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# Community Plan Evaluation Appeal
## 655 Fourth Street (The Creamery)

**DATE:** August 26, 2019
**TO:** Angela Calvillo, Clerk of the Board of Supervisors
**FROM:** Lisa Gibson, Environmental Review Officer – (415) 575-9032
Jessica Range – (415) 575-9018
Elizabeth White – (415) 575-6813
**RE:** Planning Case No. 2014-000203ENV
Appeal of Community Plan Exemption for 655 Fourth Street (The Creamery)
**HEARING DATE:** September 3, 2019
**ATTACHMENTS** A – Overview of Foundation Design and Subsurface Site Conditions

**PROJECT SPONSOR:** 655 Fourth Street Owner, LLC, attn. Sarah Dennis Phillips, 415-344-6636
**APPELLANT(S):** Kevin Rudich, Michael Cruz, Michael Guthrie, Carol Guthrie, Katharina Natividad, Noel Natividad, and Sandy Lee ("601 Fourth Street Coalition")

## INTRODUCTION

This memorandum and the attached documents are a response to the original letter of appeal dated July 22, 2019 and supplemental letter of appeal dated August 18, 2019 to the board of supervisors (the board) regarding the Planning Department's (the department) issuance of a community plan evaluation (CPE) under the Central South of Market (SoMa) Area Plan Programmatic Environmental Impact Report (PEIR) in compliance with the California Environmental Quality Act (CEQA determination) for the proposed 655 Fourth Street project.

As described below, the Appellant has not demonstrated nor provided substantial evidence to support a claim that the CPE fails to conform to the requirements of CEQA for a community plan evaluation pursuant to CEQA section 21083.3 and CEQA Guidelines section 15183. Accordingly, based upon the information presented by the Appellant, the planning department recommends that the board of supervisors uphold the department's CEQA determination and reject the appeal.

The department, pursuant to CEQA, the CEQA Guidelines, 14 Cal. Code of Reg. section 15000 et seq., and Chapter 31 of the San Francisco Administrative Code, determined that the project is consistent with the development density established by zoning, community plan, and general plan policies in the Central SoMa Area Plan for the project site, for which the PEIR was certified, and issued the CPE for the project on June 11, 2019. CEQA limits the city's review to consideration of environmental effects that:

1. Are peculiar to the project or its parcel;
2. Were not analyzed as significant effects in the PEIR, with which the project is consistent;
3. Are potentially significant off-site or cumulative impacts that were not discussed in the PEIR; or
4. Are previously identified significant effects which, as the result of substantial new information that was not known at the time the Central Soma Plan EIR was certified, are determined to have a more severe adverse impact than was discussed in the PEIR.

If an impact is not peculiar to the project, has been addressed as a significant impact in the PEIR, or can be substantially mitigated by imposition of uniformly applied development policies or standards, then CEQA provides that an additional EIR need not be prepared for the project.

The department determined that the project would not result in new significant environmental effects, or effects of greater severity than were already analyzed and disclosed in the PEIR, and that the project is exempt from further environmental review beyond what was conducted in the CPE initial study and the Central SoMa Plan PEIR in accordance with CEQA section 21083.3 and CEQA Guidelines section 15183.

**Table 1 (Comparison of Significant Impacts from the 655 Fourth Street Project CPE and Central SoMa Plan PEIR)** below compares the 655 Fourth Street Project's significant impacts and mitigation measures with the Central SoMa Plan PEIR conclusions. As indicated in this table, the 655 Fourth Street Project would not result in any new significant impacts that were not previously disclosed in the Central SoMa Plan PEIR.

**Table 1. Comparison of Significant Impacts from the 655 Fourth Street Project CPE and Central SoMa Plan PEIR**

| Topic | CEQA Conclusion | | New Significant Impact Not Identified in the Central SoMa Plan PEIR? | Mitigation Measures |
|---|---|---|---|---|
| | 655 Fourth Street Project CPE | Central SoMa Plan PEIR | | |
| **Archeological Resources** | Less than Significant with Mitigation | Less than Significant with Mitigation | No | Project Mitigation Measure M-CR-1: Archeological Testing (Implementation of Central SoMa PEIR Mitigation Measure M-CP-4a) |
| **Transportation and Circulation: Transit** | Significant and Unavoidable with Mitigation | Significant and Unavoidable with Mitigation | No | Project Mitigation Measure M-TR-1: Queue Abatement (Implementation of Central SoMa PEIR M-TR-3a) |
| **Transportation and Circulation: Loading** | Significant and Unavoidable with Mitigation | Significant and Unavoidable with Mitigation | No | Central SoMa PEIR Mitigation Measure 6a is now codified under San Francisco Planning Code section 155(u); the Project's required Driveway Loading and Operations Plan is described as part of the project description in the initial study (p. 33) |
| **Transportation and** | Significant and Unavoidable | Significant and Unavoidable | No | Project Mitigation Measure M-TR-2: Construction Management Plan and Construction Coordination |

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|---|---|---|---|---|
| **Topic** | **CEQA Conclusion** | | **New Significant Impact Not Identified in the Central SoMa Plan PEIR?** | **Mitigation Measures** |
| | **655 Fourth Street Project CPE** | **Central SoMa Plan PEIR** | | |
| **Circulation: Construction** | | | | (Implementation of Central SoMa PEIR Mitigation Measure M-TR-9) |
| **Cumulative Transportation and Circulation: Emergency Access** | Less than Significant with Mitigation | Less than Significant with Mitigation | No | Central SoMa PEIR Mitigation Measure M-NO-1a, Transportation Demand Management is now codified under planning code section 169. The project's transportation demand management program is described in the initial study (pp.41-42)<br>Project Mitigation Measure M-TR-1: Queue Abatement (Implementation of Central SoMa PEIR M-TR-3a) |
| **Noise: Operations** | Less than Significant with Mitigation | Significant and Unavoidable with Mitigation | No | Project Mitigation Measure M-NO-1: Siting of Noise-Generating Uses (Implementation of Central SoMa PEIR Mitigation Measure M-NO-1b) |
| **Noise: Construction** | Significant and Unavoidable with Mitigation | Significant and Unavoidable with Mitigation | No | Project Mitigation Measure M-NO-2: General Construction Noise Control Measures (Implementation of Central SoMa PEIR Mitigation Measure M-NO-2a) |
| **Air Quality** | Less than Significant with Mitigation | Significant and Unavoidable with Mitigation | No | Project Mitigation Measure M-AQ-1: Construction Emissions Minimization Plan (Implementation of Central SoMa PEIR Mitigation Measure |

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|---|---|---|---|---|
| **Topic** | **CEQA Conclusion** | | **New Significant Impact Not Identified in the Central SoMa Plan PEIR?** | **Mitigation Measures** |
| | **655 Fourth Street Project CPE** | **Central SoMa Plan PEIR** | | |
| | | | | M-AQ-6a [implementing Central SoMa PEIR Mitigation Measure M-AQ-4b]) and Project Mitigation Measure M-AQ-2: Best Available Control Technology for Diesel Generators and Fire Pumps (Implementation of Central SoMa PEIR Mitigation Measure M-AQ-5a) |
| **Wind** | Significant and Unavoidable with Mitigation | Significant and Unavoidable with Mitigation | No | Project Mitigation Measure M-WI-1: Wind Hazard Evaluation for Building Design Modifications (Implementation of Central SoMa PEIR M-WI-1) |
| **Biological Resources** | Less than Significant with Mitigation | Less than Significant with Mitigation | No | Project Mitigation Measure M-BI-1: Pre-Construction Bat Surveys (Implementation of Central SoMa PEIR M-BI-1) |

The decision before the board is whether to uphold the planning department's determination that the project is not subject to further environmental review (beyond that conducted in the CPE initial study and the PEIR) pursuant to CEQA section 21083.3 and CEQA Guidelines section 15183 and deny the appeal, or to overturn the department's CEQA determination for the project and return the CPE to the department for additional environmental review. The board's decision must be based on substantial evidence in the record. (See CEQA Guidelines section 15183(f).)

## SITE DESCRIPTION AND EXISTING USE

The project is located at 655 Fourth Street, 280–290 Townsend Street, and 292–296 Townsend Street in San Francisco's South of Market (SoMa) neighborhood. The approximately 71,300-square-foot project site (1.64 acres) is composed of seven lots (lots 26, 28, 50, and 161–164 of Assessor's Block 3787). Buildings on lots 26 and 28 were built in 1947. The building on lots 162–164 was built in 1996. The project site currently contains

three buildings, an approximately 4,000-square-foot surface parking lot, and a 2,300-square-foot loading area. The project site is completely developed, has minimal landscaping, and has served largely commercial land uses.

Lot 26, in the northwest portion of the site, fronts onto Fourth Street and consists of one building. The one-story portion of the building on the southern end of the lot is currently occupied by The Creamery—a café and restaurant. A restaurant, gym, and several commercial office tenants occupy the rest of the building on the remainder of lot 26. The building is 12 to 33 feet high and is not set back from the property line at the street front.

Lot 161 is a privately-owned driveway accessed via a 31-foot-wide curb cut along Townsend Street, which diagonally splits the project site between lot 26 and lot 28. This driveway is approximately 275 feet long by 30 feet wide and is lined with approximately 30 trees. There is one larger tree on the project site located on lot 161. Excluding the loading zone, there are 14 off-street parking spaces along lot 161 on the southern portion of the project site. There are also 11 off-street parking spaces within lot 50, a surface parking lot. Lot 50 is accessed via a 12-foot-wide curb cut along Townsend Street.

One building occupies lot 28 in the southeastern portion of the site. The two-story portion fronting Townsend Street is occupied by HD Buttercup (retail business). The one-story portion behind HD Buttercup is occupied by Bulthaup (a remodeling business) and accessed from the surface parking lot that is lot 50 and the loading area that is part of lot 161.

Lots 162–164 consist of one three-story building. The first floor is a commercial unit and the upper two floors are two separate residential units. Off-street parking for lots 162, 163, and 164 is accessed via the 31-foot-wide curb cut on Townsend Street, and each lot has an easement for one parking space within lot 161 and an easement for ingress and egress through lot 161 to access the reserved parking spaces.

The northwest property line of the project site faces the vehicular access driveway for 601 Fourth Street.

## PROJECT DESCRIPTION

The 655 Fourth Street Project would demolish the three existing buildings, associated surface parking lots, and vegetation on the project site, including street trees and other plantings. The project would merge the seven existing lots and construct two new buildings containing approximately 1,015,000 square feet of residential area, 24,500 square feet of hotel area (38 hotel rooms), 21,900 square feet of office area, and approximately 18,500 square feet of ground-floor retail use. The proposed project would consist of approximately 960 dwelling units in an approximate mix of 242 studios, 330 one-bedroom units, 351 two-bedroom units, and 37 three-bedroom condominiums. Each building would have two towers: one of which would rise to a height of 425 feet aboveground (including rooftop appurtenances 25 feet above the highest occupied floor) and the second which would rise to a height of 370 feet aboveground (including 10 feet for rooftop appurtenances).

The proposed project would also include a 94,500-square-foot below-grade, four-level garage containing building amenities, a vehicle drop-off area, a loading dock, back of the house retail operations, refuse handling area, 276 car parking spaces, and other back-of-house features such as mechanical equipment required for operation and maintenance of the building. A 35-foot-wide curb cut on Townsend Street would

provide two vehicle lanes and one two-way truck lane to access the vehicular ramp to the basement level. The project proposes 540 class 1 bicycle parking stalls to be located in the basement and 81 class 2 bicycle parking stalls at grade. The project would include a number of wind reduction features: a porous façade on one of the towers; canopies installed on all four towers; a wind screen installed on the southside of Townsend Street near the intersection of Townsend and Lusk streets; and onsite landscaping consisting of shrubs and deciduous trees.

The proposed project would require excavation to a maximum depth of approximately 55 feet below the ground surface for construction of the below-grade parking garage and building foundations, which would require the removal and disposal of approximately 142,000 cubic yards of soil. The proposed project would use concrete-framed buildings supported on a 12-foot-thick, steel-reinforced concrete mat foundation. No pile driving would be used for the project.

Construction of the entire project is anticipated to take approximately 34-36 months. The mat slab foundation would require nighttime work for approximately eight nights (Friday and Saturday nights for four weekends). The proposed project would require approximately 8–10 days of additional nighttime work for other activities that are required to occur at night by the San Francisco Building Department (e.g., large equipment deliveries, tower crane erections, and oversized loads).

## BACKGROUND

On November 12, 2015, Andrew Junius on behalf of 655 Fourth Street Owner, LLC (hereinafter project sponsor) filed an application with the planning department for environmental evaluation. As a subsequent development project enabled by the Central SoMa Plan, the rezoning of the 655 Fourth Street site pursuant to the Central SoMa Plan had to occur before the project could be approved. As a result, the project approval process followed the adoption of the Central SoMa Plan.

On May 10, 2018, the planning commission certified the Central SoMa Plan PEIR. On December 4, 2018, the board of supervisors adopted the Central SoMa Plan.

On June 11, 2019, the department issued a CPE certificate and initial study for the 655 Fourth Street Project. The planning commission considered the project on June 20, 2019. On that date, the planning commission adopted the CPE and approved the large project authorization for the project (planning commission Motion M-20470), which constituted the approval action under Chapter 31 of the Administrative Code.

On July 22, 2019, an appeal of the CPE determination was filed by Michael Cruz, Kevin Rudich, Michael Guthrie, Carol Guthrie, Katharina Natividad, Noel Natividad, and Sandy Lee (the "601 Fourth Street Coalition") (Appellant).

On August 18, 2019, a supplemental letter of appeal was filed by Michael Cruz, an Appellant.

## CEQA GUIDELINES

**Community Plan Evaluations**

As discussed in the Introduction above, CEQA section 21083.3 and CEQA Guidelines section 15183 **mandate** that projects that are consistent with the development density established by existing zoning,

community plan or general plan policies for which an EIR was certified, **shall not** require additional environmental review unless there are project-specific effects that are peculiar to the project or its site and that were not disclosed as significant effects in the prior EIR.

**Significant Environmental Effects**

CEQA Guidelines section 15064(f) provides that the determination of whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

## SAN FRANCISCO ADMINISTRATIVE CODE

Section 31.16(e)(3) of the San Francisco Administrative Code states: "The grounds for appeal of an exemption determination shall be limited to whether the project conforms to the requirements of CEQA for an exemption."

San Francisco Administrative Code section 31.16(b)(6) provides that, in reviewing an appeal of a CEQA decision, 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."

## PLANNING DEPARTMENT RESPONSES

The concerns raised in the original appeal letter dated July 22, 2019 and supplemental appeal letter dated August 18, 2019 are addressed in the responses below.

**Response 1: The 655 Fourth Street Project qualifies for a community plan exemption under section 15183 of the CEQA Guidelines and Public Resources Code section 21083.3.**

The Appellant incorrectly states that proposed project does not qualify for a CPE because the project is not consistent with the San Francisco General Plan. The Appellant provides no information or substantial evidence to support their concern, and without further information, it is not possible for the department to fully respond to the Appellant's concern regarding consistency with the general plan. Nevertheless, this response addresses the CEQA requirements for CPE eligibility that relate to the general plan and zoning regulations and the CEQA analysis pertaining to land use plans, policies and regulations.

CEQA Guidelines section 15183 mandate that projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, except as necessary to examine whether there are project-specific significant effects not previously analyzed. Therefore, in order to be eligible for a CPE, a project's development density must be consistent with the zoning for which an EIR was certified. As explained on initial study p. 52, attachment to the CPE, the department's current planning division

reviewed the proposed project and determined that the project is consistent with the development density allowed by the Central SoMa Mixed Use Office (CMUO) district zoning, the Central SoMa Special Use District, and the 400-CS height and bulk district. This determination is documented in the Community Plan Exemption Eligibility Determination.[1] As explained in that document, the CMUO district permits residential dwelling units without specific density limitation, allowing physical controls such as height and bulk to control dwelling unit density. The CMUO zoning also permits hotel uses with conditional use authorization. Therefore, the department's current planning division determined that the project is consistent with the development density envisioned in the Central SoMa Plan.

CEQA also requires analysis of whether a project would conflict with a land use plan, policy or regulation adopted for the purpose of mitigating an environmental effect. However, a conflict between a proposed project and a general plan policy does not necessarily indicate a significant effect on the environment under CEQA. For a project to result in a significant impact under CEQA with respect to a conflict with the general plan or other land use policies, the project must:

- be inconsistent or otherwise conflict with a plan or policy adopted for the purpose of mitigating an environmental effect; *and*
- result in a significant physical environmental effect related to the identified policy conflict.

Because the 655 Fourth Street project is consistent with the Central SoMa Plan, which was evaluated in the Central SoMa Plan PEIR, the proposed project would not result in any new or more severe physical environmental impacts related to a conflict with a land use plan, policy or regulation adopted for the purpose of mitigating an environmental effect. The Appellant provides no substantial evidence demonstrating otherwise.

The determination of a project's consistency with the general plan is made independent of the environmental review process by decision makers when they decide to approve or disapprove a proposed project. The Appellant can find a detailed analysis of the project's consistency with the general plan in the 655 Fourth Street Project staff report and project approval motions.[2]

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**Response 2: The proposed 655 Fourth Street Project, in combination with other cumulative development (specifically, the Central Subway Project), would NOT result in peculiar environmental effects that were not identified in the Central SoMa Plan PEIR.**

The Appellant suggests that construction of the 655 Fourth Street Project, in combination with other cumulative development projects (specifically citing the Central Subway Project), would result in peculiar construction-related transportation, air quality, noise, and vibration impacts. However, the Appellant does not provide any further information or evidence as to how any such impacts are peculiar to this project or were not previously disclosed in the Central SoMa Plan PEIR. This assertion by the Appellant is incorrect.

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[1] Jeff Joslin, San Francisco Planning Department, Community Plan Evaluation Eligibility Determination, Current Planning Analysis, 655 Fourth Street, March 13, 2019.

[2] San Francisco Planning Department, Staff Report for Large Project Authorization & Conditional Use Authorization for 655 Fourth Street, 280-290 & 292-296 Townsend Street, June 20, 2019. Available at http://commissions.sfplanning.org/cpcpackets/2014-000203ENXCUA.pdf

Regarding the Central Subway Project, at the time of the Central SoMa Plan PEIR's preparation, the Central Subway construction was anticipated to be completed in 2017 and revenue service to be initiated in 2019. The most recent project completion dates indicate that Central Subway construction will be completed in 2019 and revenue service will begin in 2020.[3] The planning department took this information into account during the 655 Fourth Street's project-specific environmental review. The 655 Fourth Street Project sponsor currently estimates that the earliest construction could begin is fall 2020. Therefore, construction of the 655 Fourth Street Project would not overlap with ongoing construction from the Central Subway project and there is no potential for cumulative construction impacts from the proposed project and the Central Subway project to occur. The 655 Fourth Street's project-specific transportation study identified the Central Subway as a baseline condition, meaning that the project's analysis assumes Central Subway's completion and operation. The transportation study details the anticipated transit, traffic, bicycle, pedestrian, loading, and emergency vehicle access conditions when the Central Subway is operational (pp. 68-69).[4] These conditions were then used to analyze the potential impacts of the 655 Fourth Street Project. In this way, the 655 Fourth Street Project CPE evaluates the environmental effect of the proposed project in combination with that of the Central Subway Project. The Appellant provides no substantial evidence to the contrary.

In the supplemental letter of appeal, the Appellant alleges that the Central SoMa Plan PEIR did not evaluate the cumulative damage to the 601 Fourth Street building as a result of the Central Subway Project (referred to as the Third Street Light Rail Project in the letter). The Appellant provides no further details indicating that any type of damage may have occurred from the Central Subway Project or how the 655 Fourth Street Project could combine with the effects of the Central Subway Project to result in cumulative damage-related impacts. As stated above, construction of the 655 Fourth Street Project would not overlap with ongoing construction from the Central Subway project and there is no potential for cumulative construction impacts from the proposed project and the Central Subway project to occur. Furthermore, the scope of this appeal is limited to the adequacy and accuracy of the 655 Fourth Street Project CPE, not the environmental analyses conducted for either the Central SoMa Plan or the Central Subway project.[5,6] A detailed discussion of the 655 Fourth Street Project's construction noise and vibration impacts to the 601 Fourth Street building and residents is located on pp. 80-83 of the 655 Fourth Street CPE and further addressed in Response 6 of this appeal response.

The Central SoMa Plan PEIR adequately and accurately evaluated reasonably foreseeable cumulative projects (including the Central Subway Project) as part of the Central SoMa Plan PEIR's cumulative construction-related transportation, noise, and air quality analyses. The Central SoMa Plan PEIR also identified significant and unavoidable construction-related transportation, noise, and air quality impacts

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[3] San Francisco Municipal Transportation Agency. Central Subway Monthly Progress Report, June 2019. Available at: https://www.sfmta.com/sites/default/files/reports-and-documents/2019/07/2019_06_mpr.pdf

[4] San Francisco Planning Department. 655 Fourth Street Transportation Impact Study, February 19, 2019.

[5] The San Francisco Board of Supervisors unanimously upheld the certification of the Central SoMa Plan PEIR in September 2018. CEQA Guidelines section 15162(c) establishes that, once a project is approved:
"[T]he lead agency's role in that approval is completed unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any."

[6] The Appellant's claim that the Central Subway Project resulted in damage to the 601 Fourth Street building is not supported by any further information or substantial evidence.

resulting from the simultaneous construction of multiple projects enabled under the plan, such as the 655 Fourth Street Project.

As part of the 655 Fourth Street Project's environmental evaluation, project-specific transportation, noise and air quality analyses were prepared. The project-specific analyses all identify the 601 Fourth Street building as the closest residential location and evaluate the proposed project's construction-related transportation, noise, and air quality impacts to the receptors in this building accordingly. Furthermore, the 655 Fourth Street Project CPE recognizes that the project would have significant noise, air quality, and transportation impacts and identifies mitigation measures to reduce these impacts. All of these impacts were identified in the Central SoMa Plan PEIR as part of the Plan's programmatic environmental analysis. Accordingly, there are no peculiar impacts associated with the 655 Fourth Street Project that were not identified as part of the Central SoMa Plan PEIR.

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**Response 3: The 655 Fourth Street Project would NOT result in new or more severe geology and soils impacts than were previously identified in the Central SoMa Plan PEIR.**

Pursuant to Appendix G of the CEQA Guidelines, the Central SoMa Plan Initial Study evaluated the impacts of the Plan on seismic safety in the "Geology and Soils" section and found all impacts to be less than significant. As stated in the Central SoMa Plan Initial Study (p. 140):

Although the Plan area would be subject to very strong to violent ground shaking in the event of a major earthquake, individual development projects would not expose people or structures to substantial adverse effects related to ground shaking because they would be designed and constructed in accordance with the most current San Francisco Building Code, which incorporates California Building Code requirements.

The Central SoMa Responses to Comments (Response GE-1, p RTC-349) further addressed comments received on the Draft EIR pertaining to earthquake risks and liquefaction and settlement. As explained in this response, the San Francisco Department of Building Inspection ("DBI") has issued Administrative Bulletins 082 and 083 addressing seismic stability of new construction as well as Information Sheets S-05 and S-018 regarding geotechnical requirements of new construction.

Building Code section 1803, Geotechnical Investigations, specifies the circumstances under which a site-specific geotechnical report is required. The building plans would be reviewed by DBI for conformance with the recommendations in the site-specific geotechnical report prior to the issuance of building permits. The geotechnical report would assess the nature and severity of liquefaction and other geologic hazards onsite for individual projects and recommend site-specific project design and construction features that would reduce the identified hazards to an acceptable risk level. The building department would ensure that the geotechnical and seismic recommendations of the site-specific investigation would be consistent with current Building Code requirements through their review of the building permit application submittals.

The 655 Fourth Street Project CPE adequately and accurately evaluates the project's impact to geology and soils. As described in the CPE, the project is located within a seismic hazard zone and a geotechnical report was prepared for the proposed project to inform the design of the building and its foundation. The CPE characterizes the geology types and soils that underlie the project site and summarizes the project-specific

recommendations from the geotechnical report for the building foundation. These recommendations include, but are not limited to, a reinforced-concrete mat foundation, basement floor waterproofing and groundwater level accommodations, basement wall lateral pressure requirements, tiedown anchors, soil cement shoring walls, and construction monitoring. The CPE concludes that the review of the building permit application pursuant to the building department's implementation of state and local codes, including compliance with requirements specified in applicable administrative bulletins and information sheets (as described above), would ensure that the proposed project would have no significant geology and soils impacts. The Appellant does not provide any new information that was not known at the time the Central SoMa Plan PEIR was certified or any evidence to support the claim that the proposed 655 Fourth Street Project would result in significant effects to geology and soils that would be more severe than those analyzed in the Central SoMa Plan PEIR.

Regarding the Appellant's comparison of the 655 Fourth Street Project's soil conditions to those of the Millennium Tower, the 655 Fourth Street Project, including the depth of the excavation and size of basement, was specifically designed so that poor quality soil (the top two soil layers of fill and marine deposits) would be completely removed from below the project's basement levels. Below the upper two soil layers and embedded into the Colma Formation, or third layer of soil, the 655 Fourth Street Project site is characterized by soil conditions suitable for supporting heavy foundation loads. Compressible old bay clay layers that can be found in other regions in San Francisco, such as the Transbay area, will not exist below the 655 Fourth Street building structure after construction.[7] Regardless, the Millennium Tower is a separate project that has no connection to the 655 Fourth Street Project. Any action associated with that project is not within the scope of the 655 Fourth Street Project CEQA appeal currently before the board of supervisors.

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**Response 4: The 655 Fourth Street Project CPE accurately identifies all physical environmental impacts as a result of the proposed project, which would not result in any new or more severe impacts than were previously identified in the Central SoMa Plan PEIR.**

The Appellant asserts that the project is not consistent with the San Francisco General Plan, alleges that the proposed project would impact existing commercial buildings that provide affordable office space for new small businesses, and suggests that the existing buildings on the project site contribute to the South of Market character. As previously described, a conflict between a project and a general plan policy does not necessarily indicate a significant effect on the environment under CEQA. The Appellant provides no substantial evidence demonstrating that the removal of the existing buildings on the 655 Fourth Street project site would conflict with a plan or policy adopted for the purpose of mitigating an environmental effect AND would result in a significant physical environmental effect related to the identified policy conflict.

The assertion that the proposed project would impact existing commercial buildings that are vital to the South of Market economy is not a statement on the adequacy or accuracy of the CPE. The focus of CEQA is on physical environmental impacts, and the Appellant fails to demonstrate how an alleged economic

[7] Letter from Rollo & Ridley, Inc. to Carl Shannon (Tishman Speyer). June 18, 2019. Subject: Overview of Foundation Design and Subsurface Site Conditions 655 4th Street (Creamery) San Francisco, California.

impact would result in a significant physical environmental impact. In the Appellant's August 18, 2019 supplemental letter of appeal, the Appellant describes how construction of the Central Subway Project and other construction projects have resulted in economic and physical environmental impacts, such as noise, to nearby residents and businesses. The supplemental appeal letter suggests that the 655 Fourth Street Project would have similar impacts. As previously stated, the focus of CEQA is on physical environmental impacts. In general, socioeconomic effects are beyond the scope of the CEQA environmental review unless a link can be established between anticipated socioeconomic effects of a proposed action and adverse physical environmental impacts (CEQA Guidelines section 15131(a); CEQA section 21082.2).

The CPE adequately and accurately addresses the physical environmental impacts (e.g., noise, air quality, transportation) associated with the 655 Fourth Street Project's construction activities. As stated in the CPE, the 655 Fourth Street project would result in a significant and unavoidable construction noise impact (CPE at p. 81). The Appellant does not demonstrate a connection between potential economic impacts from construction of the proposed project and physical environmental impacts that were not evaluated as part of this project-specific environmental review. Furthermore, Mitigation Measure M-NO-2 includes measures to limit construction noise to minimize noise impacts to surrounding uses. Requirements of this mitigation measure include the use of equipment with the best available noise controls, use of impact tools that are hydraulically or electrically powered, or outfitting impact tools with external noise jackets. This mitigation measure also requires implementation of a system to track and respond to noise complaints during construction.

Finally, "character" in and of itself is not a CEQA issue; however, the CEQA Guidelines do provide that a project that demolishes or alters those physical characteristics of an historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource's significance, resulting in a significant impact. The planning department surveyed the existing buildings on the 655 Fourth Street project site as part of the South of Market Historic Resources Survey in 2010. The survey determined that none of the buildings on the project site are historic resources nor is the project site located in any historic district. The Appellant does not provide substantial evidence to the contrary.

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**Response 5: The 655 Fourth Street Project CPE adequately and accurately evaluated transportation impacts, and the adequacy of the Central SoMa Plan PEIR is not appealable to the Board at this time.**

The Appellant contends that that Central SoMa Plan PEIR did not address cumulative effects of the 655 Fourth Street project and traffic from other projects. The Appellant is mistaken. The Central SoMa Plan PEIR analyzed subsequent development that could occur under the Plan at a "program" level (Central SoMa Plan PEIR, page IV-21). This program-level analysis focused on the indirect impacts on the physical environment resulting from subsequent development enabled by the Central SoMa Plan (like the 655 Fourth Street Project). Subsequent development projects that could be enabled by the Plan are required to undergo their own environmental evaluation pursuant to CEQA Guidelines section 15183. The purpose of the 655 Fourth Street Project CPE is to identify whether there are any new or more severe impacts from this proposed development project that were not disclosed in the PEIR. As a point of clarification, the scope of

this appeal is limited to the adequacy and accuracy of the 655 Fourth Street Project CPE, not the Central SoMa Plan PEIR.[8]

The Appellant does not provide substantial evidence regarding potential cumulative effects that could occur because of increased traffic resulting from the project and other projects in the area. As noted in the regulatory framework section of Central SoMa Plan PEIR (p. IV.D-21), pursuant to CEQA section 20199, automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment under CEQA (Central SoMa Plan PEIR, page IV.D-21). However, both the Central SoMa Plan PEIR and the 655 Fourth Street Project transportation analyses evaluate the extent to which vehicle trips from the project, under both existing and cumulative conditions, may affect or result in secondary effects to topics considered under CEQA (e.g., hazards, loading, emergency access, noise and air quality).

It is further noted that many of the projects or conditions listed by the Appellant as not included in the cumulative impact analysis are part of the existing environmental setting (e.g., Oracle Park [formerly AT &T Park], 4th and King Street transportation center, Uber/Lyft, Facebook and Google buses, taxis, electric scooters, and bicycles), and therefore, are not appropriate to include in the cumulative impact analysis. As part of the transportation study for the proposed project, traffic, bicycle, and pedestrian volumes were counted at seven study intersections[9] surrounding the project site to inform the project's transportation analysis. These traffic counts were collected on Tuesday, August 17, 2018 and therefore reflect the existing conditions, which include those projects referenced above as listed by the Appellant. The Appellant also mentions the Chase Center, which was appropriately described and included as part of the Central SoMa Plan PEIR's cumulative impact analysis (Central SoMa Plan PEIR, p. IV-11) and will be fully operational by the time the 655 Fourth Street Project begins construction.

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**Response 6: The 655 Fourth Street Project CPE adequately and accurately analyzes construction noise and vibration, air quality, shadow, and hazards and hazardous materials impacts associated with the project's construction.**

First, the Appellant suggests that there will be unique noise and vibration impacts to the 601 Fourth Street live-work building and residents as a result of 655 Fourth Street Project construction. As part of the project-specific environmental review, an Environmental Noise and Vibration Assessment was prepared. Noise levels from temporary construction activities would increase from existing noise levels without the proposed project, which range from 62 to 72 A-weighted decibels (dBA) during various times of the day.

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[8] The San Francisco Board of Supervisors unanimously upheld the certification of the Central SoMa Plan PEIR in September 2018. CEQA Guidelines section 15162(c) establishes that, once a project is approved:
"[T]he lead agency's role in that approval is completed unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any." [Emphasis added.]

[9] These seven study intersections are Brannan/Third streets, Townsend/Third streets, King/Third streets, Lusk/Townsend streets and the Beacon Driveway, Brannan/Fourth streets, Fourth/Townsend streets, and King/Fourth streets.

The report reflects that construction noise levels at the nearest residential properties (at 35 feet from the construction site) would range from 87 to 90 dBA equivalent sound level (Leq) during periods of intense construction activity, and that during typical moderate construction efforts, construction noise levels would average 87 dBA Leq. Therefore, the Appellant's supplemental appeal letter incorrectly states that the project's 90 decibel (dB) level is based on 100 feet from the property line and that noise levels at the 601 Fourth Street property line would be higher.

The CPE further states that construction of the proposed project would be subject to the San Francisco Noise Ordinance, which regulates construction noise. The CPE acknowledges that during the construction period, occupants of nearby properties could be disturbed by construction noise. As described and evaluated in the CPE, the proposed project does include limited nighttime construction work. This limited nighttime construction work would be required during construction of the building's foundation, which would occur over approximately eight nights, covering four weekends. In addition, there would be approximately 8-10 days of nighttime work for activities that the San Francisco Building Department requires to occur at night (large equipment deliveries, tower crane erection, and oversized loads). The CPE acknowledges that the continuous nighttime concrete pours would result in construction noise levels of 86 dBA at the 601 Fourth Street building. This noise level would exceed the ambient plus 5 dBA nighttime construction noise limit in section 2908 of the San Francisco Police Code and a special permit from the public works department would be required. The CPE concludes that construction noise impacts from the proposed project would be significant, consistent with the conclusions in the Central SoMa Plan PEIR and identifies Project Mitigation Measure M-NO-2, General Construction Noise Control Measures (implementation of Central SoMa Plan PEIR Mitigation Measure M-NO-2a) to reduce and manage construction noise.

The Appellant's supplemental appeal letter provides various citations to literature and testimonies regarding noise impacts. However, the department has adequately and accurately evaluated the 655 Fourth Street Project's noise impact. In doing so, the department found that the project would result in a significant construction noise impact, identified all feasible noise mitigation measures to reduce this impact, and determined that even with the implementation of noise mitigation, the project would still result in a significant and unavoidable impact. No further noise analysis is warranted or possible.

Regarding vibration impacts, the 655 Fourth Street Project CPE evaluates the project's vibration impacts to the 601 Fourth Street building and identifies that given the approximately 35-foot distance to construction activities, the calculated vibration level would be 0.05 inches/second Peak Particle Velocity (PPV). For reference, this is below the 0.1 inches/second PPV vibration level that is considered "strongly perceptible." In the supplemental appeal letter, the Appellant alleges that construction of the 655 Fourth Street building would result in damage to the 601 Fourth Street building. This is incorrect. As previously stated in this response and the CPE, the anticipated vibration level anticipated at the 601 Fourth Street building is 0.05 inches/second PPV. This is less than the building damage threshold of 0.2 inches/second PPV. Therefore, vibration impacts associated with construction of the proposed 655 Fourth Street project would not exceed the vibration threshold level for building damage, nor would it exceed the vibration threshold level for what is considered "strongly perceptible". The vibration impacts from the proposed project would not be significant.

The Appellant also asserts that there are unique issues regarding air quality impacts and soil pollution associated with the project. However, neither the Air Quality Technical Report nor the Phase I Environmental Site Assessment prepared for this project identified any new or more severe construction

impacts related to air quality or hazardous materials than were previously identified in the Central SoMa Plan PEIR. The project is required to comply with the Maher Ordinance and the San Francisco Construction Dust Control Ordinance. The regulations in these ordinances would ensure that any contaminated soil is properly handled and disposed of and any fugitive dust generated during construction is managed appropriately. Furthermore, the project-specific air quality analysis found that project construction emissions would be below the threshold of significance for all criteria pollutants. Because the project site is located within an air pollutant exposure zone and would result in diesel emissions during construction, the CPE determined that the project would result in a significant construction health risk impact. The project is required to implement Project Mitigation Measure M-AQ-1, Construction Emissions Minimization Plan (Implementation of Central SoMa Plan PEIR Mitigation Measure M-AQ-4b), which requires the project sponsor to use construction equipment with the cleanest engines available or be equipped with diesel particulate filters. With this mitigation measure, construction-related health risks from diesel particulate matter would be reduced to less than significant levels.

As a point of clarification, the Appellant states that the 601 Fourth Street building is within 30 feet of the project site. The 655 Fourth Street Project entitlement drawings indicate that the distance between the 655 Fourth Street Project site and the 601 Fourth Street building is 31 feet 5 inches. The noise and vibration, and air quality analyses identify the nearest residential receptors as approximately 35 feet from the proposed project site. Whether the nearest residential receptors are located 30 feet or 35 feet from the project site, the conclusions reached in the 655 Fourth Street noise, vibration, air quality, and hazards and hazardous materials analyses would remain the same.

In the supplemental appeal letter, the Appellant alleges that the 601 Fourth Street building will experience air and light impacts as a result of the 655 Fourth Street Project. The CPE evaluated the proposed project's shadow impact (access to sunlight) and determined that the project would not result in significant shadow impacts. The CPE states on p. 112, "Shadows on streets and sidewalks would be transitory in nature and would not exceed levels commonly expected in urban areas and would be considered a less-than-significant impact under CEQA. Although occupants of nearby properties may regard the increase in shadow as undesirable, the limited increase in shading of private properties as a result of the proposed project would be considered a less-than-significant impact under CEQA." The Appellant has not provided substantial evidence to the contrary.

The 655 Fourth Street Project CPE adequately and accurately analyzes construction noise and vibration, air quality, shadow, and hazards and hazardous materials impacts associated with the project's construction.

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**Response 7: The 655 Fourth Street Project CPE adequately and accurately evaluates transportation-related pedestrian hazards.**

The Appellant correctly states that the Central SoMa Plan PEIR did not evaluate impacts to the 601 Fourth Street driveway. As previously stated in this Appeal response, the Central SoMa Plan PEIR is a "program-level analysis" that does not analyze the specific or localized environmental impacts of subsequent development projects; individual analyses of all driveways within the Plan Area would not be appropriate under a program-level analysis. However, the Appellant incorrectly states that subsequent studies have not evaluated the proposed 655 Fourth Street Project's construction and operational impacts to the 601

Fourth Street driveway. As part of the 655 Fourth Street Project's environmental evaluation, a project-specific transportation analysis was prepared. This analysis considered both construction and operational impacts of the 655 Fourth Street Project on adjoining areas, including 601 Fourth Street.

655 Fourth Street Project Construction Impacts to Pedestrians

As described in the CPE, the sidewalk fronting the site along Fourth Street and/or Townsend Street may need to be closed on a temporary basis for construction staging. In consideration of the project site location, the duration and magnitude of temporary project-related construction activities could result in substantial interference with bicycle, pedestrian, or vehicle circulation and accessibility to adjoining areas, thereby resulting in potentially hazardous conditions. The CPE identified that even with the implementation of Project Mitigation Measure M-TR-2, Construction Management Plan and Construction Coordination (Implementation of Central SoMa PEIR M-TR-9), this impact would remain significant and unavoidable. Although not specifically referenced by name in the CPE, the 601 Fourth Street building is an adjoining area that is specifically addressed by this analysis; the construction management plan implemented through Mitigation Measure M-TR-2 would evaluate and address accessibility to the 601 Fourth Street site.

The Appellant is incorrect in stating the project-specific studies failed to evaluate the construction impacts of the 655 Fourth Street Project on the 601 Fourth Street driveway and provide no substantial evidence to support the claim that construction of the project would exacerbate an existing hazard.

655 Fourth Street Project Operational Impacts to Pedestrians

As described in the CPE, the project would not generate any activities or include any design or features that would create hazards for pedestrians or interfere with pedestrian access or circulation. Given existing traffic levels and the estimate of project-generated vehicle traffic, the project is not expected to substantially increase overall traffic levels along these streets such that it could create potentially hazardous conditions for pedestrians or otherwise interfere with pedestrian access or circulation.

Furthermore, the CPE states that the 655 Fourth Street Project would implement several improvements to the public realm:

> …including setbacks along the entire Fourth Street frontage of the site and a portion of the Townsend frontage of the site. This improvement would essentially increase the effective width of the sidewalk available to pedestrians. Additionally, a proposed POPOS [Privately Owned, Public Open Space] at the southwest corner of the site fronting the Fourth Street/Townsend Street intersection and proposed public walkways would maximize pedestrian connectivity into, out of, and through the site.

The Appellant is incorrect in stating that the subsequent studies failed to evaluate the operational impacts of the 655 Fourth Street Project on the 601 Fourth Street driveway. Furthermore, the Appellant provides no substantial evidence to support the claim that the proposed project would exacerbate pedestrian access or injury.

## CONCLUSION

The Appellant has not demonstrated nor provided substantial evidence to support a claim that the CPE fails to conform to the requirements of CEQA for a CPE pursuant to CEQA section 21083.3 and CEQA

Guidelines section 15183. The planning department conducted necessary studies and analyses and provided the planning commission with the information and documents necessary to make an informed decision, based on substantial evidence in the record, at a noticed public hearing in accordance with the planning department's CPE initial study and standard procedures, and pursuant to CEQA and the CEQA Guidelines. Therefore, the planning department respectfully recommends that the board of supervisors uphold the department's CPE for the project and reject the appeal.

**Attachment A**

ROLLO & RIDLEY
GEOTECHNICAL ENGINEERS & SCIENTISTS

June 18, 2019
Project No. 1406.1

Carl Shannon
Tishman Speyer
One Bush Street, Suite 450
San Francisco, California 94104

Subject: Overview of Foundation Design and Subsurface Site Conditions
655 4th Street (Creamery)
San Francisco, California

Dear Mr. Shannon:

Per your request, this letter provides general geotechnical information regarding the 655 4th Street (Creamery) project, located on the northeast corner of 4th Street and Townsend Street in San Francisco. In addition, it summarizes our in-progress geotechnical studies to investigate the subsurface soil and bedrock characteristics and development of foundation recommendations.

**Proposed Project**

We understand current plans are to demolish and remove the existing site improvements and construct two residential towers underlain by three basement levels. Specifically, plans contemplate 400- foot towers, one level of underground loading, parking & building utilities, one level of amenities and one level of underground parking. An excavation on the order of 42 feet to 48 feet is anticipated to construct the below grade improvements (three basements and the foundation thickness) across the site. When completed, the lowest basement floor will be about 36 feet below adjacent site grades at the corner of 4th and Townsend Streets.

**Subsurface Soil and Bedrock Characteristics**

The following outlines the conditions of the soil and bedrock below the Creamery project. These subsurface conditions are common to the surrounding area and have been encountered, tested, and characterized by many studies for the completed projects adjacent to the site. In summary, the site is underlain by four generalized soil layers as listed below starting from the surface extending to bedrock.

- A layer of non-native fill, consisting primarily of loose to medium dense sand and clayey sand with gravel, cobbles, brick and concrete fragments and other debris. This layer will be completely removed during the construction of the project.

- A layer of Marine Deposits, consisting primarily of soft to stiff clay and sandy clay. This layer will be completely removed during the construction of the project.

- A medium dense to very dense sand, clayey sand and very stiff sandy clay commonly referred to as the Colma Formation & Colluvium. This layer is strong and relatively incompressible, and competent to support the foundation loads associated with the tower structures.

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- Franciscan Complex bedrock. The top of the bedrock varies across the site from a depth of about 75 feet at the southwest corner of the site to about 58 feet in the central portion, and at about 45 to 55 feet at the northeast corner of the site. The bedrock consists of interbedded layers of shale and sandstone and to lesser extent layers of greywacke, serpentinite, siltstone, chert and greenstone.

The depth of the excavation and size of basement for the Creamery was specifically designed so that the poorer quality soil (the top two soil layers of Fill and Marine Deposits) would be completely removed from below the basements. Below the upper two soil layers and significantly embedded into the third layer (Colma Formation), the Creamery site is characterized by soil conditions suitable for supporting heavy foundation loads. Compressible old bay clay layers that can be found in other regions in San Francisco, such as the Transbay area, will not exist below the Creamery structure after construction.

**Proposed Foundations, Building Codes, Review Committee, and Inspections**

Utilizing the geotechnical engineering design recommendations, the structural engineer Magnusson Klemencic Associates, Inc. (MKA) will design the foundations and superstructure for the project. On the basis of our understanding of the current MKA design, the tower buildings on the Creamery site will likely be founded on steel reinforced concrete mat foundations (anticipated at 6- to 12-foot-thick). Mat foundation systems are the typical foundation systems used for buildings of this size in San Francisco given the soil conditions at the site.

The geotechnical report and structural design of the project will be designed to comply with requirements of the California (CBC) and San Francisco Building Codes (SFBC). Additionally, the geotechnical report and structural design of the project will be extensively analyzed and scrutinized by a Structural Design Review Committee consisting of four outside experts, selected by the San Francisco Department of Building Inspection (SFDBI).

Lastly, during construction, in accordance with Building Code requirements, all phases of the project, including the excavation, foundation, and superstructure construction will be inspected and approved by our firm, SFDBI representatives and by independent third-party special inspection and testing agencies, as applicable.

Best regards,
ROLLO & RIDLEY, INC.

Christopher A. Ridley, P.E., G.E.
Principal

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