as well as the entire transcript from the Planning Commission's September 17, 2015, hearing, and minutes from a Recreation and Parks subcommittee meeting, and at least within the October 19, 2015 letter does not cross reference those documents in the context of the appeal allegations, or otherwise provide evidence in support of the bulleted topics. Many of the comments included in Appellants' attachments are unrelated to CEQA or to the adequacy of the FEIR. In the limited instances where the correspondence and hearing transcripts attached to the letter of appeal include comments regarding the significance of physical environmental effects or the adequacy or completeness of the FEIR under CEQA, those are noted and responded to below. The general issue categories in Appellants' bullet-point list have been grouped into appropriate subheadings and responded to accordingly below; the issues raised in the November 6, 2015 are likewise consolidated here with the October 19 claims and are addressed under these topical areas.

In sum, the FEIR is adequate, complete, and complies with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, and Appellants have not met their burden to provide evidence to the contrary. The documents attached to or excerpts of public testimony cited within the Appellants' letters of appeal do not provide evidence in support of Appellants' generalized claims that the FEIR was inadequate, incomplete, or otherwise failed to comply with CEQA.

TOPIC 1: Concerns related to Project Description; Analysis of Impacts; Substantial Evidence in Support of Findings; FEIR Adequacy and Completeness

The following are direct quotations excerpted from the letter of appeal (pp. 1-2) in which Appellants list in bulleted format the following:

- “Misleading, confusing, and unstable Project description”
- “EIR is inadequate and incomplete; findings are not supported by substantial evidence.”
- “Inadequate and incomplete Alternatives analysis”
- “Failure to respond adequately to comments on the DEIR”
- “Failure to revise and recirculate the EIR”

A summary of Appellants’ statements on this topic from the November 16, 2015 letter is as follows:

The EIR fails to adequately describe the project being reviewed. It presents two development schemes, and fails to perform synonymous comparison for each.

The DEIR project description was subsequently revised at the Final EIR stage, which meant that the public was precluded from commenting on the Project and the later prepared analysis. Instead of a single consistent project description, the public and decisionmakers must compare three different Projects to fairly assess the Project’s impacts.

The EIR’s analysis of significant environmental impacts is inadequate and incomplete; the EIR fails to function as full disclosure document. This kind of bait and switch analysis fails to confirm to CEQA’s threshold requirement that a thorough analysis of a single project be performed. Therefore, the EIR failed to provide an accurate, stable and finite project description and does not provide the foundation for an adequate analysis of environmental impacts, mitigation measures and alternatives.

RESPONSE TO TOPIC 1: Appellants do not meet their burden to establish how the FEIR project description is misleading, confusing, and/or unstable; how the EIR is inadequate or incomplete; how analysis presented in the FEIR is deficient, inadequate or incomplete with respect to alternatives; how the RTC failed to respond adequately to comments on

the DEIR; and why the EIR should be revised and re-circulated.

PROJECT DESCRIPTION

The DEIR Project as evaluated in the DEIR is described in Chapter II, Project Description of the DEIR (pages 11 through 77). The Revised Project as further evaluated in the RTC document is described in Chapter II, Revised Project of the RTC document (pages RTC-9 through RTC-59). Specific comments previously received related to the adequacy of the project description are addressed on pages RTC-90 through RTC-106 (Response PD-1, Project Development Schemes; Response PD-2, Proposed Open Space; Response PD-3, Project Massing and Design; Response PD-4, Proposed Project Variances and Building Setback; and Response PD-5, Design for Development and Special Use District Controls) of the RTC document.

As explained in Response PD-1, the DEIR analyzes two development options (the "Office Scheme" and the "Residential Scheme"). Tables II-3 and II-4 on pages 38 and 39 of the DEIR provides a clear description of the proposed uses and corresponding square footage for each development option, and the key differences between the two options are further described on DEIR pages 41 through 44. The impacts of the two schemes are evaluated separately in the DEIRs. As explained in Response PD-1 in the RTC document, the DEIR project description adequately identifies and describes the two development options that are evaluated in the DEIR and the analysis clearly differentiates between the two.

As discussed below under "Revised Project," , during the period between publication of the DEIR and the RTC document, the project was revised in a manner that it substantially similar to the Preservation Alternative (the Revised Project). The Revised Project is clearly described and discussed in the tables, figures and text on pages RTC-12 through RTC-25. None of the changes or clarifications presented in the RTC document constitutes significant new information added to the DEIR.

The purpose of consideration of alternatives in an EIR is to provide information on

project changes that could reduce or avoid impacts, so that decisionmakers have guidance for their approval considerations. This may lead to approval of a project that is less impactful than that originally proposed. The Revised Project that was the subject of the Planning Commission approvals and recommendations results in a design scheme substantially similar to the Preservation Alternative, which was described and evaluated in the DEIR.

ADEQUACY AND COMPLETENESS OF THE EIR

Appellants state that the EIR's analysis of significant environmental impacts is inadequate and incomplete; that the EIR fails to function as full disclosure document. This is a conclusory statement, and is not supported with evidence from the record. To the extent that it refers to claims in other sections of the supplemental submittal, those are addressed by topic below.

As set forth on pages 2-3 above, the standard for adequacy of an EIR is whether it may be deemed adequate, accurate and objective; whether it is sufficient as an informational document, correct in its conclusions, reflects the independent judgment and analysis of the City; and whether the Planning Commission determines that the environmental review was appropriately carried out and certifies findings as correct.

The FEIR meets this standard. It analyzed the proposed 5M Project's physical environmental effects in Chapter IV, Environmental Setting and Impacts, beginning on page 117 of the DEIR, including identification of mitigation measures as applicable (impacts and mitigation measures are summarized in Table S-1: Summary of Impacts, Mitigation Measures and Improvement Measures Identified in the EIR, on pages S-10 through S-52 of the DEIR. The DEIR analyzed alternatives to the proposed 5M Project in Chapter V, Alternatives, beginning on page 582 of the DEIR).

REVISED PROJECT

During the period between publication of the DEIR and the RTC document, the project was revised in a manner that is substantially similar to the Preservation Alternative

identified and analyzed in the DEIR (herein referred to as the “Revised Project”), described in the tables, figures, and text on pages RTC-12 through RTC- 25 of the RTC document. Chapter V, Draft EIR Revisions, beginning on page RTC-363 of the RTC document also includes revisions to the text of the DEIR. None of the changes or clarifications presented in the RTC document constitutes significant new information added to the DEIR, and the changes or clarifications presented in Chapter V of the RTC document do not result in any new significant environmental impacts or any substantial increase in the severity of previously identified environmental impacts.

Appellants do not identify any specific alternatives that have not been included in the FEIR. Alternatives to the proposed project are evaluated in the DEIR on pages 583 through 635 (Chapter V, Alternatives). Specific comments previously received related to the analysis of alternatives are addressed on pages RTC-265 through RTC-283 (Response AL-1, Support for the Preservation Alternative, Response AL-2, Support for the Code Compliant Alternative, Response AL-3, Reasonable Range of Alternatives and Standards for Analysis; Response AL-4, Support for Community-Identified Alternative) of the RTC document, and no comments raising new specific issues related to the adequacy or completeness of the FEIR's alternatives analysis have been received since publication of the RTC document. For the reasons stated above, in Response GC-3 beginning on page RTC-314 of the RTC document and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

RESPONSES TO COMMENTS ON THE DEIR

All comments received on the DEIR are reproduced and responded to in Chapter IV of the RTC document, as appropriate (pages RTC-65 through RTC-362), and no specific comments regarding the adequacy of the responses to comments on the DEIR provided in the RTC document have been received from Appellants or any other commenters.

WHY RECIRCULATION OF THE EIR IS NOT REQUIRED

The adequacy of the FEIR and the reasons why the Revised Project and other changes in

the RTC did not require recirculation of the DEIR are addressed beginning on page RTC-57 (Chapter II, Revised Project) of the RTC document. Per CEQA Guidelines Section 15088.5, recirculation of a DEIR prior to certification is required only when “significant new information is added to the EIR after public notice is given of the availability of the DEIR for public review under Section 15087 but before certification.”

“Significant new information” is defined as:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from other previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The inclusion of new information in a final EIR does not automatically require recirculation of the draft EIR, as the CEQA process is premised on the idea that the final EIR will, by definition, include new information. As explained on page RTC-58 of the RTC document, the Revised Project does not trigger any of these conditions, as no “significant new information” as defined in CEQA Guidelines Section 15088.5(a), including new impacts, mitigation measures, or project alternatives, were added to the DEIR after publication of the Notice of Availability.

The Revised Project is an alternative design scheme that is substantially similar to the Preservation Alternative described and evaluated in the DEIR, and does not result in any new significant environmental impacts or any substantial increase in the severity of previously identified environmental impacts. The purpose of consideration of alternatives in an EIR is to provide information on project changes that could reduce or avoid impacts, so that decision-makers have guidance for their approval considerations.

This may lead to approval of a version of a project that is less impactful than that originally proposed. For the above reasons, and as stated on page RTC-58 of the RTC document, the information and analysis contained in the FEIR is adequate for the purposes of CEQA. Previously received comments requesting recirculation of the DEIR are addressed in Response GC-3 beginning on page RTC-314 of the RTC document.

In addition, throughout the environmental topic sections, the FEIR provides ample supporting evidence and explanation of the methodology used to accurately analyze impacts and to support its conclusions. The FEIR provides analysis of the Revised Project as part of the DEIR's analysis of the Preservation Alternative, as discussed above, and in Chapter II, Revised Project, of the RTC document. Furthermore, Appellants do not identify specific issues nor provide new information that would result in the need for recirculation. Therefore, recirculation of the EIR is not required and Appellants do not provide any substantial evidence to the contrary.

CONCLUSION TOPIC 1: No comments raising new specific issues related to the concerns described above under Topic 1 have been received since publication of the RTC document, and previous, specific comments regarding these issues are addressed in the RTC document Responses identified above. For the reasons stated in Chapter IV of the RTC document, including but not limited to the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151, and recirculation is not necessary or required.

TOPIC 2: Failure to consider Reasonable Range of Alternatives and to adopt feasible Mitigation Measures; incomplete Findings; and inadequate Notice of Approvals

A summary of Appellants' claims regarding this topic in the November 6, 2015 letter is as follows:

Appellants claim that the EIR failed to perform an adequate alternatives analysis and failed to consider a reasonable range of alternatives (November 6, 2010). The Preservation Alternative's impacts, other than retention of the Camelline building, are just as severe as the DEIR Project. Alternatives should have been compared to the Revised Project. Appellants state that citizens have put forward a Community Alternative that substantially reduces the Project's impacts and retains the existing zoning on the site consistent with the comprehensive rezoning in the new Draft Central South of Market Plan.

Appellants also generally allege that the EIR: fails "to adopt all feasible mitigations and alternatives", and includes "inadequate and incomplete Findings and Statement of Overriding Considerations, which contain misstatements and omissions and are not supported by substantial evidence." Appellants also cite "inadequate notice of approvals and recommendations at the September 17, 2015 hearing" (October 19, 2015).

RESPONSE TO TOPIC 2: Appellants do not meet their burden to establish how there was a failure to adopt feasible mitigation measures or alternatives; how the findings and statement of overriding considerations are inadequate and incomplete, contain misstatements or omissions, or are not supported by substantial evidence; or how the notice of approvals and recommendations at the September 17, 2015, Planning Commission hearing was inadequate.

GROUND FOR APPEAL

As explained above, Chapter 31 of the City's Administrative Code establishes the types of environmental review decisions that may be subject to appeal as well as the grounds for such an appeal. Chapter 31.16(a) establishes that (1) certification of a final EIR by the Planning Commission; (2) adoption of a negative declaration by the first decision-making body; and (3) determination by the Planning Department or any other authorized City department that a project is exempt from CEQA comprise the types of environmental decisions that may be appealable to the Board of Supervisors. Chapter 31.16(c)(3) states that the grounds for appeal of an EIR shall be limited to whether the

EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.

Adoption of mitigation measures and alternatives as part of the approval of a project, CEQA findings and statements of overriding considerations made in conjunction with project approvals, and adequacy of notice related to certification of an EIR or notice of approvals and recommendations for a project that is the subject of an EIR are not among the grounds for appeal of an EIR set forth in Chapter 31.16(c)(3) and, therefore, are not subject to appeal to the Board of Supervisors as part of a CEQA appeal under Chapter 31.

REASONABLE RANGE OF ALTERNATIVES

Alternatives to the proposed project are evaluated in the DEIR on pages 583 through 635 (Chapter V, Alternatives). Comments related to alternatives are addressed on pages RTC-265 through RTC-283 (Response AL-1, Support for the Preservation Alternative, Response AL-2, Support for the Code Compliant Alternative, Response AL-3, Reasonable Range of Alternatives and Standards for Analysis; Response AL-4, Support for Community- Identified Alternative) of the RTC document.

The DEIR includes a reasonable range of four alternatives to the originally proposed project, analyzed with sufficient detail to understand the alternative's physical characteristics and magnitude of change relative the site's existing setting and/or the proposed project. This range of DEIR alternatives includes a No Project Alternative, Code Compliant Alternative, Unified Zoning Alternative, and Preservation Alternative.

Several alternatives were also considered and rejected in the EIR. These include an Off-site Alternative; a Chronicle Tower Alternative; Building M-2 High-Rise Alternative, Initial Study Alternative; and Taller Buildings M-2 and M-2 alternative). The alternatives carried forward in the FEIR are described with sufficient detail and represent to a decision-maker a reasonable basis for a comparative analysis of potentially feasible

options for minimizing environmental consequences of the project. The EIR's analysis of alternatives fulfills that purpose and results in a proposed project with reduced impacts as compared to the DEIR project. As discussed throughout the RTC, Findings and in this appeal response, the sponsor proposes a project that is substantially similar to the Preservation Alternative, which is identified as the environmentally superior alternative in the DEIR because it, among other things, eliminates potentially significant impacts of the DEIR project on the Camelline Building, an historic resource, by adaptively reusing the building instead of demolishing it and incorporating it into the Revised Project's project program.

The purpose of consideration of alternatives in an EIR is to provide information on alternative and feasible means of carrying out a project that could meet most objectives of the project while reducing avoiding or eliminating adverse impacts of the project. A range of feasible alternatives may provide decision-makers guidance for their approval considerations and lead to approval of a version of a project that is less impactful than that originally proposed. The Planning Commission's approval of the Revised Project, as opposed to the DEIR Project, is an example of the approval of how the consideration of feasible alternatives could result in less impactful environmental damage, as contemplated by CEQA.

The Citizens' "Community Alternative" was not part of the record as of the EIR certification date and therefore could not have been analyzed in the DEIR or responses to comments. The EIR's range of alternatives, including a No Project and two reduced intensity alternatives functionally addresses the significant, unavoidable impacts of the DEIR Project. In addition to avoiding the significant project impact associated with the demolition of the Camelline Building, a historical resource under CEQA, the Revised Project's air quality and transportation impacts are reduced in magnitude and severity under the Revised Project. Further, neither DEIR Project nor Revised Project would result in significant effects on the environment in the areas of open space, pedestrian circulation and safety, building scale and massing (land use character), wind and

shadow impacts cited by Appellants.

IDENTIFICATION OF FEASIBLE MITIGATION MEASURES

CEQA calls for public agencies to mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so (Guidelines Section 15121a). "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (Section 15364). Feasible mitigation measures for the impacts of the DEIR Project are identified in the DEIR analysis and are included in the Summary Chapter of the DEIR (pages S-1 through S-52), and impact determinations and mitigation measures for the Revised Project are identified in Chapter II, Revised Project of the RTC document (pages RTC-9 through RTC-59). Specific comments previously received related to the adoption of mitigation measures recommended to reduce or avoid specific project impacts are addressed in Chapter IV of the RTC document, as appropriate (pages RTC-65 through RTC-362). Planning Commission Motion No. 19459, adopting CEQA findings for the project, included a Mitigation Monitoring and Reporting Program ("MMRP"), which includes and provides for the implementation of all of the feasible mitigation measures identified in the FEIR. Implementation of the MMRP is required as a condition of approval to each of the conditional use authorizations and office allocations approved by the Planning Commission at the September 17, 2015, hearing, and also is required by the Development Agreement that the Planning Commission recommended for approval by the Board of Supervisors. Appellants have not identified any feasible mitigation measures to reduce significant impacts of the proposed project that are not included in the MMRP.

FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

As explained above, Administrative Code Chapter 31.16(c)(3) lists the grounds for

appeal of an EIR. Project approvals and related findings are not among the types of CEQA determinations subject to appeal. The bases for appealing Conditional Use authorizations or other project approvals are set forth in the San Francisco Planning Code, subject to their own appeal process and content requirements. Moreover, Appellants have not specified in what way the CEQA findings and statement of overriding considerations are inadequate or incomplete, or contain misstatements and omissions and are not supported by substantial evidence. To the contrary, substantial evidence in the administrative record, including but not limited to the FEIR and the technical studies conducted during the preparation of the FEIR, supports the findings and statement of overriding considerations adopted by the Planning Commission in Motion No. 19459.

NOTICE OF APPROVALS AND RECOMMENDATIONS AT SEPTEMBER 17, 2015, PLANNING COMMISSION HEARING

As explained above, Administrative Code Chapter 31.16(c)(3) lists the grounds for appeal of an EIR. Adequacy of notice related to certification of an EIR or notice of approvals and recommendations for a project that is the subject of an EIR are not among the grounds for appeal of an EIR set forth in Chapter 31.16(c)(3).

Moreover, the Appellants have not specified in what way “notice of approvals and recommendations” for the Project may have been inadequate. Exhibit H to the letter of appeal sets out a specific objection to the Department's notice of the September 17, 2015, hearing, citing to San Francisco Administrative Code, Chapter 67, The San Francisco Sunshine Ordinance, Article II, Section 67.7-1(a), which provides as follows:

Any public notice that is mailed, posted or published by a City department, board, agency or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

This section does not establish a requirement to post notice at Boeddeker Park, as suggested by Appellants, or otherwise give direction on where or when notices must be

posted or published. Rather, it is a content requirement, i.e., that any notice required by other City Code provisions or regulations must contain language that is “brief, concise and written in plain, easily understood English.”

Requirements relating to notification for the Planning Commission's September 17, 2015, hearing on the Project are generally found in Planning Code Sections 306.3 and 306.8. They include a 20-day minimum notification period, prior to the September 17, 2015, hearing, for a classified newspaper advertisement, a posted notice on the site, and a mailed notice to property owners within 300' of the project site. Further, Administrative Code Section 31.15(a) requires distribution of an FEIR to boards, commissions, and public agencies 10 days prior to certification. These requirements were satisfied; no additional notification requirements applied to the Planning Commission's September 17, 2015, hearing regarding the proposed project.

CONCLUSION TOPIC 2: No comments raising new specific issues related to the concerns described above under Topic 2 have been received since publication of the RTC document, and previous, specific comments regarding these issues are addressed in the RTC document Responses identified above. For the reasons stated in Chapter IV of the RTC document, including but not limited to the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151. The claims regarding adoption of mitigation measures and alternatives, the Planning Commission's CEQA findings and statement of overriding considerations, and notice are outside the scope of the appeal.

Moreover, all feasible mitigation measures identified in the FEIR were adopted as part of the MMRP, the Revised Project as approved by the Planning Commission is substantially similar to the Preservation Alternative described and evaluated in the DEIR, the findings and statement of overriding considerations are supported by substantial evidence, and notice requirements with respect to the FEIR were satisfied.

TOPIC 3: Concerns regarding Growth-inducing and Cumulative Impacts

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list the following in bulleted form:

- Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts:
- Growth Inducing
- Cumulative Impacts”

A summary of Appellants’ claims from the November 6 letter is as follows:

The EIR fails to adequately analyze growth inducing and cumulative impacts. It used an outdated 2012 project list that was developed during the recession to analyze the cumulative impacts of foreseeable area projects. Failure to use existing conditions existing at the time the Notice of Preparation is published as the baseline for analysis of environmental impacts runs counter to CEQA. Therefore, the EIR underestimated the cumulative significant effects of the Project when considered together with other projects and impacts may be more severe than has been acknowledges. Feasible mitigation and alternatives that would substantially avoid impacts has not been considered and analyzed.

RESPONSE TO TOPIC 3: Appellants do not meet their burden to demonstrate how the analysis presented in the FEIR is deficient, how the significance criteria used in the FEIR's analyses of impacts related to growth inducing impacts or cumulative impacts is inadequate, or that the project would result in any new or more severe impacts not disclosed in the FEIR resulting from exceeding significance thresholds.

GROWTH-INDUCING AND CUMULATIVE IMPACTS

Growth inducing impacts of the project are addressed on pages 637 through 638 of the DEIR. Specific concerns previously received regarding growth inducing impacts are further addressed on pages RTC-286 through RTC-288 (Response OC-1, Growth Inducing Impacts) of the RTC document. The methodology for the analysis of

cumulative impacts is discussed on pages 123 through 124 of the DEIR. Cumulative impacts of the proposed project are evaluated and identified in the appropriate environmental topical sections of the DEIR, and specific concerns previously received regarding cumulative impacts are further addressed in the responses to comments in the RTC document, as shown in Table 1. The statement repeats a comment made during the public comment period and does not raise any new information not already addressed there.

Table 1: Identification/Analysis of and Responses to Comments on Cumulative Impacts

DEIR or RTC Section	Pages and Referenced Response
IV.A, Land Use	pp. 147 - 149
IV.B, Population and Housing	pp. 175-177
IV.C, Cultural and Paleontological Resources	pp. 246 - 248
IV.D, Transportation and Circulation	pp. 350 - 362
IV.E, Noise	pp. 396 - 399
IV.F, Air Quality	pp. 453 - 454
IV.G, Wind and Shadow	pp. 517 - 519
IV.H, Public Services and Recreation	pp. 554-558
IV.I, Utilities and Service Systems	pp. 580-581
RTC Chapter II, Revised Project	pp. RTC-34 to RTC-57
RTC, Chapter IV.H, Transportation and Circulation	pp. RTC-209 to RTC-215 (Responses TR-7, Cumulative Transportation Methodology and TR-8, Cumulative Pedestrian and Bicycle Conditions)
RTC, Chapter IV.J, Air Quality	pp. RTC-242 to RTC-243 (Response AQ-5, Project Compliance with Air Quality and Greenhouse Gas Emissions Reduction Regulations)
RTC, Chapter IV.P, General Comments	pp. RTC-356 to RTC-360 (Response GC-9, Cumulative Analysis)

As discussed in detail in the RTC, the cumulative analysis was not based on an outdated project list, but rather followed the City's standard methodology that includes sophisticated modeling and takes into account both real-time growth- and list-based data to capture reasonable foreseeable projects that are relevant to each environmental

topic.

As discussed on pages RTC-43 to RTC-44, the Revised Project would contribute considerably to significant cumulative traffic impacts at fewer study intersections than the DEIR Project (six intersections under the Revised Project, as compared to nine under the DEIR Project). As discussed on page RTC-46, due to the reduction in residential units and trip generation, the Revised Project would not contribute considerably to the cumulative regional pollutant (air quality) impact, as identified for the DEIR Project (Impacts AQ-2 and C-AQ-1, DEIR pages 434 through 442 and page 453).

The analysis of cumulative impacts FEIR also considers the proposed project in conjunction with other reasonably foreseeable projects such as implementation of future area plans, including the Central SoMa Plan. In this instance, the proposed project's contribution to areawide population growth is considered in combination with population growth attributable to plan implementation, and demands on public services and other resources, such as open space and recreation, are considered in this context. Comments regarding consistency with area plans, including such future plans, are also addressed in the response to Topic 5 below.

CONCLUSION TOPIC 3: No comments raising new specific issues related to the adequacy of the FEIR's analysis of growth inducing impacts or cumulative impacts have been received since publication of the RTC document. For the reasons stated in the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151. There is no evidence supporting the statement that the DEIR failed to use existing conditions at the time the Notice of Preparation was published.

TOPIC 4: Concerns Related to Construction Impacts

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list the following in bulleted form:

- “Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts: ...
- Construction”

RESPONSE TO TOPIC 4: Appellants do not meet their burden to demonstrate how the analysis presented in the FEIR is deficient, how the significance criteria used in the FEIR's analyses of impacts related to construction impacts is inadequate, or that the project would result in any new or more severe impacts not disclosed in the FEIR resulting from exceeding significance thresholds.

Construction activities are described within the DEIR Project Description (DEIR Chapter II) and the description of the Revised Project in the RTC document (Chapter II, Revised Project) and related impacts are analyzed in the applicable environmental topical area impact analyses, and specific concerns previously received regarding construction-related impacts are further addressed in the responses to comments in the RTC document, as shown in Table 2 (see pg. 13).

Table 2: Identification/Analysis of and Responses to Comments on Construction-related Impacts

DEIR or RTC Section	Pages and Referenced Response
IV.C, Cultural and Paleontological Resources	pp. 226 – 248
IV.D, Transportation and Circulation	pp. 339 – 344; 361 – 362
IV.E, Noise	pp. 383 – 391, 397
IV.F, Air Quality	pp. 430 – 434; 442 – 449, 450-452, 454
RTC Chapter II, Revised Project	pp. RTC-36 to 38; RTC-43; RTC-46 to 47
RTC, Chapter IV.G, Cultural and Paleontological Resources	pp. RTC-163 to RTC-170 (Response CP-2, Direct and Indirect Impacts to Historical Resources); RTC-173 to RTC-175 (Response CP-3, 194-198 Fifth Street Building)
RTC, Chapter IV.H, Transportation and Circulation	pp. RTC-205 to RTC-208 (Response TR-6, Construction-related Transportation Impacts)
RTC, Chapter IV.I, Noise	pp. RTC-217 to RTC-220 (Response NO-1, Construction-Period Noise Impacts); RTC-225 to RTC-228 (Response NO-2, Construction-

	Period Vibration Impacts); RTC-230 (Response NO-5, Construction and Operation Period Traffic Noise and Vibration Impacts)
RTC, Chapter IV.J, Air Quality	pp. RTC-235 to RTC-237 (Response AQ-2, Construction-Related Health Risk Air Quality Impacts); RTC-239 (Response AQ-3, Construction-Related Dust and Air Quality Impacts to Adjacent Residential Uses); RTC-243 to RTC-244 (Response AQ-6, Project Construction Schedule and Related Air Quality Impacts)
RTC, Chapter IV.L, Public Services and Recreation	pp. RTC-257 to RTC-258 (Response PS-2, Construction-Period Impacts to Existing Off-Site Open Space)
RTC, Chapter IV.O, Other CEQA Considerations	pp. RTC-292 to RTC-296 (Response OC-2, Comments Related to the Analysis of Impacts Related to Geology and Soils)
RTC, Chapter IV.P, General Comments	p. RTC-344 (Response GC-8, General Construction-Period Impacts)

CONCLUSION TOPIC 4: No comments raising new specific issues related to the adequacy of the FEIR's analysis of construction impacts have been received since publication of the RTC document. For the reasons stated in the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

TOPIC 5: Concerns related to Special Use District (SUD) and Plan and Policy Compliance

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list the following in bulleted form:

- “Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts:

- Massing and Height ...
- Violation of and Inconsistency with area plans, codes, zoning designations and regulations"

A summary of Appellants' claims from the November 6 letter is as follows:

The EIR failed to acknowledge inconsistency with zoning, land use regulations, area plans and policies. Instead of disclosing the impacts under existing codes and regulations, the analysis relies on tailor made amendments.

Regarding the compatibility of the proposed zoning on the 5M project site and the consideration of new or altered zoning districts within the adjacent Central SoMa Plan Area, this draft plan does not retain the existing zoning, but instead defers to the controls in the 5M SUD and related approval documents.

RESPONSE TO TOPIC 5: Appellants fail to meet their burden to establish how the analyses presented in the FEIR regarding massing and height or analysis and identification of conflicts with area plans, codes, zoning designations or regulations are deficient, or to which environmental topic these concerns relate. The DEIR Project's massing and height is described and shown in Chapter II, Project Description of the DEIR (pages 11 through 77). The massing and height of the Revised Project is described and shown in Chapter II, Revised Project of the RTC document (pages RTC-12 through RTC-33). The RTC document also compares the relative differences in the massing of the DEIR Project to the massing of the Revised Project (Figure II-3, Tables RTCII-1 and -2).

The Revised Project's potential to conflict with established height and bulk requirements of the San Francisco Planning Code that could in turn result in environmental impacts are addressed in Chapter III, Plans and Policies of the DEIR (pages 92 through 97). No obvious conflicts were identified. Land use compatibility and urban design is also further addressed in the applicable topical sections of the DEIR, including Section IV.A, Land Use (pages 141 through 149); Section IV.C, Cultural Resources (pages 238 through

241); and Section IV.G, Wind and Shadow (pages 478 through 519). All impacts that could potentially directly or indirectly result due to the proposed project's height or massing were identified as less than significant because the proposed project would not result adversely affect the character of the project site's vicinity; result in hazardous winds to pedestrians; or result in substantial shadow effects that would substantially reduce the use and enjoyment of such spaces. These same conclusions apply to the Revised Project (pages RTC-33 through RTC-56 of the RTC document).

The RTC document addresses comments related to the project's potential massing and height related impacts on pages RTC-99 through RTC-100 (Response PD-3, Project Massing and Design); pages RTC-103 through RTC-106 (Response PD-5, Design for Development and Special Use District Controls); pages RTC-119 through RTC-127 (Response PO-2, Proposed Land Use Amendments and Project Consistency with Applicable Policies and Regulations); pages RTC-129 through RTC-130 (Response PO-3, Policy Conflicts with Nearby Existing Residential Development); pages RTC-163 through RTC-170 (Response CP-2, Direct and Indirect Impacts to Historical Resources); and pages RTC-246 through RTC-252 (Response WS-1, Wind and Shadow Impacts on Off-Site Open Space and Response WS-2, Wind and Shadow Impacts on On-Site Open Space).

Potential project conflicts with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect were determined to be less than significant. As discussed on pages RTC-35 through RTC-36 of the RTC document, land use and planning impacts associated with the Revised Project (e.g., related to land use character and compatibility) would also be less than significant. The RTC document addresses concerns regarding potential conflicts with area plans, codes, zoning designations, or other regulations on pages RTC-108 through RTC-132 (Response PO-1, Existing Planning Context; PO-2, Proposed Land Use Amendments and Project Consistency with Applicable Policies and Regulations; PO-3, Policy Conflicts with Nearby Existing Residential Development; and PO-4, Provision of Open Space) of

the RTC document. As discussed in the DEIR and RTC, the determination of consistency with plans and policies is an on-balance determination that is made by decision-makers as part of the project, and inconsistencies with individual regulations or policies does not necessarily constitute a significant impact on the environment.

The comment contains incorrect information about the Central SOMA Plan's treatment of the project site. The draft Plan does not retain the existing zoning, but instead defers to the controls in the 5M SUD and related approvals documents. The DEIR included analysis of a "Code Compliant Alternative." This alternative is one in the DEIR's range of alternatives intended to reduce, avoid or eliminate significant environmental impacts of the proposed project while still meeting most of the project objectives. The Code Compliant Alternative would result in development of the site in accordance with existing zoning controls. The utility of including the Code Compliant Alternative in the range of alternatives studied in the EIR is the comparative analysis of the project's impacts with those that could be reasonably foreseeable at the site if no amendments to the Planning Code or zoning maps were implemented. The comparative impacts of the proposed project and the Code Compliant Alternative are identified on pages 598 through 609 of the DEIR, and also further addressed on page RTC-268 (Response AL-2, Support for the Code Compliant Alternative) of the RTC document.

CONCLUSION TOPIC 5: No comments raising new specific issues related to the adequacy of the FEIR's analysis of massing and height related impacts or potential conflicts with area plans, codes, zoning designations or regulations have been received since publication of the RTC document. For the reasons stated in the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

TOPIC 6: Concerns related to Open Space, Recreation, and other Public

Services.

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list in bulleted form the following:

“Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts:

- Open Space ...
- Public Services and Recreation ...
- Impacts to adjacent parks”

RESPONSE TO TOPIC 6: Appellants' fail to meet their burden to establish how the analysis presented in the FEIR is deficient with respect to open space or public services and recreation, or that the impacts of the project would exceed significance thresholds. Appellants' generalized comment about public service and recreation impacts does not identify which public service would be impacted by the project. As explained on page 540 of the DEIR, implementation of the proposed project would have a significant effect on fire, police, open space and recreation, and library services if it would:

- Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any public services such as fire protection, police protection, parks, or other services;
- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated;
- Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment; or
- Physically degrade existing recreational resources.

PUBLIC SERVICES

Population increases or increased demands for services (which may increase response

times or reduce service ratios) are not in themselves significant effects on the environment under CEQA, because project-related population increases and localized demands resulting from new residents and workers in the site vicinity may be addressed by adjusting service planning. Physical impacts on the environment occur only when demands on public services necessitate construction of new or expanded facilities to meet the new needs or they result in substantial physical deterioration of existing facilities, and the need for construction of new or expanded facilities would have an indirect environmental effect only if it could result in adverse physical impacts. The analysis concludes that no new or altered service facilities would be required to serve the proposed project. It would therefore not require new construction in providing for the incremental service increases that project demands may generate.

OPEN SPACE AND ADJACENT PARKS

A review of the project's compliance with the Planning Code's open space provisions is included in the DEIR (Chapter III, Plans and Policies) and impacts related to public services and recreation, including the adequacy of open space, are addressed beginning on DEIR page 541 (Section IV.H, Public Services and Recreation) of the DEIR, and on pages RTC-56 through RTC-57 of the RTC document (Chapter II, Revised Project). Impacts related to the provision of open space were determined to be less than significant because the project would meet (and exceed) the on-site demand for parks and open space services generated by new residents and workers as defined by the Planning Code. The Revised Project would not require construction of new facilities or alteration of existing facilities that provide parks and open space services in order to meet the demand.

Specific concerns previously received regarding the provision of open space are further addressed on pages RTC-131 through RTC-132 (Response PO-4, Provision of Open Space) and pages RTC-253 through RTC-256 (Response PS-1, Provision of On-Site Open Space and Related Impacts) of the RTC document. Impacts to existing open space areas are also addressed in the DEIR on pages 476 through 519 (Section IV.G, Wind and

Shadow). Wind and shadow related impacts to open space areas were determined to be less than significant as discussed in the DEIR and on pages RTC-48 through RTC-56 of the RTC document (Chapter II, Revised Project). Specific concerns previously received regarding wind and shadow impacts and construction-period impacts on existing and planned open space areas are further addressed on pages RTC-246 through RTC-252 (Response WS-1, Wind and Shadow Impacts on Off-Site Open Space and Response WS-2, Wind and Shadow Impacts on On-Site Open Space) and RTC-256 through RTC-258 (Response PS-2, Construction-Period Impacts to Off-Site Open Space) of the RTC document. Specific concerns regarding impacts on public services and recreation are also addressed on pages RTC-258 through RTC-259 (Response PS-3, Impact Fees for Public Services) of the RTC document.

CONCLUSION TOPIC 6: In each case above, no comments raising new specific issues related to the adequacy of the FEIR's analysis of impacts on public and recreation services, or existing and planned open space areas have been received since publication of the RTC document. For the reasons stated in the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

TOPIC 7: Concerns related to Shadow Impacts

The following are direct quotations excerpted from the letter of appeal (p. 2, October 19, 2015) in which Appellants list the following in bulleted form:

- "Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts:
- Shade/Shadow"

A summary of the Appellants' claims in the (November 6, 2015 letter is as follows:

The EIR must describe the environmental resources on the project site and in the vicinity

that may be adversely affected by project; knowledge of regional setting is critical; resources that are rare or unique to the region and would be affected warrant special emphasis; and that the EIR “failed to adequately consider the impact of the project on nearby open spaces and parks due to increased shade and shadow. EIR fails to disclose that without special approval of raising threshold, project would result in significant impacts.

The Draft EIR also failed to consider the effects on several open spaces heavily used by the public and Appellant relies on testimony by Jane Weil at the September 17, 2015 joint hearing to reiterate these objections. The applicant conceded that the project could have been reconfigured to avoid shadow on Boedekker Park.

The San Francisco Park and Recreation and Open Space Advisory Committee passed a resolution requesting delay of the September 17, 2015 hearing, requiring further studies and stating their concerns about the project’s open space.

Appellant cites testimony as follows:

“[M]any other public open spaces that will be shadowed by this project, most specifically the Yerba Buena Children’s Area and Yerba Buena in the north. It will be four months in the afternoon at Yerba Buena Children’s Garden, it will not be an insignificant increase in shadowing. It will be starting on some days at 3:30 p.m.; on the worst day, it would be a 30 percent increase in shadowing at the children’s area. So there basically is a very significant change to the environment of the neighborhood. “

“We think there should be zero tolerance for increased shadowing of our parks in the City. We also don’t agree with the location of the proposed open space.”

RESPONSE TO TOPIC 7: Appellants fail to meet their burden to establish how the analysis presented in the FEIR is deficient, why the significance criteria used in the FEIR's analysis of impacts related to wind and shade and shadow is inadequate, or that the impacts of the project would exceed the significance thresholds.

As explained on page 476 of the DEIR, a proposed project would have a significant effect

on shade and shadow if it would create new shadow that substantially affects outdoor recreation facilities or other public areas. As discussed in the DEIR and RTC, some nearby public parks and open spaces are subject to Proposition K, the Sunlight Ordinance as set forth in Section 295 of the Planning Code. The Sunlight Ordinance regulates public parks and open spaces under jurisdiction of the Recreation and Parks Department and mandates that new structures over 40 feet in height may only be approved by the Planning Commission if the shadow cast by this/these proposed building(s) is determined insignificant or not adverse to the use of the park.

Appellant states that “the EIR must describe the environmental resources on the project site and in the vicinity that may be adversely affected by project; knowledge of regional setting is critical; resources that are rare or unique to the region and would be affected warrant special emphasis...” suggesting that the EIR either erroneously catalogued or mischaracterized the vicinity’s open space resources.

In the project site vicinity the EIR catalogues the following publicly accessible parks and open spaces: Boeddeker Park and Gene Friend Recreation Center (Recreation and Parks Department); UN Plaza; Halladie Plaza; Mint Plaza; Yerba Buena Lane; Jesse Square; Yerba Buena Gardens North; Yerba Buena Gardens Childrens’ Play Area (“Other Open Spaces”); Westfield Sky Terrace; Intercontinental Hotel; Moscone Plaza (Privately Owned, Publicly Accessible Open Spaces). FEIR includes an identification of potentially affected spaces; a map of their location relative the project site; a description of their amenities and characterization of the type of space in order to comply with the requirements of Proposition K. Appellant provides no evidence and demonstrates no way in which this information is insufficient or inaccurate.

Implementation of the DEIR Project would result in a very small (0.004 percent) increase in shadow cast on Boeddeker Park, and the DEIR determined that this impact would be less than significant. The Revised Project would add about 1,129 square feet of net new shadow before 8:00 a.m. on the worst-case shadow days of November 8 and February 1, for an increase of 387 square feet of net new shadows compared to the DEIR Project.

However, overall, the Revised Project would result in a 0.004 percent increase in shadows cast on the park, which is similar to the DEIR Project. Similar to the DEIR Project, the effect on park use is expected to be minimal and this impact would continue to be less than significant with implementation of the Revised Project. The Revised Project would not cast any net new shadow on Hallidie Plaza – shadow would fall in the area affected by the DEIR Project and would not substantially affect the use or enjoyment of the space; on Mint Plaza the Revised Project would create net new shadow during the morning hours in the spring, fall, and winter, generally between 9:00 a.m. and noon. However, the DEIR determined that the use of this space would not be substantially affected and this impact would be less than significant with implementation of the DEIR Project; and on the Yerba Buena Gardens North, the Revised Project would cast new shadows over approximately 8.2 percent of the open space area during the mid-afternoon hours, which would be less than the maximum area covered by shadows cast from the Draft EIR Project on any given day.

The decision whether to adjust allowable shadow limits at specific downtown parks relates to how the types of policy questions that the Recreation and Parks Commission must reach in its administration of the Sunlight Ordinance. This decision pertains to Section 295 of the Planning Code and not whether the analysis of project shading impacts is somehow insufficient or incomplete. The DEIR and RTC identify the location, size and use characteristics of existing open spaces, and the analysis includes results based on modeling of buildings and shadows based on the project and alternative scenarios, including the Revised Project. Disagreement with the conclusion does not render the analysis inadequate.

Further, the Appellant's statement that The San Francisco Park and Recreation and Open Space Advisory Committee passed a resolution requesting delay of the September 17, 2015 hearing, requiring further studies and stating their concerns about the project's open space. It should be noted that this committee is an advisory committee that does not have jurisdiction over the project. Critique of the project's open space design is

unsubstantiated opinion and does not constitute a significant impact on the environment.

Moreover, the citation in the record reiterated by Ms. Weil at the September 17, 2015 hearing does not include statements by the applicant regarding reconfiguring of the project on Boedekker Park. It references a Commissioner discussion about the complex wind environment and the challenges that this poses for reconfiguring open spaces to reduce shadow impacts (see Findings, p. X).

Appellants claim that project shadow on Yerba Buena Children's Area and Yerba Buena North should be deemed significant. The Revised Project's shadow impacts on these open spaces were modeled and analyzed in detail numerically and qualitatively using standard Department methodology, and were determined to be insignificant based on standard significance criteria. The evaluation considers amount of shadow (size in area and duration over the day and throughout the year), time of day, season, quality of sunlight, use of the affected space, etc. These qualitative factors inform the decision of whether shadow on publicly accessible open space would be considered significant. Appellant expressing support for having "zero tolerance for increased shadowing of our parks in the city" raises policy issues not related to the adequacy of the CEQA analysis.

CONCLUSION TOPIC 7: The claims and statements the Appellant has made regarding shadow reflect policy considerations related to the types of determinations of the Planning Commission and Recreation and Parks Commission make under Planning Code Section 295 (such as raising the absolute cumulative shadow limit) does not raise CEQA issues. The inquiry and whether the additional shadow budget should be granted is a separate question not germane to CEQA. The EIR provides a discussion of that process for informational purposes, but the evaluation is based on criterion of whether the project would shade a public open space in such a way as to substantially affect its use and enjoyment. To the extent that these comments are framed as CEQA issues, CEQA is concerned with whether physical changes to the setting would be significant. Project impact to open spaces that do not currently exist are not subject to CEQA.

Appellant does not provide substantial evidence of a fair argument regarding the EIR's analysis of shadow impacts.

TOPIC 8: Concerns related to Wind Impacts

Appellant alleges in the November 16, 2015 letter that the project's potentially significant wind impacts have not been analyzed. Appellant notes that the Revised Project closely resembles the Preservation Alternative, which has the potential to generate excessive wind tunnel effects. Appellant states that wind studies must be performed for the Revised Project to analyze impacts on project open spaces.

RESPONSE TO TOPIC 8: It is incorrect that wind impacts were not analyzed for the Revised Project. As discussed on pages RTC 246-252, the Revised Project was tested in the wind tunnel, and the less than significant wind impacts were reported in the Responses to Comments.

As further described there, with implementation of the Revised Project, the number of locations that would experience exceedances of the wind hazard criterion and the total number of hours that the wind speed exceeds the hazard criterion would be substantially reduced compared to existing conditions.

CEQA is concerned with whether physical changes to the setting would be significant, and project impacts to open spaces that do not currently exist are not subject to CEQA. For informational purposes, note that the wind study for the Revised Project did include test locations within Mary Court.

Specific concerns previously received regarding wind-related impacts are further addressed on pages RTC-246 through RTC-252 (Response WS-1, Wind and Shadow Impacts on Off-Site Open Space and Response WS-2, Wind and Shadow Impacts on On-Site Open Space) of the RTC document.

Overall, the Revised Project would increase the average wind speed at test locations from 12 mph to 12.8 mph, a modest increase and less of an increase than the 2 mph increase identified for the Draft EIR Project. The highest wind speed (22 mph) would

occur at the southwest corner of Fifth and Tehama Streets (Location 6), an increase from 17 mph under existing conditions. The 11 mph comfort criterion would be exceeded 17.4 percent of the time (compared to 14 percent of the time under existing conditions or the 21 percent increase identified for the Draft EIR Project). Similar to the DEIR Project, the Revised Project would result in a relatively modest worsening of wind comfort conditions.

The Revised Project would result in a total of three exceedances of the hazard criterion. Under the Revised Project, these exceedances would occur for a total of four hours per year (a net reduction of 75 hours compared to existing conditions and 28 fewer hours than the DEIR Project). Thus, with implementation of the Revised Project, the number of locations that would experience exceedances of the wind hazard criterion and the total number of hours that the wind speed exceeds the hazard criterion would be substantially reduced compared to existing conditions and compared to the DEIR Project.

CONCLUSION TOPIC 8: No comments raising new specific issues related to the adequacy of the FEIR's analysis of wind impacts have been received since publication of the RTC document. For the reasons stated in the Responses identified above, Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

TOPIC 9: Concerns related to Geology and Soils Impacts

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list the following in bulleted form:

“Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts: ...

- Geology and Soils”

RESPONSE TO TOPIC 9: Appellants fail to meet their burden to establish how the analysis presented in the FEIR is deficient, why the significance criteria used in the FEIR's analysis of impacts related to geology and soils is inadequate, or that the impacts of the project would exceed the significance thresholds.

Impacts related to geology and soils are addressed beginning on page 122 of the Initial Study (Section 14, Geology and Soils) included as Appendix A to the DEIR. As explained on page 122 of the Initial Study, implementation of the proposed project would have a significant effect related to geology and soils if it would: expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: i) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault, ii) strong seismic ground shaking, iii) seismic-related ground failure, including liquefaction, or iv) landslides; result in substantial soil erosion or the loss of topsoil; be located on geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse; be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property; or change substantially the topography or any unique geologic or physical features of the site.

The Initial Study concluded that geology and soils impacts would be less than significant based on compliance with the standard building permit application process and existing regulations under the State Seismic Hazards Mapping Act and the San Francisco Building Code, and implementation of Mitigation Measure M-HZ-1, which requires investigation, site management and reporting subject to Article 22A of the San Francisco Health Code.

Specific concerns previously received regarding geology and soils related impacts of the project are addressed on pages RTC-288 through RTC-296 (Response OC-2, Comments Related to the Analysis of Impacts Related to Geology and Soils) of the RTC document.

Further, to the extent Appellants' generalized concerns about geology and soils impacts could be construed as including concerns regarding the potential for vibration from construction work to result in damage to historic buildings, this issue is addressed on pages 389 through 391 and 397 (Section IV.E, Noise) of the DEIR, and the DEIR concluded that such impacts would be less than significant with implementation of Mitigation Measures M-CP-2a through M-CP-2b, as set forth on pages 229 through 232 (Section IV.C, Cultural Resources) of the DEIR (and as modified on pages RTC-374 through RTC-375 of the RTC document), which would require preconstruction surveys of building integrity to establish a baseline for assessing construction damage, monitoring during construction, use of construction and methods that do not exceed maximum standards for groundborne vibration levels for the protection of historical resources. As discussed on page RTC-46 of the RTC document, groundborne vibration impacts associated with the Revised Project would be less than significant with mitigation. Specific concerns previously received regarding groundborne vibration impacts are further addressed on pages RTC-225 through RTC-228 (Response NO-3, Construction-Period Vibration Impacts) of the RTC document.

CONCLUSION TOPIC 9: No comments raising new specific issues related to the adequacy of the FEIR's analysis of geology and soils or groundborne vibration impacts have been received since publication of the RTC document. For the reasons stated in the Responses identified above, Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

TOPIC 10: Concerns related to Transportation, Circulation and Pedestrian Safety Impacts

The following are direct quotations excerpted from the letter of appeal (p. 2) in which Appellants list the following in bulleted form:

- “Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts: ...
- Traffic and Circulation
- Pedestrian Safety”

The letter of appeal also states that “new traffic studies were performed for the Preservation Alternative without the necessary public review.”

In its November 16 letter, Appellant makes additional claims of deficiency or inadequate analysis of transportation, circulation and pedestrian safety impacts based on the following: an artificially small study area for the EIR’s traffic analysis. Appellant also claims that the EIR “failed to consider feasible mitigation for the Project’s unavoidable traffic impacts, including: review of a reduced size project; reducing trip generating uses; funding public transportation; removal of the Project’s parking garage; payment of traffic impacts fees; or creation of a Transportation Management Plan.”

Appellant notes that mitigation for expected queuing impacts at the Fifth and Mission Garage entry is not enforceable. Further, Appellant suggests that the EIR failed to provide sufficient detail for construction related traffic impacts and failed to impose feasible and enforceable mitigation measures.

Appellant also states that the Revised Project’s 450 new parking spaces will create pedestrian safety impacts and therefore parking ratios should be reconsidered. Appellant states that the conversion of a public street to a private street as part of the project is in violation of the General Plan provisions.

RESPONSE TO TOPIC 10: Appellants fail to meet their burden to establish how the analysis presented in the FEIR is deficient, why the significance criteria used in the FEIR's analysis of impacts related to transportation and circulation is inadequate, or that the project would have new or more severe impacts not disclosed in the FEIR that exceed the significance thresholds.

As explained on pages 282 through 283 of the DEIR, implementation of the proposed

project would have a significant effect on traffic and circulation if it would exceed the following significance criteria, including specific criteria for pedestrian safety impacts:

- In San Francisco, the threshold for a significant adverse impact on traffic has been established as the deterioration in the level of service (LOS) at a signalized intersection from LOS D or better to LOS E or LOS F, or from LOS E to LOS F. The operational impacts on unsignalized intersections are considered potentially significant if project-related traffic causes the LOS at the worst approach to deteriorate from LOS D or better to LOS E or LOS F and Caltrans signal warrants would be met, or cause Caltrans signal warrants to be met when the worst approach is already at LOS E or LOS F. For an intersection that operates at LOS E or LOS F under existing conditions, there may be a significant adverse impact depending upon the magnitude of the project's contribution to the worsening of delay. In addition, a project would have a significant adverse effect if it would cause major traffic hazards, or would contribute considerably to the cumulative traffic increases that would cause the deterioration in LOS to unacceptable levels (i.e., to LOS E or LOS F).
- The project would have a significant effect on the environment if it would cause a substantial increase in transit demand that could not be accommodated by adjacent transit capacity, resulting in unacceptable levels of transit service; or cause a substantial increase in operating costs or delays such that significant adverse impacts in transit service levels could result. With the Muni and regional transit screenlines analyses, the project would have a significant effect on the transit provider if project-related transit trips would cause the capacity utilization standard to be exceeded during the peak hour.
- The project would have a significant effect on the environment if it would result in substantial overcrowding on public sidewalks, create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the side and adjoining areas.
- The project would have a significant effect on the environment if it would create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the site and adjoining areas.
- The project would have a significant effect on the environment if it would result in a loading demand during the peak hour of loading activities that could not be accommodated within the proposed on-site loading facilities or within convenient on-street loading zones, and if it would create potentially hazardous traffic conditions or significant delays affecting traffic, transit, bicycles or pedestrians.
- A project would have a significant effect on the environment if it would result in inadequate emergency vehicle access.
- Construction-related impacts generally would not be considered significant due to their temporary and limited duration.

Transportation and circulation impacts are addressed beginning on page 249 (Section IV.D, Transportation and Circulation) of the DEIR. A map of the study intersections is presented on DEIR page 255. The 21 study intersections were selected in the vicinity of the project site because they would capture the relative change in levels of service that could be associated with the project. Project-generated traffic would access and exit the site from the surrounding street network and the study intersections are those most likely to accommodate project trips. Appellant allegation related to the size of the study area as too small is an opinion and fails to provide evidence of what a sufficient study area would be. As stated in the RTC, the study area is sufficient for understanding the potential impact on level of service. Thirty-six intersections capture movements in all directions to and from the project site from the project and reasonably foreseeable future projects.

The DEIR identified potentially significant and unavoidable impacts related to transportation and circulation even with implementation of feasible mitigation measures. As discussed on page RTC-37 of the RTC document, the Revised Project would result in many of the same significant and unavoidable transportation-related impacts as the DEIR Project; however, fewer intersections would be above the significance thresholds (six intersections as compared to nine under the DEIR Project), and one significant pedestrian impact of the DEIR Project would not occur. Specific concerns previously received regarding traffic and circulation related impacts are further addressed on pages RTC-178 through RTC-215 (Response TR-1, Traffic Impacts; Response TR-2, Transit Impacts; Response TR-3, Pedestrian Impacts; Response TR-4, Project Garage Operations; Response TR-5, Loading Impacts; Response TR-6, Construction-related Transportation Impacts; Response TR-7, Cumulative Methodology; Response TR-8, Cumulative Pedestrian and Bicycle Conditions) of the RTC document.

Pedestrian safety impacts are addressed on pages 321 through 332 and 357 to 359 (Section IV.D, Transportation and Circulation) of the DEIR. The DEIR identified

potential impacts associated with pedestrian safety to be less than significant with implementation of recommended mitigation measures. As discussed on page RTC-37 of the RTC document, the Revised Project would avoid one significant pedestrian impact of the DEIR Project. Specific concerns previously received regarding pedestrian safety impacts are further addressed on pages RTC-193 through RTC-196 (Response TR-3, Pedestrian Impacts) of the RTC document.

Appellants' letter did not include evidence or argument supporting the Appellants' contention that new traffic studies were conducted without the opportunity for public review, and no specific comments regarding this issue have been received from Appellants or any other commenters.

The transportation analysis included in the DEIR (Section IV.D, Transportation and Circulation, pages 249 through 362) relied on the traffic study prepared for the DEIR Project (5M Transportation Impact Study, October 2014). The DEIR alternatives analysis relied on a supplemental transportation assessment (Memorandum to Greg Riessen, Re; 5M Project – Alternatives Assessment, September 2014) of each alternative identified and evaluated in the DEIR, including the Preservation Alternative. These documents were made available for public review during the DEIR comment period and are available at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2011.0409E. The Revised Project, which is described and evaluated in the RTC document, is substantially similar to the DEIR Preservation Alternative.

The DEIR considered and rejected reduced project/trip generating alternatives as follows: No Project Alternatives, Code Compliant Alternative, and Unified Project Alternative. See DEIR pages 583-636 and Planning Commission Motion 19458. The Project, including the public benefits required under the proposed Development Agreement, include funding of public transportation, payment of traffic impact fees, and a Transportation Demand Management Plan. Parking supply is a policy issue and as discussed on pages 274 of the DEIR, is not a CEQA issue.

As described on page RTC-37 of the RTC document, an evaluation of the Revised

Project's transportation-related impacts was conducted to supplement the information and analysis presented in the Transportation Impact Study prepared for the DEIR Project (5M Project – Revised Project Assessment, April 27, 2015). A copy of this document was made available for public review with publication of the RTC document at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2011.0409E. This supplemental analysis, reflecting the vehicle trip generation associated with the Revised Project, was based on the DEIR's transportation analysis of the Preservation Alternative, which is substantially similar to the Revised Project. No new or more severe impacts were identified as a result of the supplemental transportation analysis conducted for the Revised Project.

In response to a public comment, and as stated on pages RTC-184 through RTC-185, the supplemental analysis quantified the Revised Project's less than significant impacts at the Third/Howard Street intersection. This information was made available for public review as necessary prior to the Commission hearing regarding certification of the FEIR.

Regarding the allegation that mitigation for expected queuing impacts is not enforceable, it should be noted that, as addressed on page 314 of the RTC, there is no significant impact related to queuing, and the measure identified in the DEIR is therefore an improvement measure for consideration by decision-makers.

The EIR failed to provide sufficient detail for construction related traffic impacts and failed to impose feasible and enforceable mitigation measures. This comment repeats a comment made during the public comment period on the DEIR that is addressed in the RTC. As discussed there, the detail provided is commensurate with information known about foreseeable projects. The EIR made reasonable assumptions and concluded with a conservative finding of significance. Further detail related to the significant effect would be based on conjecture and speculation. Construction-related mitigation appropriately relies on established City permit review procedures that require coordination of concurrent projects in proximity to one another.

The new 450 new parking spots will create pedestrian safety impacts; parking ratio

should be reconsidered. This is a general, unsubstantiated opinion regarding the link between additional parking spaces and pedestrian safety. Pursuant to San Francisco's procedures for transportation review, provision of parking is not an environmental topic and as noted in the EIR beginning on page 345, any discussion provided relative to parking is for informational purposes. See also pages 321 and 332 and 357 to 359 of the DEIR and RTC-37 and determined to be insignificant.

The Project entails conversion of a public street to a private street in violation of the General Plan provisions. The General Plan contains policies discouraging conversion of public to private streets through street vacation, and sets forth criteria for such conversions. The project does not include a street vacation.

CONCLUSION TOPIC 10: No comments raising new specific issues related to the adequacy of the FEIR's analysis of transportation and circulation related impacts or pedestrian impacts have been received since publication of the RTC document. For the reasons stated in the Responses identified above, in Response GC-3 beginning on page RTC-314 of the RTC document, and in the Planning Commission's FEIR certification motion attached as Attachment B, the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

EXHIBITS

The Appellants' letter includes several exhibits. Exhibit B consists of links to the video of the September 17, 2015, Planning Commission hearing. Exhibit C consists of the printed transcript of the same hearing. Exhibit D consists of the minutes, transcript, and resolutions of the Parks and Recreation Advisory Committee meeting from September 1, 2015. The Appellants' letter does not state why these attachments are included or point to any specific arguments made at the September 17, 2015 hearing that support the Appellants' appeal submittal. To the extent that specific concerns are raised in the video link and transcripts, these points are responded to in the RTC document and no new issues or concerns were raised that were not previously provided by commenters on the

DEIR and responded to in the RTC document. No new issues are raised in these exhibits and therefore these exhibits are noted.

Exhibit E consists of letters submitted during and after the DEIR comment period. The following letter included in Exhibit E is reproduced in the RTC document in Attachment A: Goldfarb & Lipman LLP, January 2, 2015 (Commenter Code O-GL2). All comments in this letter are coded and responded to in Chapter IV, Comments and Responses of the RTC document.

The remaining letters were submitted to the Planning Commission prior to the September 17, 2015 FEIR hearing and were not formally responded to: Save Our Soma, no date; Barbara and Saul Rockman, no date; SoMa Action Committee, August 5, 2015; SoMa Action Committee, August 6, 2015; "Community Demands Regarding 5M Review Process," no author, no date; Tom Radulovich, August 6, 2015; Coalition for San Francisco Neighborhoods, September 2, 2015; Saul Rockman, September 3, 2015; SoMa Action Committee, September 3, 2015; SoMa Action Committee, September 9, 2015; Joseph Smooke, SOMCAN, September 15, 2015; Joseph Smooke, SOMCAN, September 13, 2015; Joseph Smooke, SOMCAN, September 14, 2015; Friends of Boeddeker Park, September 15, 2015; Joseph Smooke, SOMCAN, September 15, 2015; Angelica Cabande, SOMCAN, September 16, 2015; Lorna Valasco, Bindlestiff Studio, September 16, 2015; Paul Wermer, September 16, 2015; Marlayne Morgan, September 16, 2015; Sierra Club, September 17, 2015; and James Joannides, September 17, 2015. Although these letters were not formally responded to because they were received after the close of the DEIR comment period, none of these letters raise any new issues that were not previously raised in the comments included in and responded to in the RTC document. Furthermore, the Planning Commission considered these comments as part of the FEIR certification hearing when making their FEIR certification motion that the FEIR meets the standards for adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

The Appellants' letter does not state why these attachments are included or point to any specific arguments made in this exhibit in support the Appellants' appeal submittal,

except in the instances where the November 6 submittal provides citations. To the extent that specific concerns are raised in the letters, these points are responded to in the RTC document and no new issues or concerns are raised that were not previously provided by commenters on the DEIR and responded to in the RTC document. No new issues are raised in these exhibits and therefore these exhibits are noted.

CONCLUSION

The Planning Department conducted an in-depth and thorough analysis of the potential physical environmental effects of the proposed 5M Project, consistent with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Appellants have not demonstrated that the FEIR is insufficient as an informational document, or that the Commission's findings and conclusions are unsupported by substantial evidence. The Planning Department conducted all necessary studies and analyses, and provided the Commission with all necessary information and documents in accordance with the Planning Department's environmental checklist and Consultant Guidelines, and pursuant to CEQA and the State CEQA Guidelines. Substantial evidence supports the Commission's findings and conclusions.

For the reasons provided in this Appeals Response, the Planning Department believes that the FEIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project. Therefore, the Planning Department respectfully recommends that the Board uphold the Commission's certification of the FEIR.

EXHIBIT B

Appellant Letters (without attachments)

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RHOWLETTLAW@gmail.com

October 16, 2015

Via Hand Delivery

**RE: 5M Project – Appeal of the 9/17/15 Recreation and Parks
Commission and Planning Commission Decisions**

Dear Clerk of the Board and the Members of the Board of Supervisors:

The South of Market Action Committee (SMAC), South of Market Community Action Network (SOMCAN), Save our SoMa (SOS), and Friends of Boeddeker Park, "Citizens", collectively, appeal the following decisions concerning the 5M Project. The Project is located at 925 Mission Street and includes "various parcels".

- 1) Certification of the Environmental Impact Report (EIR) and Adoption of Findings and a Statement of Overriding Considerations
- 2) Allocation of Square Footage under the Annual Office Development approvals
- 3) Conditional Use approvals

The final resolutions for the relevant appeals are attached as **Exhibit A**. Evidence in support of the appeals is attached as **Exhibits B-E** and is also contained in the Draft EIR and Final EIR, incorporated here by reference. **Exhibit F** contains the Board of Supervisors Appeal Fee Waiver for the \$562 appeal fee for the CEQA appeals. **Exhibit G** contains the Notice to Board of Supervisors of Appeal From Action of the City Planning Commission Form. **Exhibit H** contains a letter regarding the violation of public notice requirements.

I. Citizens appeal the decisions made by the Planning Commission to certify the Environmental Impact Report (EIR) and adopt Findings and a Statement of Overriding Considerations, State Clearing House No. 2013011055 (Exhibit A, Resolutions)

- The appeals related to CEQA are filed on the following bases.
- The EIR is inadequate and incomplete

- Inadequate and incomplete analysis of and failure to disclose the severity of the level of impact for the following environmental impacts:
 - Open Space
 - Geology and Soils
 - Public Services and Recreation
 - Shade/Shadow
 - Massing and Height
 - Traffic and Circulation
 - Pedestrian Safety
 - Construction
 - Wind
 - Growth Inducing
 - Cumulative
 - Violation of and Inconsistency with area plans, codes, zoning designations and regulations
 - Impacts to adjacent parks

- Misleading, confusing, and unstable Project description
- Inadequate and incomplete Alternatives analysis
- Failure to adopt all feasible mitigations and alternatives
- New traffic studies were performed for the Preservation Alternative without the necessary public review.
- Failure to revise and recirculate the EIR
- Failure to respond adequately to comments on the DEIR
- Inadequate and incomplete Findings and Statement of Overriding Considerations
- The Findings and Statement of Overriding Considerations contain misstatements and omissions and are not supported by substantial evidence.
- Inadequate notice of approvals and recommendations considered at the September 17, 2015 hearing

II. Citizens appeal the decisions made by the Planning Commission to approve the Allocation of Square Footage under the Annual Office Development (Exhibit A, Resolutions)

The appeals are filed on the following bases.

- The H1 Office Building is inconsistent with the Residential/Service Mixed Use (RSD) zoning designation.
- The proposed uses are inconsistent with the Youth and Family Special Use District (SUD) zoning designation.
- The approvals are inconsistent with the intent of the SUD zoning designation and the land use restrictions placed on the SUD.
- The open space designation is inadequate and incomplete.
- The approvals are in violation of and inconsistent with area plans, codes, zoning designations and regulations.

- The approvals are based on an inadequate and incomplete EIR and feasible mitigation measures and alternatives have not been fully considered.
- The findings are inadequate and incomplete; they rely on inaccuracies and omissions and are not supported by substantial evidence.
- Inadequate notice of approvals and recommendations considered at the September 17, 2015 hearing

III. Citizens appeal the decisions made by the Planning Commission to approve the Conditional Uses (Exhibit A, Resolutions; Exhibit G, Notice to Board of Supervisors of Appeal From Action of the City Planning Commission)

The appeals are filed on the following bases.

- Failure to conduct the necessary wind, shadow, height and massing analyses
- Failure to perform a full and complete traffic and circulation analysis
- Violation of the General Plan
- Approval constitutes illegal spot zoning
- Violation of and inconsistency with area plans, codes, zoning designations and regulations
- The approvals are based on an inadequate and incomplete EIR and feasible mitigation measures and alternatives have not been fully considered
- Approval will unnecessarily impact surrounding neighborhoods and result in the displacement of the Filipino community
- Approval will hamper and jeopardize the development and establishment of the Filipino Historic District
- Approval will impact the aesthetic and cultural integrity of surrounding neighborhoods
- Approval will obliterate the Youth and Family Special Use District
- Inadequate community review of open space and shade/shadow issues
- Inconsistent application of land use laws sets bad precedent for future development applications and jeopardizes the orderly development of San Francisco
- The approvals are based on an inadequate and incomplete EIR and feasible mitigation measures and alternatives have not been fully considered
- The stated benefits of the conditional uses are inaccurate and are not supported by substantial evidence
- The findings rely on inaccuracies and omissions and are not supported by substantial evidence
- Inadequate notice of approvals and recommendations considered at the September 17, 2015 hearing

IV. Exhibits (Attached)

- Exhibit A:** Resolutions
19458 EIR Certification
19459 CEQA Findings
19467 OFA for H-1
19468 OFA for M-1
19469 CU for N-1
19470 CU for M-1
19471 CU for New Examiner
19472 CU for H-1
19473 CU for M-2
- Exhibit B:** Links to videos of hearings in which testimony was given on the 5M Project
- Exhibit C:** Transcript Planning Commission Hearing, September 17, 2015
- Exhibit D:** Minutes, Transcript, and Resolutions, Park and Recreation Advisory Committee meeting, September 1, 2015
- Exhibit E:** Letters
- Exhibit F:** CEQA Appeal Fee Waiver
- Exhibit G:** Notice to Board of Supervisors of Appeal From Action of the City Planning Commission Form
- Exhibit H:** Letter of Notice Violation

Thank you,



Rachel Mansfield-Howlett
Attorney for Appellants

Carroll, John (BOS)

From: Dyan Ruiz <dyanruiz@gmail.com>
Sent: Friday, November 06, 2015 3:41 PM
To: Calvillo, Angela (BOS); BOS Legislation, (BOS); Kim, Jane (BOS); Mar, Eric (BOS); Farrell, Mark (BOS); Christensen, Julie (BOS); Tang, Katy (BOS); BreedStaff, (BOS); Yee, Norman (BOS); Wiener, Scott; Campos, David (BOS); Cohen, Malia (BOS); Avalos, John (BOS)
Cc: Joseph Smooke; Angelica Cabande; Betty Traynor; Saul Rockman; Barbara Rockman; Jane Weil; Yadegar, Danny (BOS); Pagoulatos, Nickolas (BOS); Redondiez, Rachel (BOS); Stefani, Catherine; Burns, Kanishka (BOS); Quizon, Dyanna (BOS); Johnston, Conor (BOS); Mormino, Matthias (BOS); Power, Andres; Chung Hagen, Sheila (BOS); Bruss, Andrea (BOS); Pollock, Jeremy (BOS); Rachel Mansfield-Howlett
Subject: 5M Project Appeal- Evidence Letter
Attachments: 11-6-15_BOS 5M appeal letter_SMAC.pdf
Categories: 151058, 151054

Dear Members of the Board of Supervisors,

Please see the attached letter regarding our appeal of the 5M Project (925 Mission St, File No 2011.0409PCA), which includes evidence related to the appeal.

Sincerely,
Dyan Ruiz

On behalf of:
South of Market Action Committee (SMAC)
South of Market Community Action Network (SOMCAN)
Save our SoMa (SOS)
Friends of Boeddeker Park

**RECEIVED AFTER THE ELEVEN-DAY
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CODE, SECTION 31.16(b)(5)**
(Note: Pursuant to California Government Code, Section
86506(b)(2), information received at, or prior to, the public
hearing will be included as part of the official file.)

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Nov. 6, 2015

Via Email and Hand Delivery

**RE: 5M Project - Appeal of the 9/17/15 Joint Recreation and Parks
Commission/Planning Commission Actions**

Dear Members of the Board of Supervisors:

The South of Market Action Committee (SMAC), South of Market Community Action Network (SOMCAN), Save our SoMa (SOS), and Friends of Boeddeker Park, "Citizens", have appealed the following decisions made at the joint hearing concerning the 5M Project. (Citizens Appeal Packet with attached Exhibits A-H.)

- 1) Certification of the Environmental Impact Report (EIR) and Adoption of Findings and a Statement of Overriding Considerations
- 2) Allocation of Square Footage under the Annual Office Development approvals
- 3) Conditional Use approvals

I. EIR Certification

CEQA achieves its purpose of long-term protection of the environment by functioning as "an environmental full disclosure statute, and the EIR is the method . . . [of] disclosure . . ." *Rural Landowners Association v. City Council* (1983) 143 Cal.App.3d 1013, 1020. An EIR should not just generate paper, but should act as "an environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

The EIR's analysis of significant environmental impacts is inadequate and incomplete, the EIR fails to function as a full disclosure environmental document

and the findings are not supported by substantial evidence. As the Board is aware, the balance of the Project approvals to be considered by the Board must be premised on adequate environmental review.

Project Description

The fundamental issue concerning the adequacy of the EIR is the failure to adequately describe the project being reviewed. (CEQA Guideline § 15124.) According to CEQA Guideline section 15124, an accurate, stable and consistent project description is necessary to an adequate evaluation of the project's impacts; the project description should describe the physical development that will result if the project is approved; and the description should be sufficiently detailed to provide a foundation for a complete analysis of environmental impacts.

"An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.

As explained in the Draft EIR comment letter submitted by attorney Eric Phillips, the EIR presented two different development schemes that *may* constitute the Project and failed to perform a synonymous comparison of the environmental impacts for each scenario. Compounding the problem, after publication of the Draft EIR the Project was revised "in a manner that is substantially similar to the Preservation Alternative." (Final EIR: RTC-9-13.) The EIR failed to provide an accurate, stable and finite project description.

The EIR explains that "in general, with the exception that the total square footage would be reduced (the Revised Project would represent a 6 percent decrease in overall square footage compared to the Office Scheme and a 5 percent decrease compared to the Residential Scheme) and the mix of uses would be slightly different ..." (Final EIR RTC-12.) In other words, instead of a single consistent project description, the public and decisionmakers must compare three different Projects in order to fairly assess the Project's impacts. Furthermore, revising the Project description and analyses at the Final EIR stage meant that the public was precluded from commenting on the Project and the later prepared analyses.

When a project description is indefinite and confusing, as here, it is impossible for the public to adequately comment on the EIR, evaluate its impacts, propose adequate mitigation or fairly review alternatives. This kind of bait and switch analysis fails to conform to CEQA's threshold requirement, that a thorough analysis of a single project be performed. Thus, the EIR fails to provide the foundation for an adequate analysis of environmental impacts, mitigation measures and alternatives. (Citizens' Appeal Packet, Exhibit E: Goldfarb &

Lipman 1/2/15, pgs. 2-3; *see also* the letters submitted by South of Market Action Committee (SMAC) 9/3/15, pg. 4; Velasco 9/16/15; Save our South of Market (SOS) pg. 3.)

Even absent any other defect, an inadequate project description renders the EIR irretrievably defective as a matter of law. Therefore, Citizens request that the Board reject the certification of the EIR and require it to be revised and recirculated with an accurate stable project description.

Project Setting/Shade and Shadow Effects/Impacts to Adjacent Parks

The EIR must describe the environmental resources on the project site and in the vicinity that may be adversely affected by a project. (*San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713.) Knowledge of the regional setting is critical to the assessment of environmental impacts. Resources that are rare or unique to the region and would be affected by the project warrant special emphasis. (CEQA Guideline § 15125; *Galante Vineyards v. Monterey Peninsula Water Management District* (1997) 60 Cal.App.4th 1109; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859.)

Numerous commentators explained that the EIR failed to adequately consider the impacts of the Project on nearby open spaces and parks due to increased shade and shadow effects cause by the Project. (Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 8-9; SMAC 9/3/15; SMAC 9/10/15 pg. 2; SOS pgs. 2-4; Rockman pgs. 3-4; Friends of Boeddeker Park 9/15/15; Sierra Club 9/17/15; Exhibit D: Park and Recreation Advisory Committee meeting minutes, transcript and resolution.)

Attorney Eric Phillips stated that while the EIR acknowledged that the applicant has requested the Planning Commission raise the threshold for shadow limits for Boeddeker Park, it failed to disclose that without this special approval, the Project would result in a significant impact related to shadows cast on this public space.

The Draft EIR also failed to consider the effects on several open spaces heavily used by the public. (Citizens Appeal Packet, Exhibit E: Goldfarb & Lipman, 1/2/15, pgs. 8-9; SMAC 9/9/15; Friends of Boeddeker Park 9/15/15; Sierra Club 9/17/15.) The testimony given at the September 17, 2015 joint commission hearing by Jane Weil reiterated these objections. (Citizens Appeal Packet, Exhibit C: Transcript pgs. 47, 159, 226, 236.) The applicant conceded that the Project could have been reconfigured to avoid shadow impacts on Boeddeker Park. (Transcript pg. 297.)

I would also like to add that there are many other public open spaces that will be shadowed by this project. Most specifically, the Yerba Buena Children's area and Yerba Buena in the north. And it will be four months in the afternoon at Yerba Buena Children's Garden, it will not be an insignificant increase in shadowing. It will be starting on some days at 3:20 p.m.; on the worst day, it would be a 30 percent increase in shadowing at the children's area. So, there basically is a very significant change to environment of the neighborhood. . . . We think that it's important enough that this should not be pushed through as a joint decision. We think there should be zero tolerance for increased shadowing of our parks in the city. We think this is really a problem and needs to go back to the drawing boards. We also don't agree with the location of the proposed open space. (Transcript pg. 47.)

The EIR failed to acknowledge the Project's impacts regarding shade and shadow and the impacts to adjacent parks.

Traffic, Circulation and Pedestrian Impacts

The EIR's analysis of traffic, circulation and pedestrian impacts is inadequate and incomplete and the Commission's findings are not supported by substantial evidence.

The EIR used an artificially small study area for its traffic analysis. The EIR identified impacts at some intersections but failed to review intersections immediately adjacent to the impacted ones. (Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 9-11.) When a significant impact occurs at the edge of a Project's study area, this presents substantial evidence that foreseeable impacts remain and the area should be expanded to determine whether the Project would impact adjacent intersections. An EIR must review all foreseeable impacts; it may not limit the area of study in order to avoid review of potentially significant impacts.

Commentors noted the Project will result in unnecessarily severe traffic, circulation, and pedestrian impacts that have not been fully evaluated or mitigated. (Citizens Appeal Packet, Exhibit E: SMAC 8/6/15, pgs. 5-6; SOS, pgs. 4, 6-7; Rockman, pgs. 4-6; Tom Radulovich, 8/6/15 email; Sierra Club 9/17/15.) The EIR failed to consider feasible mitigation for the Project's unavoidable traffic impacts, including: review of a reduced size project; reducing trip generating uses; funding public transportation; removal of the Project's parking garage; payment of traffic impact fees; or creation of a Transportation Demand Management plan. The overarching purpose of preparing an EIR is to identify project impacts and consider all feasible mitigation measures and alternatives that would substantially limit the severity of these impacts. The EIR failed to do

either, adequately. (Citizens Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pg. 9; Rockman pgs. 4-6.)

Mitigation for expected queuing impacts is not enforceable. (Exhibit E: Goldfarb & Lipman 1/2/15, pg. 10.) Mitigation measures are required to be enforceable and effectively incorporated into project approvals and the mitigation monitoring program. *Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, held that "mitigating conditions are not mere expressions of hope" and that when an adopted mitigation measure is later determined infeasible, supplemental environmental review must assess appropriate replacement mitigation.

The EIR failed to provide sufficient detail for construction related traffic impacts and failed to impose feasible and enforceable mitigation measures, and therefore, the findings are not supported by substantial evidence. (Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 11-12.)

The testimony given at the joint hearing by Nicole Ferrera noted potentially significant pedestrian impacts and reiterated many of the objections enumerated by Eric Phillips. (Citizens' Appeal Packet, Exhibit C: pg. 132.)

... [T]here are some concerns that we have with transportation. The parking right now is very high for the area. There's about over 450 new parking spots being introduced -- or parking spots being introduced into this project. And if you look at the streets of SOMA, and what is happening currently from a pedestrian safety perspective, you're seeing the streets of SOMA are some of the most dangerous streets in the City, and our lower-income communities, and SOMA are the ones being hit and injured by vehicle through traffic. So, introducing 450 new parking spaces, that's at least 450 new trips every single day into the neighborhood, we're concerned about pedestrian safety from that aspect. And it will be -- this is right adjacent to the 6th Street corridor, one of the most dangerous streets in the City, and a lot of people with disabilities, senior and surrounding housing. So we really want you to reconsider the parking ratios on the project. Right now there's a -- seven percent of commercial parking -- there's seven percent of parking for commercial, the commercial square footage of the project. The Trans Bay terminal has 3.5 percent, so we can look at that as a model. Residential is .5 per residential unit, which is the max without a conditional use permit, so that's another area where we'd like to see that go down. The project is getting additional height, because it's so rich in transit, so close to transit, so it's really reasonable that the parking ratio should actually also be reduced, because so many people will be encouraged to take transit and walk and bike to the building.

Residents Saul and Barbara Rockman noted the Project entails conversion of a public street to a private street in violation of the General Plan provisions and resulting in traffic and pedestrian impacts. (Citizens' Appeal Packet, Exhibit E: Rockman undated letter; Rockman 9/13/15; *see also* Tom Radulovich, 8/6/15 email; Sierra Club 9/17/15.)

Open Space

Attorney Eric Phillips and numerous others thoroughly recounted the EIR's inadequacies concerning impacts to Open Space. (Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 2-3; SMAC 9/3/15; Velasco 9/16/15; SOS; Friends of Boedcker Park 9/15/15; Sierra Club 9/17/15; James Joannides 9/17/15.)

The San Francisco Park and Recreation and Open Space Advisory committee passed a resolution requesting the Board of Supervisors postpone the September 17, 2015 hearing on the Project, require further studies and stating their concerns about the Project's Open Space provisions.

The committee has not had a formal presentation of the open space component of this major project; District 6 has been identified as the most Open Space Deficient in the city and in which active efforts to identify sites in D-6 suitable for parks and open space are ongoing; the ground level open space is poorly sited: enclosed in the middle of the complex, surrounded by towers and not visible from any major street; the location is subject to the highest level wind and shadows identified in the EIR; the site will be "primarily hardscaped", as described in the EIR; a nearly identical park, one block away, Tutubi Plaza, is tucked inside the alleyways, is non-functional, a haven of anti-social behavior and a detriment to the neighborhood; Neighbors are asking for its removal as a failed experiment; and 50% of the open space will be rooftop, accessible only during business hours via an elevator.

(Citizens Appeal Packet, Exhibit D: Resolution of the San Francisco Park and Recreation and Open Space Advisory committee regarding the 5M Project; Transcript of the San Francisco Park and Recreation and Open Space Advisory hearing, pgs. 34, 41-44.)

The testimony given at the joint hearing by area citizens concurred with the Park and Recreation and Open Space Advisory Committee's concerns. (Citizens' Appeal Packet, Exhibit B.)

As they are proposed, the open space areas of this project will be sequestered between non-code compliant buildings, in shadow, and exposed to mechanical room noise and air return, being hidden in the

back core of the building or on a rooftop accessible only by elevator, they will have little use or public benefit. They're platonic spaces merely conceptual, rather pragmatic naturalistic, real. There are no plant lists, there are no landscape drawings proposing to go in there, as opposed to other projects at this stage of development. In addition to shadowing over their own open space, they will cut down direct light and ambient that falls over mid plaza. The mid plaza is one of the areas they cite as they're ideal, but at the same time they're going to overwhelm mid plaza. (pg. 141.)

CHRIS DURAZO: Lastly - or a couple of last things: Open space is a huge issue. We brought this to the Commission and felt it should have been a separate issue. We're sorry that you're here this many hours, but it would have been resolved if you had a separate meeting and had this discussion beforehand. This is a serious issue. The opens space they're promising has three hours of sunshine on it. That three hours is from 11:00 to 1:00, and I'm being generous there. The rest of the time there's shade on what they're promising. That is not of value to this neighborhood. (pg. 216.)

COMMISSIONER MOORE: There are two instances historically where shadow limits have been raised, one in Boeddeker Park, one in 2006 the Curran House with 66 portable drawing units, and as recent as 2015, 168 Eddy was 103 affordable units, and I supported raising the shadow limits for those two projects. ... [S]ince the other 14 downtown parks which are codified by Prop K and by Planning Code Section 295, I have consistently wrote it as the parks and rec commission knows against raising shadow limits. And five and six for this partially, because I do think that fulfilling the public benefit, particularly when it comes the housing and underprivileged parts of the city or where there is weight lack of sufficient and some less open space, requires that attention. However, as we are extending these benefits, we're raising the shadow limits to private enterprises, who has the ability to shape the buildings and avoid casting shadow, that has the ability the create open spaces on their own, I believe that that is asking too much and I cannot support it. I worked for many, many years in the fog, but no building ever cast a shadow on the public open space or asked for exemptions for that. And I do know that there is an ability or skill by which that can be avoided, and it's for that reason that I consistently voted against raising shadow limits when it comes to parks. And you all know that, you have been around for the many years that we have worked together. (pgs. 295-296.)

COMMISSIONER HILLIS: Just a follow-up question, I mean, one mitigation I see to having the -- the -- open Boeddeker shaded, which I don't think is enormously significant, but is the construction of new open space, and especially the ground level open space which I think is more open and inviting to the public and necessary Chronicle building upper floor open space. (pg. 284.)

COMMISSIONER WU: I think there's only been a few cases in which the Boeddeker limit has been expanded. Bloomingdale's and the maybe tower or never built. Two DNDC projects 100 percent affordable housing, and the most recent time was a district plan. (pg. 294.)

JOHSON: Almost half of the space, that's the open space in the project is the Chronicle building, which is privately-owned publicly available space. But it's on the top floor of the Chronicle building, accessible only by an elevator. And I feel that that's not necessarily -- even though it's open during the day hours, and technically, it's public, anyone can come in there, I don't necessarily feel that that is the best option to have sort of equitable open space. (pg. 311.)

Growth Inducing and Cumulative Impacts

The EIR fails to adequately analyze growth inducing and cumulative impacts as noted in the DEIR comment letters by attorneys Eric Phillips and Susan Brandt-Hawley. (Final EIR: Brandt-Hawley Law Group; Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 3-4; *see also* SMAC 9/3/15, pg. 4; SMAC 9/10/15, pg. 2; SOS, pgs. 3-4.)

"Cumulative impacts" refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (CEQA Guideline §15355.) An EIR may address the cumulative impacts of a project through compilation of a list or through a summary of projections. The EIR discussion of cumulative impacts must describe the severity of impacts and likelihood of occurrence.

Here, the EIR used an outdated 2012 project list that was developed during the recession to analyze the cumulative impacts of foreseeable area projects despite evidence that the area has undergone considerable growth in recent years and the list was no longer reflective of current conditions. Therefore, the EIR underestimated the cumulative significant effects of the Project when considered together with other projects and failed to account for the likelihood of their occurrence. Cumulative effects affect the evaluation of each of the impact areas being considered for the Project.

Understated cumulative impacts analysis “impedes meaningful public discussion and skews the decision maker’s perspective concerning the environmental consequences of a project, the necessity for mitigation measures, and the appropriateness of project approval.” (*Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421.)

Failure to use existing conditions as the baseline for analysis of environmental impacts also runs counter to CEQA. The physical conditions existing when the Notice of Preparation is published “will normally constitute the physical baseline conditions” used to describe the environmental setting and to determine whether an impact is significant. (Guideline § 15125(a).) Here, the EIR failed to include the existing foreseeable projects in its cumulative impacts analysis, therefore, the effects in each of the impact areas may be more severe than have been acknowledged. And, feasible mitigation and alternatives that would substantially avoid these impacts has not been considered or analyzed.

Inconsistency with Area Plans and Policies

The EIR failed to acknowledge the Project’s inconsistency with zoning and land use regulations and numerous area plans and policies. Under CEQA, the Project’s inconsistency with area plans and policies must be discussed. (Guideline § 15125(d).)

As explained in the extensive Draft EIR comment letter submitted by attorney Eric Phillips, the Project is inconsistent with the General Plan, Central SoMa Plan, Proposition K, Regional Housing Need Allocation, South of Market Area Plan, zoning codes, shadow regulations, numerous City policy documents and is vastly out of scale with the existing surroundings. “Instead of disclosing the impacts that would result if the Project were implemented under the currently-applicable codes and regulations, the Draft EIR analyzes the Project’s impacts under the proposed amendments to the City’s codes and regulations – amendments that the Applicant has tailor-made for the Project so that the City may zone the Project Site into compliance.” (Citizens’ Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 5-8; SMAC 8/6/15, 9/3/15, 9/10/15, 9/13/15, 9/16/15; SOMCAN 9/15/15; Velasco 9/16/15; SOS; Rockman; Friends of Boeddeker Park 9/15/15; Sierra Club 9/17/15; Marlayne Morgan 9/16/15.)

Wind Effects

Potentially significant wind effects proposed by the Preservation Alternative have not been fully analyzed. Barbara and Saul Rockman noted, and the Final EIR concurred, that the Revised Project closely resembles the Preservation Alternative, an alternative that was ultimately rejected by the EIR due to the potential to generate excessive wind tunnel effects. (Citizens’ Appeal Packet, Exhibit E: Rockman letter, pgs. 2-3; SOS, pgs. 2-3.) Moreover, the wind

tunnel effects are forecast to be the most severe towards the interior of the site where most of the open space is proposed. Further wind studies must be performed for the Revised Project to analyze this effect.

Alternatives Review

The EIR failed to perform an adequate alternatives analysis and failed to consider a reasonable range of alternatives. (Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15, pgs. 12-13; SMAC 9/3/15, 9/13/15; SOMCAN 9/15/15; SOS, pgs. 3, 5-6; Tom Radulovich 8/6/15 email; SOMCAN 9/5/15; SOS, pgs. 5-6)

The primary feature of the Preservation Alternative, identified as the environmentally superior alternative, is that it retains the Camelline building, otherwise, its impacts are just as severe as the Project. As noted, the Final EIR confirms that the Revised Project is substantially similar to the Preservation Alternative.

Citizens have put forward a "Community Alternative" that substantially reduces the Project's impacts and retains the existing zoning on the site consistent with the comprehensive rezoning in the new Draft Central SoMa Plan. The alternative would satisfy most project objectives, provide for publicly accessible open space, reduce traffic, circulation, pedestrian and air quality impacts and reduce the Project's scale and massing so that it complies with existing and proposed land use regulations. Capping buildings at their current heights would avoid wind and shadow impacts proposed by the Project and would also avoid impacts to adjacent public parks. And this alternative would have the benefit of avoiding the illegal spot zoning proposed by the current Project. The Community Alternative would also comply with Proposition K Housing Balance, reserving at least 50% of the total units as affordable housing.

The inadequate Project Description discussed above also infected the evaluation of project alternatives. CEQA does not require alternatives to be analyzed at the same depth as an identified project. So too here, the Draft EIR's analyses are premised on the two development scenarios, not the Preservation Alternative/Revised Project. And each of the alternatives were compared to the two development scenarios, not to the Preservation Alternative/Revised Project. CEQA requires that alternatives be compared with an identified project; the Draft EIR did not perform the necessary analysis. As noted, the Preservation Alternative was discounted due to excessive wind effects; the necessary studies have not been performed to adequately analyze this impact and feasible mitigation and alternatives have not been analyzed or considered.

II. CEQA Findings and Statement of Overriding Considerations

The lead agency cannot merely adopt a statement of overriding considerations and approve a project with significant impacts; it must *first* adopt feasible alternatives and mitigation measures. (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 185.) *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, held CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible. As explained by the California Supreme Court in *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 124, "Under CEQA, a public agency must . . . consider measures that might mitigate a project's adverse environmental impact and adopt them if feasible. ([Pub. Res. Code] §§ 21002, 21081.)" The Court reiterated "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures."

As discussed above, feasible mitigation and alternatives have not been fully considered or analyzed for the Project's admittedly significant impacts; the Findings and Statement of Overriding Considerations are not supported by substantial evidence. (*Ibid*; see also Citizens' Appeal Packet, Exhibit E: Goldfarb & Lipman 1/2/15; SMAC 9/3/15, 9/10/15, 9/13/15; 9/16/15; Velasco 9/16/15; Wermer 9/16/15.)

As just one example of improper weighing of benefits against impacts prior to adoption of feasible mitigation measures and alternatives, Commissioner Low stated at the joint hearing that community benefits outweigh any shadow impacts on Boeddeker Park, yet the applicant conceded that the Project could be reconfigured to avoid any shadow effects. (Citizens' Appeal Packet, Exhibit C: 9/17/15 Joint Hearing Transcript, pgs. 297, 300.) And as discussed above, Citizens and others suggested feasible mitigation and alternatives for significant traffic, circulation and pedestrian impacts, shade and shadow effects, inconsistency with area plans and policies, and impacts to wind and open space.

III. Office Allocations

The public did not receive adequate notice prior to the actions taken at the joint hearing and were precluded from effectively participating in the public process. (Citizens Appeal Packet, Exhibit H; Letter of Notice Violation.)

The approval of the Office Allocations must be premised on adequate environmental review and was not.

The H1 Office Building is inconsistent with the Residential/Service Mixed Use (RSD) zoning designation. (Citizens Appeal Packet, Exhibit E: SMAC

9/3/15, pg. 1.) The proposed use is inconsistent with the Youth and Family Special Use District (SUD) zoning designation. (Exhibit E: SMAC 9/3/15, pgs. 1, 7-8; SMAC 9/10/15.) The proposal fails to mention the Youth and Family Special Use District nor does it consider the intent of the District designation or the land use restrictions placed on the SUD. (Exhibit E: SMAC 9/3/15, pg. 1.)

As discussed above, the open space designation is inadequate and incomplete; the approvals are in violation of and inconsistent with area plans, codes, zoning designations and regulations; the approvals are based on an inadequate and incomplete EIR and feasible mitigation measures and alternatives have not been fully considered; the findings are inadequate and incomplete and are not supported by substantial evidence. (*Ibid.*)

IV. Conditional Uses

The public did not receive adequate notice prior to the actions taken at the joint hearing and were precluded from effectively participating in the public process. (Citizens' Appeal Packet, Exhibit H; Letter of Notice Violation.)

The approval of the Conditional Uses must be premised on adequate environmental review and was not.

As discussed above:

- Necessary wind, shadow, height, massing, and traffic and circulation analyses have not been conducted;
- The approval constitutes spot zoning;
- The approval is inconsistent with area plans, codes, zoning designations and regulations;
- The approval is based on an inadequate and incomplete EIR and feasible mitigation measures and alternatives have not been fully considered;
- The approval will unnecessarily impact surrounding neighborhoods and result in the displacement of the Filipino community;
- The approval will hamper and jeopardize the development and establishment of the Filipino Cultural Heritage District;
- The approval will impact the aesthetic and cultural integrity of surrounding neighborhoods;
- The approval will obliterate the Youth and Family Special Use District;
- Open space and shade/shadow impacts have not been fully considered;
- The approval provides insufficient affordable housing;

- Inconsistent application of land use laws sets bad precedent for future development applications and jeopardizes the orderly development of San Francisco;
- The stated benefits of the conditional uses are inaccurate and are not supported by substantial evidence;
- The findings are inadequate and incomplete and not supported by substantial evidence.

(*Ibid*; see also Citizens' Appeal Packet Exhibit E: SMAC 9/3/15, 9/10/15, 9/13/15; Angelica Cabande 9/16/15; Lorna Velasco 9/16/15; Paul Wermer 9/16/15; Marlayne Morgan 9/16/15.)


Thank you,

Rachel Mansfield-Howlett
Attorney for Appellants

EXHIBIT C

Comment Letters Received After DEIR Review Period

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Goldfarb & Lipman LLP

January 2, 2015

via e-mail and fedex

Sarah B. Jones

Environmental Review Officer

San Francisco Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

Re: 5M Project Draft EIR (Case No. 2011.0490E)

Dear Ms. Jones:

Our firm represents the South of Market Community Action Network ("SOMCAN"). SOMCAN is a multi-racial, community organization that educates, organizes, and mobilizes immigrant and low-income South of Market ("SoMa") residents to fight for improvements to their quality of life by engaging in the decision making process that affects their neighborhood and greater San Francisco. The organization's mission is to build and support a strong, organized community that takes collective action to achieve social and economic justice and equity. SOMCAN works to address gentrification and displacement issues in SoMa and San Francisco.

On behalf of SOMCAN, we submit this comment letter on the Draft Environmental Impact Report ("Draft EIR") for the proposed 5M Project (the "Project") located at 925-967 Mission Street (the "Project Site") by Forest City Enterprises, Inc. (the "Applicant") in compliance with the California Environmental Quality Act (Public Resources Code §§ 21000 – 21189.3 or "CEQA") and Sections 15000 through 15387 of the California Code of Regulations ("CEQA Guidelines").

SOMCAN does not oppose development on the Project Site, but it has serious, significant and legitimate concerns regarding the increase in heights and the developable floor area permitted on the Project Site by more than two-and-one-half times what is currently permitted on the Project Site under existing codes and regulations. Such a dramatic increase in development potential would result in significant and unavoidable impacts throughout the SoMa community that are not fully disclosed, analyzed or mitigated in the Draft EIR. In addition, the Project fails to meet the City's standards for open space, affordable housing, and the Youth and Family Zone expansion planned under the City's Central SoMa Plan, and such deficiencies and inconsistencies are not addressed in the Draft EIR. Furthermore, the Draft EIR fails to contemplate a reasonable range of alternatives to the Project, neglecting to include

analysis of an alternative that is feasible to develop while meeting the needs of existing and future SoMa community residents and workers.

The following pages describe the above deficiencies in more detail. Because the Draft EIR contains such serious and significant errors and omissions, it must be revised to include significant new information or it will fail in its purpose as an informational document under CEQA. When "significant new information" is added to a CEQA document, the document must be re-circulated or the public will be deprived of a meaningful opportunity to comment upon the substantial adverse environmental effects of the Project or a feasible way to mitigate or avoid such an effect that the Applicant has declined to implement. (See CEQA § 21092.1; CEQA Guidelines § 15088.5 (a).) Therefore, the Draft EIR must be revised to adequately evaluate and fully disclose the Project's impacts, and then it must be recirculated.

I. The Draft EIR uses a misleading project description and confusing undefined terms.

An EIR must be "organized and written in a manner that will be meaningful and useful to the decision makers and the public." (CEQA § 21003.) To fulfil its role as a document that is meaningful and useful to decision makers and the public, an EIR must include a clean project description. "An accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193.) Without a clear project description, members of the public and reviewing agencies cannot make definite or consistent comments, thus defeating the purpose of an EIR "as a vehicle for intelligent public discourse." (*Id.* at 197.)

Unfortunately, the Project's Draft EIR relies on descriptions of multiple possible projects rather than a finite description of a single project. The Draft EIR's Project Description introduces two development schemes that may constitute the Project. The Project Description discusses both an "Office Scheme" (which includes 871,900 gross square feet of office space and 914 dwelling units) and a "Residential Scheme" (which includes 598,500 gross square feet of office space and 1,209 dwelling units). As an initial matter, the names for the different schemes are misleading, because the Office Scheme includes a significant level of residential development, and the Residential Scheme includes a significant level of office development. In addition to the fact the schemes' names obscure the type of the development that they include, the Draft EIR compounds the problem by switching between the two schemes in its analysis. In some instances, only the Office Scheme is analyzed, while in other places, only the Residential Scheme is analyzed. This makes it difficult for decision makers or the public to consistently understand which development scheme is being analyzed. Worse, it is impossible to know what the ultimate impacts of the Project will be, because there is no definite Project.

Furthermore, in Table-S-1 the Project Description characterizes each Project impact as "LTS," "SU," or "S" without explaining what these terms mean, annotating the table, or defining these abbreviations in the Draft EIR Glossary. Although experienced reviewers can deduce that the abbreviations likely refer to "less than significant," significant and unavoidable," and

“significant” with reference to the Project’s impacts, this may not be clear to members of the public, and it should not be left to readers to guess the meaning of information included in the Draft EIR.

Because the Project Description (a) uses misleading terms to describe the Project’s potential development schemes, (b) fails to include a finite definition of the Project, and (c) uses unclear and undefined terms, the Draft EIR cannot fully serve its purpose to foster intelligent discussion about the Project’s impacts. Therefore, the Draft EIR should be revised and recirculated.

II. The Draft EIR ignores the Project’s reasonably foreseeable growth-inducing impacts and underrates the Project’s cumulative impacts.

If approved, the Applicant’s request that the Project Site be rezoned to increase the height and intensity of development permitted on the Project Site by two-and-one-half times – without regard to the numerous regulatory documents that would otherwise control development on the Project Site – would set a precedent for spot zoning land in SoMa to allow dramatic increases in development. This precedent, combined with the economic pressure to redevelop existing uses that the Project would contribute to, amounts to a growth-inducing impact that the Draft EIR does not discuss.

In *Stanislaus Audubon Society, Inc. v. County of Stanislaus*, 33 Cal. App. 4th 144, the Court of Appeal rejected the lead agency’s claim that development of a golf course would not induce substantial growth because agricultural zoning would prevent the conversion into residential uses of adjacent land. The court required an EIR to analyze growth inducing impacts, reasoning that “zoning is subject to change . . . rezoning and general plan amendments could be approved by the planning commission and board. [T]he record before us contains no assurances that the area surrounding the project will not one day be rezoned . . . thus permitting the residential development. . . .” (*Id.* at 157.) Similarly, the Project’s Draft EIR includes no assurances that the area surrounding the Project Site – area that currently includes rent controlled and affordable housing, office space for nonprofits and community organizations, and production, distribution, and repair (“PDR”) jobs – will not be rezoned to permit redevelopment and displacement of existing residents and uses. Despite this reasonable foreseeable growth-inducing impact, the Draft EIR fails to adequately address this issue or provide mitigation to alleviate the Project’s potential growth-inducing impacts.

If the Project displaces rent controlled and affordable housing and PDR jobs, it would run counter to the City’s stated goals of preserving such resources via the recent Eastern Neighborhoods rezoning effort. Such displacement could foreseeably result in environmental impacts, because affordable housing and PDR jobs displaced by the Project would relocate to less expensive, and less developed, areas further from the Project Site. This would result in increased environmental impacts by inducing growth in less developed areas and creating the need for additional commuters as the displaced residents and workers travel back to SoMa as

part of their daily routines. However, the Draft EIR does not address these indirect impacts caused by the Project.

This problem is exacerbated by the fact that the Draft EIR does not fully disclose the Project's cumulative impacts. The Project Description includes a table of projects that the Draft EIR claims are "reasonably foreseeable" in the vicinity of the Project Site. However, the project list has not been updated since 2012. In the intervening years, SoMa – like all of San Francisco – has been subjected to a tremendous uptick in development pressure and applications to increase the development potential of property in the vicinity of the Project Site. By only considering the impacts of projects proposed prior to 2012, the Draft EIR understates the future conditions that will exist at the time of Project Completion, which creates the appearance of fewer cumulative impacts.

In addition, as explained above, the Draft EIR does not adequately address the displacement of rent controlled and affordable housing, nonprofit office space, and PDR jobs that would likely occur as a result of the Project. Because these impacts are not addressed, the Draft EIR also fails to account for how the Project would contribute to cumulative impacts caused by other reasonable foreseeable projects in the vicinity of the Project Site.

A cumulative impact analysis that understates the severity and significance of cumulative impacts "impedes meaningful public discussion and skews the decision-maker's perspective concerning environmental consequences of a project, the necessity for mitigation measures, and the appropriateness of project approval." (*Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal. App. 3d 421, 431-32.) The Draft EIR's cumulative impacts analysis makes this very mistake. As a result, the Draft EIR should be revised and recirculated so that the public and decision-makers are informed about the growth-inducing and cumulative impacts that would result from the Project's development.

III. The Draft EIR fails to analyze the Project's significant impacts on open space.

Under the Office Scheme, the Project would introduce 2,084 new residents to SoMa and provide only 44,600 gross square feet (or slightly less than half an acre per 1,000 residents) of open space. Under the Residential Scheme, the Project would introduce 2,757 new residents and provide only 62,100 gross square feet (or slightly more than half an acre per 1,000 residents) of open space. According to the Recreation and Open Space Element of the City's General Plan, there is an average of 5.5 acres of open space per 1,000 residents in San Francisco, which is well below the 10 acres of open space per 1,000 residents in cities called for by the National Park and Recreation Association. Policy 2.1 of the General Plan calls for the City to "increase the per capita supply of public open space within the City," which means that projects should provide more than the existing 5.5 acres of open space per 1,000 residents where feasible. Although the population density and development intensity of SoMa may reasonably preclude 5.5 acres of open space per 1,000 residents, the half-acre of open space proposed by the Project is woefully inadequate. Because the Project is providing so little open space on the Project Site, it is

reasonably foreseeably that the Project will increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated, which is a significant impact that the Draft EIR fails to disclose or mitigate.

The Draft EIR also touts the 34,450 gross square feet of privately-owned publicly-accessible open space that the Project proposes to provide on the roof of the existing Chronicle Building. While providing publically-accessible open space is a commendable goal, the Draft EIR does not include any mandatory measures for the Applicant or future property managers to maintain access to this open space. For a rooftop open space to be accessible to the public, it must have elevator access from the street; however, the Draft EIR does not require ongoing maintenance and service of such a feature. Without a mandatory mitigation measure providing for ongoing public access to this open space, the Project should not be able to claim credit for the 34,450 gross square feet as "public" open space. The Draft EIR should be revised to require ongoing public access for the rooftop open space, or, preferably, provide additional ground floor public open space.

The Draft EIR also fails to disclose the wind and shadow impacts from the Project on the open space that it proposes to provide. If the proposed public open space is cold or inhospitable, then the Applicant should not be permitted to claim credit for providing a public benefit.

Similarly, the Draft EIR does not fully discuss the impacts during construction with regard to air quality and noise on open spaces in the vicinity of the Project Site. Because the Draft EIR does not fully analyze the Project's impacts on open space resources or mitigate the Project's impacts, the Draft EIR fails in its purpose as an informational document. Therefore, the Draft EIR should be revised and recirculated.

IV. The Draft EIR fails to analyze the Project's compliance with existing codes and regulations.

The Draft EIR claims that the Project would not result in a significant impact related to land use or shadows because the Project would be consistent with the General Plan, zoning codes, and shadow regulations despite the fact that the Project directly conflicts with the existing provisions of these codes and regulations. Instead of disclosing the impacts that would result if the Project were implemented under the currently-applicable codes and regulations, the Draft EIR analyzes the Project's impacts under proposed amendments to the City's codes and regulations – amendments that the Applicant has tailor-made for the Project so that the City may spot-zone the Project Site into compliance. The Draft EIR's discussion obscures the fact that the Project requires multiple amendments to the General Plan and the zoning code to even be permissible, to say nothing of its inconsistency with the goals, policies, and programs of relevant City documents. The Draft EIR also leaves out a meaningful discussion of the City's Central SoMa Plan and the recently-enacted Proposition K, which was passed by San Francisco voters to ensure a balance of affordable housing.

It is prejudicial to the public to publish the Draft EIR with the claim that the Project is consistent with the City's land use regulations when significant amendments to the applicable regulations are required. If the Draft EIR wants to claim that it is consistent with applicable local laws, then the General Plan and zoning ordinance should be amended to permit the Project before processing the Applicant's request. Otherwise, the Draft EIR should disclose that it is inconsistent with existing law and discuss the impacts that result from changing the laws in a way that would permit the Project.

a. *Affordable Housing Policies in General Plan and Proposition K*

The Draft EIR claims that the Project is consistent with the Housing Element of the City's General Plan because the Project would provide new housing in San Francisco, and the Housing Element calls for building as much housing – of any type – as possible. This analysis is incomplete. The Housing Element discusses more than housing production; it also address affordable housing production targets to meet the City's Regional Housing Need Allocation. Before concluding that the Project is consistent with the Housing Element of the General Plan, the Draft EIR should analyze the amount and level of affordable housing units that the Project would create and how this complies with the City's policies as expressed in the Housing Element.

Similarly, the Draft EIR does not discuss the impact of the Project's failure to comply with Proposition K's standard of reserving at least 33% of new housing units for affordable housing. If the Project does not contribute to its share of affordable housing, it will increase the development pressure on other sites that will need to develop to meet the City's goals. Given the scale of development that is proposed, the Project's failure to meet Proposition K's standard will make it significantly more difficult for the City to meet its 33% goal through other smaller developments. Yet nowhere does the Draft EIR address the impact of the Project's failure to comply with Proposition K or the growth-inducing impacts that may foreseeably result from such non-compliance. Not only does the Project fail to comply with Proposition K, but the Draft EIR does not demonstrate that the Project even includes sufficient affordable housing to offset the housing demand that the Project's development will create.

The Draft EIR should be revised to address the impact of the Project's non-compliance with the City's affordable housing goals and policies, or, preferably, the Project should be modified to comply.

b. *Area Plans*

The Project as currently proposed is inconsistent with the South of Market Area Plan. Policy 7.1 of the South of Market Area Plan requires "height and building intensity limits for new developments which would preserve the existing scale." As currently proposed, the Project is requesting to be spot-zoned to increase the height and intensity on the Project Site from 160 feet to 455 feet (as measured for purposes of the City's zoning ordinance; the actual maximum

proposed building height is even higher, 470 feet), with significant portions of the Project Site permitted to develop at heights of 180, 200, 420 and 455 feet, all well in excess of the current height limits. If new buildings develop at the heights proposed, the Project would dwarf the existing buildings between the Project Site and Sixth Street on Natoma Street, in violation of the policy to “preserve the existing scale” of SoMa. Similarly, Policy 7.4 of the South of Market Area Plan requires projects to “preserve individual architecturally and/or historically significant buildings which contribute to the area’s identity, give visual orientation, and which impart a sense of continuity with San Francisco’s past.” Not only would the Project demolish historical buildings on the Project Site, but its eight-year construction period puts other nearby historical resources at risk. Despite these apparent inconsistencies, the Draft EIR concludes that the Project “would not obviously conflict with [the South of Market Area Plan’s] policies and objectives.” By concluding the Project is not inconsistent with applicable and proposed land use plans, despite evidence to the contrary, the Draft EIR understates the Project’s impacts and fails as an informational document under CEQA.

Similarly, the Draft EIR does not include any meaningful discussion of the Project’s consistency with the City’s Draft Central SoMa Plan, which is intended to serve as the City’s guide to addressing issues related to land use, building size and heights, transportation, the public realm (including sidewalks and open space), preservation of historic buildings and environmental sustainability in the vicinity of the Project Site. Although the Central SoMa Plan includes a carve-out for the land use designations on the Project Site pending resolution of the application for the Project, the Draft EIR should not be excused from analyzing how the Project complies, or fails to comply, with the Central SoMa Plan’s other regulations. The Project’s Notice of Preparation (“NOP”) claimed that the Draft EIR would review the Central SoMa Plan and “identify possible conflicts.” The Draft EIR, however, concludes that the Project is “an independent project that would develop its own development controls” and declines to address how the Project relates to the policies and objectives of the Central SoMa Plan.

More specifically, the Draft EIR makes no mention of the expansion of the existing Youth, Family and Senior Zone contemplated in the Central SoMa Plan, nor does it discuss the Project’s impact on the existing Youth, Family and Senior Zone in the vicinity of the Project Site. The Project’s development intensity creates physical impacts disclosed in the Draft EIR – such as air quality impacts and increased traffic volumes – that pose physical health and safety risks to the children and seniors meant to benefit from the Youth, Family and Senior Zone, yet the Draft EIR is silent as to the Project’s impacts in this area.

c. Other Plans and Projects

In addition to its inadequate discussion of Area Plans applicable to the Project Site, the Draft EIR ignores numerous other plans and projects that are relevant to a discussion of the Project’s impacts. Specifically, the Draft EIR should be revised to analyze the Project’s consistency with the following City documents:

- 4th and King Streets Railyards Study
- Better Market Street
- ENTrips Eastern Neighborhoods implementation plan
- Green Connections
- Historic Resources Survey Program
- Mission Street Study
- SB 375 & the Bay Area Sustainable Communities Strategy
- SoMa Streetscape Plan
- Sustainable Development Program
- Transportation Sustainability Program
- Western SoMa Community Plan
- Better Streets Plan
- East SoMa Plan
- Transit Center District Plan
- WalkFirst Project

Because the Applicant is requesting that the Project Site be rezoned with special rules that apply only to the Project Site, the Draft EIR must inform the public and decision makers about the requested spot zoning's impact on the City's land use policies. The Draft EIR should be revised to include such a discussion, and then it should be recirculated.

d. Shadow Regulations

The Draft EIR acknowledges that the Applicant is requesting that the Planning Commission raise the threshold for cumulative shadow limits for Boeddeker Park, but it fails to disclose that without this special approval, the Project would result in a significant impact related to shadows cast on this public space. The Draft EIR also omits several open spaces that are heavily used by the public – including UN Plaza, Hallidie Plaza, Jessie Square and Yerba Buena Park – from its analysis, simply because these spaces are not under the jurisdiction of the City's Recreation and Parks Department. The Draft EIR also fails to include shadow diagrams that illustrate the extent of the Project's impact on these publicly-accessible open spaces. Although the Project is likely to create significantly uncomfortable conditions in each of these open spaces, the Draft EIR incorrectly concludes that the Project would not result in a significant impact as a result of shadows cast on parks and recreational facilities. The impact to these publically-accessible open spaces is relevant, regardless of who owns and operates the amenity. As discussed above, the open space proposed as part of the Project is inadequate, both in terms of its quality and with regard to the amount proposed to be provided. Accordingly, existing and new residents and workers will rely on the existing open spaces in the vicinity of the Project Site. Therefore, the quality of these open spaces is even more important than it would be otherwise, and the impact is especially significant.

Because the Draft EIR ignores the City's affordable housing policies, land use regulatory documents, and shadow regulations, it does not give readers the ability to assess the Project's

impacts on land use in SoMa or if such impacts are adequately reduced by the proposed mitigation program. Therefore, the Draft EIR should be revised and recirculated.

V. The Draft EIR does not fully disclose the Project's traffic impacts.

As discussed in more detail below, the Draft EIR discloses the fact that the Project would result in significant and unavoidable impacts with respect to traffic, however, the Draft EIR fails to provide a complete analysis of the Project's full traffic impacts and it fails to mitigate the impacts that it does disclose.

The Draft EIR discloses that the Project will result in significant impacts at four intersections in the vicinity of the Project Site and claims that such significant impacts are unavoidable. There are two issues with this claim.

First, the Draft EIR likely understates the Project's significant impacts because it uses an artificially small study area for its traffic analysis. The Draft EIR only analyzes impacts to 21 intersections. Although the Draft EIR discloses a significant impact to the intersection of Fourth Street and Howard Street, it does not analyze impacts to the next intersection to the east at Third Street and Howard Street. Similarly, the Draft EIR discloses impacts at three intersections along Sixth Street, at Folsom Street, Bryant Street, and Brannan Street without analyzing impacts to Seventh Street along Folsom Street, Bryant Street, or Brannan Street and without analyzing impacts to the I-280 on- and off-ramps. When a significant impact occurs at the edge of a project's study area, the study area should be expanded to determine if other adjacent intersections are significantly impacted. Without this information, the Draft EIR fails to provide substantial evidence that it has disclosed the true extent of the Project's significant impacts.

Second, the Draft EIR includes no mitigation measures to reduce the severity of the significant traffic impacts that are disclosed and simply states the conclusion that "no feasible mitigation measures were found to mitigate significant impacts for the affected intersections." The Draft EIR discusses why providing additional travel lane capacity is not feasible, but it does not address other potential strategies for reducing the Project's impact, such as reducing the amount of trip-generating uses, providing funds to enhance public transportation service in the area, or implementing a Transportation Demand Management ("TDM") Plan that is specific to the Project. The Draft EIR discusses a TDM Plan in the context of reducing trips to alleviate the Project's significant air quality impact, yet it does not include any analysis in the transportation section of such a Plan's ability to reduce trips or mitigate the Project's significant traffic impact. This flaw demonstrates that the Draft EIR's analysis is incomplete, and the Draft EIR should be recirculated after such omissions are corrected to properly inform the public and decision-makers about the Project's potential to result in impacts.

a. Vehicle Queuing

Improvement Measure I-TR-A in the Draft EIR gives the owner/operator of the Project the responsibility to “ensure that recurring vehicle queues do not occur on Minna or Howard Streets adjacent to the site.” For purposes of the Draft EIR, a vehicle queue occurs when one or more vehicles destined for the Project Site block the sidewalk or travel lanes for “a consecutive period of three minutes or longer on a daily and/or weekly basis.” However, this Improvement Measure is illusory and includes no practical requirement with which the Applicant must comply to reduce the Project’s impacts. If such a queue occurs, the Planning Department must notify the Applicant in writing and request that the Project’s owner/operator hire a transportation consultant to evaluate conditions at the Project Site “for no less than seven days.” Following preparation of a monitoring report – for which no timeline is required by the Improvement Measure – the Planning Department must determine that a “recurring queue” exists - which is an undefined term – before giving the Project owner/operator 90 more days from the date of the determination to abate the queue. The Improvement Measure fails to include any measures that the Applicant shall take to abate the queue, and it includes no consequences should the queue continue.

An Improvement Measure without definite standards, actions, or consequences is insufficient to reduce a project’s potential impact. (*See Federation of Hillside & Canyon Associations*, 83 Cal. App. 4th at 1261.) Here, should a vehicle queue occur, the Improvement Measure merely requires the Applicant to monitor conditions that would constitute a significant impact to traffic, transit, bicycle, and pedestrian operations in the vicinity of the Project Site, but the Draft EIR fails to include any definite steps to reduce the significance of this impact. Therefore, Improvement Measure I-TR-A should be revised with definite standards and requirements to prevent a significant impact to traffic, transit, bicycle, and pedestrian operations.

b. Construction Traffic Impacts

The Draft EIR discloses that Project construction will result in significant and unavoidable impacts to streets, transit service, and pedestrian and bicycle circulation throughout the eight year construction period. It is, however, impossible to fully evaluate the Project’s impacts with the information presented in the Draft EIR. For example, the Draft EIR says that “there would be an average of about 200 construction workers per day at the project site, with a greater number during peak periods of construction.” The Draft EIR does not disclose how many construction workers constitute a “greater number,” nor does the Draft EIR disclose how often or how long “peak periods of construction” would occur. Despite this lack of information, the Draft EIR concludes that construction workers commuting to the Project Site on public transit would not impact transit facilities and that workers driving to the Project Site could be accommodated “without substantially affecting area wide parking conditions.” The Draft EIR does not provide substantial evidence, or any evidence at all, to support this conclusion. Accordingly, the Draft EIR’s analysis of this issue is inadequate. (*See Environmental Council of Sacramento v. Board of Supervisors* (1982) 135 Cal. App. 3d 428 (a decision-maker cannot conclude that an impact is less than significant without substantial evidence in the record to

support such a finding.) Similarly, the Draft EIR provides inadequate mitigation for this impact, claiming in Mitigation Measure M-TR-10 simply that "the construction contractor shall include methods to encourage carpooling and transit access" without disclosing what methods may be used or if such methods result in secondary impacts that must be mitigated.

The Draft EIR says that construction traffic, including haul trucks and commuting construction workers, would use I-80/U.S. 101, Third Street, Howard Street, and Fourth Street to approach and depart the Project Site. These streets are already highly congested throughout the day, and especially during peak hours. The Draft EIR's only tangible mitigation provided to reduce this impact is provided in Mitigation Measure M-TR-10, which requires the construction contractor to retain traffic control officers during peak construction periods. At a minimum, the Project should be conditioned to prohibit construction vehicle movement to and from the Project Site during morning and afternoon peak traffic hours. This is especially important given the length of time that the construction period is expected to last. The Draft EIR should incorporate additional mitigation measures that limit the length of the construction period to a more reasonable time.

Because the Draft EIR does not disclose the Project's full traffic impacts and requires additional mitigation measures related to traffic and circulation, the Draft EIR should be revised and recirculated.

VI. The Project must mitigate the significant construction impacts disclosed in the Draft EIR.

In addition to the construction traffic impacts that are likely to occur, Project construction would result in significant impacts related to air quality. SoMa is home to many children and seniors, who are particularly vulnerable to dust and other pollutants that will enter the air as a result of Project construction.

The Draft EIR proposes Mitigation Measure M-AQ-3a to reduce the health risks associated with the emission of toxic chemicals during the eight-year construction period, and concludes that with implementation of mitigation, the Project's construction emissions would not result in a significant impact related to air quality. Unfortunately, Mitigation Measure M-AQ-3a includes numerous exceptions to the requirements proposed to mitigate the air quality impact. While Mitigation Measure M-AQ-3a may reduce the air quality impact to less than significant levels if implemented without the exceptions, the inclusion of such exceptions undermines the effectiveness of the mitigation program. Any mitigation measures included in an EIR must be "fully enforceable through permit conditions, agreements, or other measures" to reduce the significance of an impact. (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1261.) Because Mitigation Measure M-AQ-3a is not fully enforceable, it cannot reduce the Project's air quality impact to a less than significant level, and it is misleading for the Draft EIR to conclude that the Project would not result in a significant impact to air quality as a result of construction emissions. Accordingly, Mitigation Measure M-AQ-3a should be revised to remove the exceptions so that the Project's potential air quality

impact is truly mitigated. The most effective mitigation measure would be to reduce the Project's scale so that less construction is required and a significant impact related to air quality does not occur. Because the Draft EIR requires additional mitigation measures to reduce the Project's impacts, the Draft EIR should be revised and recirculated.

VII. The Draft EIR fails to consider a reasonable range of alternatives.

Under CEQA, the Draft EIR must evaluate a reasonable range of alternatives that could feasibly attain the basic objectives of the Project and are capable of eliminating any significant adverse environmental effects or reducing them to a less than significant level. (CEQA Guidelines, § 15126.6.) However, despite the fact that the Project would result in numerous significant and unavoidable impacts, the Draft EIR fails to include a reasonable alternative that the Applicant believes is feasible to implement and would satisfy community goals and objectives (the "Community Alternative"). The Draft EIR also continues the pattern of obscuring the Project's impacts by including a so-called "Preservation Alternative" as the environmentally superior alternative, despite the fact that the Preservation Alternative permits almost the same level of development as the Project, only slightly reduces the Project's impacts, and fails to include measures to preserve the scale or character of SoMa.

The Draft EIR identifies the Preservation Alternative as the environmentally superior alternative because it would maintain the Camelline Building on the Project Site, which eliminates the Project's significant impact regarding the demolition of historic resources. To compensate for the reduced lot area with which to build, however, the Preservation Alternative further intensifies development on the remainder of the Project Site. This means that the Preservation Alternative would continue to have significant and unavoidable impacts related to traffic, and it would generate regional pollutants at levels in excess of established thresholds. Furthermore, the Preservation Alternative includes no measures to preserve the existing character, mix of uses, or physical conditions within SoMa, all of which are likely to be altered by development at the scale proposed by the Preservation Alternative. By including an alternative that does little to reduce the Project's impacts, maintains most of the Project's proposed program, and threatens the existing character of SoMa – yet is called the Preservation Alternative" – the Draft EIR obscures the fact that it does not include a reasonable range of alternatives.

The Draft EIR should be revised to include an alternative similar to the Community Alternative, discussed below, which preserves existing housing and businesses, and minimizes displacement of surrounding uses, while reducing the Project's environmental impacts.

The Community Alternative would maintain the existing zoning on the Project Site, similar to the "Code Compliant Alternative" included in the Draft EIR. The current zoning was enacted for the site recently – in 2009 – as part of the City's comprehensive rezoning plan for the Eastern Neighborhoods. By changing the zoning for the Project Site without examining this context – and apart from the City's ongoing Central SoMa Plan effort – would amount to spot-zoning and create a significant land use impact, as discussed above. The Community Alternative would

remove this impact. As disclosed in the Draft EIR, the Code Compliant Alternative, which would reduce the size of the Project in the same way the Community Alternative does, reduces the number of intersections with a significant impact as compared with the Project, eliminates the Project's significant air quality impacts, and reduces the Project's scale so that it complies with existing and proposed land use regulations. Capping buildings at their current heights would also likely eliminate the wind and shadow impact that would result from implementing the Project as currently proposed. A smaller Project would also result in a reduced construction period, so that the Project's significant impacts during construction occur for a shorter duration. Although the intensity of development allowed under current zoning would still result in some significant impacts, SOMCAN and area stakeholders would consider supporting a project that maintains the current zoning.

The Community Alternative would comply with Proposition K and reserve at least 33% of the total residential units on the Project Site as affordable housing. Increasing the supply of affordable housing would bring the Project into compliance not only with the goals of Proposition K, but also with the General Plan. Creating more opportunities for Project workers to live on-site would also contribute to a reduction in vehicle and transit trips, further reducing the Project's significant impacts. This impact could be further reduced by increasing the ratio of housing to office space so that housing is a significant component of the Community Alternative. In addition to affordable housing, the Community Alternative would dedicate 20% of the ground floor retail uses and 20% of the upper story office uses to affordable space for non-profits, childcare providers, or artists for the life of the Project.

The Community Alternative would feature more robust mitigation measures to reduce the risk of pedestrian and automobile collisions caused by the Project's increased traffic and modified pedestrian routes.

Finally, the Community Alternative would include publically-available open space in much higher quantities than the Project as currently proposed with active spaces like playgrounds for children.

The Community Alternative would mitigate the many of the Project's impacts to the same or greater extent than the Code Compliant Alternative included in the Draft EIR. As disclosed in the Draft EIR, the Code Compliant Alternative still manages to satisfy or partially satisfy the Project's key objectives, which the Community Alternative would also do. The Community Alternative would also have increased community and political support as compared to the Project. Therefore, the Community Alternative should replace the Project as the proposed development for the Project Site.

As discussed above, the Draft EIR is deficient in numerous ways: it is misleading, it fails to fully disclose the full impacts of the Project, it includes inadequate mitigation, and it does not include

Sarah B. Jones
January 2, 2015
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a reasonable range of alternatives. At a minimum, the Draft EIR must be revised to correct these deficiencies and be recirculated. SOMCAN further requests that the Applicant and the City consider revising the Project to incorporate all features of the Community Alternative, as described above, to reduce the Project's significant impacts and gain community support, and provide a comparative study using the Community Alternative as one of the Project Alternatives so the public can understand how the environmental impacts of the Community Alternative compare to the Proposed Project.

Thank you for this opportunity to comment on the Project and the Draft EIR, and for the City's effort in preparing responses. In the meantime, please feel free to contact us if you would like to discuss these comments or the proposed Community Alternative in more detail.

Very truly yours,



ERIC S. PHILLIPS

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Christine D. Johnson, Planning Commissioner
Kathrin Moore, Planning Commissioner
Dennis Richards, Planning Commissioner
John Rahaim, Director of Planning
Angelica Cabande, SOMCAN Organizational Director
Joseph Smooke, SOMCAN Board Member

TO: Members of the Planning Commission

FROM: Save Our Soma (SOS)

Members of the Commission,

We, SOS, a group of neighborhood residents, are writing to comment on deficiencies contained in the draft EIR for the 5M development as well as the proposed plan itself. As a result of these serious and substantive deficiencies, we demand a halt to the tightly-scheduled review process for the 5M development in order to address numerous, significant issues ranging from incomplete research in the Environmental Impact Report (EIR) to direct conflicts with the San Francisco General Plan. At least three issues in particular must be addressed. First and foremost, the potential grant of the Fifth and Mission Special Use District (SUD) represents an arbitrary and capricious instance of spot zoning which stands in direct conflict to the mandate of San Francisco General Plan. Second, although potential wind impacts created by the Residential and Office Schemes were evaluated, any inquiry into potential wind hazards created by the current version of the plan is non-existent. Lastly, the full transportation impact of the project has not been adequately considered, and must be evaluated.

The Revised Plan, to be presented on July 23, requires new technical analysis completed by qualified professionals, and presented to the Commission and the public for comment and response. The current schedule of September 6 for approval of the EIR Certificate and Conditional Use must be postponed until a complete technical analysis of the Revised Plan has been presented accurately and clearly illustrated.

I. The Fifth and Mission Special Use District is unjustified and enables development not in keeping with the character of the SOMA neighborhood.

Objective 1.2 of the East SOMA portion of the San Francisco General Plan reads: "strong building design controls . . . should ensure that these new buildings are compatible with their surroundings" so as maintain the character of the neighborhood. A grant of the requested SUD is a direct abrogation of those controls. As stated on page 146 of the Draft EIR, "the proposed buildings on the project site would be up to approximately 300 feet taller than buildings surrounding the site." Such a variation cannot be allowed to define "compatible with its surroundings." The EIR points to other large buildings in the vicinity to the East such as the Intercontinental Hotel, which itself was granted an exception to height limitations, and structures such as the PG&E Building which, although geographically close, are not part of the SOMA neighborhood, and consequently are zoned differently. Accepting those structures as relevant points of comparison would effectively open SOMA to the unbridled expansion of downtown.

"The undifferentiated spread of tall buildings without appropriate transitions, or without deference to the larger patterns, iconic and irreplaceable relationships, or to key views of defining elements of the area's landscape, can diminish and obscure the city's coherence and the collective connection of people to their surroundings." (Draft Central SOMA Plan, p. 30)

The 5M project is planned for development in a C-3-S district. In such districts, floor area ratio (FAR) is limited to 5:1. This ratio can be expanded to 7.5:1 to accommodate increased on-site affordable housing under section 124(f) of the Planning Code. 5M, while only meeting the requirements for a fraction of this exception, would require a special treatment via the SUD to allow a FAR of 11:1, **more than double** the maximum original ratio for the zoning district. Furthermore, as stated on page 168 of the EIR, housing density in the neighborhood currently stands at 283 units/acre. Approval of the Fifth and Mission SUD would allow for **double** that ratio over the four acres the 5M project would occupy. Effective city planning principles support locating projects on sites that can absorb the higher densities into the surrounding neighborhood, but that is not the case here. We fail to see any justification for these gross exceptions to the city zoning code. These enormous variations from well-established standards would have a profound, negative impact on the surrounding neighborhood, and provide further evidence that the proposed deviations from established Planning Code regulations are not in keeping with the character of, and would be wholly detrimental to, the SOMA neighborhood.

Page 114 of the EIR reads "with implementation of the Fifth and Mission SUD and the project specific D4D the project would not obviously conflict with the planning code." But this is not the case without the SUD, as it clearly and obviously conflicts with the portions of the planning code enumerated above, as well as various others detailed in the report. (EIR, p. 71-72.) The proposed SUD is an unjustified exception to well-justified rules in return for which the developer confers insufficient relative benefits to the City.

Furthermore, such a grant incentivizes future developers to attempt to circumvent the provisions of the zoning code with further unjustified SUDs. To allow the SUD would be to undermine the established planning standards and practices and prove detrimental to the City as a whole. Construction of this magnitude in a neighborhood without structures of comparable size, and for no justifiable reason, opens the door to practically unlimited expansion of downtown into SoMa. For precedent, one need look no further than Vancouver, British Columbia, a city that provided the example we followed in the recent rezoning of the area around the under construction Transbay Terminal, to see what will follow should the fifth and mission SUD be approved. Within months of rezoning the frontage lots along major thoroughfares Vancouver has seen assemblages of estate size lots and smaller residential parcels to permit the type of high density structures previously seen only in that city's downtown. The differences in land values supported by the height /bulk ratio proposed by the project and the design criteria that apply to the rest of the SOMA neighborhood offer an incentive for assemblages that will trivialize the SOMA plan that has been years in the making.. The justifications for the Fifth and Mission SUD must be reevaluated with these considerations in mind.

II. Updated wind and shadow impacts which the Preservation Alternative will create have not been adequately analyzed, quantified and formally presented to the public based on the factual outcome of technical studies that must be performed by professionals.

"Buildings that are much taller than their surrounding buildings intercept and redirect winds that that might otherwise flow overhead, and bring them down the vertical face of the building to ground level, where they create ground-level wind and turbulence. These redirected winds can be relatively strong and also relatively turbulent, and can be incompatible with the intended uses of nearby ground-level spaces . . ." (EIR, p. 456.)

Although these effects have been evaluated under the Office and Residential Schemes, there has been no such evaluation and study assessing the revised design of the project, which most closely resembles the Preservation Alternative, which is noted in the EIR on page 478 as one "that [was] considered but ultimately rejected due to the potential to generate exceedances of the wind hazard conditions." It is our position that wind tunnel tests of the proposed alternative must be conducted prior to any formal approval of the plans in order to clearly understand why this alternative was initially rejected and to develop effective mitigation measures that will make this alternative acceptable.

Of particular concern is a statement on page 630 of the EIR: "consultation with a qualified technical expert and possible wind tunnel testing may be required to confirm that the Preservation Alternative would not result in new wind exceedances." The report indicates that the Alternative was considered and rejected, and that a further inquiry should be a condition of its application. Our position is thus supported by the professional analysis performed on this project, and a wind tunnel test must be performed to ensure compliance with the City Planning Code.

Furthermore, it is worth noting that, under the Residential and Office analyses, "the locations where new [wind speed] exceedances would be created are clustered primarily on the interior of the site (particularly along Mary Street), but also along the periphery of the site." (EIR, p. 483.) Also, "under the Office Scheme, the comfort criterion would be exceeded at all tested locations at Mary Court." (Ibid.) This is significant because a substantial amount of the public open space created by the development will be located at these sites. If the wind redirection of the Preservation Alternative is at all similar, the significant wind-related impacts of the project will be felt most prominently on space held open for the public, devaluing the benefit of the required creation of the space. This is entirely inconsistent with the purpose of having a public open space requirement, and must be evaluated by professionals so that effective mitigation measures can be developed to correct any unacceptable adverse impacts.

The impacts of shadows cast by the proposed development have also not been accurately and clearly illustrated. Section 295 of the City Planning Code forbids issuance of building permits authorizing the construction of any development which would cast shadow upon property under the jurisdiction of the Parks and Recreation Commission. Because the amount of additional shadow created would cause the cumulative shadow limit for Boddeker Park to be exceeded, a park usage study must be performed to corroborate the EIR's conclusions, and details presented.

As stated on page 629 of the EIR, the preservation alternative would cast shadow on Boeddeker Park. While the EIR states that the impact of this shadow would be "insignificant," it produces no data, studies or evaluation criteria which support its conclusions. A study which clearly evaluates, illustrates and quantifies shadow by time of day season-by-season is required. Additionally, the argument presented is primarily that the shadow would be cast upon the park entrance in the morning, and thus will be insignificant. However, this is clearly ineffective as a technical inquiry into the impact of any potential shadow. A study of usage of the park must be also performed to confirm the conclusions of the EIR.

In addition, the Revised Plan with its increased height and bulk potentially casts shadows on many other public spaces and a professional study must be produced to evaluate, quantify and illustrate the impact of these shadows at all hours and seasons, with the results made public. These spaces include, but are not limited to: UN Plaza, Halladie Plaza, Tutubi Plaza, Yerba Buena Gardens, Powell Street Cable Car turnaround, Market Street spaces activated by the Better Market Street Plan. Where unacceptable adverse impacts on these spaces are identified, mitigation measures must be developed that successfully offset any adverse impacts.

III. The transportation impact of the project has not been sufficiently evaluated in light of the upcoming alterations to Market Street.

As reported in the San Francisco Chronicle¹ as recently as June 11th, two significant changes to the layout and traffic patterns on Market Street are currently planned, both with potential severe, adverse functional and environmental impacts on traffic in the 5M area. The "Safer Market Street Plan" will prevent private automobiles from entering Market Street between 3rd and 8th streets, reducing traffic on Market Street by up to 30-50%.² The question must be asked: where will this traffic go? The answer will invariably be onto the side streets, including those surrounding the 5M block causing congestion well beyond what is accounted for in the EIR. "The Better Market Street Plan," currently in development also seeks to improve Market Street and surrounding areas via "changes to roadway configuration and private vehicle access; traffic signals; surface transit, including transit-only lanes, stop spacing, service, stop location, stop characteristics and infrastructure; bicycle facilities; pedestrian facilities; streetscapes; commercial and passenger loading; vehicular parking; plazas; and utilities."³ The transportation impact of the 5M development was assessed without consideration of these two substantial alterations to a major thoroughfare in its direct vicinity. Accordingly, the 5M EIR is incomplete and further analyses must be conducted to ensure that the project will not unacceptably burden transportation in surrounding areas in light of the actual conditions that will exist before, during and after the planned time of construction.

The Preservation Alternative would add an estimated 548 vehicle trips during the peak transportation hour. (EIR, p. 624.) Traffic conditions surrounding the building site are already strained, and the potential impact of the proposed alterations to Market Street will further exacerbate their condition. It is necessary that the potential effect of the 5M development on transportation in the surrounding area be reviewed in light of these substantial changes. The compounding impacts of 5M and the Market Street plans will create a significant transportation problem for the network of streets surrounding the changes, and further traffic analyses must be undertaken to assess their relative impacts. To that end, the construction plan must be also be reviewed in light of these changes to ensure that any finalized version has a means to adequately monitor compliance with the relevant City Codes.

¹ <http://www.sfgate.com/bayarea/article/In-safety-move-turns-onto-Market-Street-to-be-6319882.php>

² https://www.sfmta.com/sites/default/files/projects/2015/Safer%20Market%20Street%20FAQ_1.pdf, p. 2

³ <http://www.sf-planning.org/index.aspx?page=4003>

IV. Insufficient and ineffective mitigation measures have been proposed for the traffic impacts identified in the transportation study.

As is already well-known, the project area is already often *severely* congested with traffic. The EIR adds that: "Under 2040 cumulative conditions 17 of the 21 study intersections are projected to operate at LOS E or LOS F conditions ([compared to 9 under present conditions])." (EIR, p. 350.) Study intersection Level of Service (LOS) is rated on a scale from A (the best conditions, with free flowing traffic) to F ("LOS F [] indicates congested or overloaded conditions with extremely long delays." (Transportation Impact Report, p. 25.)) "[T]he proposed project, in combination with past, present and reasonably foreseeable development in San Francisco, would contribute considerably to significant traffic impacts at nine of the study intersections . . . and the significant cumulative impacts would be significant and unavoidable." (EIR, p. 353.) In brief, the 5M project will result in the worsening of 9 intersections⁴ from varying acceptable degrees of LOS to the unacceptable LOS F during the peak travel hour. Thus, the adverse impact on traffic in the surrounding neighborhood will be severe unless a feasible mitigation strategy is identified and funded by the developer.

"Overall, no feasible mitigation measures were found to mitigate significant, cumulative impacts for the affected intersections." (EIR, p. 352.) By approving this project the City would be resigning itself to the exacerbation of an already significant problem. Furthermore, the anticipated capacity increase on Muni will lead to a situation where there will not be significant space to offset the increase in person-trips generated by the project.

"Muni screenlines and subcorridors at or near 85 percent capacity operate under noticeably crowded conditions with many standees. Because each screenline and most sub-corridors include multiple lines, each with several vehicles during the peak hour, some individual vehicles may operate at or above 85 percent of capacity and are extremely crowded." (Transportation Impact Report, p. 35.) This 85 percent figure represents the established Muni capacity utilization standard. (Ibid.) Under either the Office or Residential Scheme projected for 2040, the most popular screenline in the area, the Northwest, will average a capacity of 87 percent during the peak hour. (EIR, p. 355.) Although the other screenlines will be operating below this standard, it is significant to note that the most popular lines will already be "extremely crowded," and therefore unlikely to be much use in offsetting the potential traffic impact. If the City hopes that the severe increase in traffic will be offset by public transit, it must re-evaluate its plan going forward.

The potential impacts of this project, even before consideration of the Better and Safer Market Street plans have been taken into consideration, will, without question, result in a glut of traffic congestion in what is already an extremely busy part of the City. It is unacceptable that the 5M project could be allowed to go forward without a funded plan in place to alleviate the immense congestion that even these conservative reports predict. The onus is on the Planning and Transportation departments to work together to prevent or, at the very least, satisfactorily mitigate the substantial negative impacts that

⁴ Fourth/Mission, Fourth/Howard, Fourth/Folsom, Fifth/Howard, Fifth/Folsom, Sixth/Folsom, Sixth/Harrison, Sixth/Bryant and Sixth/Brannan (EIR, p. 351-52)

are plainly foreseeable today, particularly in light of the potential grant of the Fifth and Mission SUD. If the City is to grant special permissions to the developer it must do so in a way that is keeping with its duty to the civic well-being and sustainable development, and thus it must produce and find funding for a plan to accommodate the significant increase in traffic if this project is to be approved.

V. The proposed pedestrian traffic and loading zone accommodations on Fifth Street will have a substantial, negative impact on vehicle traffic in the area, beyond what is identified in the EIR.

With regard to pedestrian traffic, the Residential and Office Schemes “would result in a significant impact at the east crosswalk and southeast corner of the intersection of Fifth/Mission Streets.” (EIR, p. 321.) As mitigation strategy, the EIR proposes widening the sidewalk on the eastern side of Fifth Street, which would “require removal of the northbound right-turn lane between Mission and Minna Streets.” The removal of this lane would create multiple traffic flow problems and is an entirely unacceptable solution.

First, as noted in the EIR, all traffic turning right onto Mission Street from Fifth Street would shift to what is presently the center northbound lane, creating delays. Second, because all right hand turns would have to occur from that lane, northbound bicycle traffic would be forced into the leftmost northbound lane to avoid the turning vehicles. The EIR states on page 330 that this “may result in a minor increase in vehicle-bicycle conflicts.” This is an understatement. It is our position that these changes create hazardous traffic conditions as bicycles shift across lanes to avoid being pinned in by turning vehicles, as well as a potential problem with flow as traffic in the left hand lane will have to slow to accommodate the presence of bicycles moving at reduced speed. These changes will create increased potential for collisions, and are therefore inconsistent with the City’s Vision Zero initiative to end traffic fatalities by 2024. Lastly, these changes would create a situation where three lanes traveling northbound are abruptly reduced to two as they cross Minna Street. This would result in increased lane changes as vehicles continue towards Mission Street, leading to further traffic delays.

Additionally, the 5M plan proposes changes to the sidewalk on the southbound side of Fifth Street to accommodate increased loading activity, which will lead to similar traffic and safety problems. The proposed changes, generally speaking, would widen the Fifth Street sidewalk on the southbound side from 10 to 18 feet between Mission and Howard Streets to accommodate several commercial loading bays. (EIR, p. 334.) This will produce a similar problematic result to the bicycle-vehicle conflict and traffic flow issues mentioned above. Because the dedicated right hand turn lane will be removed to widen the sidewalk, southbound vehicles attempting to turn right onto Howard Street will have to do so from what would otherwise be an exclusively southbound lane. Traffic will back up in a similar manner, and the potential hazard to bicyclists will be replicated.

To make these problems more pronounced, it is estimated that the 5M project “would generate about 309 deliveries/service vehicle trips per day on weekdays.” (EIR, p. 334.) So, in addition to generating additional slowdowns in the existing amount of traffic on Fifth Street, the proposed plan will also bring a significant amount of new traffic to the area, much of which will need to use Fifth street to access both the on-street loading bays and various on-site loading facilities. Coupled with the changes to traffic flow around Market Street discussed in Section III, a significant traffic problem on Fifth Street could be created.

Furthermore, this appropriation of street space to make a development more feasible is wholly inconsistent with the San Francisco General plan, which states:

“Like other public resources, streets are irreplaceable, and they should not be easily given up. Short-term gains in stimulating development, receipt of purchase money and additions to tax revenues will generally compare unfavorably with the long-term loss of public values. The same is true of most possible conversions of street space to other public uses, especially where construction of buildings might be proposed. A strong presumption should be maintained, therefore, against the giving up of street areas, a presumption that can be overcome only by extremely positive and far-reaching justification.⁵”

The 5M development does not provide the required justification. Although the street space is being repurposed as a pedestrian walkway, the utility it provides to the city is still being lost in the name of facilitating development. The redesign of this section of Fifth Street stands in direct contradiction to the mandate of the General plan, and cannot be allowed to go forward without a development of revised design that is not in contradiction with this mandate.

VI. Conclusion.

The 5M development's impact on the neighborhood has been insufficiently evaluated. The proposed Fifth and Mission Special Use District is an unwarranted instance of spot zoning which will compromise the aesthetic and cultural integrity of one of San Francisco's most treasured neighborhoods. It would grant special allowance for a structure which is totally inconsistent with the character of the neighborhood, cutting directly against the mandate of the San Francisco General Plan, while granting nothing of comparable value to the City in return.

Additionally, a necessary wind and shadow analysis, and a complete a full and complete transportation analysis have not been performed on the Revised Proposal. Because of the amendments to the 5M project, substantial further review is needed in order to verify the actual impact of the development on the surrounding environment. The 5M review process cannot progress without rectifying these oversights. Where significant and unavoidable adverse impacts are identified, appropriate mitigation measures must be identified to limit their significance as much as possible. These measures must be funded and enacted by the developer, so as to avoid an inappropriate burden on the City's taxpayers. As such, the City must halt the review process until such time as the full and total impact of the project, as well as any further steps that need to be taken, have been determined.

Sincerely,

Barbara and Saul Rockman
Jane Weil and Richard Fink
Hulya and Aydin Koc
Diana Sanders
Peter Hopkinson

⁵ http://www.sf-planning.org/ftp/general_plan/I5_Urban_Design.htm#URB_CON_2_8

TO: Members of the Planning Commission

As many of the city's various planning documents say, SOMA "is one of the most vibrant areas of the City," and we need to preserve its economic, physical, ethnic, and social diversity. Note that AARP considers it to be one of the best places in the country to retire; "SOMA is the fourth most livable neighborhood in the country." (AARP Bulletin, May 2015, p18). We see the imposition of this out-of-scale 5M project as destructive to the SOMA community.

From their own plans, the developers state that "5M is designed to protect city views, transition height from downtown to SOMA, and reduce wind impacts on nearby areas." However, the buildings are larger than anything within blocks. It doesn't serve as a transition; in its current form, it becomes a barrier. The most critical issue is the project's height and bulk, more than tripling the amount of condo and office space allowed under zoning regulations, and placing buildings better suited to the central business district in the midst of a fragile neighborhood. SOMA has taken the brunt of new building over the past decade, more than the rest of San Francisco combined—and new building has conformed to the zoning codes.

The 5M development is grossly out of scale with what currently exists. We strongly support a strategy that will blend a less intensive and intrusive development more smoothly into the SOMA community, an approach that considers scale. We understand the need to increase density in this and other areas of The City; however, in doing so, we need to maintain the diverse uses, occupants, and buildings that have made the area an attractive location for new businesses and residents. The planned 5M building heights will separate the existing community from downtown and increasingly encourage landlords to raise rents for apartments and commercial space. Even before this development is approved, one can see nearby buildings on Mission for sale and others closed because of rent increases. We ask the Planning Commission to demand a conforming plan that will meet the needs of increased housing and office space in the neighborhood without destroying it.

We are particularly concerned with the appropriation of a public traffic lane for private benefit.

One of the community benefits noted by 5M is the widening of sidewalks on the south side of 5th Street, a matter of pedestrian safety, especially with more than 5,000 people commuting to work to their new 5M offices on 5th Street. However, 5M proposes widening the sidewalk by 8 feet by taking out a traffic lane of a public street. Of the approximately 500 feet of the block between Mission and Howard, there are two alleys, about 35 feet wide, and 5M proposes to cut in three 60 foot, 8 feet deep commercial loading zones. Consequently, more than half of the proposed wider sidewalk is going to be narrower than what we

currently have. Furthermore, they plan Class 2 bike racks on the sidewalk, cutting out more sidewalk space. Rather than add 8 feet of sidewalk by taking a lane, insist they consider and adopt what the beautiful 560 Mission building did and set back the ground floor to provide more pedestrian walkway and access. Alternatively, instead of building to the lot line, demand the developer push the two new buildings on 5th Street back ten feet.

The elimination of a third lane on southbound 5th Street will only exacerbate the increasingly difficult traffic problems on 4th, 5th, and 6th. Their own, outdated, traffic study indicates that most of the intersections in the 5 block area are essentially failing at the present time. The Level of Service (LOS) is rated at E or F and they, themselves, admit that their building will only make the traffic problems worse—and they can't figure out how to mitigate it. Reducing the density of the site will avoid adding more than 500 cars during rush hour.

But eliminating that lane and putting in three commercial loading bays is not all they want to do to further disrupt traffic flow. They are also proposing two passenger loading zones that will block one of the remaining two lanes of traffic, reducing southbound 5th Street to a single lane during rush hour. Removing the lane that now includes commercial loading, passenger loading, and parking (all the things they want to replace by taking away the lane), also eliminates the dedicated right turn area that helps traffic flow from 5th onto Howard. And that's the traffic flow they want to encourage to reach the entry and garage of the office property. Furthermore, that lane would have served as a shared bicycle lane on 5th.

This appropriation of street space to make a development more feasible is wholly inconsistent with the San Francisco General plan, which states:

Like other public resources, streets are irreplaceable, and they should not be easily given up. Short-term gains in stimulating development, receipt of purchase money and additions to tax revenues will generally compare unfavorably with the long-term loss of public values. The same is true of most possible conversions of street space to other public uses, especially where construction of buildings might be proposed. A strong presumption should be maintained, therefore, against the giving up of street areas, a presumption that can be overcome only by extremely positive and far-reaching justification.

You should require an additional traffic study, especially since this one was developed prior to the proposed changes to traffic flow on Market Street. By reducing the density of the 5M development, the already-failing traffic problems may not be further exacerbated.

The City believes it got a good deal. We disagree. The promoted benefits are not real, but smoke and mirrors. As Jane Weil portrays in her letter to the Business Times a week or so ago, the 33% affordable housing is a magical number; it's actually 8.5%. Especially misleading is the boasting of 83 units of senior housing. All they offered is a narrow empty lot. How did they get to 83 units? Why not 150

units? It's only a lot, no plans for 83 units, no money for building 83 units. If the mayor believes 33% is the correct number, let him allocate the funding for building the 83 units of senior housing and make it a high priority for The City.

We are not asking for no development. We are merely asking that this be scaled back to fit reasonably in the neighborhood. Please reject the Special Use District and the spot zoning that will soon destroy SOMA. Do not kill a traffic lane. This project shows great indifference to the people of SOMA and their community. The Planning Commission can make a difference. Help us save the soul of SOMA.

Barbara and Saul Rockman
1160 Mission Street, Unit 2008
San Francisco, CA 94103

August 5, 2015

via email

President Rodney Fong
San Francisco Planning Commissioners
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development)
File No 2011.0409PCA
Initiation of General Plan Amendments

Dear President Fong and Planning Commissioners:

The SoMa Action Committee (S.M.A.C.) is a coalition of residents, community-based organizations and small businesses. We are writing to demand that the Planning Commission vote not to initiate the General Plan Amendments proposed for the 5M Development.

We respectfully submit this comment letter on the "General Plan Amendment Initiation" document ("Amendment document") dated July 30, 2015 for the proposed 5M Project (the "Project") located at 925-967 Mission Street (the "Project Site") by Forest City Enterprises, Inc. (the "Developer"). The Amendment document includes the "Planning Commission Draft Resolution Case No. 2011.0409PCA," which includes the proposed Ordinance.

I. KEY REASONS TO VOTE NOT TO INITIATE

This Planning Commission should vote not to initiate the General Plan Amendments because:

- 1. The proposed General Plan Amendments would create a second Financial District, which is not intended in the City's General Plan.** The Project Site is currently zoned under C-3-S Zoning, called "Downtown Support," and RSD Zoning, called "Residential/ Service Mixed Use." What the Developer is proposing with these General Plan Amendments would be completely out of scale with the intent of "Downtown Support" and "Residential/ Service Mixed Use. So much so that the proposed amendments to the General Plan would in effect create a second Financial District; **and**
- 2. Approving this General Plan Amendments would effectively allow the 5M Project to max out the large office allocation for the entire City.** If approved, nearly 85% of the City's office allocation will go to this single project; **and**
- 3. Each "Basis for Recommendation" in the General Plan Amendment document is invalid.** Each "Basis for Recommendation" listed is insufficient and

faulty. These pertain to office and retail use, housing, transit, and the goals of the General Plan; and

4. **The Developer has not presented to Planning a fully considered Development Plan that is consistent with the existing zoning (the “Code Compliant Project Alternative”).** The Code Compliant Project Alternative would not require General Plan Amendments. Only project alternatives complying with existing zoning should be considered; and
5. **The Central SoMa Environmental Impact Report (EIR) must include the 5M Project, inclusive of the pending Youth and Family Special Use District.** The Project is geographically embedded in the Central SoMa Plan Area, yet it is currently not included in the Plan Area. Carving the Project out to be evaluated exclusive of the community planning process violates the California Environmental Quality Act (CEQA) review for the Central SoMa Plan Area and constitutes Spot Zoning; and
6. **The impact of the 5M Project has not been evaluated within major, current and future traffic changes.** New traffic patterns are being implemented with the closing of Market Street to car traffic and the lane reduction on 5th Street. The 5M Project has not been evaluated with consideration of these major traffic changes; and
7. **Although it appears to remain consistent with surrounding zoning, this project proposal is clearly an attempt at Spot Zoning.** The carve out of the Project from the Eastern Neighborhoods Plan and the Central SoMa Plan, as well as the de facto Spot Zoning of the C-3-S “Downtown Support” Zone, sets a dangerous precedent and is bad City planning.

II. COMMUNITY DEMANDS

The following actions should be taken with respect to the General Plan Amendments:

1. **The Planning Commission should vote not to initiate the General Plan Amendments; and**
2. **The 5M Project should be included in the Central SoMa Plan; and**
3. **The Developer should present a Code Compliant Project Alternative that respects the Filipino Heritage District and the Youth And Family Zone; and**
4. **The Developer should present a Code Compliant Project Alternative consistent with existing and future community needs, including major traffic changes, and that is consistent with the characteristics of the neighborhood.**

III. FURTHER INFORMATION

The SoMa Action Committee (S.M.A.C.) is a coalition of residents, community-based organizations and small businesses who have come together to address the economic and social impacts of new development in the South of Market neighborhood. The coalition includes the South of Market Community Action Network (SOMCAN), the Bayanihan Community Center, the Veterans Equity Center, Senior and Disability Action, the Filipino-American Development Foundation (FADF), and the Plaza 16 Coalition.

We believe that there are several reasons why the Planning Commission should not vote to initiate the General Planning Amendments, which are outlined in further detail below.

The proposed General Plan Amendments would create a second Financial District, which is not intended in the City's General Plan. The Amendment document states that the Developer is proposing to unify the Project Area "under the C-3-S Zoning District, which currently applies to the majority of the site." C-3-S Zoning is called "Downtown Support." A small portion of the Project Site is also under RSD Zoning, called "Residential/ Service Mixed Use." The Project the Developer is proposing with these General Plan Amendments would be completely out of scale with the intent of "Downtown Support" and "Residential/ Service Mixed Use."

In the Planning Code, the definition of "Downtown Support" is "to accommodate important supporting functions such as wholesaling, printing, building services and secondary office space. It also contains unique housing resources." The approach of the proposed Project is to retain the C-3-S Zoning, but the Project would also be separate from the Central SoMa Plan. The current heights and bulk restrictions (without the General Plan Amendments) are in keeping with the C-3-S District. The proposed Project is more similar in scale to Financial District developments north of Market Street and Transbay to the east, but not adjacent.

Thus, the size and scale of the buildings, will change the use of the C-3-S Zoning, and create a second Financial District in the City. This is not intended in the City's General Plan, which clearly delineates other areas for C-3-O ("Downtown Office") and C-3-O(SD) ("Downtown Office Special Development") use.

Approving this General Plan Amendment would effectively allow the 5M Project to max out the large office allocation for the entire City. Prop M limits the annual office space allocation to 950,000 square feet total for all of the City's developments. The Project proposes 807,600 square feet of office space. This is equal to 85% of the entire City's allocation. Furthermore, all of this office space will be concentrated in one project and area. By this measure alone, it is clear this development is not "Downtown Support," but is more similar to C-3-O (SD), which is for the area around Transbay, not this section of SoMa.

Each “Basis for Recommendation” in the General Plan Amendment document is invalid. In the “Basis for Recommendation” section of the Amendment document, the Planning Department staff fails to present why such extreme benefits should be conferred to the Developer.

The first listed Basis for Recommendation states, “The initiation will enable... the 5M project to proceed.” Approving a project so it can proceed is not a justification for amending the General Plan; it is simply a possible result if the General Plan Amendment is approved. This appears to make the proposed project appear as though it is inevitable or at least consistent with the area around it, while neither is in fact true.

The second Basis states, “The project will add office and retail uses that will contribute to the employment base of the City and bolster the viability of the Downtown Core as the center of commerce for the City.” As stated above, the Project will concentrate most of the City’s Prop M allocation in one location. This concentration is at the expense of any other office space proposed throughout the City. Furthermore, the scale of the 5M Project, the Transbay Terminal, and other projects, will in effect create a second Financial District. Under the current zoning, office and retail may be developed. Planning staff fail to present in the Amendment document why adding height and bulk to the current zoning, and thereby changing the use of the area, would benefit the City and community.

The third Basis states, “The Project will add housing opportunities within a dense, walkable urban context.” Planning staff fail to present why adding housing above current zoning would benefit the City and community. Also, the lack of traffic analysis for the major, current and future changes, and the increased traffic generated by the Project itself, could cause a dangerous environment for pedestrians.

The fourth Basis states, “The site [will add] publicly accessibly [sic] open spaces.” The only open space provided is a rooftop open space that will be shadowed by the Project’s own towers. The rooftop space has no accessibility plan for public access, is not visible from the street level, and all surfaces are hardscaped. The Project’s towers will also cause significant shadow impacts to existing open space, such as Father Alfred E. Boeddeker Park, Yerba Buena Gardens, and Jessie Square.

The fifth Basis states, “... Employees and residents would be able to walk or utilize transit ... without reliance on the private automobile.” The Project proposes more than doubling the existing number of parking spaces on the Project Site to 463 parking spaces even though zero spaces are required in a new development on this site.

Studies, such as a 2014 study by the California Housing Partnership, show that people who can afford higher housing costs, are more likely to use their cars instead of public transit. With the majority of the housing, office and retail space proposed being market-rate— catering to San Francisco’s high-end market— the influx will increase private automobile use.

The final Basis states, "The project is, on balance, consistent with the Goals, Policies, and Objectives of the General Plan." If the Project fit the General Plan, then why would Planning need to amend the General Plan to fit the development? The Project clearly does not fit with the General Plan.

The Central SoMa Environmental Impact Report (EIR) must include the 5M Project, inclusive of the pending Youth and Family Special Use District. In 2008, the SoMa Youth and Family Zone was adopted to protect the delicate infrastructure and character of SoMa's low-income senior and family residential base. The SoMa Youth and Family Zone directs future development to maintain the low to mid-scale residential enclaves of 40 feet to 85 feet, and provides more restrictive controls on "large-footprint uses" that displace small neighborhood-serving businesses and community organizations.

The 5M Project Area was intentionally not removed from the SoMa Youth and Family Zone in order to maintain the sensitive character of this area. The proposed Project greatly exceeds the heights limits of both the SoMa Youth and Family Zone and the Downtown C-3-S Zoning District.

There is no valid reason to exclude the 5M Project from the Central SoMa Plan. The first hearing for the Central SoMa Plan and the 5M application to Planning to initiate the review of the Project both happened in April 2011. Therefore, there is no reason why the 5M project, especially considering how large of a footprint it occupies, should have been planned separately from the Central SoMa Plan. The Amendment document states, "The Planning Department began conversations with the project sponsor in 2008." But Planning's conversations with the Developer are irrelevant. The Developer did not submit their application to Planning until April 2011, and staff's work on Central SoMa planning had already begun. Therefore, all projects within the geographical boundaries of the Central SoMa Plan Area must be subjected to the Central SoMa planning.

The impact of the 5M Project has not been evaluated within major, current and future traffic changes. The traffic changes to 5th Street and the closure of Market Street to cars will completely disrupt the traffic around 5M. The current traffic pattern of heading north on 5th Street towards San Francisco Center, or from San Francisco Center, will be changed. Cars will no longer be able to make the right onto Market Street. This will be compounded by the Project's proposal to remove a lane of traffic on 5th Street to allow passenger-loading zones for the office and residential buildings. The change to the traffic patterns is in lieu of setting the proposed buildings back a few feet in order to provide the loading zones while not losing a lane of traffic. These major, current and future traffic impacts as they relate to the Project have not been studied by Planning.

Another inconsistency with the Project and the C-3-S Zone District pertains to traffic. The Project Area is zoned for no parking spaces to be provided "off street." The Planning Code states that the C-3-S Zone "is within walking distance of rapid transit on Market Street, and is served by transit lines on Third, Fourth, Mission and Folsom streets." However, the Developer is proposing to build a 463-car garage, where none is required.

As cited above, studies show that people who can afford high-end housing are less likely to take transit. Providing parking will serve to enable that behavior. Therefore, not only will the Project's residents and employees have more cars, but other changes to traffic in Central SoMa that have not been evaluated relative to the Project, could add significant traffic impacts to the neighborhood and the City.

Although it appears to remain consistent with the surrounding zoning, this project proposal is clearly an attempt at Spot Zoning. Spot Zoning is typically a practice where a site is zoned differently from all the parcels around it. Development that might occur on that site is then inconsistent and incompatible. Spot Zoning is problematic, has caused disruptions in San Francisco in the past, and has been litigated in various areas in California.

The 5M Project is clever in how it pursues Spot Zoning because it appears to remain consistent with the surrounding properties. First, it was carved out of both major land use planning efforts that should have included this site, Eastern Neighborhoods and Central SoMa. This appears to be a classic case of Spot Zoning. However, instead of trying to rezone the site as C-3-O (SD) "Downtown Office Special Development," it is proposing to retain the C-3-S "Downtown Support" Zoning, which has been the prevailing zoning for this section of the City for many years. The Project then attempts to accomplish its Spot Zoning by simply amending the height and bulk limits within this C-3-S Zoning, even though these proposed amendments are consistent with other planning zones.

This is bad City planning. The carve-outs and the de facto Spot Zoning disempower the community from being able to look at this development in the larger context. The height and bulk being proposed are completely incongruous with the C-3-S "Downtown Support" Zone, but the Project appears to retain its consistency by not changing the zoning designation. We are not fooled! Regardless of the tactics being deployed here, this is a classic case of Spot Zoning. Initiating the proposed General Plan Amendments for the Project would set a dangerous precedent in its blatant exclusion from City Planning.

IV. CONCLUSION

The 5M Project is inconsistent with the City's General Plan. It is ironic that the Planning staff memo says the Project fits the General Plan, while at the same time seeking a General Plan Amendment to make the General Plan fit the proposed project. The Project Site represents the largest residential and office development in San Francisco outside of Transbay, and is completely out of character with the "Downtown Support" District. The Project has circumvented all community planning efforts undertaken in this part of the City since at least the Eastern Neighborhoods rezoning.

We urge the Planning Commission to reject this request to initiate the General Plan Amendment, and instead require the Developer to study a Code Compliant Project Alternative that is 1) consistent with the zoning for the C-3-S Downtown Support District; 2) respectful of the Filipino Heritage District and Youth and Family Zone; 3)

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environmentally superior to the proposed project; and 4) subjected to the rigors of community planning and input that Planning has undertaken for the past four years through the Central SoMa Plan.

Sincerely,

SoMa Action Committee (S.M.A.C.)

cc:

Cindy Wu, Planning Commission Vice President

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Barbara Kautz, Goldfarb & Lipman LLP

Eric Phillips, Goldfarb & Lipman LLP

August 6, 2015

President Rodney Fong
San Francisco Planning Commissioners
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development)
File No 2011.0409PCA
Initiation of General Plan Amendments

Dear President Fong and Planning Commissioners:

The SoMa Action Committee (S.M.A.C.) is a coalition of residents, community-based organizations and small businesses. We are writing to demand that the Planning Commission vote not to initiate the General Plan Amendments proposed for the 5M Development.

We respectfully submit this comment letter on the "General Plan Amendment Initiation" document ("Amendment document") dated July 30, 2015 for the proposed 5M Project (the "Project") located at 925-967 Mission Street (the "Project Site") by Forest City Enterprises, Inc. (the "Developer"). The Amendment document includes the "Planning Commission Draft Resolution Case No. 2011.0409PCA," which includes the proposed Ordinance.

I. KEY REASONS TO VOTE NOT TO INITIATE

This Planning Commission should vote not to initiate the General Plan Amendments because:

- 1. The proposed General Plan Amendments would create a second Financial District, which is not intended in the City's General Plan.** The Project Site is currently zoned under C-3-S Zoning, called "Downtown Support," and RSD Zoning, called "Residential/ Service Mixed Use." What the Developer is proposing with these General Plan Amendments would be completely out of scale with the intent of "Downtown Support" and "Residential/ Service Mixed Use. So much so that the proposed amendments to the General Plan would in effect create a second Financial District; **and**
- 2. Approving this General Plan Amendments would effectively allow the 5M Project to max out the large office allocation for the entire City.** If approved, nearly 85% of the City's office allocation will go to this single project; **and**
- 3. Each "Basis for Recommendation" in the General Plan Amendment document is invalid.** Each "Basis for Recommendation" listed is insufficient and

faulty. These pertain to office and retail use, housing, transit, and the goals of the General Plan; and

4. **The Developer has not presented to Planning a fully considered Development Plan that is consistent with the existing zoning (the "Code Compliant Project Alternative").** The Code Compliant Project Alternative would not require General Plan Amendments. Only project alternatives complying with existing zoning should be considered; and
5. **The Central SoMa Environmental Impact Report (EIR) must include the 5M Project, inclusive of the Youth and Family Special Use District, and that respects the Filipino Heritage District.** The Project is geographically embedded in the Central SoMa Plan Area, yet it is currently not included in the Plan Area. Carving the Project out to be evaluated exclusive of the community planning process violates the California Environmental Quality Act (CEQA) review for the Central SoMa Plan Area and constitutes Spot Zoning; and
6. **The impact of the 5M Project has not been evaluated within major, current and future traffic changes.** New traffic patterns are being implemented with the closing of Market Street to car traffic and the lane reduction on 5th Street. The 5M Project has not been evaluated with consideration of these major traffic changes; and
7. **Although it appears to remain consistent with surrounding zoning, this project proposal is clearly an attempt at Spot Zoning.** The carve out of the Project from the Eastern Neighborhoods Plan and the Central SoMa Plan, as well as the de facto Spot Zoning of the C-3-S "Downtown Support" Zone, sets a dangerous precedent and is bad City planning.

II. COMMUNITY DEMANDS

The following actions should be taken with respect to the General Plan Amendments:

1. **The Planning Commission should vote not to initiate the General Plan Amendments; and**
2. **The 5M Project should be included in the Central SoMa Plan; and**
3. **The Developer should present a Code Compliant Project Alternative that respects the Filipino Heritage District and the Youth And Family Zone; and**
4. **The Developer should present a Code Compliant Project Alternative consistent with existing and future community needs, including major traffic changes, and that is consistent with the characteristics of the neighborhood.**

III. FURTHER INFORMATION

The SoMa Action Committee (S.M.A.C.) is a coalition of residents, community-based organizations and small businesses who have come together to address the economic and social impacts of new development in the South of Market neighborhood. The coalition includes the South of Market Community Action Network (SOMCAN), the Filipino-American Development Foundation (FADF) located at the Bayanihan Community Center, the Veterans Equity Center, Manilatown Heritage Foundation, Galing Bata, Linguistics and Kulture Advocacy Society (LAKAS), Save Our SOMA, and the Plaza 16 Coalition.

We believe that there are several reasons why the Planning Commission should vote not to initiate the General Planning Amendments. These reasons are stated in brief above and are outlined in further detail below.

The proposed General Plan Amendments would create a second Financial District, which is not intended in the City's General Plan. The Amendment document states that the Developer is proposing to unify the Project Area "under the C-3-S Zoning District, which currently applies to the majority of the site." C-3-S Zoning is called "Downtown Support." A small portion of the Project Site is also under RSD Zoning, called "Residential/ Service Mixed Use." The Project the Developer is proposing with these General Plan Amendments would be completely out of scale with the intent of "Downtown Support" and "Residential/ Service Mixed Use."

In the Planning Code, the definition of "Downtown Support" is "to accommodate important supporting functions such as wholesaling, printing, building services and secondary office space. It also contains unique housing resources." The approach of the proposed Project is to retain the C-3-S Zoning, but the Project would also be separate from the Central SoMa Plan. The current heights and bulk restrictions (without the General Plan Amendments) are in keeping with the C-3-S District. However, the proposed Project is more similar in scale to Financial District developments north of Market Street and Transbay to the east, but not adjacent.

Thus, the size and scale of the buildings, will change the use of the C-3-S Zoning, and create a second Financial District in the City. This is not intended in the City's General Plan, which clearly delineates other areas for C-3-O ("Downtown Office") and C-3-O (SD) ("Downtown Office Special Development") use.

Approving this General Plan Amendment would effectively allow the 5M Project to max out the large office allocation for the entire City. Prop M limits the annual office space allocation to 950,000 square feet total for all of the City's developments. The Project proposes 807,600 square feet of office space. This is equal to 85% of the entire City's allocation. Furthermore, all of this office space will be concentrated in one project and area. By this measure alone, it is clear this development is not "Downtown Support,"

but is more similar to C-3-O (SD), which is for the area around Transbay, not this section of SoMa.

Each "Basis for Recommendation" in the General Plan Amendment document is invalid. In the "Basis for Recommendation" section of the Amendment document, the Planning Department staff fails to present why such extreme benefits should be conferred to the Developer.

The first listed Basis for Recommendation states, "The initiation will enable... the 5M project to proceed." Approving a project so it can proceed is not a justification for amending the General Plan; it is simply a possible result if the General Plan Amendment is approved. This makes the proposed Project appear to be inevitable or at least consistent with the area around it, while neither is true.

The second Basis states, "The project will add office and retail uses that will contribute to the employment base of the City and bolster the viability of the Downtown Core as the center of commerce for the City." As stated above, the Project will concentrate most of the City's Prop M allocation in one location. This concentration is at the expense of any other office space proposed throughout the City. Furthermore, the scale of the 5M Project, the Transbay Terminal, and other projects, will in effect create a second Financial District. Under the current zoning, office and retail may be developed. However, Planning staff fail to present in the Amendment document why adding height and bulk to the current zoning, and thereby changing the use of the area, would benefit the City and community.

The third Basis states, "The Project will add housing opportunities within a dense, walkable urban context." Planning staff fail to present why adding housing above current zoning would benefit the City and community. Also, the lack of traffic analysis for the major, current and future changes, and the increased traffic generated by the Project itself, could cause a dangerous environment for pedestrians.

The fourth Basis states, "The site [will add] ... publicly accessibly [sic] open spaces..." The only open spaces proposed are a rooftop open space, a pedestrian-only portion of Mary Street and courtyards between the Project's buildings. All of these open spaces will be shadowed by the Project's own towers and all the surfaces are hardscaped. The rooftop space has no accessibility plan for public access and is not visible from the street level. The Project's towers will also cause significant shadow impacts to existing open spaces, such as Father Alfred E. Boeddeker Park in the Tenderloin, Yerba Buena Gardens, UN Plaza, Hallidie Plaza, Jessie Square, and Victoria Manolo Draves (VMD) Park.

The fifth Basis states, "... Employees and residents would be able to walk or utilize transit ... without reliance on the private automobile." The Project proposes more than doubling the existing number of parking spaces on the Project Site to 463 parking spaces even though zero spaces are required in a new development on this site.

Studies, such as a 2014 study by the California Housing Partnership, show that people who can afford higher housing costs, are more likely to use their cars instead of public transit. With the majority of the housing, office and retail space proposed being market-rate— catering to San Francisco’s high-end market— the influx will increase private automobile use.

The final Basis states, “The project is, on balance, consistent with the Goals, Policies, and Objectives of the General Plan.” If the Project fits the General Plan, then why would Planning need to amend the General Plan to fit the development? The Project clearly does not fit with the General Plan.

The Central SoMa Environmental Impact Report (EIR) must include the 5M Project, inclusive of the Youth and Family Special Use District, and that respects the Filipino Heritage District. There is no valid reason to exclude the 5M Project from the Central SoMa Plan.

The first hearing for the Central SoMa Plan and the 5M application to Planning to initiate the review of the Project both happened in April 2011. Therefore, there is no reason why the 5M project, especially considering how large of a footprint it occupies, should have been planned separately from the Central-SoMa Plan. The Amendment document states, “The Planning Department began conversations with the project sponsor in 2008.” But Planning’s conversations with the Developer are irrelevant. The Developer did not submit their application to Planning until April 2011, and staff’s work on Central SoMa planning had already begun. Therefore, all projects within the geographical boundaries of the Central SoMa Plan Area must be subjected to the Central SoMa planning.

In 2008, the SoMa Youth and Family Zone was established as part of the Eastern Neighborhoods Plan. The Zone was adopted to protect the delicate infrastructure and character of SoMa’s low-income senior and family residential base. The SoMa Youth and Family Zone directs future development to maintain the low to mid-scale residential enclaves of 40 feet to 85 feet, and provides more restrictive controls on “large-footprint uses” that displace small neighborhood-serving businesses and community organizations.

The 5M Project Area was intentionally not removed from the SoMa Youth and Family Zone in order to maintain the sensitive character of this area. The proposed Project greatly exceeds the height limits of both the SoMa Youth and Family Zone and the Downtown C-3-S Zoning District.

Furthermore, the establishment of a Filipino Heritage District is of critical importance to preserve, enhance and advocate for Filipino cultural continuity, vitality, and community in the South of Market neighborhood. The neighborhood of San Francisco is home to many Filipino families since the 1960’s. Vital cultural assets were established which represent the rich Filipino cultural and immigrant history in San Francisco. In order to recognize, protect and memorialize these South of Market Filipino cultural assets, the

Western Soma Citizens Planning Task Force proposed the Filipino Heritage Special Use District in West Soma.

The scale and magnitude of the buildings proposed in the 5M Project are such that the families and existing community living in SoMa will never be able to stabilize because of the resultant rising property values around the Project. The Project must be analyzed with consideration of the Filipino Heritage District SUD.

The impact of the 5M Project has not been evaluated within major, current and future traffic changes. The traffic changes to 5th Street and the closure of Market Street to cars will completely disrupt the traffic around the 5M Project. The current traffic pattern of heading north on 5th Street towards San Francisco Center, or coming from San Francisco Center, will be changed. Cars will no longer be able to make the right onto Market Street. This will be compounded by the Project's proposal to remove a lane of traffic on 5th Street to allow passenger-loading zones for the office and residential buildings. The change to the traffic patterns is in lieu of setting the proposed buildings back a few feet in order to provide the loading zones while not losing a lane of traffic. These major, current and future traffic impacts as they relate to the Project have not been studied by Planning.

Another inconsistency with the Project and the C-3-S Zone District pertains to traffic. The Project Area is zoned for no parking spaces to be provided "off street." The Planning Code states that the C-3-S Zone "is within walking distance of rapid transit on Market Street, and is served by transit lines on Third, Fourth, Mission and Folsom streets." However, the Developer is proposing to build a 463-car garage, where none is required. As cited above, studies show that people who can afford high-end housing are less likely to take transit. Providing parking will serve to enable that behavior. Therefore, not only will the Project's residents and employees have more cars; but other changes to traffic in Central SoMa that have not been evaluated relative to the Project could add significant traffic impacts to the neighborhood and the City.

Although it appears to remain consistent with the surrounding zoning, this project proposal is clearly an attempt at Spot Zoning. Spot Zoning is typically a practice where a site is zoned differently from all the parcels around it. Development that might occur on that site is then inconsistent and incompatible. Spot Zoning is problematic, has caused disruptions in San Francisco in the past, and has been litigated in various areas in California.

The 5M Project is clever in how it pursues Spot Zoning because it appears to remain consistent with the surrounding properties. First, it was carved out of both major land use planning efforts that should have included this site, Eastern Neighborhoods and Central SoMa. This appears to be a classic case of Spot Zoning. However, instead of trying to rezone the site as C-3-O (SD) "Downtown Office Special Development," it is proposing to retain the C-3-S "Downtown Support" Zoning, which has been the prevailing zoning for this section of the City for many years. The Project then attempts to accomplish its

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Spot Zoning by simply amending the height and bulk limits within this C-3-S Zoning, even though these proposed amendments are consistent with other planning zones that are not contiguous with the Project Site.

This is bad City planning. The carve-outs and the de facto Spot Zoning disempower the community from being able to look at this development in the larger context. The height and bulk being proposed are completely incongruous with the C-3-S "Downtown Support" Zone, but the Project appears to retain its consistency by not changing the zoning designation. We are not fooled! Regardless of the tactics being deployed here, this is a classic case of Spot Zoning. Initiating the proposed General Plan Amendments for the Project would set a dangerous precedent in its blatant exclusion from City Planning.

IV. CONCLUSION

The 5M Project is inconsistent with the City's General Plan. It is ironic that the Planning staff memo says the Project fits the General Plan, while at the same time seeking a General Plan Amendment to make the General Plan fit the proposed Project. The Project Site represents the largest residential and office development in San Francisco outside of Transbay, and is completely out of character with the "Downtown Support" District. The Project has circumvented all community planning efforts undertaken in this part of the City since at least the Eastern Neighborhoods rezoning.

We urge the Planning Commission to reject this request to initiate the General Plan Amendment, and instead require the Developer to study a Code Compliant Project Alternative that is 1) consistent with the zoning for the C-3-S Downtown Support District; 2) respectful of the Filipino Heritage District and Youth and Family Zone; 3) environmentally superior to the proposed project; and 4) subjected to the rigors of community planning and input that Planning has undertaken for the past four years through the Central SoMa Plan.

Sincerely,

SoMa Action Committee (S.M.A.C.)

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District 10, Malia Cohen

District 11, John Avalos

Barbara Kautz, Goldfarb & Lipman LLP

Eric Phillips, Goldfarb & Lipman LLP

COMMUNITY DEMANDS REGARDING 5M REVIEW **PROCESS**

1. ADEQUATE REVIEW TIME

Provide sufficient time for adequate public review the beneficial and adverse impacts of the new project alternative. Delay the review deadlines to require that the project provide much more information and a reasonable time period for public review.

2. REVISE THE SUD

Revise the 5M SUD as presented to be more in keeping with the character of the neighborhood, and to assure that the city is receiving proportional benefit for its departure from the goals and objectives of the San Francisco General Plan. Respond to the public comments received to date at the July 23rd hearing.

3. EXPAND WIND AND SHADOW ANALYSES

Update and expand the wind and shadow impact studies of the revised project that have not been sufficiently analyzed, as noted in the public comments of the July 23rd Hearing. Include wind and shadow mitigation measures that eliminate "significant and unavoidable" adverse impacts, as identified in the EIR, as noted in public comments at the July 23rd hearing.

4. INCLUDE BETTER MARKET STREET AND SAFER MARKET STREET IMPACT ANALYSES

Include a detailed Impact Analysis Report of the the Better Market Street and Safer Market Street plans that have not been taken into account in detail, in determining the project's traffic and public transportation impacts of the 5M Project. Include an assessment of likely land use and transportation impacts of other significant transportation plans pending that may affect the 5M Project.

5. PROVIDE EFFECTIVE IMPACT MITIGATION MEASURES

Provide effective vehicular and public transportation mitigation measures that will fully mitigate the unacceptable LOS F conditions identified by the Transportation Impact Report for the intersections and travel lanes surrounding the 5M project.

6. ELIMINATE LOS F ADVERSE IMPACTS

Provide fully effective mitigation measures to correct the tremendous adverse impact on traffic flow, public transit capacity, and bicycle and pedestrian safety identified as LOS F in the Transportation Impact Report for 5th and 6th street, and Howard and Folsom Streets area. Provide a comprehensive and effective street and sidewalk plan for these streets to effectively mitigate these impacts at no cost to the city.

7. PROVIDE LOADING/UNLOADING, DROP OFF SPACE ON 5M SITE

Provide all 5M project loading/unloading, and drop-off requirements within the 5M site, and not on public space on city streets.

8. MODIFY OPEN SPACE PLAN

Provide and evaluate the effectiveness of an alternative modified, usable, and effective open space plan that ensures that the open space proposed by the project is as shadow-free and wind free as possible. Provide adequate public review time.

9. ASSESS THE DISPLACEMENT OF THE EXISTING COMMUNITY

Provide and evaluate the impact of the proposed project on the existing community with a property value study

10. MINIMIZE NEGATIVE IMPACTS ON THE MINT AND OTHER HISTORIC BUILDINGS

Provide a historic review study on the impacts of the proposal on the Mint, including shadow & wind, and traffic impacts on the front entrance.

From: Tom Radulovich <tom@livablecity.org>
Subject: 5M project - transportation impacts and project approval
Date: August 6, 2015 at 1:53:54 PM PDT
To: planning@rodneymfong.com, Cindy Wu <cwu.planning@gmail.com>, Michael Antonini <wordweaver21@aol.com>, richhillissf@yahoo.com, christine.d.johnson@sfgov.org, "Dennis.Richards@sfgov.org" <dennis.richards@sfgov.org>, "mooreurban@aol.com Moore" <mooreurban@aol.com>
Cc: John Rahaim <john.rahaim@sfgov.org>, michael.jacinto@sfgov.org, sarah b jones <sarah.b.jones@sfgov.org>, Christine Lamorena <Christine.lamorena@sfgov.org>, kevin.guy@sfgov.org, Tom Maguire <Tom.Maguire@sfmta.com>

Dear Commissioners,

As I stated in my public comments at your July 23 hearing, The 5M project, as currently proposed, imposes unacceptable impacts on the the Downtown environment, and on safety and access for people walking, cycling and taking transit on adjacent streets. In 2015 such negative impacts on the environment and sustainable mobility should be unacceptable in a project of any size. We urge the Planning Commission to require that this project effectively reduce its negative impacts on sustainable transportation and the safety, health, and mobility of people walking, cycling, and using transit Downtown.

The Downtown Plan's transportation policies prioritize walking, cycling, and public transit, and discourage commuting by private car. However walking and cycling access and safety in Downtown are not what they should be. Many streets are unacceptably dangerous or deadly for walking and cycling. Public transit is plentiful, but slow and unreliable where it operates in traffic. Underground transit is reaching capacity. The EIR for this project demonstrates major, negative, and unmitigated impacts on walking, cycling, and transit in the vicinity of the project. It is unconscionable, in 2015, for the Planning Commission to approve such a project when these impacts can be feasibly mitigated. Projects of this size and scope, and seeking as many lucrative exceptions as this project does, have an obligation to improve walking, cycling, and transit access, not to degrade access while profiting from them.

All of the major, unmitigated impacts on sustainable Downtown transportation created by this project could be reduced or eliminated, in a project without parking. No off-street parking is required in C-3 districts,

and parking maximums are imposed to reduce traffic impacts. The project sponsors, at their presentation to the Planning Commission on July 23, touted the project's close proximity to Powell Street Station as a justification for their requested spot-rezoning for greater height and density; that proximity to local and regional transit makes a more compelling case for a car-free project. The project seeks to take advantage of the sustainable transportation access to enhance private gain, while degrading those very transportation options. This is clearly unsustainable.

It is troubling that a project without parking was not evaluated in the EIR. Large projects nearby – San Francisco Centre, and the Moscone Center expansion to name two – were built and operate successfully without additional parking. The transportation analysis for the CityPlace project, a block away on Market Street, evaluated a zero-parking alternative, an option with the by-right amount of parking, and a project with excess parking. While the transportation analysis and mitigation for that project was also lacking, at least the project alternatives showed how varying amounts of on-site parking resulted in different patterns of automobile circulation and impacts on the walking and cycling environment.

The Department is aware, or should be, of the General Plan and Downtown Plan transportation policies, and how a project without parking furthers these goals, as well as the city's climate protection and transportation mode split goals. The Department knows that reducing automobile parking in transit-rich areas of the city is effective in reduce automobile trips and automobile congestion, and that our Downtown Plan and Planning Code policies are based upon that understanding. The Department knows of the City's Vision Zero goals for reducing deaths and injuries on our City streets, and that Market, Mission, 6th and 5th are high-injury corridors. The Department knows that automobile right turns pose a significant danger to pedestrians and cyclists, and that auto access to this project's proposed garage increases right-turn danger on streets with large numbers of people walking and cycling. The Department knows that Market, Mission, and 5th Streets are important transit corridors. The Department knows that Market, 5th, and Howard streets are in the city's bicycle network.

The California Environmental Quality Act states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects" of the project. (Cal. Pub. Resources

Code, § 21002.) The EIR for this project fails to meet this test.

We ask that the Planning Commission not certify this EIR as complete and adequate, or approve a project, until the project adequately addresses three sets of impacts:

*** Traffic impacts on people walking, cycling, and riding transit.**

The project proposes several hundred off-street parking spaces in an underground garage or garages. Commuters will use 5th, 6th, Market, Mission, and Howard streets to access the garage(s). All of these streets are already congested with automobile traffic. 6th Street is San Francisco's most dangerous street for pedestrians and cyclists. City projects to reduce the number of auto lanes on 6th Street and to close Market Street to private cars are currently under environmental review, yet are not addressed in this EIR. Effective measures exist - both measures to reduce auto traffic from this project, and to improve the access and safety of pedestrians, cyclists, and transit riders on adjacent streets through physical design changes and transportation management - and such measures need to be conditions of approval for this project.

*** Location of garage and loading entrances.** Howard Street has the only continuous westbound bicycle lane through downtown and SoMa, and is an indispensable part of the city's bicycle network through the densest and most heavily-trafficked part of the city. The Proposed 5M project locates a garage entrance and loading entrance in the Howard Street bicycle lane. Cars entering and leaving this garage entrance will have to cross the Howard Street cycle lane, or will queue in it. 5th Street is also in the City's bicycle network. Cars entering the proposed Minna Street garage entrance will queue in 5th Street and make a right turn at the uncontrolled Minna/5th intersection, in conflict with the bicycle path of travel. This is a major degradation of the city's bicycle network, and a clear violation of the Planning Code. Section 155(r)(4) of the Planning Code requires that "In C-3, NCT and RTO Districts, no curb cuts accessing off-street parking or loading shall be created or utilized on street frontages identified along any Transit Preferential, Citywide Pedestrian Network or Neighborhood Commercial Streets as designated in the Transportation Element of the General Plan or official City bicycle routes or bicycle lanes, where an alternative frontage is available." This negative impact on the City's bicycle network is can mitigated by reducing the parking in the project, and by moving parking and loading entrances to another street frontage.

* **Privatization of public space.** The proposed project maintains a wide bridge over Minna Street. Bridging over City streets runs counter to the policies of the General Plan, and the proposed project should remove all encroachments over city streets; the bulk and height of the proposed project will impact sunlight and wind on nearby streets, and removing encroaches gives something back to the public realm that the project elsewhere takes away. Equally concerning is the project's proposed privatization of public rights-of-way below street level. The Transportation study shows that the 5M project intends to extend its sub-surface parking and loading under the adjacent portions of Minna, Natoma, and Mary streets, effectively privatizing these public rights of way. Parking also underlays the proposed Mary Street park. Private off-street parking and loading spaces under public rights-of-way violates the Planning Code (Section 155(b) – "Every required off-street parking or loading space shall be located in its entirety within the lot lines of private property."). It also means that these public streets, because they will have private structures located underneath them, will be unsuitable for street trees, and unavailable for stormwater infiltration, degrading the environment of SoMa. Street trees improve the urban environment, and have been proven to improve human health and happiness. As neighborhoods like Downtown and SoMa become more dense, congested, polluted, and stressful, healthy street trees become more essential to creating an urban environment that is healthful and livable. Street trees are called for in the Downtown Plan and Better Streets Plan standards. However, the presence of sub-sidewalk basements precludes street trees on many downtown streets, including much of 5th, 6th, and Mission streets adjacent to the project site. In addition to the Planning Code, General Plan has numerous policies which discourage the privatization of public rights of way; we are happy to provide Planning and Mayor's office staff with the relevant City policies if they are unaware of them. In any event the project must, as required by the Planning Code, contain its private off-street parking and loading on private property.

Sincerely,

Tom Radulovich
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Coalition for San Francisco



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September 2, 2015

Mr. Rodney Fong, President
SF Planning Commission

Re: Case #2011.0409

Dear President Fong:

WHEREAS, the Developer Forest City is proposing height and bulk variances for the 5M (Chronicle) project, up to 470' towers; and

WHEREAS, On July 21, 2015: Mayor Lee introduced "Ordinance No. 150787- To Create the 5th and Mission Special Use District" and "Ordinance No. 150788 - Ordinance to Approve a Development Agreement Between the City and 5M Project LLC", and;

WHEREAS, In this Ordinance, the Board of Supervisors is certifying the Final EIR, removing the ability for the public to appeal this Final EIR, and;

WHEREAS, this Ordinance would set all impact fees, specifically excluding for 5M the "Transportation Sustainability Fee," which is currently being considered by the BOS. The public should be able to challenge this exclusion at the BOS, but this ordinance would nullify this appeal, and;

WHEREAS, in this Ordinance, the City is authorizing the purchase of the property at 967 Mission Street, instead of the BOS considering this property transaction as a separate item, and;

WHEREAS, the City has improperly removed the 5M Project from both the Eastern Neighborhood Plan and the Central SoMa Plan, and;

WHEREAS, the developer and the City have excluded the community and neighbors from the planning process in their efforts to fast track this project, and;

WHEREAS, spot zoning for this one project will create a ripple effect throughout this neighborhood and other neighborhoods and will create a "second financial district" in the SoMa neighborhood, and;

THEREFORE, BE IT RESOLVED that the Coalition of San Francisco Neighborhoods opposes the 5M project as proposed, and supports the approval of a Code Compliant project on this site.

Regards,

George Wooding
President

September 3, 2015

My name is Saul Rockman. I am a SoMa resident and I am with SMAC.

I support the SoMa Action Committee's demands, and as others have said, I would hope this matter is deferred until December.

Revisions to the draft EIR describe the neighborhoods to the north, east and south of the planned development, but dismiss the existing neighborhood to the west. The developers want you to ignore it, too. But it exists and is directly in the impact area of the 5M project. It is comprised of homes for the elderly, affordable housing, small businesses, community non-profits, and light manufacturing. It may not always be beautiful, but it is true to the neighborhood.

Forest City is out to increase the value of their property, not to enhance the neighborhood. They want exceptions to bulk and height and building separation requirements. Their argument, and the mayor's, is for aggrandizing buildings near rich public transportation. Then why would these buildings need 850 parking spaces—other than to increase their profits by selling or leasing them?

5M and the SFMTA have already given up on any mitigation of the traffic on the major streets in the area. They recognize it is bad and will get worse with this new development.

My arguments don't focus on building structures or parking, but rather the alleys, Minna and Natoma. The block on which the 5M project will stand is a quiet block. Both Minna and Natoma get very little traffic at the moment. However, SFMTA and Forest City have ignored the neighborhood context. The supersized structures and car parking they plan will dramatically and harmfully increase both automobile and truck traffic on two very quiet streets. Those streets will carry, at a minimum, an additional 800 car trips during peak hours each day, to say nothing of 50 or more large trucks going down these small alleys. The people who live and walk on those streets include the frail and elderly, substance abusers, and the homeless. I can't imagine the danger and harm that will come to those residents, when the daily traffic increases 10-fold or more. Minna and Natoma are small alleys, not thoroughfares, although this project might make them so. I request that further study and thoughtfully prepared mitigation efforts be conducted over the coming months, prior to any further consideration of this project or any votes.

September 3, 2015

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development)
File No 2011.0409PCA

Dear President Fong and Planning Commissioners:

We are writing to make very clear our position and critique of the "5M Project" proposed by Forest City. First and foremost, we find it dangerous not just for SoMa, but for the entire City, that the Planning Department has been working behind closed doors with a Project Sponsor on a project that completely disregards the fact that San Francisco is a planned city with existing zoning.

The SoMa Action Committee (SMAC) is a coalition whose nucleus is comprised of people who live and work in the area of SoMa that would be most directly impacted by the proposed development. We demand that Planning and the Project Sponsor respect the fact that this site and this community have been zoned as Downtown Support, C-3-S,¹ as well as Residential/Service Mixed Use District (RSD).² This is not the same as Downtown Office, C-3-O, despite Planning staff repeatedly presenting to you as though there is no difference between the two. In reality, these are as different as NC-1 and NC-S.

We demand that Planning and the Project Sponsor present a fully considered project that respects the intent and restrictions of this Downtown Support and RSD zoning. The H1 Office building proposed on the 5M site is on RSD zoning, which is a housing opportunity area "intended to facilitate the development of high-density mid-rise housing."³ This site also overlaps with the Youth and Family Special Use District (SUD), which is completely ignored. We demand that the entire 5M Project respect and comply with the intent of the Youth and Family SUD, and the height and bulk restrictions that exist for this site.

The developer, Forest City, says that they need to have their own zoning because this unique 4 acre site is all under one ownership entity, the Hearst Corporation. Therefore, it's a rare

¹ Section 210.2 of Planning Code "C3 Districts Downtown Commercial"

² Section 815 of Planning Code

³ *ibid*

opportunity that shouldn't be constrained by existing zoning. They say that if the site's development were constrained by existing zoning, they would have to sell off portions of the site to others for them to develop.

This is a false premise for two reasons: 1) The Project Sponsor has said that they will be selling off components of the development to other entities which is in direct contradiction to their other assertion, which is the primary justification for the project they prefer; and 2) By this logic, any person or business could buy up a number of contiguous lots anywhere in San Francisco, for example, an NC corridor like Irving Street in the Sunset or Valencia Street in the Mission, and create their own SUD in order to build a high rise.

Because the 5M Project is being pursued under false pretenses which represent an extraordinary breach of the public trust and calls into question the validity of all zoning controls throughout San Francisco, **our coalition demands the following:**

- 1) **We demand a full and complete presentation of a Code-Compliant 5M Project.** A Code-Compliant Project should be presented that provides a mix of residential units and office spaces, space for artists and nonprofits, and quality publicly accessible open space; **and**
- 2) **We demand that the existing SUD on the site, the Youth and Family SUD, be expanded and strengthened, and a new SUD for the 5M Project not be established.** An expanded Youth and Family SUD was supposed to be supported during the Central SoMa community planning process. An expanded Youth and Family SUD should include the entirety of the 5M Project site. A code-compliant project that expands the Youth and Family SUD is the right approach for planning that respects evolving communities, not an SUD for a single project; **and**
- 3) **We demand that the City prioritize the finalization of the Filipino Heritage District.** Planning is fast tracking this massive development proposal, but year after year they are putting this important Heritage District on the slow track; **and**
- 4) **We demand that there be no actions taken by the Planning Commission on the 5M Project until at least December 11, 2015.** A continuance will allow time for the previously stated demands to be fully considered and for the analyses described below to be completed.

We have heard comments that the critiques and demands we are making are late in the process. To the contrary, member organizations of our coalition have been working on community planning in this neighborhood for decades. The fact that Planning had private meetings with the Project Sponsor for years to create their fantasy business plan together, then they rolled it out to the community in the form of a Draft EIR in October 2014, then said that we're coming in late with comments about this project proposal is disingenuous. Furthermore, it was not until two

weeks ago, through the publication of the Final EIR, that the Project Sponsor finally revealed the actual project they intend to develop.

Planning Commissioners should remember that City planning is not an approval process for business plans. Planning's job is to acknowledge and respect past and existing uses, and manage future change while creating new opportunities. This project as proposed is wholly disrespectful of past and current uses, and seeks only to capitalize on San Francisco's escalating land values to maximize profits.

We have also heard comments to the effect that heights should not be an issue. Why then do we have height and bulk restrictions? The Central SoMa Draft plan seems to be at least somewhat careful and measured about how it considers heights. (We have included quotes below from the Draft Central SoMa Plan about this issue). We need to remember that heights and intensity of development equal value. Higher heights mean higher value because of the increased income potential. The Planning Commission needs to remember that when it acts to increase height and bulk you are conferring value, and the more height and bulk, the greater the value. Added land value has a ripple effect to the surrounding community.

That the Planning Commission still hasn't seen a code-compliant project is evidence enough of the fact that you need to continue this project well beyond September 17. Below are further reasons why the Planning Commission must continue this project until at least December.

1) A Displacement Study and Community Benefits Analysis are Needed.

An economic study is needed that shows how the 5M Project, with its 630 units of luxury housing and 633,000 new square feet of Class A office space (807,000 total square footage of office space), will impact rents for surrounding residences and businesses. The impacts of upzoning and spot zoning this site have not been analyzed in regards to the increased speculation, evictions, and displacement such a project will cause.

We also have not seen a comparative analysis of the increased economic benefit that would be conferred to the Project Sponsor through increased revenues from the buildings they would develop and the increased value of the land. There should also be a comparative analysis of the fees that would be paid under a code compliant project versus the proposed project, so we can compare the increase in benefits against the increase in value being conferred to the Project Sponsor.

2) The Cumulative Impacts of the 5M Project Needs to Be Analyzed.

In both existing zoning and the draft Central SoMa Plan, this area of SoMa is envisioned as a step down transition from the larger scale zoning east of the site to the mid and low rise residential and mixed use buildings to the west. The Central SoMa EIR is based on the draft Central SoMa Plan, which does not include the heights and bulk for the 5M site as proposed by the Project Sponsor. The Central SoMa EIR also does not include analyses of the proposed shadows, massive parking garage, and traffic modifications proposed by the Project Sponsor.

Furthermore, the Central SoMa EIR does not incorporate these considerations in the context of how the Plan foresees and mitigates impacts as it is implemented over time. Carving out the 5M Project from the Central SoMa Plan means that the cumulative impacts of the Project have not been adequately analyzed, and this needs to be done before any approvals are given.

3) A Massing Study is needed.

Through all the presentations in writing and at Planning Commission hearings, the Project Sponsor still has not shown renderings of what their proposed project looks like in comparison to a code compliant project from all angles including from street level on:

- Mission Street,
- Mary Street,
- 5th Street,
- Natoma Street, and
- Howard Street, looking down each street both directions, east and west, or north and south.

In the developer's marketing materials, it is apparent that the existing buildings have been manipulated when one sees their stretched windows, so they appear not to be to scale. It is difficult to find in the staff report and developer's presentations a straightforward, properly scaled rendering that portrays accurately what exists, what is allowed by code, and the additional height and bulk being requested by the Project Sponsor.

4) The Recreation and Park Commission must have its own hearing prior to the joint hearing with Planning Commission.

As we saw with the Rec and Park Commission hearing on 190 Russ Street, Section 295 shadows must be taken seriously especially in parts of the city that are impacted heavily by development and have few parks. The Project Sponsor for 190 Russ Street categorized the shadow impact on Victoria Manolo Draves (VMD) Park as being minimal, but the Rec and Park Commission voted to reject the shadow because they felt that the shadow allowance for VMD Park should not be increased.

Planning staff is proposing to bring the 5M Project to a joint Rec and Park and Planning Commission hearing without there having been a separate hearing at the Rec and Park Commission. This project should allow the community the same ability to comment to the Rec and Park Commission as there was for 190 Russ, since the 5M Project is requesting a similar shadow allowance increase for Boeddeker Park in the Tenderloin.

One obvious question that should be raised during this review is whether the heights of the proposed buildings can be decreased. There should be a comparison of the shadow impacts of a code-compliant project against the proposed project. It seems obvious that if the shadow on Boeddeker Park is indeed so minimal, that instead of stepping into the policy controversy that 190 Russ walked into, the Project Sponsor would simply reduce the heights of the buildings causing the non-compliant shadow. The starting point for all these discussions and analyses should be a project that complies with the current zoning.

We are also concerned that a critical step for community review of open space has been skipped. The Project Sponsor must present at a public hearing of PROSAC, Parks Recreation and Open Space Advisory Committee. PROSAC unanimously passed on September 1, 2015 a "Resolution recommending that the Rec and Park Commission postpone their vote on proposed project 2011.0409E, 5M Project, 925-967 Mission Street," citing concerns about the shadow impacts and the 5M Project's proposed open space.

5) The Arts Commission should finalize their recommendation on the portion of their Development Agreement before the Planning Commission approvals.

Both the Community Arts, Education and Grants Committee and the full SF Arts Commission will not have finalized their decision on the Development Agreement before Sept. 17. The Committee meeting on September 8 and the full Commission on September 15 are both anticipated to be presentations and discussion meetings only.

6) The Proposed Development has been carved out of the Central SoMa draft plan and is inconsistent with the overall land use plan described in that draft plan.

The following are quotations from the draft Central SoMa Plan which clearly show that the 5M Project is inconsistent with this draft Plan.

p. 6: "[A]ny increases in development capacity need to be balanced with other Plan goals - respecting the rich context, character and community of SoMa." *The 5M Project does not respect the existing context and character of SoMa because it completely disregards the zoning contemplated on the site.*

p. 41 and 42: *The 5M Project exceeds the height limits shown for this site in the Mid Rise Alternative and High Rise Alternative of the Draft Central SoMa Plan. The Draft Central SoMa Plan still zones the project site at heights that range from 40-feet to 160-feet.*

p. 6: "This plan sets forth a proposal for a mostly mid-rise district, based on an overall base height set by the width of the area's streets. The plan uses a number of urban design strategies, from lowering heights to preventing lot mergers, to protect assets like existing open spaces, residential enclaves, small-scale neighborhood commercial clusters and historic districts." *A 470-foot, 45-storey condo tower, and 395 foot and 350 foot office towers are not mid-rise buildings.*

p. 11: "The TODCO Group... is developing a Central SOMA Community Plan as a community-driven alternative to this Plan." *The Community Plan has not yet been completed because TODCO has not been leading a community planning process.*

p. 22: "Removing industrial restrictions on land and allowing other, higher-paying uses will substantially increase its value, as would major increases in height limits." *As stated earlier, adding increased heights increases value for the 5M site, which the Central SoMa Plan acknowledges.*

p. 25: "Community facilities such as schools, child care, community centers, and public services (like police and fire) are an essential part of any complete community. Such uses will continue to be permitted throughout the Plan Area. The Planning Department will work with other City agencies to provide adequate provision of these facilities within the Plan Area. Additionally, incentives such as FAR exemptions or bonuses should be considered to encourage creation of such facilities in new construction. Special attention should be paid to incentivizing such facilities in the existing SoMa Youth & Family Special Use District." *The Central SoMa Plan acknowledges the SoMa Youth & Family SUD. The 5M Project does not.*

p. 32: "It is important to note that mid-rise buildings are not necessarily synchronous with low densities. On the contrary, buildings heights of 65-130 feet combined with the larger floorplate buildings characteristic of the area can easily reach Floor Area Ratios (FAR) of over 6:1. (By comparison, the core of the downtown averages 9:1.) Finally, the essential historic character that defines the South of Market is that of the large commercial and industrial warehouse mid-rise building." *Developers can provide a lot of housing and a lot of jobs with the height and bulk currently zoned on the 5M site.*

p. 32: "As such, the Draft Plan proposes that towers taller than 130' in height should not exceed a floorplate of 12,000 gross square feet for residential or hotel uses and an average of 15,000

square feet for commercial uses. Outside of the downtown core, typical tower separation requirements are 115 feet to ensure light, air and views between tall buildings. Such controls should be considered here. Tower separation less than 115' might be considered where adjacent towers are very slender (e.g. 8,500 gsf) and adjacent towers vary in height by a significant amount (e.g. 50' or more).⁴ *The floor plates of the 5M Project have not been described in the Final EIR, nor is there enough information to even calculate them. Without this information, the project can not be evaluated fully.*

The following provides further information on the Youth and Family SUD and Filipino Heritage District described in the coalition's demands above.

Description and History of the Youth and Family SUD

The 5M site is in the Youth and Family SUD. The existing Youth and Family SUD is "intended to expand the provision of affordable housing in the area defined... In addition, this zoning is intended to protect and enhance the health and environment of youth and families by adopting policies that focus on certain lower density areas of this District for the expansion of affordable housing opportunities."⁴

Efforts have been made by the SoMa community to strengthen and expand the SUD. The following is an excerpt from the *Central SOMA Community Plan EIR Draft May 2013*:

The South of Market Youth and Family Zone was adopted as a Special Use District for parts of Central SOMA as part of the Eastern Neighborhoods Rezoning approved in 2010, in response to community concerns about the long term gentrification of SOMA and property use conflicts with families living here. It is very limited in scope, requiring conditional use approvals for a list of property uses that might be incompatible with family residents, and setting a higher requirement for inclusionary affordable housing for any new developments on the handful of small alleyway lots within the district.

To be of real value for Central South of Market Neighborhood/Community Building and meaningfully counter continued gentrification of the private housing market, the existing Youth and Family Zone needs to be expanded and strengthened significantly in several ways.⁵

⁴ <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=1479>

⁵ Central SOMA Community Plan EIR Draft May 2013

<https://static1.squarespace.com/static/51770074e4b0e5c0dba4dc96/t/51774b14e4b0df66511a29f4/1366772500534/3F2.Plan+Topic+Youth+And+Family+Zone+D2%5B2%5D.pdf>

The Draft Community EIR continues to describe ways that the SoMa Youth and Family SUD should be strengthened and expanded, including the protection of the elderly, the expansion of its boundaries, and higher inclusionary housing requirements. To date, the expansion and strengthening of the Youth and Family SUD has not been completed within the Central SoMa Plan.

As stated above, our coalition is demanding that the Youth and Family SUD be expanded and strengthened and a new SUD for the 5M Project not be established. The expanded Youth and Family SUD should include the entirety of the 5M Project site. A code-compliant project that expands the Youth and Family SUD is the right approach for planning that respects evolving communities, not an SUD for a single project.

Description and History of the SoMa Filipino Heritage District

As is described in the *SOMA Filipino Heritage Draft*, "While sizeable Filipino communities exist in other areas such as Daly City, Union City and Vallejo, the South of Market neighborhood continues to serve as a touchstone for Filipinos seeking to reconnect with their cultural heritage... Today it is the site where the most important Filipino cultural celebrations are held in San Francisco. Likewise, Saint Patrick's Church continues to act as a center of gravity for Filipinos living in areas outside of SoMa."⁶

This 40-page document, which includes both academic research and oral history continues to say, "As an overtly working-class neighborhood, the relatively cheap rents and proximity to both downtown and the waterfront made it attractive to Filipino residents, who began moving there in the years prior to World War II."⁷

For decades, the South of Market neighborhood has been home to many Filipino families, including several WWII veterans and their families. Over the years, cultural assets were established and these assets represent the Filipino cultural and immigrant history in San Francisco and the US. For example, SoMa is home to the only Filipino-American bookstore in the country located at the Bayanihan Community Center at 6th and Mission.

Since 1990, as part of efforts by the Redevelopment Agency, the South of Market Project Area Committee (SOMPAC) published a number of documents that contribute to recognizing a Filipino based district in South of Market.

⁶ SOMA Filipino Heritage Draft, December 10, 2012. Attached as an Addendum.

⁷ *ibid*

From 2008 to 2011, the SoMa Filipino community worked together and with the Planning Department to lay the groundwork for the development of the Filipino Heritage District as part of the Western SoMa Plan. In order to recognize, protect and memorialize these South of Market Filipino cultural assets, the Western Soma Citizens Planning Task Force proposed the Filipino Social Heritage SUD in an identified boundary in West SoMa.⁸

In July 2011, *Recognizing, Protecting and Memorializing South of Market Filipino Social Heritage Neighborhood Resources* was issued by the Western SoMa Citizens Planning Task Force. This document presents a brief discussion of the evolution of the Filipino community in San Francisco from the 1920s through the 1980s, with an emphasis on identifying buildings or sites in the South of Market neighborhood that are viewed as cultural assets by the Filipino community.

The proposal for a Filipino Heritage District as part of the Western SoMa Plan was never taken through to implementation. Our coalition is proposing to use the many years of groundwork, research and community input to create a Filipino Heritage district that includes the many important cultural assets in Central SoMa, as identified in the Western SoMa Plan.

The Filipino-American Development Foundation has identified more than 25 historic sites, buildings, and objects, and also proposed boundaries to establish a Filipino social heritage district. The proposed Filipino district highlights the long-standing cultural institutions in the neighborhood as they have served as places of worship, for community services, for arts expression, and as sites for cultural activities and events.

As stated above, we demand that the City prioritize the finalization of the Filipino Heritage District. Year after year, Planning has put this important Heritage District on the back burner, despite the years of community planning and significant research produced by SoMa workers and residents.

Timeline of Finalizing Filipino Heritage District and Expanding Youth and Family Zone:

Since the community and Planning Department's work in establishing the Filipino Heritage District, the City has adopted two cultural districts – the JapanTown Cultural Heritage and Economic Sustainability Strategy and the Calle 24 Latino Cultural District.

⁸ <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=7437>
<http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=7433>
<http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=7435>

In the case of the Calle 24, City staff at Office of Economic and Workforce Development (OEWD) and Planning are currently engaged in a six month process to establish the language and legislation for the Latino Cultural District Special Use District. The SUD development includes design guidelines, refinement of land use controls, and other implementation tools.

The Filipino Heritage District requires legislation establishing the district, a strategy/plan, and SUD development. Because we have the advantage of the work experience with the two other cultural districts, we believe if made a priority, the Filipino Heritage District could be established with a strategy/workplan and SUD in 9 to 12 months.

In regards to the expansion of the Youth and Family SUD, this is supposed to be part of the Central SoMa Plan.

Let us know if you have any questions.

Sincerely,

SoMa Action Committee (S.M.A.C.)

The SoMa Action Committee (SMAC) is a coalition of residents and community-based organizations who have come together to address the economic and social impacts of new development in SoMa. It includes South of Market Community Action Network, Filipino-American Development Foundation, Veterans Equity Center, Manilatown Heritage Foundation, The Women's Building, SF Tenants Union, Housing Rights Committee SF, Causa Justa::Just Cause, PODER, Cathedral Hill Neighbors, ACCE SF, Western Regional Advocacy Project, Mission Neighborhood Resource Center, Anti-Eviction Mapping Project, San Francisco Neighborhood Network, Plaza 16 Coalition, Mission United, and the Coalition for San Francisco Neighborhoods.

cc:

Cindy Wu, Planning Commission Vice President

Michael J. Antonini, Planning Commissioner

Rich Hillis, Planning Commissioner

Christine D. Johnson, Planning Commissioner

Kathrin Moore, Planning Commissioner

Dennis Richards, Planning Commissioner

John Rahaim, Director of Planning

Mayor Edwin Lee

Board of Supervisors:

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District 3, Julie Christensen
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District 8, Scott Wiener
District 9, David Campos
District 10, Malia Cohen
District 11, John Avalos
Barbara Kautz, Goldfarb & Lipman LLP
Eric Phillips, Goldfarb & Lipman LLP

Addendum:

SOMA Filipino Heritage Draft, December 10, 2012.

September 9, 2015

Alexa Arena
Senior Vice President
Forest City San Francisco
875 Howard Street, Suite 330
San Francisco, CA 94103

Dear Ms Arena,

The SoMa Action Committee (S.M.A.C.) is a coalition of residents, community-based organizations and small businesses based in the South of Market. We are writing to Forest City as a follow-up to the letter we sent to the Planning Commission on September 3, 2015 about the proposed 5M Project at Fifth and Mission.

Our coalition is requesting that Forest City provide us with the following information as soon as possible:

1) Project Renderings

We want a clear picture from a street level view of what the proposed project looks like from street level. We also want to see the same perspectives rendered for a project that adheres to existing zoning. The perspective drawings should be from eye level, showing not just up to the first or second level, but showing the entire extent of the heights of the street wall and towers behind. These perspective drawings should be rendered from the points of view of a person walking down the following list of streets in both directions (east/west or north/south).

- I. Mission Street
- II. Mary Street
- III. Minna Street
- IV. 5th Street
- V. Natoma Street
- VI. Howard Street

2) A Comprehensive Shadow Study

We need to see updated shadow videos that play in slow motion that include the shadows from all projects that are in Planning's development pipeline within a half mile radius of the 5M Project site, in addition to the 5M buildings and the existing buildings. The Project Sponsor of 75 Howard completed and presented a similar shadow study for the shadows on Rincon Park. We need to see the cumulative impacts of all these shadows as they will be imposed on all public open spaces, most importantly Boeddeker Park.

Please let us know as soon as possible when we can expect to receive these perspective renderings and updated shadow videos.

Sincerely,

SoMa Action Committee (S.M.A.C.)

September 15, 2015

Alexa Arena
Senior Vice President
Forest City San Francisco
875 Howard Street, Suite 330
San Francisco, CA 94103

Re: Proposed "5M" Development

Dear Ms Arena,

Thank you for your letter of September 11 responding to our request for additional renderings of the proposed "5M" project. Based on your response, we are updating our request as follows:

1. Thank you for offering to show "a physical model of the 5M Project in the context of the surrounding neighborhood." We would very much like to see this and feel that it is imperative to have this model presented at the hearing this Thursday, Sept 17.
2. We understand that our request for 24 individual renderings may be "beyond the much more standard 3 - 6 renderings that projects of varying sizes generally produce as part of their visualization studies." Therefore, we would like to modify our request to focus on just a few of the renderings that you have already presented in your "Sample Illustrative Renderings" in the "5M Project/ Supplemental Materials." Please re-present these drawings with the following modifications:
 - "North Mary Street" rendering needs to extend upward to show the full heights of the buildings; [Diagram 1]
 - "Mission Street" rendering needs to extend upward to show the full heights of the buildings, and revise the Point of View to look west on Mission St to show the Mint Mall and buildings to the west; [Diagram 2]
 - "Howard Street View East to 5th Street" view should extend upward to show the full heights of the office towers, and the cars in the foreground should be removed to show the building where the Chieftain is. [Diagram 3]
 - The rendering titled "5th Street View South to Mission Street" very clearly shows that this project does not "respect the rich context, character and community of SoMa." [See Diagram 4: 5th Street View South to Mission Street] . Page 6, Goal 1 of the Central SoMa Plan¹ says "any increases in development capacity need to be balanced with other Plan goals -- respecting the rich context, character and community of SoMa, providing benefits for its existing residents and workers as well as the services needed for new ones, and growing sustainably." This proposed project far exceeds the height limits for either the Mid Rise or

¹ http://www.sf-planning.org/ftp/files/Citywide/Central_Corridor/Central-Corridor-Plan-DRAFT-FINAL-web.pdf

High Rise Alternatives of the Draft Central SoMa Plan. The proposed heights and bulk, the proposed garage, the shadows and the proposed open spaces violate the existing Youth and Family Special Use District. Please present a project rendering that respects the rich context, character and community of SoMa and respects the Youth and Family SUD.

3. We understand from your letter that you "are unable to provide renderings based on a code compliant project," and that you "are not proposing such a project, and do not have a program, design or other information that would be needed to prepare meaningful renderings." This is unfortunate since there exists zoning for this site, and there also exists a Youth and Family Special Use District which controls development for this area. Therefore, we as a community will strive to present to the Planning Commission and the Board of Supervisors as soon as we are able to compile them, renderings of a "5M" Project that fulfills the community's vision for how SoMa should grow in a way that respects existing residents and businesses and leads the way toward a vibrant and sustainable future.

We look forward to your response.

Sincerely,

Joseph Smooke

Board Chair, SOMCAN; Member Organization of SoMa Action Committee

cc:

Rodney Fong, Planning Commission President
Cindy Wu, Planning Commission Vice President
Michael J. Antonini, Planning Commissioner
Rich Hillis, Planning Commissioner
Christine D. Johnson, Planning Commissioner
Kathrin Moore, Planning Commissioner
Dennis Richards, Planning Commissioner
John Rahaim, Director of Planning
Mayor Edwin Lee
Sue Hestor, Attorney at Law

Board of Supervisors:
District 1, Eric Mar
District 2, Mark Farrell
District 3, Julie Christensen
District 4, Katy Tang
District 5, London Breed, President
District 6, Jane Kim
District 7, Norman Yee
District 8, Scott Wiener
District 9, David Campos
District 10, Malia Cohen
District 11, John Avalos

Diagram 1: North Mary Street

EXTEND DRAWING HERE



Diagram 2: Mission Street

EXTEND DRAWING HERE



Diagram 3: Howard Street View East to 5th Street

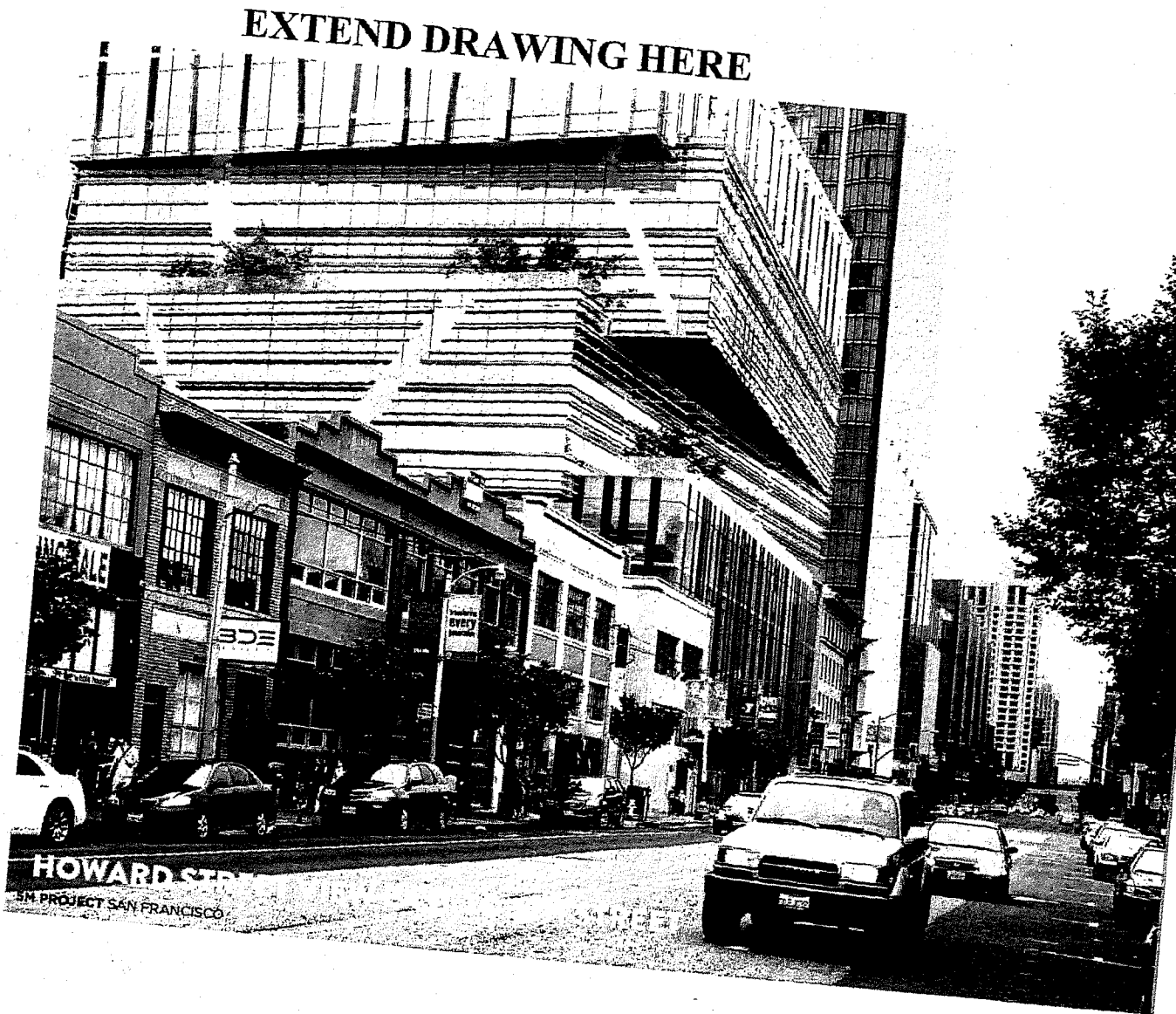


Diagram 4: 5th Street View South to Mission Street

Project does not “respect the rich context, character and community of SoMa”
as required in draft Central SoMa Plan².



² http://www.sf-planning.org/ftp/files/Citywide/Central_Corridor/Central-Corridor-Plan-DRAFT-FINAL-web.pdf

September 10, 2015

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development)
File No 2011.0409PCA

Dear President Fong and Planning Commissioners:

We are writing to you as a follow-up to the letter the SoMa Action Committee sent to the Planning Commission on September 3, 2015 about the proposed 5M Project. The following outlines reasons why the Planning Commission should continue the 5M Project until at least December 2015.

The Youth and Family Special Use District (SUD):

- 5M violates and undermines the intent of this SUD in the following ways:
 - The project does not expand affordable housing opportunities in the SUD to an amount greater than otherwise required; and
 - The project does not protect and enhance the health and environment of Youth and Families because it disregards that lower density areas of this district (i.e. RSD) are for expansion of affordable housing; and
 - The project does not commit to a minimum of 20% 2-bedroom units, 20% 3-bedrooms and 20% 4-bedrooms; and
 - The project does not maximize light access, and minimize shadow and wind impacts on existing schools, parks, recreation facilities, open spaces, housing, and pedestrian environments.

The Filipino Heritage District:

- Per request from Commissioners, we need time to put together an implementation plan and budget for the Filipino Heritage District.
- The following are the implementation components:
 - Anti-displacement and stabilization plan for organizations that provide services to the Filipino community, including youth, seniors and families; and
 - Anti-displacement and stabilization plan for businesses that serve the Filipino community; and
 - Anti-displacement and stabilization plan for Filipino residents including eviction protections, small site acquisition, construction of new affordable housing, land banking, etc.; and
 - Expansion and preservation of Filipino arts and culture organizations and individuals to grow and stabilize their presence; and

- o Ensuring that Filipino language and culture are integrated into the core curriculum at SoMa schools, and a plan for expanding to all schools city-wide; and
- o Establishing boundaries for the Filipino Heritage District; and
- o Identifying and classifying individual resources; and
- o Sustaining research and policies that encourage the preservation of Filipino social heritage resources; and
- o Creating a Filipino social-heritage trail, and honoring sites with commemorative information.

A project presentation from the community that complies with existing zoning:

Despite multiple requests from the community, the Project Sponsor and the City refuse to present an honest project proposal that complies with existing zoning, including the Youth and Family SUD. We, therefore need time to create and present to you renderings of a development that would support the community's vision and existing zoning.

A Displacement Study and Community Benefits Analysis are needed:

Commissioners have requested a Displacement Study and analysis of the proposed Community Benefits. These reports are still not available for review by Commissioners or the public. We will need time to review and evaluate these reports once they are available.

A Massing Study is needed:

We have requested from the Project Sponsor a series of renderings and a model to scale showing the proposed project from street level with adjacent buildings and how these compare to renderings of a project that would comply with existing zoning.

Parks and Rec Issues:

- We have requested from the Project Sponsor a comprehensive shadow analysis that includes the 5M buildings, existing buildings in the area, and all pipeline projects within half a mile, similar to the presentation made on the 75 Howard project.
- The Park and Recreation Open Space Advisory Committee (PROSAC) recommended that the Recreation and Park Commission postpone their September 17, 2015 vote on the 5M project until further studies are completed.

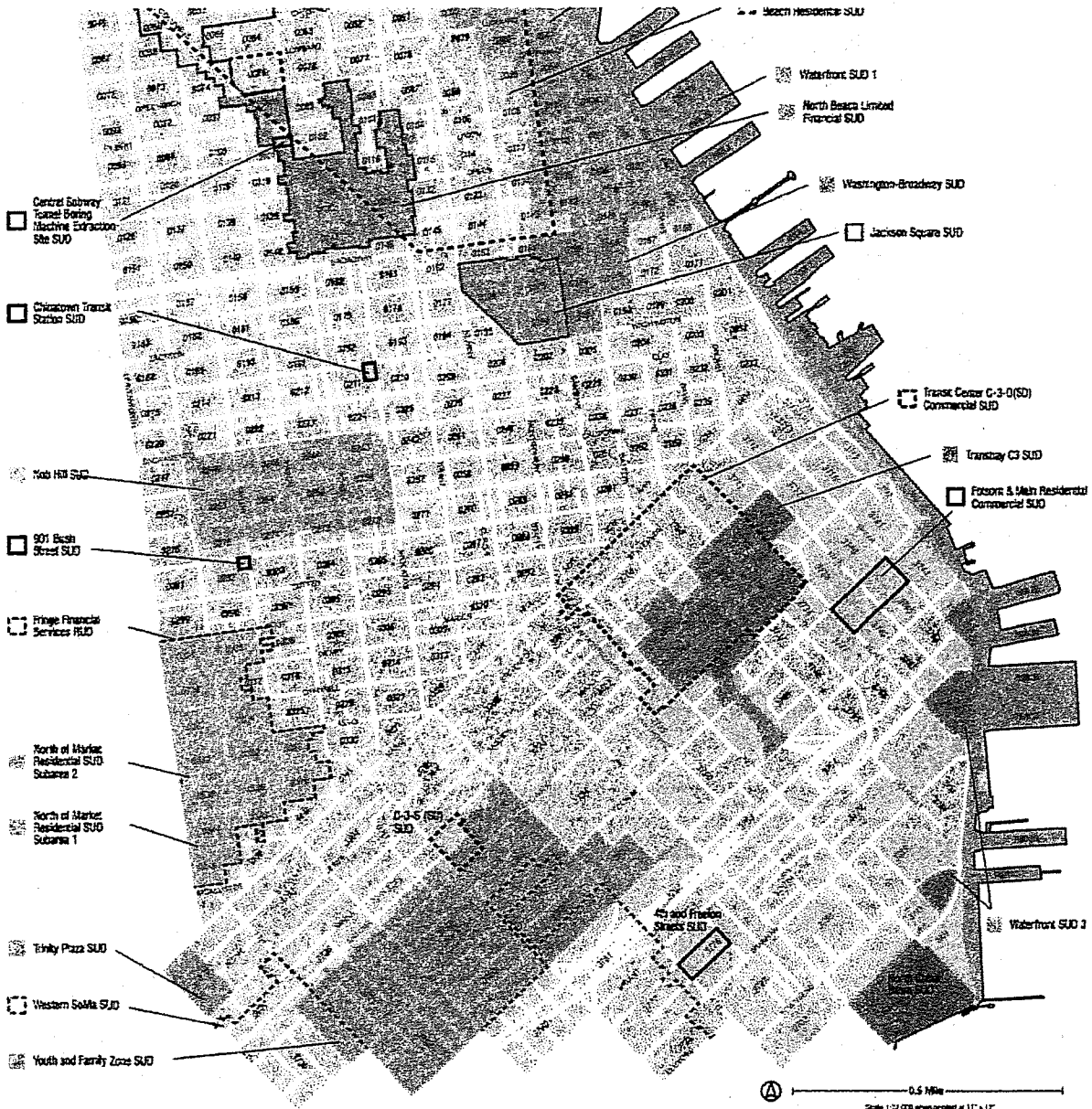
Let us know if you have any questions.

Sincerely,

SoMa Action Committee (S.M.A.C.)

Addenda:

Special Use District Map for SoMa, Zoning Map for SoMa, Height and Bulk Limits for SoMa, Filipino Heritage District Maps



Scale: 1:24,000 when printed at 11" x 17"

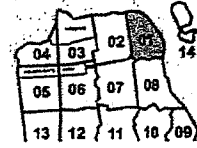
San Francisco Zoning Map

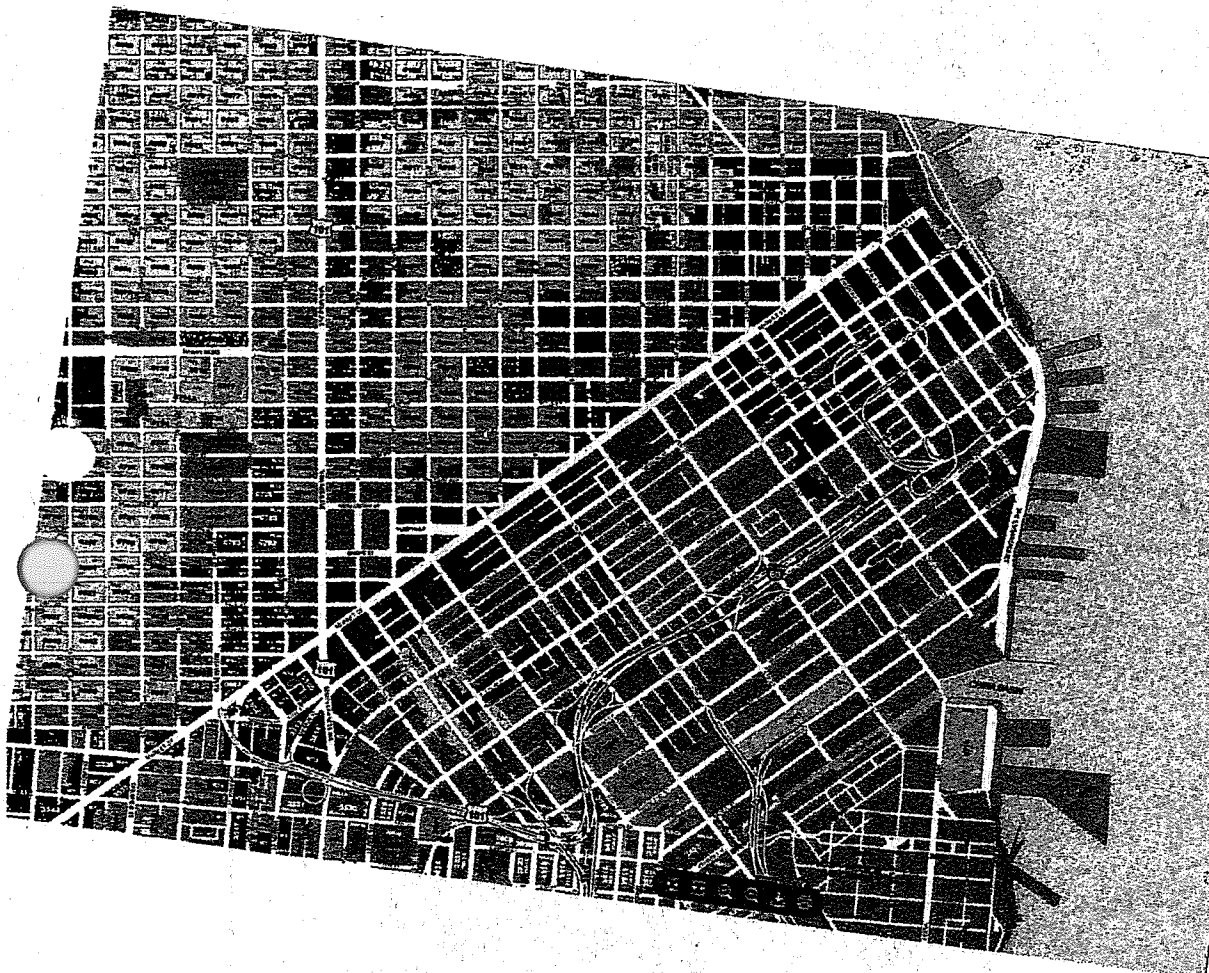
SPECIAL USE DISTRICTS INCLUDED IN THIS MAP:

4th & Fulton Streets; 901 Bush Street; C-3-S(SU); Central Subway Tunnel Boring Machine Extraction; Chinatown Transit Station; Jackson Square; Folsom and Main Residential

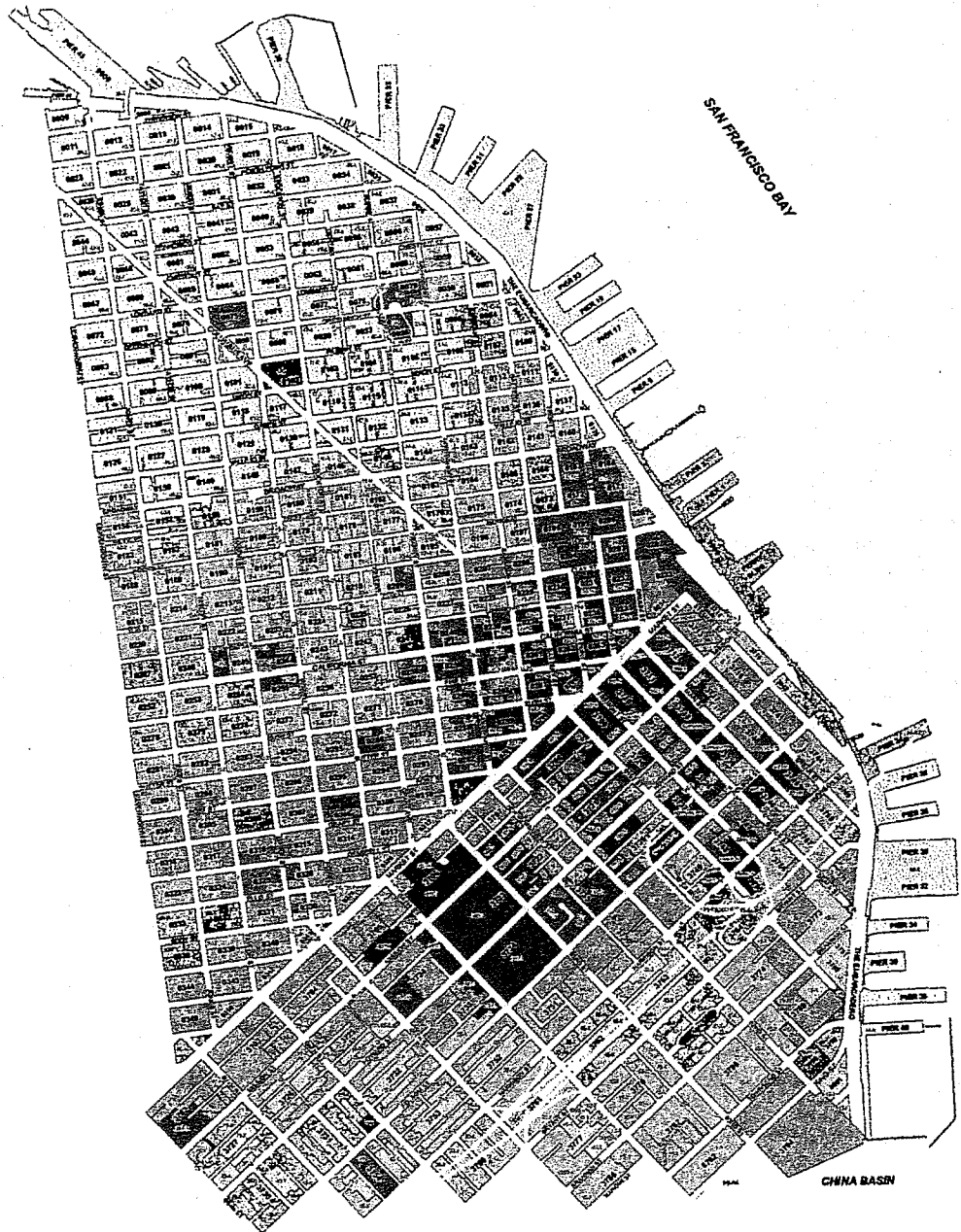
The Zoning Map of the City and County of San Francisco is established by sections 405 and 195 of the Planning Code, a part of the San Francisco Municipal Code. Zoning Ordinance 121, established by sections 201, 202, 203, and 204 of the Planning Code, shall incorporate the Board of Supervisors' ordinance enacted through July 2005.

Disclaimer: The City and County of San Francisco (CCSF) does not guarantee the accuracy.





- RW-1 (SP) One Unit Per Lot, Micro-dormitory Unit
- RW-2 Two Units Per Lot
- RW-3 Three Units Per Lot
- Residential, Mixed (Houses & Apartments) Districts**
- RM-1 Low Density (1 Unit per 800 sq)
- RM-2 Moderate Density (1 Unit per 400 sq)
- RM-3 Medium Density (1 Unit per 400 sq)
- RM-4 High Density (1 Unit per 200 sq)
- Residential-Commercial Combined Districts**
- RC-3 Medium Density (1 Unit per 400 sq)
- RC-4 High Density (1 Unit per 200 sq)
- Residential Transit Oriented Districts**
- RTD Residential Transit Oriented
- RTD-44 Residential Transit Oriented, Midrise
- Downtown Residential Districts**
- RW-DTR Medium Density
- RW-DTR Medium Density
- RW-DTR Medium Density
- Neighborhood Commercial Districts**
- NC-1 Cluster (1 Commercial Block)
- NC-2 Small-Scale (2 Commercial Blocks)
- NC-3 Medium-Scale (3+ Commercial Blocks)
- NC-4 Shopping Center (2 Commercial Blocks)
- NCD Trip-Maker (Mixed, Density Vary)
- Neighborhood Commercial Transit Districts**
- NCT-1 Cluster
- NCT-2 Small Scale
- NCT-3 Medium Scale
- NCT Trip-Maker (Mixed, Density Vary)
- Charleston Mixed Use Districts**



DISCLAIMER: The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an "as is" basis without warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

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HEIGHT AND BULK DISTRICTS

OS ← "Open Space" District

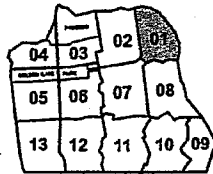
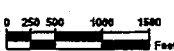
"Numbers" are Height Limits in feet. See Planning Code Section 250 and following.

"Letters" refer to Bulk Limits. See Planning Code Section 270.

00-Z-1 ← "Suffix Numbers" identify districts in which special regulations apply. See Planning Code Sections 263 and following.



SCALE: 1:14,000



MAP SHEET KEY

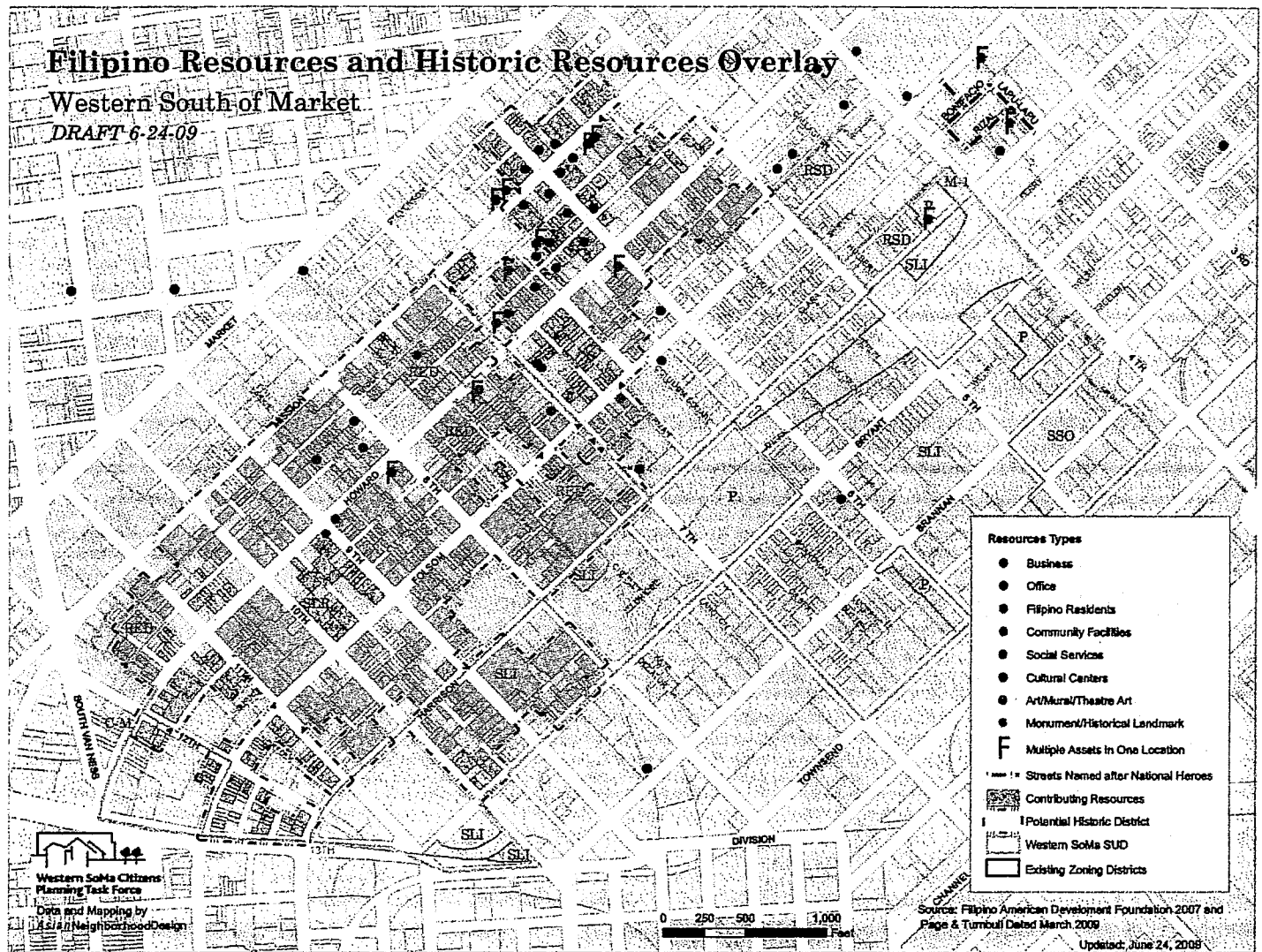
THE ZONING MAP OF THE CITY AND COUNTY OF SAN FRANCISCO IS ESTABLISHED BY SECTIONS 105 AND 106 OF THE PLANNING CODE, A PART OF THE SAN FRANCISCO MUNICIPAL CODE. ZONING USE DISTRICTS ARE ESTABLISHED BY SECTIONS 201, 702, 802 AND 902 OF THE PLANNING CODE. MAP INCORPORATES BOARD OF SUPERVISORS' ORDINANCES ENACTED THROUGH APRIL 2014.

SHEET
HT01

Filipino Resources and Historic Resources Overlay

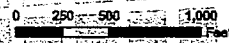
Western South of Market

DRAFT 6-24-09



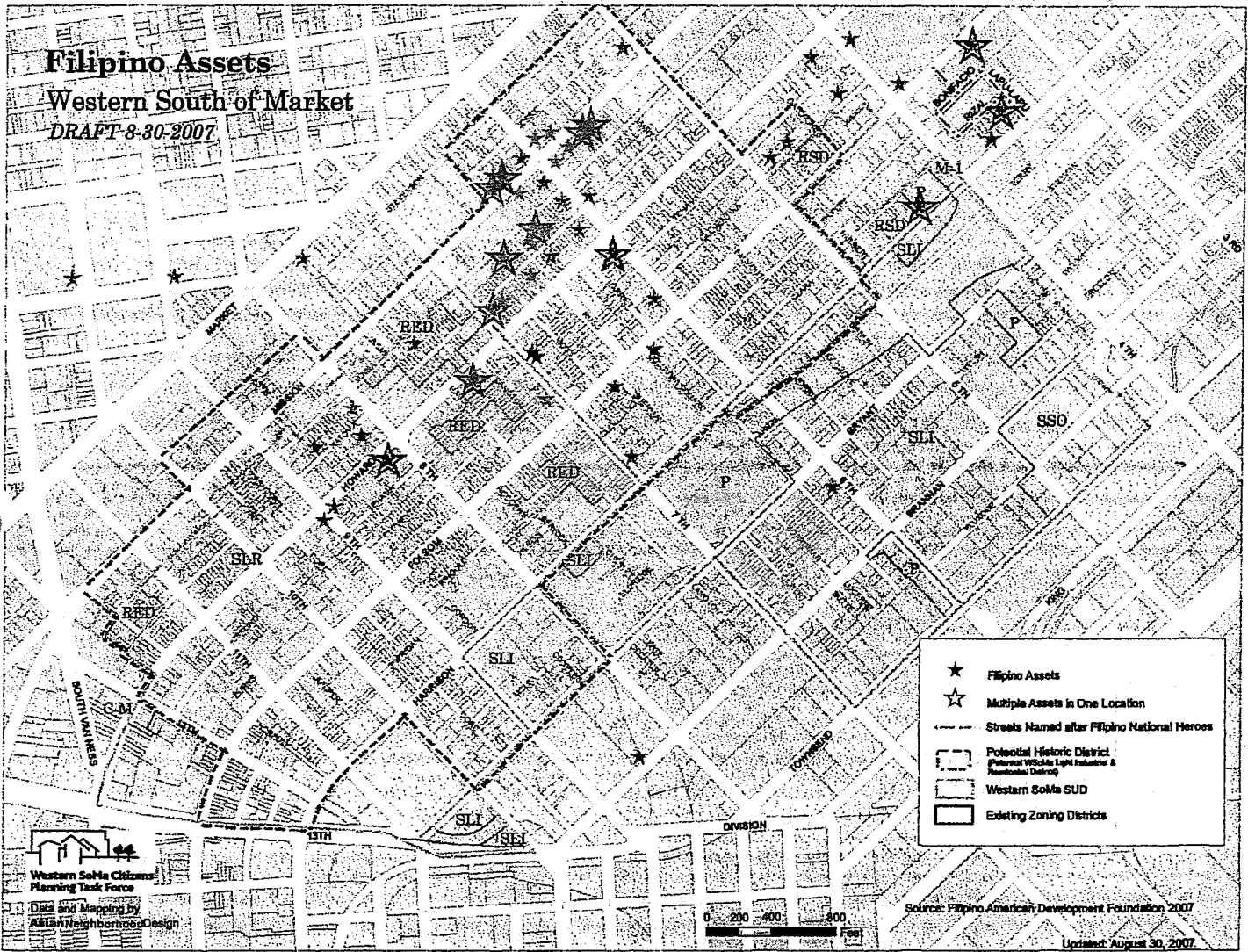
- Resources Types**
- Business
 - Office
 - Filipino Residents
 - Community Facilities
 - Social Services
 - Cultural Centers
 - Art/Mural/Theatre Art
 - Monument/Historical Landmark
 - F Multiple Assets in One Location
- Streets Named after National Heroes
- ▨ Contributing Resources
 - - - Potential Historic District
 - Western SoMa SUD
 - Existing Zoning Districts

Western SoMa Citizens
Planning Task Force
Data and Mapping by
Asian Neighborhood Design



Source: Filipino American Development Foundation 2007 and
Page & Turnbull Dated March 2009
Updated: June 24, 2009

Filipino Assets
Western South of Market
DRAFT 8-30-2007



- ★ Filipino Assets
- ☆ Multiple Assets in One Location
- Streets Named after Filipino National Heroes
- ▭ Potential Historic District (Potential Historic Light Industrial & Residential District)
- ▭ Western SoMa SUD
- ▭ Existing Zoning Districts

Western SoMa Citizens
 Planning Task Force
 Data and Mapping by
 Asian Neighborhood Design



Source: Filipino American Development Foundation 2007

Updated: August 30, 2007

September 13, 2015

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, 4th Floor, Suite 400, San Francisco, CA 94103

Re: 925 Mission St (5M Development), File No 2011.0409PCA

Dear President Fong and Planning Commissioners:

We request that this project be continued to December 10, 2015. This proposed project is not ready for approval as we detail below and in the attached diagrams following the topics we presented in our September 3, 2015 letter, which we detailed further in our September 10, 2015 letter.

1. A Displacement Study and Community Benefits Analysis are Needed

The most important issue is the displacement of the Filipino community. The entire staff report and nearly 1,300 pages of documents recently posted by Planning regarding this project omit this critical issue.¹ Filipinos were first displaced from Manilatown adjacent to Chinatown, then from redevelopment of Yerba Buena Center. This "5M" project proposal appears to be the latest attempt to drive Filipinos from SoMa.

Required Action	Description	Responsible
Displacement Study	<ul style="list-style-type: none">• Compare market rate development to evictions.• A detailed inventory/ map of soft sites. [See Diagram 1, SoMa Soft Sites]• A map similar to Anti-Eviction Mapping Project² [See Diagram 2]• Rent controlled buildings and SROs are not "stabilized."	Planning Department
A Real Community Benefits Analysis	<ul style="list-style-type: none">• Present schedule of Community Benefits relative to phased construction or occupancy of each building.• Present ramifications if parts of the development are sold or transferred.	Planning Department
Independent Review on Dev. Agreement	Board of Supervisors should request an independent report on the financial and legal risks related to the Development Agreement.	Board of Supervisors

¹ <http://commissions.sfplanning.org/cpcpackets/2011.0409%20-%205M%20CPC%20Packet%20-%20sm%20091715.pdf>

² <http://www.antievictionmappingproject.net/mission.html>

2. The Cumulative Impacts of the 5M Project on the Youth and Family Zone Need to Be Analyzed

The proposed project will obliterate the Youth and Family SUD (Planning Code Section 249.40A) because the 5M Project proposes to:

- Rezone the Residential/ Service Mixed Use District (RSD) portion of the site in order to build the two massive “H1” office towers. This may seem like a small portion of the “5M” site, but it will destabilize the Youth and Family SUD (YF-SUD) and create pressure to rezone the large parts or the entirety of the YF-SUD; [See Diagram 3: H1 Building on Youth & Family Zone]
- Build residential towers that are many times larger than the mid-rise scale of the Youth and Family SUD with only 12% of on-site units being “below market rate”; [See Diagram 4: Height Comparison]
- Build residential towers with no commitment to family size units;
- Build buildings while not disclosing the shadows cast on all open spaces in the surrounding area and on the project’s proposed open space; and [See Diagram 5: Open Space Rendering Incomplete]
- Build a garage for 463 cars where no parking is required.

Required Action	Description	Responsible
Analysis of Cumulative Impacts to YF-SUD	Map of projects that have been approved/ built and are in the pipeline for approval in the Youth and Family SUD (YF-SUD) with a summary of how they comply or do not comply with the YF-SUD.	Planning Department
Strengthen and Expand the YF-SUD	The Youth and Family SUD (YF-SUD) was supposed to be expanded and strengthened as part of the Central SoMa Plan. The proposed “5M SUD” should not be separate-- it should be an expansion of the YF-SUD.	Planning Department

3. A Massing Study is Needed

Required Action	Description	Responsible
Renderings and Massing Study	<ul style="list-style-type: none"> ● Produce and present a scale, physical model of the Proposed Project. ● “North Mary Street” rendering needs to extend upward to show the full heights of the buildings; [Diagram 6] ● “Mission Street” rendering needs to extend upward to show the full heights of the buildings, and revise Point of View to look west on Mission St to show Mint Mall and buildings to the west; [Diagram 7] 	Project Sponsor

	<ul style="list-style-type: none"> • “Howard Street View East to 5th Street” view should extend upward to show the full heights of the office towers, and the cars in the foreground should be removed to show the building where the Chieftain is. [Diagram 8] 	
--	--	--

4. The Rec and Park Commission must have its own hearing prior to the joint hearing with Planning

- Rec & Park has held separate hearings on similar requests for shadow allowance increases for other projects; and
- PROSAC’s has made this request as a citizen advisory body to the Rec & Park Commission.

5. The Arts Commission should finalize their recommendation on the Development Agreement

- Many members of the arts community, individuals and organizations have joined our SMAC coalition recently as they have become aware of the fast tracking of this aspect of the project; and
- These artist groups are writing letters opposing the 5M Project to the Arts Commission.

6. Proposed Development has been carved out of and is inconsistent with the draft Central SoMa Plan

The rendering titled “5th Street View South to Mission Street” very clearly shows that this project does not “respect the rich context, character and community of SoMa.” [See Diagram 9: Disrespecting SoMa] This proposed project far exceeds the height limits for either the Mid Rise or High Rise Alternatives. The proposed heights and bulk, the proposed garage, the shadows and the proposed open spaces violate the existing Youth and Family Special Use District.

The Project Sponsor and City Staff continue to disrespect the existing zoning by not presenting an honest and compelling vision for developing the “5M” site in a way that respects:

- The draft Central SoMa Plan;
- The existing Youth and Family SUD; and
- Proposed Filipino Heritage District.

The community will create our version of the Project. However, because the community does not have the resources that the Project Sponsor or the City have, it will take us some time to develop.

Required Action	Description	Responsible
Community Vision of 5M Site	Renderings of a development approach that complies with existing zoning including the Youth and Family SUD.	SoMa Action Committee (SMAC)

7. The Filipino Heritage District

We understand that there might be some interest from the City in implementing this, but to date, we have seen nothing in writing in response to our demand. Please refer to our September 10, 2015 letter for more detail.

Required Action	Description	Responsible
Commitment to Finalizing Filipino Heritage District and expansion of Youth and Family Zone	Written Commitment to Finalizing the both the Filipino Heritage District and the Youth and Family Zone with a Timeline. Both the FHD and YF-SUD should be harmonized and finalized.	Planning Department/ OEWD

8. The office towers have no major tenant.

You can not develop 633,500 square feet of new office space entirely speculatively (without a major tenant). There is already fierce competition for office space tenants because of the glut of office space coming online in SoMa.³

Required Action	Description	Responsible
Reconsider the Office Towers	The Office Towers should be moved away from the RSD/ Youth and Family SUD and should be scaled down appropriate to existing zoning.	Project Sponsor

9. Public sentiment in favour of this project has been manipulated.

It is unfortunate that Forest City has been using sign-in sheets from informational presentations, and entering those names into an online petition form. We have heard complaints from community members that their names have appeared on the form letters generated by the petition without their explicit consent.

Timeline

We have requested a continuance until December 10, because most of the items that are on this list have been on our list of requests for some time, but we still have seen no progress. These are items for which we need to receive information from Planning and/ or the Project Sponsor.

For the item that is in our control, the development of a project presentation that complies with existing zoning, we estimate the following schedule:

1. Selection of an architect by Sept 24
2. Architect to review the existing zoning and project conditions: Sept 25 to October 16

³<http://www.bizjournals.com/sanfrancisco/blog/real-estate/2015/04/map-san-francisco-central-soma-real-estate-project.html?page=all>

3. Architect to develop a preliminary scheme: October 17 to November 20
4. Circulation of the scheme and presentation November 23 to December 10

We look forward to receiving a response to this request for information and a continuance to December 10, 2015.

Sincerely,

Joseph Smooke
SOMCAN, Board Chair
SoMa Action Committee (S.M.A.C.)

The SoMa Action Committee (SMAC) is a coalition of residents and community-based organizations who have come together to address the economic and social impacts of new development in SoMa. It includes South of Market Community Action Network, Filipino-American Development Foundation, Veterans Equity Center, Manilatown Heritage Foundation, The Women's Building, SF Tenants Union, Housing Rights Committee SF, Causa Justa::Just Cause, PODER, Cathedral Hill Neighbors, ACCE SF, Western Regional Advocacy Project, Mission Neighborhood Resource Center, Anti-Eviction Mapping Project, San Francisco Neighborhood Network, Plaza 16 Coalition, Mission United, and the Coalition for San Francisco Neighborhoods.

cc:

Cindy Wu, Planning Commission Vice President
Michael J. Antonini, Planning Commissioner
Rich Hillis, Planning Commissioner
Christine D. Johnson, Planning Commissioner
Kathrin Moore, Planning Commissioner
Dennis Richards, Planning Commissioner
John Rahaim, Director of Planning
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District 9, David Campos
District 10, Malia Cohen
District 11, John Avalos
Sue Hestor, Attorney at Law

Diagram 1: SoMa Soft Sites

TODCO Group Central SOMA Community Plan
Soft Sites per Department of City Planning

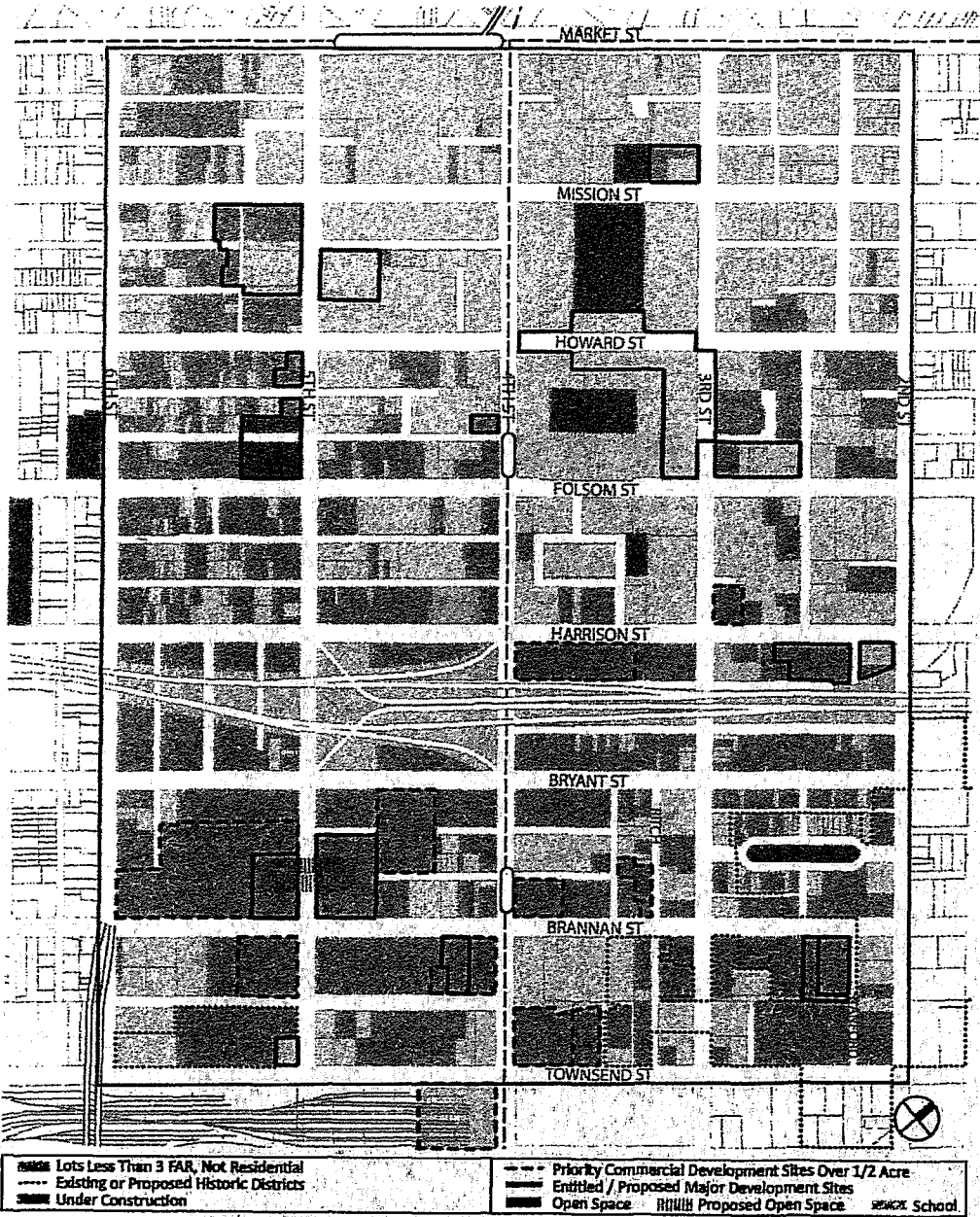
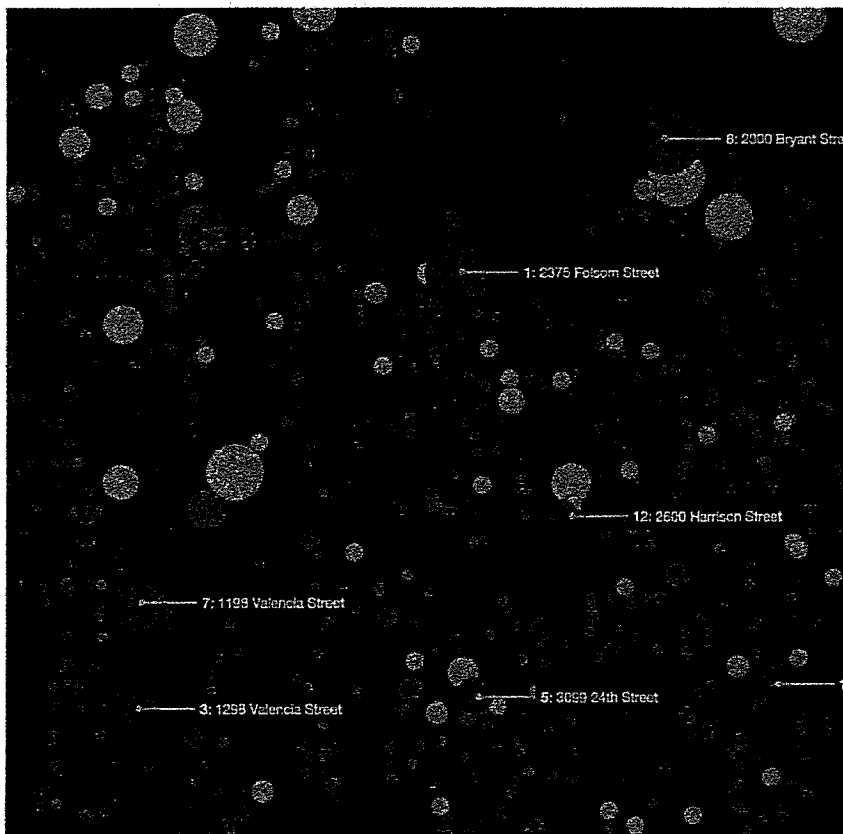
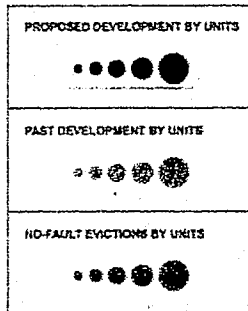


Diagram 2: Anti-Eviction Mapping Project

<http://www.antievasionmappingproject.net/mission.html>

This map details development projects that have been proposed and executed in San Francisco's Mission District from 2003 onwards (purple), as well as ones that are proposed to be executed in the future (red). Upon these development projects are no-fault evictions (blue) that have occurred in the Mission district since 1997.

Click



Proposed Development:

Key	Address	Units	Developer
1	2375 Folsom Street	115	Axis Development Group
2	1979 Mission Street	281	Stetson
3	1298 Valencia Street	41	SE Southwest Development LLC
4	170 South Van Ness	84	Forum Design
5	3099 24th Street	21	
6	3314 Cesar Chavez Street	52	3314 Cesar Chavez LLC
7	1198 Valencia Street	52	Wai Charvut
8	2000 Bryant Street	274	Wai Cell Space, now 2000 Bryant Street JV LLC
9	1924 Mission Street	13	Rahn Brothers LLC
10	2799 24th Street	21	John J. and Linda J. Malachuk
11	1924 Mission Street	13	2445 16th Street LLC
12	2600 Harrison Street	20	Kernan/Morris Architects LLP
13	1515 South Van Ness	161	Lenner

Mission Statistics

ENTITLED AND UNDER CONSTRUCTION UNITS - MISSION DISTRICT ONLY		
TOTAL UNITS ENTITLED (2014 Q2)	478	UNITS
MARKET-RATE UNITS ENTITLED	444	MARKET-RATE UNITS, TYP. > 200% AMI
AFFORDABLE NONPROFIT UNITS ENTITLED	0	NONPROFIT UNITS, 0-60% AMI
INCLUSIONARY BARR ENTITLED (2014 Q1 - FROM 5/08)	34	BARR UNITS, 50%-120% AMI
TOTAL NONPROFIT - INCLUSIONARY UNITS	34	AFFORDABLE UNITS
INCLUSIONARY PERCENT (ENTITLED)	7.1%	INCLUSIONARY
HOUSING BALANCE - ENTITLED	7.1%	AFFORDABLE HOUSING BALANCE

Diagram 3: H1 Building on Youth & Family Zone

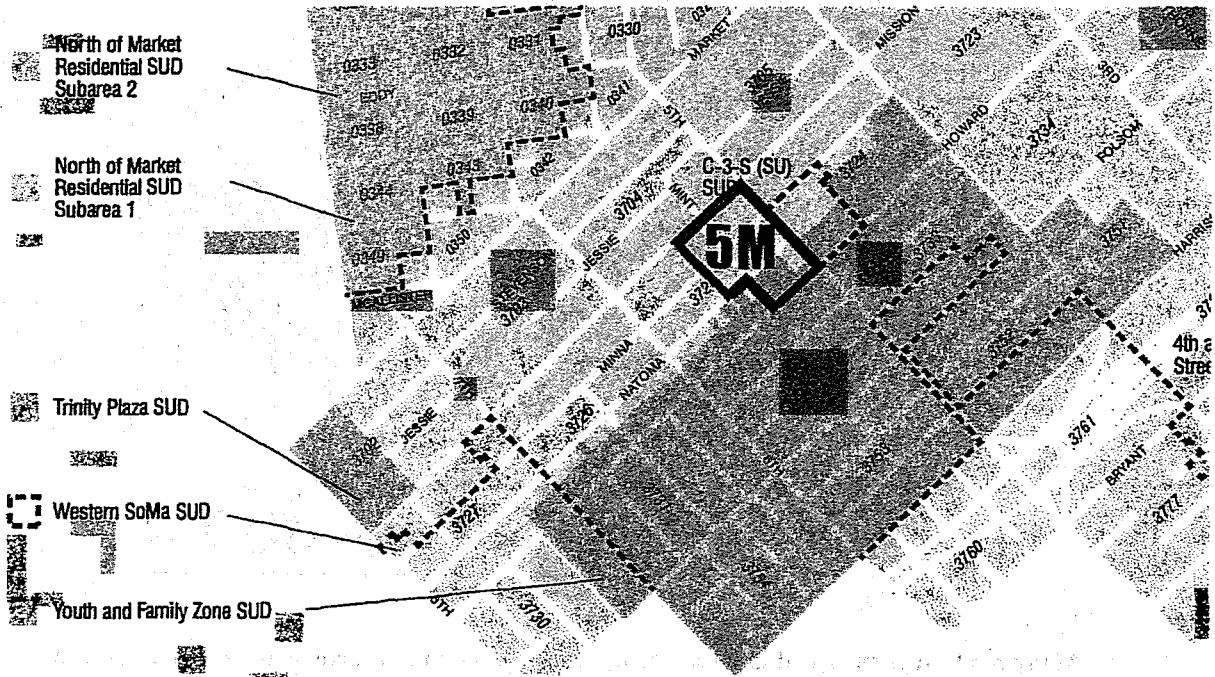
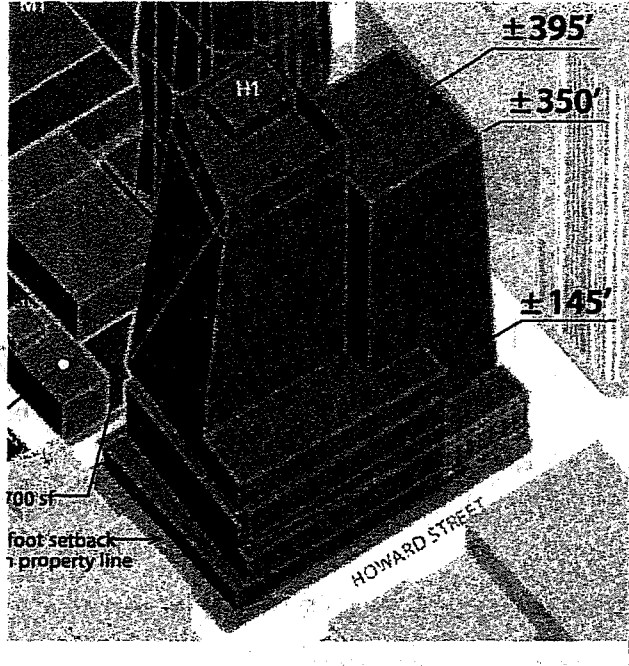


Diagram 4: Height Comparison

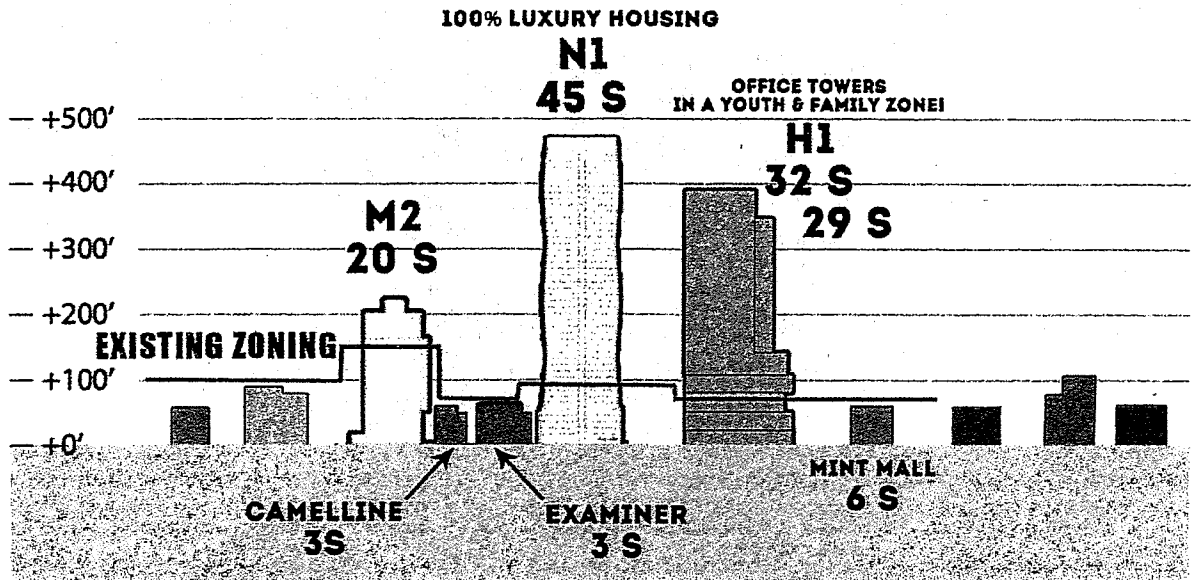


Diagram 5: Open Space Rendering Incomplete

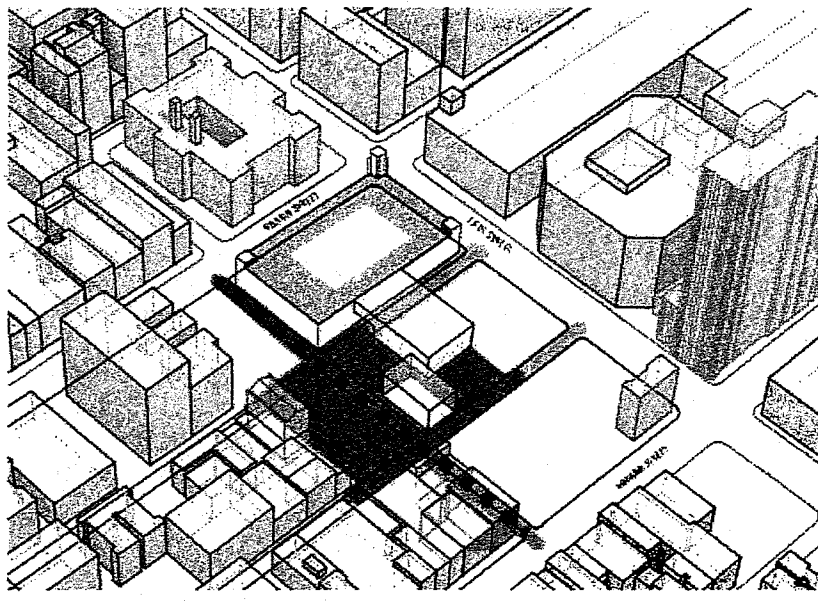


Fig. 2.1a Interwoven Public Realm

Many renderings such as this presented by the Project Sponsor have no buildings or shadows.

Diagram 6: North Mary Street

EXTEND DRAWING HERE



Diagram 7: Mission Street

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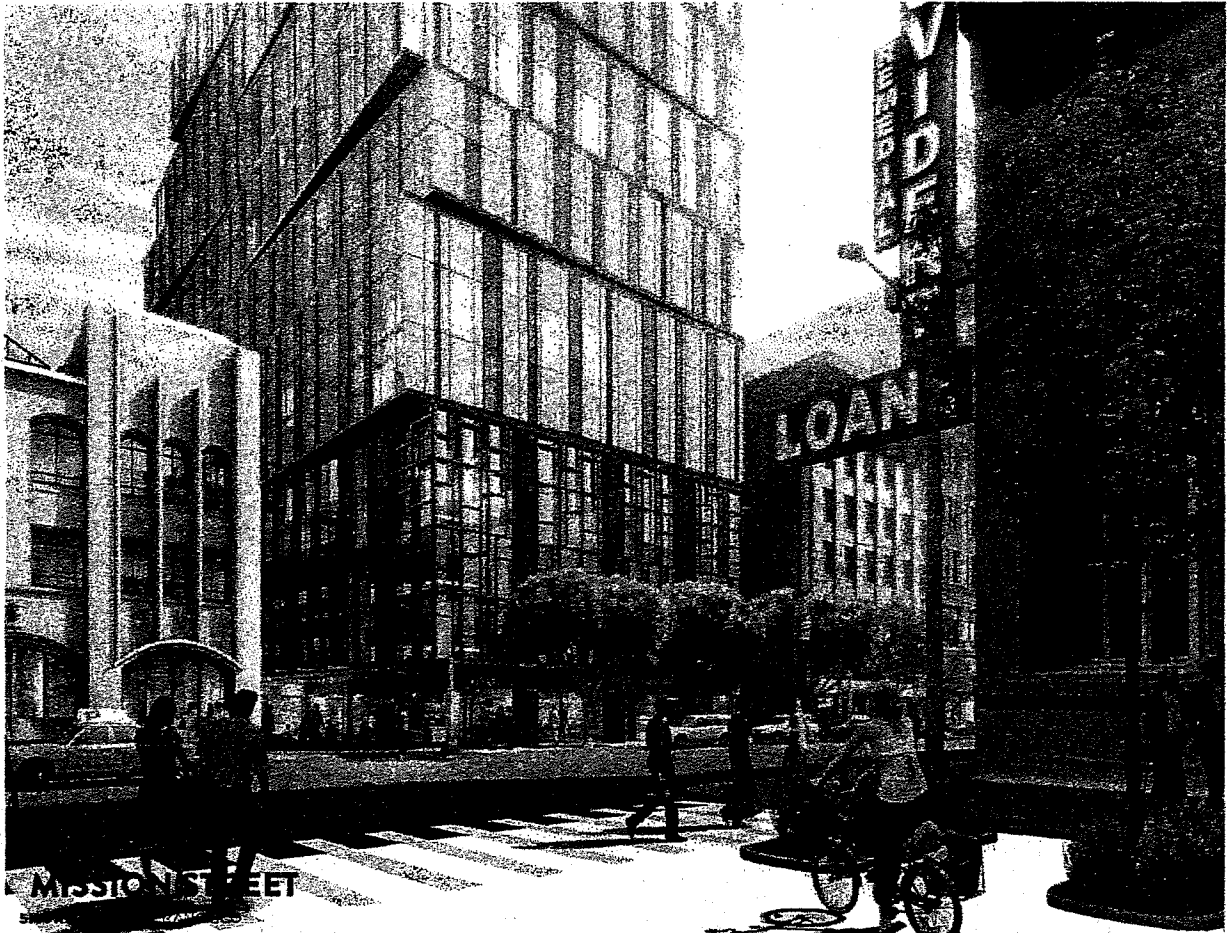


Diagram 8: Howard Street View East to 5th Street

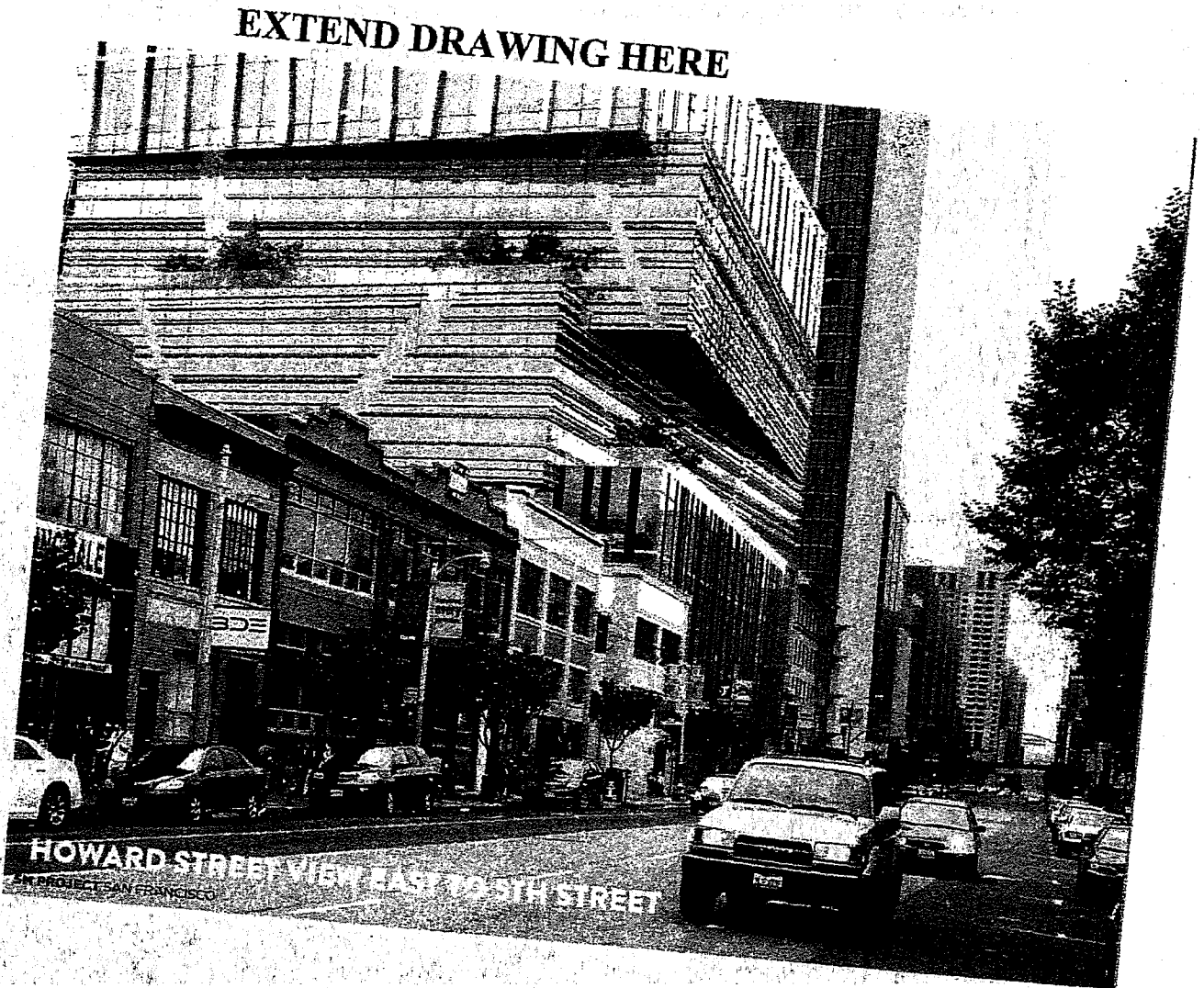


Diagram 9: Disrespecting SoMa

Project does not “respect the rich context, character and community of SoMa”
as required in draft Central SoMa Plan.



September 14, 2015

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development), File No 2011.0409PCA

Dear President Fong and Planning Commissioners:

The SoMa Action Committee (SMAC) has recently heard allegations that we have not been engaged in discussions about Forest City's 5M project, proposed to be in the heart of the community we serve.

Since the founding of the South of Market Action Network (SOMCAN) in 2000, we have been involved with many developers and many land use issues. We are very aware of the ways developers manipulate public perception in attempts to discredit critics of their projects. SOMCAN is a lead member organization of SMAC, which is calling for a 5M Project that respects existing zoning. The Filipino-American Development Foundation (FADF) and Veterans Equity Center (VEC) are also lead organizations in SMAC.

To clarify our engagement with the 5M Project Sponsor, we present the following chronology including interactions by SOMCAN, FADF and VEC. Also presented is our years of land use planning involving the proposed site and surrounding areas.

Participation in Community Planning:

- 2003 – 2008: Eastern Neighborhoods Plan community planning, including work to establish Youth and Family Special Use District.
- December 2008: Youth and Family SUD passed.
- 2008 – 2013: Western SoMa Plan Area community planning, including work to establish Filipino Heritage District.
- March 2013: Western SoMa Plan Area passed.
- November 2011 – November 2014: attendance at Central SoMa community planning meetings. Since then there has only been one other Central SoMa meeting in March 2015.

Meetings and Participation at Community Presentations with Forest City about 5M:

- 2010: Community Presentations at the Chronicle
- January 2011 – December 2011: Meetings with 5M staff person, Brad Paul (SOMCAN)
- July 2011: Bessie Carmichael School Tour with Forest City, Intersection for the Arts and others
- October 2012: Meeting with Intersection and Policy Link (SOMCAN and FADF)
- November/December 2012: Meeting (SOMCAN)
- August 2014: Community Presentation
- August/September 2014: Meeting (SOMCAN)
- November 2014: Community Presentations
- November 2014: Comment Letter on Draft EIR (SOMCAN)
- December 2014: Community Presentation

- January 2015: Community Presentation
- January 2015: Meeting (VEC)
- January 2015: Meeting (FADF)
- February 2015: Community Presentations at Bayanihan
- March 2015: Meeting (VEC)
- August 2015: Community Presentations at Mint Mall
- August 2015: Meeting at Bayanihan (SOMCAN, VEC, FADF and other stakeholders)
- September 2015: Letter to Forest City re: massing study and shadow analysis
- September 2015: Community Presentation at Mint Mall

Since 2012, we asked Forest City to set up meetings with the whole community, not just SOMCAN. Nevertheless, Forest City continued meeting with individual organizations. At this time, we also saw organizations meeting with Forest City then becoming grantees and supporters. The Proposed Project continued to be fast tracked according to the developer's priorities.

When Forest City declined to meet with multiple groups at the same time. We used our limited capacity to meet with community organizations. Our goals at these community meetings were:

1. To keep building relationships and retain open lines of communication for the benefit of the community;
2. To not engage in the divisive one-on-one meeting strategy that Forest City was using to pit organizations against each other;
3. To not engage in Forest City's strategy to negotiate Development Agreement "pay off" terms, but stay focused on community-led planning.

SOMCAN, VEC and FADF staff and others in our coalition have attended several community presentations by Forest City, where organizations and individuals could hear— together and at the same time— the developer's plans. Instead of one-on-one meetings where Forest City could change their messaging and negotiate deals, we believe that the whole community should get the same presentation, then be able to ask questions and receive the same answers.

Would the outcome have changed if we had continually met with Forest City one-on-one? No, we would be in the same position today considering that we:

- Met with Forest City many times since January 2011.
- Made public comment multiple times.
- Had open communications between Forest City and our allies in the community.

Our coalition and its member organizations have made earnest and multiple efforts to engage with Forest City. Forest City has consistently rejected any notion that the community can shape their project. The 5M Project should be responsive to the the needs of the Filipino and immigrant communities in SoMa.

Sincerely,

Joseph Smooke
 Board Chair, SOMCAN
 Member Organization of SoMa Action Committee

The SoMa Action Committee (SMAC) is a coalition of residents and community-based organizations who have come together to address the economic and social impacts of new development in SoMa. It includes:

South of Market Community Action Network
Filipino-American Development Foundation
Veterans Equity Center
Manilatown Heritage Foundation
Kearny Street Workshop
The Women's Building
SF Tenants Union
Housing Rights Committee SF
Causa Justa::Just Cause
PODER

Coalition for San Francisco Neighborhoods
Cathedral Hill Neighbors
ACCE SF
Western Regional Advocacy Project
Mission Neighborhood Resource Center
Anti-Eviction Mapping Project
San Francisco Neighborhood Network
Plaza 16 Coalition
Mission United
Calle 24

cc:

Cindy Wu, Planning Commission Vice President
Michael J. Antonini, Planning Commissioner
Rich Hillis, Planning Commissioner
Christine D. Johnson, Planning Commissioner
Kathrin Moore, Planning Commissioner
Dennis Richards, Planning Commissioner
John Rahaim, Director of Planning
Mayor Edwin Lee

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District 8, Scott Wiener
District 9, David Campos
District 10, Malia Cohen
District 11, John Avalos
Sue Hestor, Attorney at Law

FRIENDS OF BOEDDEKER PARK

248 Eddy Street
San Francisco, CA 94102
(415) 931-1126
btraynor@att.net

September 15, 2015

Commissioner Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Shadowing of Boeddeker Park by the 5M Project - Opposition

Dear President Fong and Planning Commissioners,

The Friends of Boeddeker Park held our first meeting in May of 2003 and has been the advocacy group for the park ever since. This community group of Tenderloin residents, workers, and representatives of non-profits has fought hard over the years to make Boeddeker Park a neighborhood treasure, as the only park open to all in the Tenderloin. In the last few years we have worked with the Trust for Public Land, the Tenderloin Boys and Girls Club, the YMCA and other local groups, as well as the Recreation and Park Department to see a beautiful new park and clubhouse come into being, open 7 days a week, with full programming for all ages.

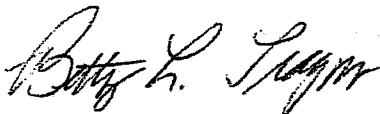
We discussed the shadowing of the park by the 5M project at our August meeting and again at our September 9 meeting. We noted that the shadowing is to a small area at the North/Ellis Street side of the park in the morning on certain winter days. Our community garden is located in this area. We also recognize that City Ordinance, Section 295 prohibits construction of any structure over 40 feet that will cast any shade or shadow upon any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission, such as Boeddeker Park.

At the meeting of September 9 we reached consensus on opposing any shadowing of Boeddeker Park. The City law on shadowing a park has been written and we think this law should be followed. Members expressed concern that making an exception for the 5 M project's shadowing of Boeddeker Park will set a precedent to shadow other parks by other projects to come.

The Friends of Boeddeker Park requests that the Planning Commission does not approve the shadowing of Boeddeker Park by this project.

Thank you very much.

Sincerely,



Betty L. Traynor, Coordinator
Friends of Boeddeker Park

September 15, 2015

Alexa Arena
Senior Vice President
Forest City San Francisco
875 Howard Street, Suite 330
San Francisco, CA 94103

Re: Proposed "5M" Development

Dear Ms Arena,

Thank you for your letter of September 11 responding to our request for additional renderings of the proposed "5M" project. Based on your response, we are updating our request as follows:

1. Thank you for offering to show "a physical model of the 5M Project in the context of the surrounding neighborhood." We would very much like to see this and feel that it is imperative to have this model presented at the hearing this Thursday, Sept 17.
2. We understand that our request for 24 individual renderings may be "beyond the much more standard 3 - 6 renderings that projects of varying sizes generally produce as part of their visualization studies." Therefore, we would like to modify our request to focus on just a few of the renderings that you have already presented in your "Sample Illustrative Renderings" in the "5M Project/ Supplemental Materials." Please re-present these drawings with the following modifications:
 - "North Mary Street" rendering needs to extend upward to show the full heights of the buildings; [Diagram 1]
 - "Mission Street" rendering needs to extend upward to show the full heights of the buildings, and revise the Point of View to look west on Mission St to show the Mint Mall and buildings to the west; [Diagram 2]
 - "Howard Street View East to 5th Street" view should extend upward to show the full heights of the office towers, and the cars in the foreground should be removed to show the building where the Chieftain is. [Diagram 3]
 - The rendering titled "5th Street View South to Mission Street" very clearly shows that this project does not "respect the rich context, character and community of SoMa." [See Diagram 4: 5th Street View South to Mission Street] . Page 6, Goal 1 of the Central SoMa Plan¹ says "any increases in development capacity need to be balanced with other Plan goals -- respecting the rich context, character and community of SoMa, providing benefits for its existing residents and workers as well as the services needed for new ones, and growing sustainably." This proposed project far exceeds the height limits for either the Mid Rise or

¹ http://www.sf-planning.org/ftp/files/Citywide/Central_Corridor/Central-Corridor-Plan-DRAFT-FINAL-web.pdf

High Rise Alternatives of the Draft Central SoMa Plan. The proposed heights and bulk, the proposed garage, the shadows and the proposed open spaces violate the existing Youth and Family Special Use District. Please present a project rendering that respects the rich context, character and community of SoMa and respects the Youth and Family SUD.

3. We understand from your letter that you "are unable to provide renderings based on a code compliant project," and that you "are not proposing such a project, and do not have a program, design or other information that would be needed to prepare meaningful renderings." This is unfortunate since there exists zoning for this site, and there also exists a Youth and Family Special Use District which controls development for this area. Therefore, we as a community will strive to present to the Planning Commission and the Board of Supervisors as soon as we are able to compile them, renderings of a "5M" Project that fulfills the community's vision for how SoMa should grow in a way that respects existing residents and businesses and leads the way toward a vibrant and sustainable future.

We look forward to your response.

Sincerely,

Joseph Smooke

Board Chair, SOMCAN; Member Organization of SoMa Action Committee

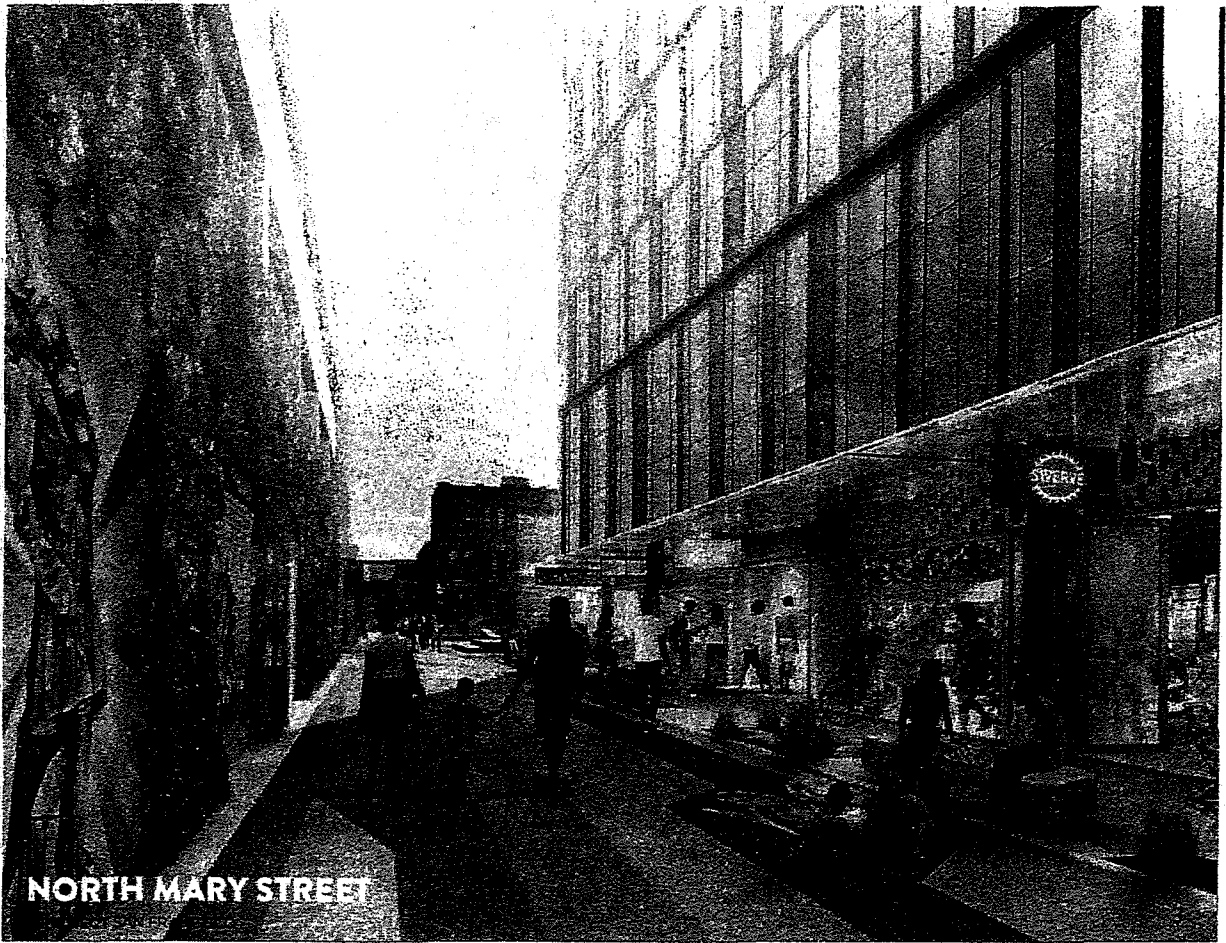
cc:

Rodney Fong, Planning Commission President
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Diagram 1: North Mary Street

EXTEND DRAWING HERE



NORTH MARY STREET

Diagram 2: Mission Street

EXTEND DRAWING HERE

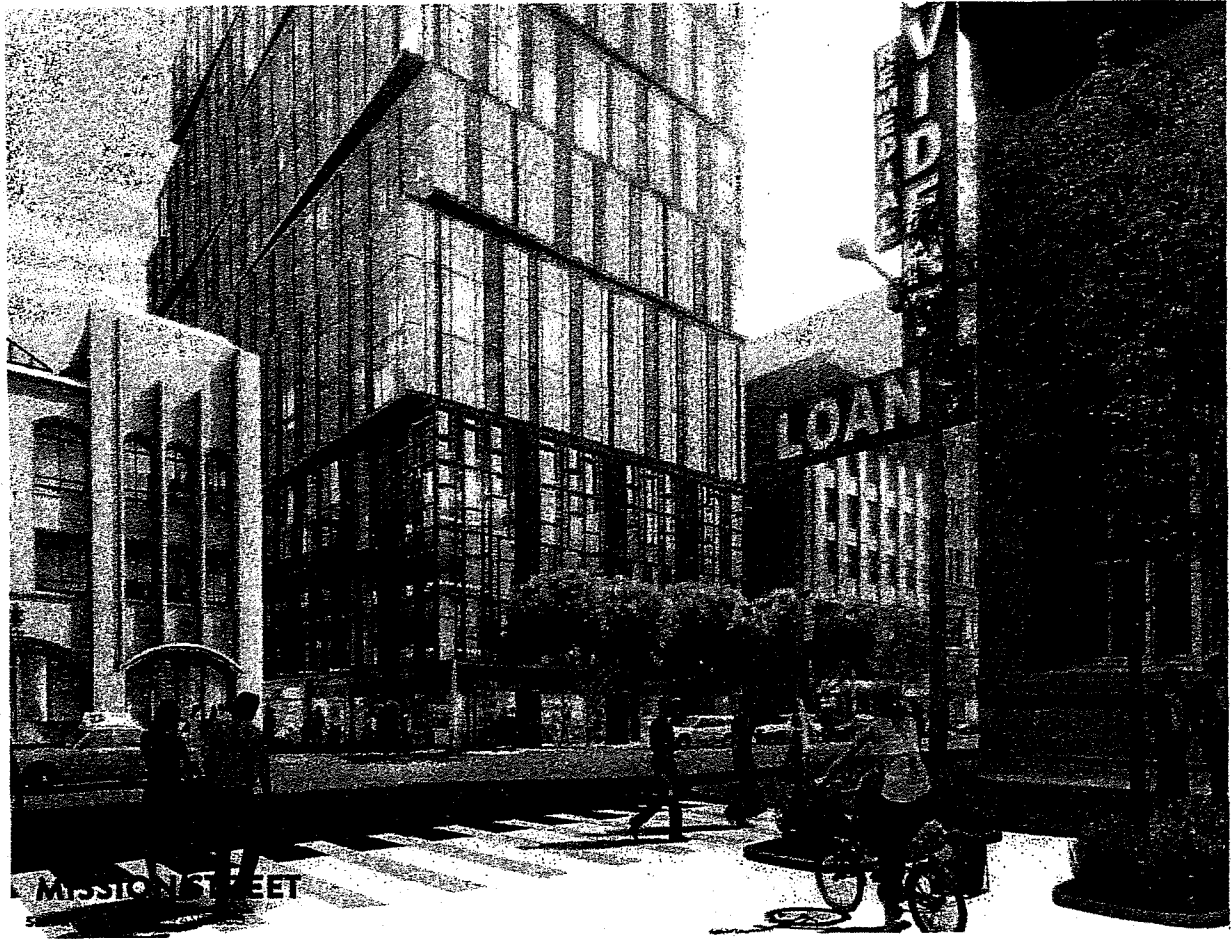
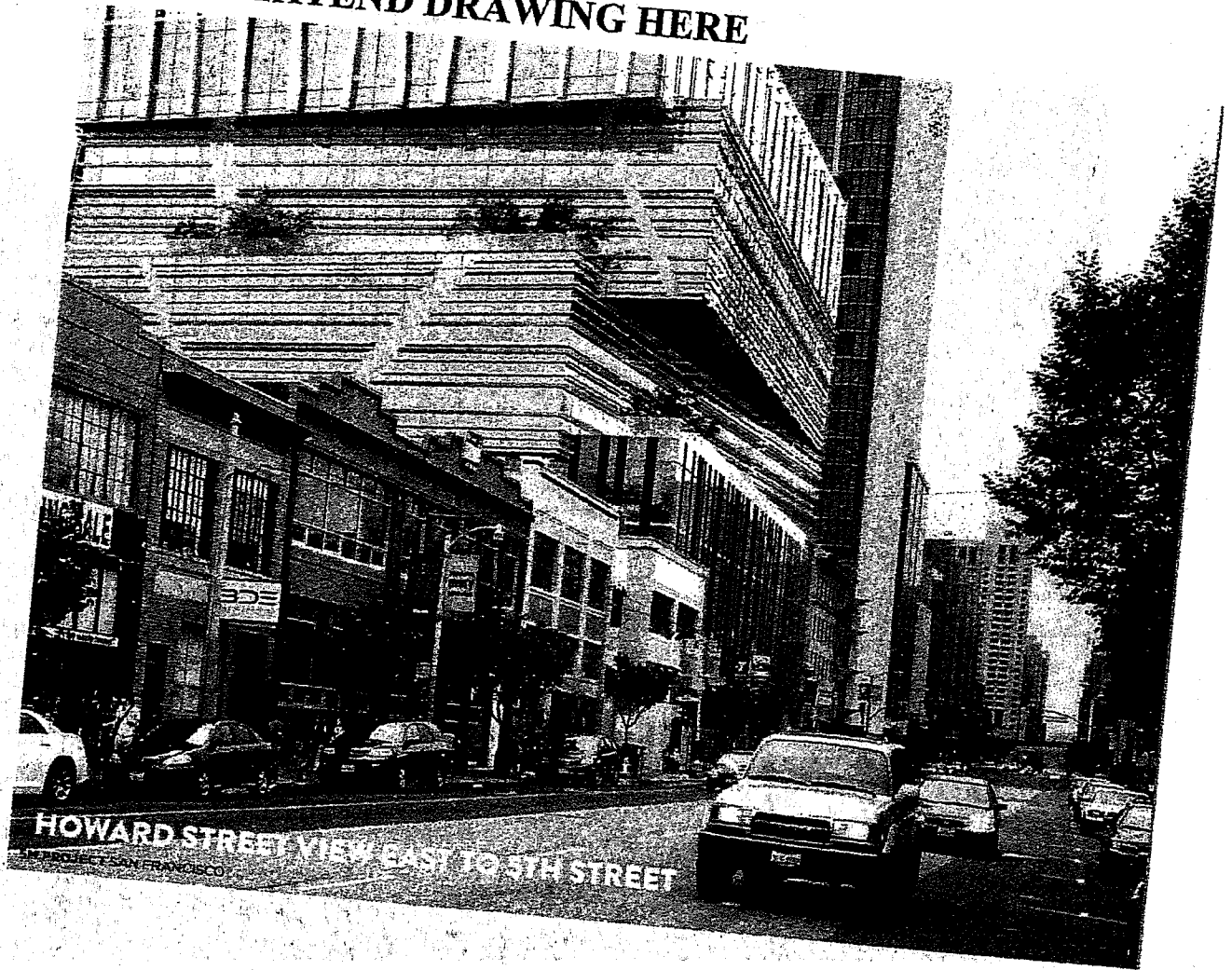


Diagram 3: Howard Street View East to 5th Street

EXTEND DRAWING HERE



HOWARD STREET VIEW EAST TO 5TH STREET

WWW.AAASANFRANCISCO.COM

Diagram 4: 5th Street View South to Mission Street

Project does not “respect the rich context, character and community of SoMa”
as required in draft Central SoMa Plan².



² http://www.sf-planning.org/ftp/files/Citywide/Central_Corridor/Central-Corridor-Plan-DRAFT-FINAL-web.pdf

September 16, 2015

Mayor Ed Lee
Mayor's Office, City Hall
Room 200,
1 Dr. Carlton B. Goodlett Place

Re: 925 Mission St (5M Development), File No 2011.0409PCA

Dear Mayor Lee,

As a distinguished leader who is proud of being part of the I-Hotel struggle, I urge you to prevent the further displacement of Filipino families by not approving the 5M Project. You should not be pushing for the 5M Project Special Use District (SUD) as proposed by Hearst Corporation and Forest City. You should instead be expanding and strengthening the SoMa Youth and Family SUD (YF-SUD) and finalizing the Filipino Heritage District.

As you know, Filipinos were first displaced from Manilatown adjacent to Chinatown, then from Yerba Buena Center through Redevelopment. The 5M Project proposal in South of Market is the latest attempt to drive out Filipinos from their homes and neighborhood. The upzoning in the proposed 5M SUD will obliterate the Youth and Family SUD and will accelerate the displacement of thousands of Filipinos and other working class families, youth and seniors from SoMa.

Within a five-block radius of the 5M Project, there are over 2,200 Filipino tenants and SoMa is home to many Filipino cultural institutions, community centers and businesses. Yet, the entire staff report on the 5M Project being presented at the Planning Commission on September 17, 2015, and its nearly 1,300 pages of documents, completely ignores the Filipino community.

The SoMa community fought to protect the affordability levels in the neighborhood for years, and through a community planning process passed the SoMa Youth and Family SUD in 2008. The Planning Department has always communicated to the SoMa community that the Youth and Family SUD was to be expanded and strengthened through the Central SoMa Plan. This has not happened. The Filipino Heritage District will recognize, protect and memorialize the community's cultural assets, resources and contributions to SoMa, San Francisco and the country. These measures are what the community needs, not the 5M SUD.

In July 2015, your office introduced an ordinance to fast track approval of the 5M Project, binding the City to the 5M SUD. By fast tracking the 5M project and exempting it from established Area Plans, the City is negating the hard work of all those involved in community planning processes. Dismissing the impact of major up zoning on vulnerable communities adjacent to the Project Site threatens responsible development in every neighborhood throughout San Francisco. The approximately 12,000 units of housing built in SoMa in recent years, over half of all units built in San Francisco, have not helped SoMa become more affordable. The UC Berkeley research initiative, the Urban Displacement Project, shows that SoMa is in advanced stages of displacement and gentrification. The 5M Project will only accelerate this displacement.

We know that this approach does not reflect your values. We know that you respect the Filipino community because of your defense of the I-Hotel. We urge you to tell the Planning Commissioners to not to pass the 5M SUD, and instead, uphold and strengthen the Youth and Family SUD and finalize the

Filipino Heritage District. Your office, the Planning Department, the Planning Commission, and the Office of Economic and Workforce Development cannot continue to ignore the concerns of the Filipino community by supporting the proposed 5M Project. Otherwise there will be no more Filipino community left in SoMa.

Sincerely,

Angelica Cabande
Director of the South of Market Community Action Network (SOMCAN)
Member Organization of the SoMa Action Committee (SMAC)

The SoMa Action Committee (SMAC) is a coalition of residents and community-based organizations who have come together to address the economic and social impacts of new development in SoMa. It includes:

South of Market Community Action Network
Filipino-American Development Foundation
Veterans Equity Center
Manilatown Heritage Foundation
Bindlestiff Studio
Kearny Street Workshop
The Women's Building
SF Tenants Union
Housing Rights Committee SF
Causa Justa::Just Cause
PODER

Coalition for San Francisco Neighborhoods
Cathedral Hill Neighbors
ACCE SF
Western Regional Advocacy Project
Mission Neighborhood Resource Center
Anti-Eviction Mapping Project
San Francisco Neighborhood Network
Plaza 16 Coalition
Mission United
Calle 24
Jobs with Justice

cc:

Steve Kawa, Chief of Staff to Mayor Lee
Jeff Buckley, Senior Advisor to Mayor Lee
Cindy Wu, Planning Commission Vice President
Michael J. Antonini, Planning Commissioner
Rich Hillis, Planning Commissioner
Christine D. Johnson, Planning Commissioner
Kathrin Moore, Planning Commissioner
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District 10, Malia Cohen
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September 16, 2015

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, 4th Floor, Suite 400
San Francisco, CA 94103

Re: 925 Mission St (5M Development), File No 2011.0409PCA

Dear President Fong and Planning Commissioners:

My name is Lorna Velasco, Artistic Director of Bindlestiff Studio, a non-profit community arts organization and theater space located on Sixth Street in the City's South-of-Market Area since 1989. We are also a member organization of the SoMa Action Committee (SMAC) community coalition. I am writing to express our deep concern on several issues over the enormous development in our neighborhood known as the 5M Project.

First and foremost, there is a dangerous and ongoing narrative describing the South of Market as an area of "blight" that needs "revitalization" thus justifying development project that will encroach upon and displace families, businesses, arts and social services organizations who have lived and thrived in this so-called "blight" for decades. From the recent 5M presentation I attended, the explanation given about these rapid developments is that San Francisco needs to evolve. Its skyline needs to evolve and therefore, a special use zone needs to be carved out near mass transit locations that will allow developments to legally ignore height and bulk restrictions original set in place to protect existing communities. That there is a need to alleviate the housing crisis and make room for a new set of population is their reasoning. Well, I ask, "What about the population living here now?"

I grew up on Sixth Street. My siblings and I went to the Bessie Carmichael school, eventually moving on through to Mission High School, then graduating at UC Berkeley. As a working class, immigrant Filipino family, SoMa was our landing spot. This neighborhood was the only place in San Francisco that we could afford. We thrived because we were supported by organizations like Westbay Pilipino Services, the Bayanihan Community Center, the Veteran's Equity Center, and of course, Bindlestiff Studio. Today, as professionals, my siblings and I have returned to this neighborhood to give back by supporting the families, the artists, the small businesses, and organizations that thrive here. We feel an obligation to give back to the community that supported us during our early years of struggling immigrants. How can we continue our support if these families can no longer afford to live here?

The truth is, these families in the SoMa will be displaced. The affordable housing units being offered by the 5M project will be based on a lottery system, so there are no guarantee that SoMa families will be able to move in. And even if they do, will they be able to afford to sustain themselves due to the skyrocketing cost of living?

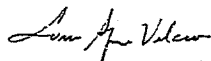
Secondly, it is incredibly disconcerting that the community arts benefits offered by the 5M Project does not include any of the arts and cultural organizations that has been working in the underserved communities of the South of Market for over 25 years. I am not only talking about Bindlestiff Studio. SoMa has a thriving and vibrant community of arts and cultural organizations, Kearny Street Workshop, Kularts, APICC, Manila Heritage Foundation to name a few. There are incredible leaders here that have worked consistently and continually in these underserved

neighborhoods, and yet, rarely do our arts and cultural leaders get invited to the table when negotiating impacts by developers. And even if we were, it is at the end of the process where so much of the decisions have already been decided and our suggestions are only taken in advisement and not consideration. It feels as if we are just another diversity box to be checked. True collaboration takes time. We should be invited a place at the table where we could be heard from the very beginning of the process, not near the end where we are an afterthought.

Bindlestiff Studio has a deep history of fighting for our existence in SoMa. We are comprised of over 120 active artists running the only permanent theatre art space in the country devoted to nurturing and producing works by emerging and veteran Filipino American artists. Although we have been creating theatre on 6th street since 1989, we were displaced as part of the first dot-com boom; part of San Francisco's "revitalization efforts" of the Sixth Street corridor in 2000. Being kicked out of a neighborhood you have called home for over a decade is traumatic. It's very hard to bounce back as an organization. It took the community and hundreds of artists, students, and community organizations to fight back. After years of negotiating with the now defunct SF Redevelopment Agency, we finally returned to our original location; it took us 10 years. Through this experience, we feel that as an organization, it is our obligation to defend our neighborhood and the assets of our community, the families, the small businesses, the organizations.

We need to postpone the 5M development and recognize the vibrant arts and cultural organizations already established here. Otherwise we are complicit in the displacement of families in exchange for supposed economic vibrancy.

Sincerely,



Lorna Velasco
Artistic Director, Bindlestiff Studio
Member Organization of SoMa Action Committee

The SoMa Action Committee (SMAC) is a coalition of residents and community-based organizations who have come together to address the economic and social impacts of new development in SoMa. It includes:

South of Market Community Action Network	Coalition for San Francisco Neighborhoods
Filipino-American Development Foundation	Cathedral Hill Neighbors
Veterans Equity Center	ACCE SF
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The Women's Building	Anti-Eviction Mapping Project
SF Tenants Union	San Francisco Neighborhood Network
Housing Rights Committee SF	Plaza 16 Coalition
Causa Justa::Just Cause	Mission United
PODER	Calle 24
Jobs with Justice	

cc:

Cindy Wu, Planning Commission Vice President Board of Supervisors:

Michael J. Antonini, Planning Commissioner
Rich Hillis, Planning Commissioner
Christine D. Johnson, Planning Commissioner
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District 9, David Campos
District 10, Malia Cohen
District 11, John Avalos

from: **Paul Wermer** <pw-sc_paul@sonic.net>

reply-to: paul@pw-sc.com

to: RODNEY FONG <planning@rodnevfong.com>,
Kathrin Moore <mooreurban@aol.com>,
"Michael J. Antonini" <Wordweaver21@aol.com>,
Rich Hillis <richhillissf@yahoo.com>,
"Christine D. Johnson" <christine.johnson@sfgov.org>,
"Richards, Dennis (CPC)" <Dennis.Richards@sfgov.org>,
Cindy Wu <cwu.planning@gmail.com>,
Jane Kim <Jane.Kim@sfgov.org>,
Kevin.Guy@sfgov.org,
Paul Wermer <paul@pw-sc.com>,
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Dyan Ruiz <druiz@peoplepowermedia.net>

cc: Marlayne Morgan <marlayne16@gmail.com>,
Geroge Wooding <gswooding@gmail.com>,
"L.D. Kirshenbaum" <kbaum88@gmail.com>,
Kris Schaeffer <KirstineS@aol.com>,
Joseph Smooke <josephsmooke@gmail.com>,
"acabande@somcan.org" <acabande@somcan.org>

date: Wed, Sep 16, 2015 at 5:15 PM

subject: OPPOSE: Case #2011.0409, "5M" project

September 16, 2015

San Francisco Planning Commission

RE: Case #2011.0409, "5M" project

Dear Planning Commissioners:

I urge you to reject the proposed "5M" project as it stands.

In particular I would like to call your attention to impacts that are not clearly addressed in the case report, yet, based on nexus studies commissioned by Planning must be relevant:

1) The 2007 housing nexus study showed that market rate projects create a direct, indirect and induced demand for below market rate housing on the order of 40% of the market rate project's units. Adjusting for the 58 units of onsite BMR that is part of the proposal, the 33% BMR contribution means that San Francisco will be another 44 units short of BMR housing - in the housing segment that is most under stress. *If we need 44 more units of BMR housing than this project will provide just to offset the demand for housing the project creates, how does this help the city? How do you reconcile the nexus study with CEQA conclusions of no adverse housing impact?*

2) The project will create a demand for over \$96 million in project related transit capital investment. The recent transit nexus study data shows that the 821,000 sq ft of new residential property will cost San Francisco \$25.4 million, while the 68,700 sq ft of new commercial space will create a demand for an additional \$70.6 million. This, of course, does not include the demand generated by new, off-site BMR housing. This is balanced by a Development Agreement total of \$29 million, of which \$11 million offsets transit demands. *Why are we subsidizing the development to the tune of over \$67 million? Would we not be better off applying that \$67 million to a mix of BMR housing and transit costs?*

I have only focused on the effective reduction in BMR housing that this project will cause, and the huge transit related subsidy the city is giving to the developer.

I have not touched on various other issues, such as the comments submitted by Gerry Crowley of Neighborhood Network related to area planning, nor the issue of creating high rise commercial and market rate housing in part of a "Youth and Family Zone SUD", nor the complex issues of creating significant value for some, but not all, property owners by significant upzoning select properties.

All of these issues call for the project as proposed to be disapproved, as the costs are not commensurate with the benefits.

Sincerely yours,
Paul

--
Paul Wermer
2309 California Street
San Francisco, CA 94115

+1 415 929 1680
paul@pw-sc.com

from: **Marlayne Morgan** <marlayne16@gmail.com>

to: RODNEY FONG <planning@rodneyfong.com>,
Kathrin Moore <mooreurban@aol.com>,
"Michael J. Antonini" <Wordweaver21@aol.com>,
Rich Hillis <richhillissf@yahoo.com>,
"Christine D. Johnson" <christine.johnson@sfgov.org>,
"Richards, Dennis (CPC)" <Dennis.Richards@sfgov.org>,
Cindy Wu <cwu.planning@gmail.com>,
Jane Kim <Jane.Kim@sfgov.org>,
mari <mari.eliza@sbcglobal.net>,
Geroge Wooding <gswooding@gmail.com>,
Rose Hillson <gumby5@att.net>,
Paul Wermer <paul@pw-sc.com>,
"L.D. Kirshenbaum" <kbaum88@gmail.com>,
Kris Schaeffer <KirstineS@aol.com>,
Jim Joannides <jitard@yahoo.com>,
"Ionin, Jonas (CPC)" <jonas.ionin@sfgov.org>,
Joseph Smooke <josephsmooke@gmail.com>,
Dyan Ruiz <druiz@peoplepowermedia.net>,
"acabande@somcan.org" <acabande@somcan.org>

date: Wed, Sep 16, 2015 at 3:22 PM

subject: Case #2011.0409PCA

September 16, 2015

Rodney Fong, President
SF Planning Commission

Re: Case 2011.0409PCA

Dear President Fong:

By fast tracking the 5M project through the planning process through Special Ordinances that exempt this site from established Area Plans, the City is negating the hard work of all those involved in the community planning process by granting exceptions, variances and privileges through the creation of a Special Use District and implementation of a Development Agreement. Dismissing the impact of major up zoning on vulnerable neighboring communities adjacent to 5th and Mission Street threatens community planning and responsible development in every neighborhood throughout San Francisco.

We urge you not to approve this project as proposed, but to further additional input and analysis by continuing discussion of all of these impacts and concerns until December 10, 2015.

Regards,

Gerry Crowley
San Francisco Neighborhood Network



San Francisco Group of the San Francisco Bay Chapter

Reply to:
Sierra Club, San Francisco Group
85 Second Street, 2nd floor
Box SFG
San Francisco, CA 94105

September 17, 2015

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

San Francisco Recreation and Park Commission
501 Stanyan Street
San Francisco, CA 94117 -

Re: 925 MISSION STREET AND VARIOUS PARCELS ("5M PROJECT")- Case #
2011.0409E

Dear Presidents Fong and Buell:

The Sierra Club urges the Planning Commission not to certify the Environmental Impact Report (EIR) for the "5M Project" (Case # 2011.0409E). In addition, the Club urges the Recreation and Park Commission and the Planning Commission not to raise the cumulative shadow limit for Father Alfred E. Boeddeker Park.

The Club has identified several areas of concern with the "5M Project." Until these and other community concerns are adequately addressed, approval action should not be taken on this project.

The areas of concern, along with some suggested actions, are listed below:

New Open Space Problems

The proposed open space is poorly sited and too small. The ground level space (Mary Court) will be invisible from major streets, shadowed by tall buildings, and subject to windy conditions created by tall buildings. The "Chronicle Rooftop," which accounts for almost half the open space of the project (if an existing alley isn't counted), is only open during business hours and must be

accessed by an elevator.¹ District 6 is one of the most (if not the most) open-space-deficient in the City. Particularly given this fact, the amount of open space associated with the project is insufficient and not accessible enough.

Effects on Existing Parks

The proposed towers will shadow not only the proposed new open space, but existing parks, as well. The Sierra Club is a strong supporter of 1984's Proposition K, which is intended to protect parks from the adverse effects of shadows caused by new development. The shadow limits for Boeddeker Park should be respected and should not be raised. Other parks not protected by Prop K will also be shadowed by the new towers of the 5M project, notably, the well-used Yerba Buena Gardens.

Spot-Zoning

The Sierra Club has long-supported the idea of respecting existing zoning codes and plans, including the height and bulk limits included within them. As proposed, the 5M Project significantly exceeds the height limits for its parcels, which currently range from 4 stories to 13 stories. The project, as proposed, includes a 45 story condo tower, an office tower designed to look like two towers at 32 stories and 29 stories, and a 20-story residential rental tower. Granting exemptions to existing height and bulk limits has impacts on the livability of the immediate area and adjacent areas.

Conflicts with Transit First Policy and Vision Zero Goals

Particularly given the location of this project (a congested downtown area served by bus and BART and adjacent to bike lanes), a zero-parking project alternative should be studied. The 5M project as proposed, with its hundreds of off-street parking spaces, will have major negative impacts on sustainable transportation modes, including public transit, walking, and cycling. This is the exact opposite direction a Transit First city should be headed. It's also in conflict with the city's goal to eliminate traffic fatalities by 2024.²

Specifically, the additional automobile traffic resulting from the inclusion of large amounts of parking in this project will slow buses and impede bicycle traffic, and will endanger the lives of pedestrians and bicyclists traveling in and through this already-congested area. In addition to the increased automobile traffic, the location of a garage opening and loading entrance adjacent to the Howard Street bicycle lane is problematic. It will result in autos and trucks continually crossing and/or lining up in bicycle lanes. This both blocks bicycle traffic and puts cyclists in danger.

Sincerely,

¹ http://commissions.sfplanning.org/cpcpackets/2011.0409_5M_CPCPacket_091715.pdf

² <http://visionzerosf.org/about/what-is-vision-zero/>

Becky Evans

Becky Evans
Vice-Chair
San Francisco Group

CC:
Jane Kim Jane.Kim@sfgov.org

September 17, 2015

San Francisco Planning Commission

Re: 5M Proposed Development

Dear Commissioners,

Please continue this agenda item until Forest City:

– Provides a more substantive set of drawings for the proposed open spaces, with landscape renderings and specifications of plant and hardscape materials.

– Corrects their bad management practices of the Emporium Dome at Westfield Centre, whose glass panes for the past two years have been blackened out, much as they were during the second world war. This goes against the intent of the historical preservation agreements that allowed the the developer to tear down over 95% of the original building.

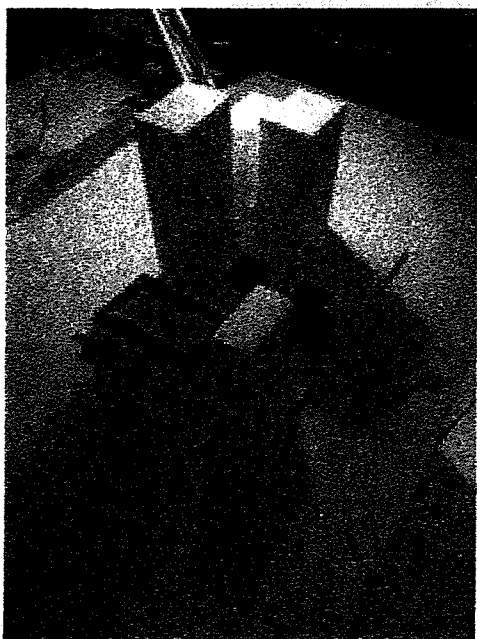
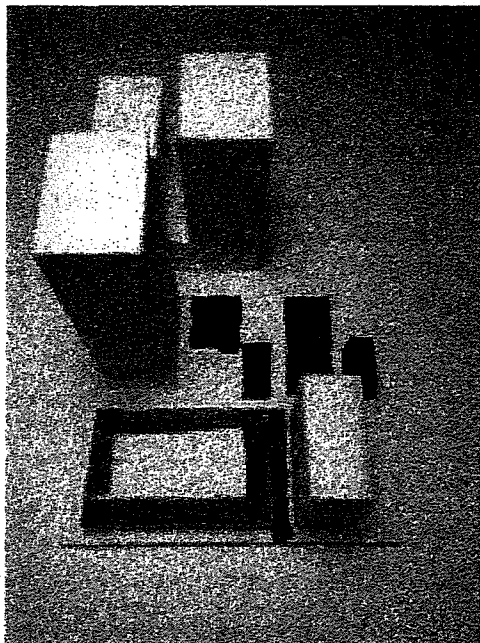
As they are currently proposed, the open space areas of this project will be sequestered behind non-code compliant buildings in shadow and exposed to mechanical room noise and air return vents. Hidden in the back core of the building, or-on a rooftop accessible only by elevator, they will have little use or public benefit.

In addition to shadowing their own open-space, they will cut down the light, direct and ambient,, that falls over Mint Plaza. They will also throw afternoon shadow on Yuerba Buena Gardens.

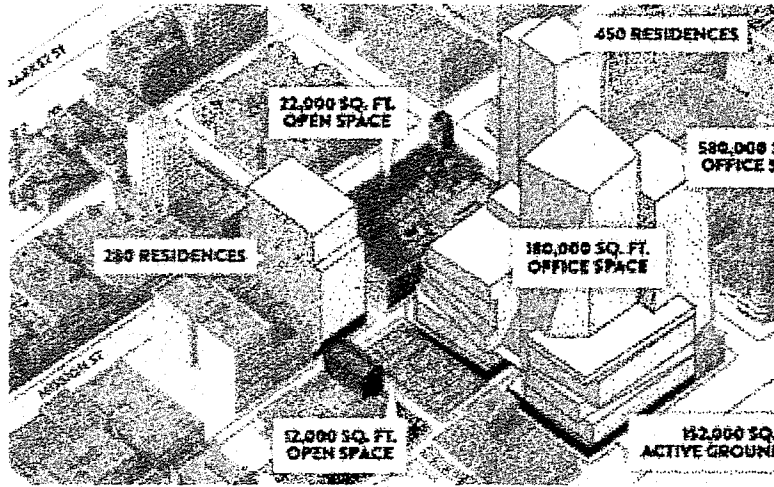
Thank you for looking at the attached documents.

James Joannides
San Francisco 94109

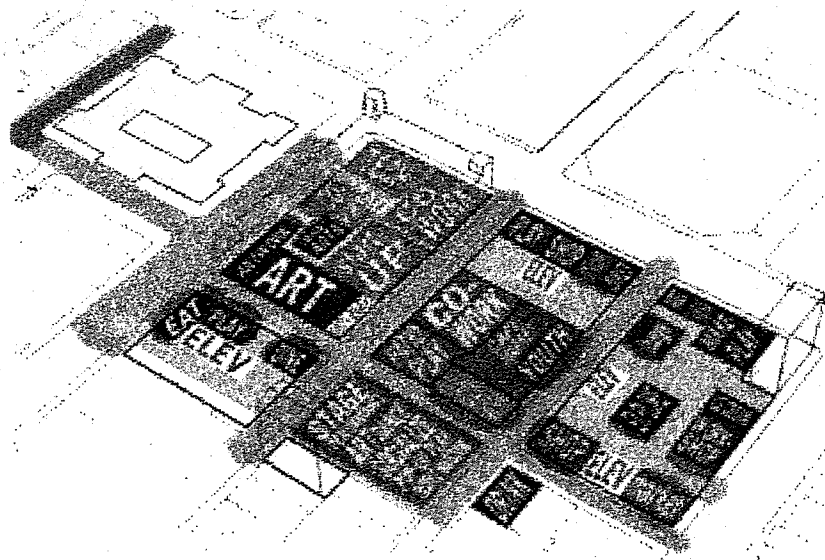
Proposed 5M Buildings will shadow and diminish the ambient light of Mint Plaza – and its own hidden open space plazas and alleys.



Text-Based / Conceptual Art



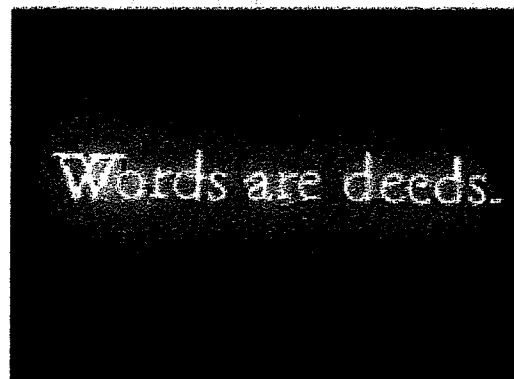
5M



5M

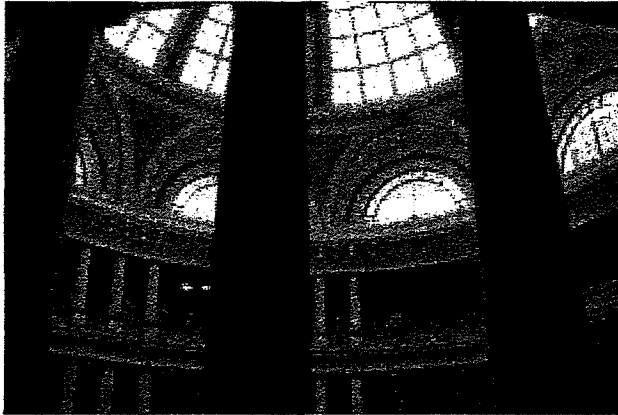


Bruce Nauman

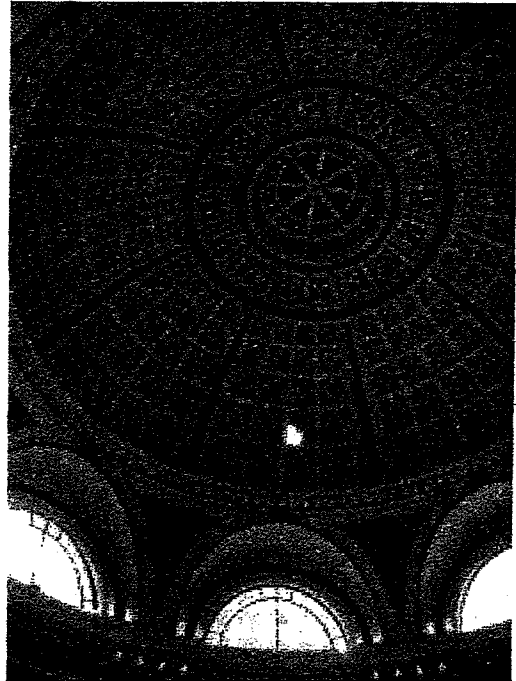


Joseph Kosuth

Forest City's Stewardship of the Emporium Dome



Emporium Dome restored, 2006



Emporium Dome blacked out, 2014-15

Old Emporium dome has turned into symbol of the new Westfield

John King, *San Francisco Chronicle* Urban Design Writer, September 24, 2006

Shoppers who plunge into Westfield San Francisco Centre when it opens on Thursday will see plenty of shopping mall mainstays ... but the most memorable feature is unique: a 102-foot-wide skylit dome built in 1908.

The dome was blacked out during World War II and neglected in the decades after that. Most recently it was jacked 60 feet into the air while the empty Emporium department store around it was demolished. Now it has been restored and given a place of honor in a 1.5 million-square-foot complex that otherwise is as current as can be ...

The grand old dome of the Emporium gets a lift

Dan Levy, *San Francisco Chronicle*, May 19, 2004

... "People love light, and there is going to be a lot of light streaming through those lunettes," said project architect John Tindall, looking up at the arched windows at the base of the dome structure.

Incredibly, a 1920s addition to the Emporium building had covered up the lunettes, which are small windows, robbing shoppers of the feeling that they were buying perfume in St. Peter's...

EXHIBIT D

Planning Commission Motion No. 19458



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion NO. M-19458

HEARING DATE: September 17, 2015

Hearing Date: September 17, 2015
Case No.: **2011.0409E**
Project Address: **5M Project, 925 Mission Street and various parcels**
Zoning: C-3-S (Downtown Support) and Residential Service District (RSD)
160-F, 90-X and 40-X/85-B Height and Bulk Districts
Soma Youth and Family Zone Special Use District
Block/Lot: Block 3725, Lots: 005, 006, 008, 009, 012, 042, 043, 044, 045, 046, 047, 076,
077, 089, 090, 091, 093, 097, 098 and air rights parcels 094, 099, and 100
Project Sponsor: 5M Project, LLC
875 Howard Street, Suite 330
San Francisco, CA 94103
Staff Contact: Michael Jacinto – (415) 575-9033
michael.jacinto@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED-USE PROJECT THAT INCLUDES APPROXIMATELY 821,300 SQUARE FEET OF RESIDENTIAL USES (APPROXIMATELY 690 UNITS), 807,600 SQUARE FEET OF OFFICE USES, AND 68,700 SQUARE FEET OF OTHER ACTIVE GROUND FLOOR USES (A MIX OF RETAIL ESTABLISHMENTS, RECREATIONAL AND ARTS FACILITIES, RESTAURANTS, WORKSHOPS, AND EDUCATIONAL USES). THE PROJECT WOULD ALSO INCLUDE VEHICULAR PARKING, BICYCLE PARKING, AND LOADING FACILITIES, PRIVATE- AND PUBLICLY-ACCESSIBLE OPEN SPACE, AND STREETScape AND PUBLIC-REALM IMPROVEMENTS.

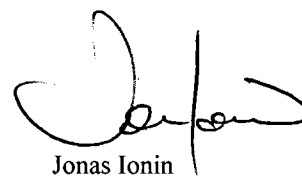
MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2011.0409E, the "5M Project" at 925 Mission Street and various other parcels, above (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on January 30, 2013.

- B. The Department held a public scoping meeting on February 20, 2013 in order to solicit public comment on the scope of the 5M Project's environmental review.
 - C. On October 15, 2014, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
 - D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on October 15, 2014.
 - E. On October 15, 2014, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - F. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on October 15, 2014.
2. The Commission held a duly advertised public hearing on said DEIR on November 20, 2014 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on January 7, 2015.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 83-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on August 13, 2015, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
 6. On September 17, 2015, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

7. The project sponsor has indicated that the presently preferred alternative is the Revised Project, analyzed in the Comments and Responses document, and as further refined as described in the various proposed approvals for the 5M project, and which closely resembles the Preservation Alternative described in the FEIR.
8. The Planning Commission hereby does find that the FEIR concerning File No. 2011.0409E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the EIR:
 - A. Will have significant, project-specific effects on the environment by degrading the Level of Service or contributing considerably to existing LOS E or F conditions at four study intersections (i.e., Fourth/Howard; Sixth/Folsom; Sixth/Brannan; and Sixth/Bryant);
 - B. Will have significant, project-specific and cumulative construction-period transportation impacts; and,
 - C. Will have significant cumulative effects on the environment by contributing to substantial delays at six study intersections (i.e., Fourth/Howard; Fourth/Folsom; Fifth/Howard; Sixth/Folsom; Sixth/Brannan; Sixth/Bryant)
10. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of September 17, 2015.



Jonas Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson, Moore, Richards, Wu
NOES: None
ABSENT: None
ADOPTED: September 17, 2015