



Categorical Exemption Appeal

1531-1581 Howard Street / 118-134 Kissling Street

DATE: February 24, 2020
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
Jenny Delumo – Jenny.Delumo@sfgov.org; (415-575-9146)
RE: Planning Record No. 2016-012474APL
Appeal of Categorical Exemption for
1531-1581 Howard Street / 118-134 Kissling Street
HEARING DATE: March 3, 2020
ATTACHMENT(S): A – 1531-1581 Howard Street/118-134 Kissling Street Project History
B – Preservation Team Review Form for 1531-1581 Howard Streets; 118-134
Kissling Streets, May 12, 2015

PROJECT SPONSOR: John Kevlin, on behalf of Royal Automotive Group, (415) 567-9000
APPELLANT(S): Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the board of supervisors (the board) regarding the planning department's (the department) December 24, 2019 issuance of a categorical exemption determination under the California Environmental Quality Act (CEQA) for the proposed 1531-1581 Howard St / 118-134 Kissling Street project (the project).

The department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the project on December 24, 2019 finding that the proposed project is exempt from CEQA as a Class 11 categorical exemption for accessory structures.

The decision before the board is whether to uphold the department's decision to issue a categorical exemption and deny the appeal or to overturn the department's decision to issue a categorical exemption and return the project to department staff for additional environmental review.

This memorandum responds to all of the issues raised in the January 23, 2020 letter of appeal. However, many of the appellant's claims are irrelevant to the decision before the board on this CEQA appeal. Issues that are unrelated to the department's December 24, 2019 determination that the proposed project is categorically exempt from CEQA are addressed for informational purposes only.

SITE DESCRIPTION AND EXISTING USE

The approximately 61,900-square-foot project site is comprised of nine lots (Assessor's Block 3516 and Lots 39, 40, 41, 42, 44, 55, 56, 63 and 64), and is located on the block bounded by Howard Street to the north, Kissling Street to the south, 12th Street to the west and 11th Street to the east. The project site is within the South of Market (SoMa) neighborhood and the California and National Register eligible Western SoMa Light Industrial and Residential Historic District. The project site is not a contributor to the eligible historic district. DBA Royal Motors operates an existing automotive repair facility on the project site. The Royal Automotive Group (hereinafter project sponsor) proposes work on six of the site's nine lots: 39, 40, 41, 42, 56, and 64, which are currently used for surface vehicle storage. No work is proposed on Lots 44, 55, and 63. Lots 56 and 64 are in a WMUG (Western SoMa Mixed Use-General) zoning district and lots 39, 40, 41, and 42 are in a RED (Residential Enclave) zoning district.

The surrounding area is characterized by a mix of residential and commercial properties. Two- to three-story residential buildings with retail or parking garages on the ground floor are located adjacent to the project site's eastern property line and across from the project site's Howard Street frontage. One- to two-story commercial properties, including other auto body repair facilities, are located to the east, west and south of the project site on Howard, Kissling, and 12th streets. The immediate neighborhood also includes a public parking garage at the corner of 12th and Kissling streets.

PROJECT DESCRIPTION

The proposed project would reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot 64. The project would install approximately 32'-7"-tall metal screens on portions of the Kissling Street frontage and approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately 200 net new vehicles. The parking storage and car wash facilities would not be open to the public and would be for the existing auto repair business only. The project would reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing 46.5-foot-wide curb cut on the Kissling Street frontage. The proposed project would amend the San Francisco zoning map by changing the zoning district for Lots 39, 40, 41 and 42 at the project site from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed).

BACKGROUND

The following is a brief summary of the relevant project background for the appeal of the December 24, 2019 categorical exemption for the 1531-1581 Howard Street / 118-134 Kissling Street project. The letter of appeal focusses largely on procedural details and actions by the department and the San Francisco Planning Commission that are not directly pertinent to the matter before the Board, which is limited to the question of whether the department's December 24, 2019 determination that the proposed project is categorically exempt was correct in accordance with CEQA. This Background section focuses on the information that is

salient to this CEQA appeal. A more detailed recounting of the procedural history of the planning department's review of the project is provided in Attachment A for informational purposes only.

Overview

The proposed project would result in the following changes to the existing automotive repair facility on the site:

- Construction of a car wash
- Installation of car stackers
- Construction of metal screens on the Howard and Kissling street frontages
- Modifications to existing curb cuts

On December 18, 2014 the project sponsor submitted an application for environmental review to the department's Environmental Planning Division for this project. As is often the case, the project sponsor made a number of adjustments to the details of the project description during the time that the project has been under review by the planning department, including changes to the number and configuration of the proposed car stackers, and changes to the height and configuration of the proposed screens. However, the basic components of the proposed project have remained constant since the time the original application for environmental review was received by the department on December 18, 2014. Furthermore, at every iteration of the project the environmental review considered the entirety of the project as it was proposed to the department, pursuant to CEQA Guidelines section 15003(h).

On December 24, 2019 the department issued a categorical exemption for conversion of existing surface vehicle storage spaces to vertical vehicle storage stackers on six lots (Lots 39, 40, 41, 42, 56, and 64), a zoning map amendment to facilitate the conversion to vertical vehicle storage stackers on four of the lots (Lots 39, 40, 41, and 42), installation of metal screens on the project site's Kissling Street and Howard Street frontages to screen the vehicle storage stackers, construction of a private car wash to support the existing facility, and curb cut modifications on the project site's Kissling Street and Howard Street frontages.

Project History

On March 2, 2016, the department determined that the project as originally proposed was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required.

On March 10, 2016, the planning commission approved a conditional use authorization for the first phase of the project considered in the environmental review under Planning Commission Motion No. 19588 at a noticed public hearing.

On September 27, 2016, the project sponsor submitted an application for a conditional use authorization and an application for a legislative amendment to the planning department's Current Planning Division for a second phase of the project.

On October 20, 2016 the project sponsor submitted a new environmental review application to the department for modifications to the project components approved in Planning Commission Motion No 19588. The new application proposed to increase the number of car stackers and to adjust the proposed height of the metal screens along the Kissling Street frontage. The Environmental Planning Division determined that the project description in the sponsor's October 20, 2016 application constituted a modification of the project for which the department issued a categorical exemption determination on

March 2, 2016. Accordingly, the department evaluated whether these proposed modifications to the previously approved project constituted a substantial modification under section 31.08(i) of chapter 31 of the San Francisco Administrative Code.

On August 8, 2017, the department determined that the project described in the October 20, 2016 application for a CEQA determination was not a substantial modification to the project that received a categorical exemption under Class 11 on March 2, 2016. Accordingly, the department further determined pursuant to section 31.08(i)(3) of chapter 31 of the San Francisco Administrative Code that no additional CEQA environmental review was required for the currently proposed project.¹

On October 25, 2018, the planning commission approved a conditional use authorization and adopted a zoning map amendment under Planning Commission Motion No. 20329 at a noticed public hearing for the second phase of the project described in the September 27, 2016 conditional use authorization and legislative amendment applications.² As discussed in Attachment A, the planning commission was aware that the project under consideration at the October 25, 2018 hearing and approved under Planning Commission Motion No. 20329 was the second phase of the project, and that it had previously approved the first phase under Planning Commission Motion No. 19588.

While the conditional use authorization approved under Planning Commission Motion No. 19588 and the conditional use authorization and zoning map amendment approved under Planning Commission Motion No. 20329 addressed different aspects of the proposed project, each of the CEQA determinations made for the project considered the whole of project that was being currently proposed.

On December 16, 2019 the appellant filed an appeal of the December 4, 2019 no substantial modification determination. In response to this appeal, the department elected to rescind both the determination of no substantial modification and the March 2, 2016 categorical exemption determination.

On December 24, 2019, the department determined that, like the project analyzed in the first CEQA determination, the modified project is categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review is required. The department also determined that the December 24, 2019 categorical exemption could be appealed to the board within 30 days of its issuance or 30 days after approval of a new conditional use authorization, if required. The project sponsor does not propose any changes to the project as approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization) and Motion No. 20329 (the October 25, 2018 conditional use authorization and zoning map amendment). Thus, the appeal period for the December 24, 2019 categorical exemption was 30 days from its issuance.

On January 23, 2020, the appellant filed an appeal of the categorical exemption determination, and on January 29, 2020, the department determined the appeal was timely filed.

¹ On December 4, 2019, the department reissued the determination of no substantial modification to correct a typographical error.

² The categorical exemption determination issued on August 8, 2017, addressed both phases of the project.

CEQA GUIDELINES

Categorical Exemptions

In accordance with CEQA section 21084, CEQA Guidelines sections 15301 through 15333 list classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

CEQA Guidelines section 15311, or Class 11, consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including, but not limited to: (a) on-premise signs; (b) small parking lots; and (c) placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

In determining the significance of environmental effects caused by a project, CEQA Guidelines section 15064(f) states that the decision as to 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 section 15064(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."

PLANNING DEPARTMENT RESPONSES

The concerns raised in the appeal letter are addressed in the responses below.

Response 1: The environmental review of the proposed project appropriately and adequately analyzed the potential physical environmental effects of the proposed project, including the potential impacts from rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX on housing and population, transportation and circulation, and to the California and National Register eligible Western SoMa Light Industrial and Residential Historic District.

The appellant states that the "CatEx fails to analyze any aspect of the zoning changes and how replacing housing opportunities with hundreds of cars will impact the environment, the Historic District and the entire neighborhood." This argument ignores the present uses of the property. DBA Royal Motors, an automotive repair facility, currently operates on the project site. The facility includes surface vehicle storage on Lot 56 and 64. Those lots are zoned WMUG which permits that use. The facility also includes surface vehicle storage on Lots 39, 40, 41, and 42 as an existing legal non-conforming use. This is because those lots are in a RED zoning district, which does not permit vehicle storage. The proposed project would rezone those lots to a RED-MX zoning district, which does allow for vehicle storage, and install four-level vehicle storage stackers. The department conducted a review of the proposed project's potential impacts and concluded that the proposed rezoning would not result in significant physical environmental impacts for the following reasons.

The proposed project would convert Lots 39, 40, 41, 42, 56, and 64 from surface vehicle storage to vertical vehicle storage using stackers, which would allow for an additional net new 200 vehicle storage spaces on the lots. DBA Royal Motors would use the stackers for storage of vehicles it services on site, in a manner similar to how those lots currently operate. As the vehicle stackers are for storage, and not public use, most of the vehicles stored there would not move on and off the site each day. Currently, vehicles are stored on site within the existing surface vehicle storage. Because there is not enough room on the project site to store all of the vehicles serviced, vehicles are also stored at the parking garage located across the street from the project site at the corner of 12th and Kissling streets. The objective of adding car stackers on the project site is to reduce the number of vehicles that need to be stored at the offsite garage. This increase in onsite vehicle storage would not affect the number of vehicles serviced at the site. However, decreasing the number of vehicles stored offsite would reduce the movement of vehicles between the project site and the offsite parking garage by an average of approximately 80 vehicle trips per day. Thus, the proposed project would reduce the number of vehicle trips to and from the project site compared to existing conditions and would not substantially increase per-capita vehicle miles travelled.

The department reviewed the proposed project and documented its determination of the project's potential impacts to historic resources in a Preservation Team Review (PTR) Form.³ The review was conducted on the original project, which included installing four-level vehicle storage stackers on Lots 56 and 64; construction of a single-story car wash on Lot 64; and installing approximately 30-foot-tall painted metal screens along the project's Kissling Street and Howard Street frontages. The department concluded that the project would be consistent with the historic industrial character of the surrounding eligible Western SoMa Light Industrial and Residential Historic District, as well as new construction within the district boundaries. The preservation review further determined that the proposed metal screens are relatable to the district's contributing industrial resources and evoke the industrial aesthetic of the surrounding district. Thus, the historic preservation review considered the proposed height of the metal screens in relation to existing contributors to the eligible historic district. As discussed in the project setting section, the immediate neighborhood is characterized by a mix of residential and commercial uses, including other automotive repair facilities. For these reasons, the department concluded that overall, the proposed project is consistent with the district's mixed character and does not impact the eligible historic district's character-defining features. Department preservation specialists also considered the currently proposed project, including the additional height proposed for the Kissling Street screens, and concluded that the currently proposed project would not change the determination in the PTR form and would not impact the district. The December 24, 2019 categorical exemption determination states: "See PTR Form for 2016-000332ENV. Project is largely consistent with what was previously analyzed. No impact on eligible Western SoMa Light Industrial and Residential Historic District. New construction does not materially impair the surrounding eligible historic district."

The appellant further argues that Lots 39, 40, 41, and 42 should not be rezoned from RED to RED-MX because, under Planning Code sections 185 and 186, the legal non-conforming uses on those lots are supposed to "sunset" and the loss of sites that are zoned for housing could result in "negative environmental impacts". In accordance with chapter 31 of the San Francisco Administrative Code, section

³ San Francisco Planning Department, *Preservation Team Review Form for 1531-1581 Howard Streets; 118-134 Kissling Streets*, May 12, 2015. This document is included as Attachment B.

31.10 (a), and Appendix G of the CEQA Guidelines, the department uses the following questions when considering a project's potential housing- and population-related impacts:

Would the project:

- 1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- 2) Displace substantial numbers of existing people or housing units, necessitating the construction of replacement housing?

The project site is an existing automotive repair facility that has been in continuous operation at this location for more than 50 years. There is no housing on the project site. Thus, the proposal to add vehicle storage stackers on an existing surface vehicle storage lot, construct a single-story car wash and metal screens, and rezone four of the lots on the project site to support the long-standing existing land use on the site would not displace existing people or housing. If additional employees are required to operate the additional vehicle storage spaces and new car wash, the additional employees would not be of such numbers that they would induce substantial unplanned population growth.

The environmental review included an analysis of the potential impacts of the proposed project's excavation, contrary to the appellant's claim. The project sponsor proposed more than 50 cubic yards of excavation in an area with potential for groundwater and/or soil contamination, and thus enrolled in the Maher program with the San Francisco Department of Public Health.⁴ A portion of the northeast corner of Lot 39 is located in the seismic liquefaction zone. Thus, the project sponsor submitted a geotechnical report for the project site⁵ that describes the subsurface conditions and provides recommendations for construction of the proposed project. The department also determined that the proposed project would not result in impacts on archeological resources.

Thus, the environmental review adequately analyzed the proposed project's potential impacts on the physical environment and found impacts to be less than significant.

Response 2: The categorical exemption determination issued on December 24, 2019 analyzed the currently proposed project, rather than the original project. Thus, a determination of a substantial modification is not warranted.

The appellant contends that the categorical exemption determination issued on December 24, 2019 should have included a determination as to whether the currently proposed project is a substantial modification. As noted above, on December 24, 2019 the department reconsidered the December 4, 2019 determination of no substantial modification and concluded that the proposed additional vehicle storage on the existing surface vehicle storage lots (Lots 39, 40, 41, and 42) and rezoning of those lots from RED to RED-MX could

⁴ Maher Ordinance Application, 118-120, 124 and 130 Kissling Street, 1531 and 1581 Howard Street, February 5, 2015.

⁵ Rockridge Geotechnical, *Geotechnical Study, Proposed Royal Motors Expansion, 1525 Howard Street, San Francisco, California*, December 4, 2014.

be considered an intensification of the project that could constitute a substantial modification when compared to the original project. On that basis, the department decided to rescind the March 2, 2016 categorical exemption determination and December 4, 2019 determination of no substantial modification. Pursuant to chapter 31 of the San Francisco Administrative Code, section 31.08(i)(2), when the Environmental Review Officer (ERO) determines that a change in a project is a substantial modification, the ERO shall make a new CEQA decision. Pursuant to chapter 31, on December 24, 2019, the department concluded that the currently proposed project, like the original project, is categorically exempt under Class 11 and issued a new categorical exemption determination for the currently proposed project. Thus, a determination of no substantial modification is not warranted.

The only matter before the board under this appeal is whether the department's December 24, 2019 categorical exemption determination meets the requirements of CEQA. The planning commission approvals of the project, and the previous environmental review determinations relating to the originally proposed project, are irrelevant to this CEQA appeal of the adequacy of the December 24, 2019 categorical exemption determination. The December 24, 2019 categorical exemption determination, as discussed in this appeal response, adequately evaluated the potential environmental impacts of the entirety of the currently proposed project, including the modifications to the previously approved project.

Response 3: The letter of appeal raises several issues that are not relevant to the board's decision to either reject or uphold this appeal of the department's CEQA determination for the proposed project. The department's responses to these issues are provided below for informational purposes only.

The appellant asserts that rezoning Lots 39, 40, 41, and 42 from a RED zoning district, which allows residential uses, to a RED-MX zoning district would represent "a huge loss of housing opportunities" that must be analyzed as part of the environmental review. Whether a particular parcel is used for one land use or another is not a project under CEQA unless it requires a discretionary action that is proposed by a project sponsor. No one is proposing housing on Lots 39, 40, 41, and 42, and whether they are kept in a RED zoning district is a policy issue for decision makers to make. Furthermore, the RED-MX zoning district allows for residential uses. Thus, the proposed rezoning would not preclude housing from being built on Lots 39, 40, 41, and 42 in the future, if proposed. In addition, as discussed in Response 1, the proposed rezoning would not result in significant physical environmental effects.

The appellant contends that the conditional use authorization for vehicle storage on the lots zoned RED should not have been approved prior to the approval of the rezoning of those lots to RED-MX. The executive summary for the conditional use authorization approved on October 25, 2018 states that "the conditional use authorization is contingent upon the proposed Zoning Map Amendment to San Francisco Map Sheet No. ZN07, which would rezone Block No. 3516 and Lot Nos. 039 (118-120 Kissling Street), 040 (124 Kissling Street), 041 (13 Kissling Street), and 042 (134 Kissling Street) from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed) Zoning District...without the rezoning, the existing and intended use at 118-134 Kissling Street would not be permitted." This procedure of approving a legal non-conforming use contingent upon a future approval is not uncommon for projects which require multiple entitlements, or that require an approval by the board, such as a zoning map amendment. In addition, the

conditional use authorization included a provision that the conditional use was not valid until the board approves the rezoning.

The appellant contends that rezoning Lots 39, 40, 41, and 42 from RED to RED-MX is inconsistent with the General Plan and the potential loss of future housing on those lots is a significant environmental impact. A proposed project's inconsistency with existing plans and policies, such as the General Plan, does not in and of itself indicate a significant physical environmental effect. Furthermore, the department determined that the proposed project, including the rezoning, is, on balance, consistent with the General Plan. The department found that the proposed project is consistent with objectives 2, 3 and 4 of the Commerce and Industry Element, objective 1 of the Urban Design Element, and with the Western SoMa Area Plan. The determination of General Plan consistency was approved by the Planning Commission on October 25, 2018 during its consideration of the project sponsor's request for a conditional use authorization and zoning map amendment. The planning commission's general plan consistency determination is not subject to review by the board under this appeal of the department's December 24, 2019 categorical exemption determination.

The appellant contends that the project description revisions were not appropriately analyzed. It is not unusual for a project sponsor to file an application for environmental review with a project description that is subsequently revised prior to issuance of the environmental review determination. Projects typically undergo planning code and design review concurrently with environmental review, which may alter the project that is ultimately brought to the planning commission for approval. The project description used for an environmental determination may also be revised from that presented in the project sponsor's application to provide more details about the project. Here, the environmental review analyzed the final project. In this case, the project description for the categorical exemption determination provides more details relevant for environmental analysis than the project description in the conditional use authorization. It is not unusual or inappropriate for the project description in an environmental determination to reflect more detail than the project description for a conditional use application.

The appellant contends that the environmental review and project approvals were inappropriately noticed, and that the department improperly approved the project prior to rezoning. The CEQA Guidelines and chapter 31 of the San Francisco Administrative Code do not instruct the department on the type of environmental notice to conduct for projects eligible for a categorical exemption. However, the department's policy is to issue a notification of a project receiving environmental review for projects that are eligible for categorical exemptions under Class 32. This practice is in acknowledgement that Class 32 exemptions are typically granted for relatively large projects – specifically, for example, projects involving additions or new development of more than 10,000 square feet (as permitted under Class 1 and Class 3) or more than four new residential dwelling units (as permitted under Class 3). The department does not issue such notices for projects eligible for any other exemption classes, as these are typically smaller projects and/or modifications to existing facilities like the proposed project in this case.

The department determined that the proposed project is categorically exempt from environmental review under Class 11. Thus, consistent with the department's established practice, the department did not mail a notice of project receiving environmental review. However, the proposed project approvals were subject

to public noticing requirements under the planning code, and the department duly noticed the planning commission hearings for the conditional use authorization approved on March 10, 2016 (Planning Commission Motion No. 19588) and the conditional use authorization and zoning map amendment approved on October 25, 2018 (Planning Commission Motion No. 20329). Furthermore, in accordance with chapter 31 the department posted the categorical exemption determination for the project on the department's website, <https://sfplanning.org/resource/ceqa-exemptions>. The project link provides access to more information about the project, including the documents associated with the project. The categorical exemption determination was also posted at the department's office and provided to interested parties and decision makers who would carry out or approve the project.

The appellant claims that the department issued the first categorical exemption for the proposed project on February 13, 2015 and asserts that the determination should have included a description of the rezoning proposed under the modified project. This is incorrect. As noted in the Background section, the first categorical exemption for the proposed project was issued on March 2, 2016. That categorical exemption did not include the proposed rezoning of Lots 39, 40, 41, and 42, as the project sponsor had not yet proposed that action. Once the project sponsor applied for environmental review of the additional vehicle storage stackers and rezoning, the department began the environmental review of that scope of work.

Finally, contrary to the statement by the appellant, the proposed project is not subject to specific guidelines for construction in RED and RED-MZ zoning districts, as asserted by the appellant.

CONCLUSION

The department has determined that the proposed project is categorically exempt from environmental review under CEQA on the basis that: (1) the project meets the definition of one or more of the classes of projects that the Secretary of Resources has found do not have a significant effect on the environment, and (2) none of the exceptions specified in CEQA Guidelines section 15300.2 prohibiting the use of a categorical exemption are applicable to the project. The appellant has failed to demonstrate that the department's determination is not supported by substantial evidence in the record.

For the reasons stated above and in the December 24, 2019 CEQA categorical exemption determination, the CEQA determination complies with the requirements of CEQA and the department properly found that the project is exempt from environmental review pursuant to the cited exemption. The department therefore respectfully recommends that the board uphold the CEQA categorical exemption determination and deny the appeal of the CEQA determination.

Categorical Exemption Appeal

Attachment A:

1531-1581 Howard Street / 118-134 Kissling Street Project History

Overview of the Planning Department's Environmental Review of the Project

On December 18, 2014 the project sponsor submitted an application for environmental review to the department's Environmental Planning Division. The application was for a proposal to alter the existing automotive repair facility on the project site by converting existing surface vehicle storage on two lots (Lots 56 and 64) to vertical vehicle storage stackers, installing metal screens on the project site's Kissling Street and Howard Street frontages to screen the vertical vehicle storage stackers, constructing a private car wash to support the existing facility, and making curb cut modifications on the project site's Kissling Street and Howard Street frontages.

Between submission of the December 18, 2014 environmental review application and issuance of the December 24, 2019 categorical exemption determination, the project sponsor made minor adjustments to the project description. However, the December 24, 2019 categorical exemption for the project still consisted of converting the existing surface vehicle storage spaces on the project site to vertical vehicle storage stackers (Lots 39, 40, 41, 42, 56, and 64), a zoning map amendment to facilitate the conversion to vertical vehicle storage stackers on four of the lots (Lots 39, 40, 41, and 42), installing of metal screens on the project site's Kissling Street and Howard Street frontages to screen the vehicle storage stackers, constructing a private car wash to support the existing facility, and curb cut modifications on the project site's Kissling Street and Howard Street frontages. Thus, the essential components of the project have not changed since the time the original application for environmental review was received by the department on December 18, 2014.

Below is a detailed account of the project's history, including the applications submitted, CEQA determinations made and approvals granted for the project.

Planning Department Review of the Original Project

Planning Department Case No. 2015-000332PRJ

On December 18, 2014 the Royal Automotive Group (hereinafter project sponsor) submitted an application for CEQA environmental review to the planning department's (hereinafter department) Environmental Planning Division. The project description in this application is as follows:

The project proposes the reconfiguration of an existing motor vehicle repair operation. Currently Royal Automotive Group uses all of the properties above, plus Block 3516, Lot 55, for their motor vehicle services and vehicle storage for their various dealerships in the vicinity. The main motor vehicle repair operations take place within the buildings located at Block 3516, Lots 44 and 55. Vehicle storage (including vehicles to undergo service and new vehicle overflow storage) takes place on the remaining lots. The project proposes to increase the number of vehicle storage spaces from 81 to 236 via the installation of 4-level stackers on the existing surface vehicle storage lots (Lots 39, 40, 41, 42, 43, 56, and 64). The project also proposes to construct a new, 1,283-square-foot car wash building on lot 63, to be used only as part of the motor vehicle repair services (i.e., the carwash would not be open to the public on a retail basis). The project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet and remove an existing 46.5-foot curb cut

along Kissling Street. The proposed depth of excavation is 2 feet for the car stackers and 2 feet for the car wash. The proposed area of excavation is 2,958 square feet for the Kissling Street lots, 1,547 square feet for Lot 56, and 2,750 square feet for Lot 64.

On February 22, 2016 the project sponsor amended and resubmitted the application to the department, which superseded the December 15, 2014 application. The project description contained in this amended application for environmental review is as follows:

The project proposes the reconfiguration of an existing motor vehicle repair operation. Currently, Royal Automotive Group uses all of the properties above for their motor vehicle services and vehicle storage for their various dealerships in the vicinity. The main motor vehicle repair operations take place within the buildings located at Block 3516, Lots 44 and 55. Vehicle storage (including vehicles to undergo service and new vehicle overflow storage) takes place on the remaining lots. The project proposes to increase the number of vehicle storage spaces from 81 to 158 via the installation of 4-level stackers on Lots 56 and 64. The project also proposes to construct a new, 1,283-square-foot car wash building on lot 64, to be used only as part of the motor vehicle repair services (i.e., the carwash would not be open to the public on a retail basis). The project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet and remove an existing 46.5-foot curb cut along Kissling Street. New, 30-foot-tall screen walls are proposed along Howard and Kissling Streets abutting lots 39, 40, 41, 42 and 64. The site currently consists of 27,272 square feet of surface lot area devoted to vehicle storage use. The proposed depth of excavation is 2 feet for the car stackers and 2 feet for the car wash. The proposed area of excavation is 1,547 square feet for Lot 56 and 2,750 square feet for Lot 64.

The project description in the amended environmental review application removed the proposal to install vehicle storage stackers on Lots 39, 40, 41, and 42, which had been included in the environmental review application submitted on December 15, 2014. Correspondingly, the amended application reduced the number of total vehicle storage spaces proposed for the project site from 236 spaces to 158 spaces (a net increase of 77 spaces from existing conditions per the project application) as compared to the December 15, 2014 application, and did not propose any excavation on those lots.

On March 4, 2015, the project sponsor submitted an application to the department's Current Planning Division for a conditional use authorization. The project description contained in this conditional use authorization application is as follows:

The Project proposes reconfiguring Royal Motors existing motor vehicle repair operation. Specifically, the Project proposes to increase the number of vehicle storage spaces on the site from 81 to 236, by installing 4-level stackers on the existing surface vehicle storage lots. The Project also includes a new, 1,283 square foot car wash building on Lot 064, to be used only as part of the motor vehicle repair service. It would not be open to the public on a retail basis. The Project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet, and to remove an existing 46.5-foot curb cut along Kissling Street, allowing for more on-street parking. New 30-foot-tall screen walls would be added along Howard and Kissling Streets on lots 039, 040, 041, 042, and 064.

The project description in the amended environmental review application submitted by the project sponsor proposed a total of 158 vehicle storage spaces (net increase of 77 spaces) whereas the project description in the conditional use authorization application submitted by the project sponsor proposed a total of 236 vehicle storage spaces (net increase of 155 spaces). All other features of the proposed project are the same in the two applications. However, the amended environmental review application includes additional details relevant to environmental review, such as depth of excavation. Similarly, the conditional use authorization application includes additional information relevant to current planning review.

On February 23, 2016, the project sponsor submitted an amendment to the previously-filed application for a conditional use authorization, which further revised the project description to modify the heights of the proposed screens along the Kissling Street and Howard Street frontages from approximately 30' tall along both streets to approximately 21'-8" along Kissling Street and approximately 32'-7" along Howard Street.

On March 2, 2016, the department determined that the project was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required. The project description contained in the categorical exemption determination issued by the department on that date is as follows:

“Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers and construction of an approximately 1,283-gross-square-foot (gsf) car wash on Lot 64. Installation of approximately 21'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. Parking stackers would provide space for approximately 158 cars. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street.”

On March 10, 2016, the planning commission approved a conditional use authorization at a noticed public hearing for the project as described in the February 23, 2016 conditional use authorization application under Planning Commission Motion No. 19588. The Lots 39, 40, 41, and 42 were not included as they fell within the RED (Residential Enclave) zoning district, which does not permit vehicle storage. The project description contained in Planning Commission Motion No. 19588 is as follows:

“The project sponsor proposes to establish 4-level vehicle stacker storage (enclosed vehicle storage use) for 132 spaces on the subject lots [lots 056 (1581 Howard Street) and 064 (1531 Howard Street)], including a new 1-story car wash. Three vehicle stacker screens up to 32'-7" tall are proposed along Howard Street and up to 21'-8" tall are proposed along Kissling Street. The site is occupied by an existing auto repair facility (dba Royal Motors).”

The proposed curb cut modifications are described in the findings section of Planning Commission Motion No. 20329.

The project description in Planning Commission Motion No. 19588 (the conditional use authorization approved on March 10, 2016) was for a total of 132 vehicle storage spaces (net increase of 51 spaces) on Lots 56 and 64. However, the March 2, 2016 categorical exemption determination states that the proposed project would result in approximately 158 vehicle storage spaces (net increase of 77 spaces, consistent with the

applicant's proposal). This is because the amended environmental review application submitted by the project sponsor on February 22, 2015 states that the project would result in 158 vehicle storage spaces. It is common for an environmental review to be based on earlier versions of project plans that are larger in scope or scale than are finally approved. This practice is allowable under CEQA, as it presents a "worst case" scenario of a project's potential environmental effects. There are no other differences between the March 2, 2016 categorical exemption determination and the project description in Planning Commission Motion No. 19588.

**Planning Department Review of the Modified Project
Planning Department Case No. 2016-012474PRJ**

On September 27, 2016 the project sponsor submitted an application for a second conditional use authorization and an application for a Legislative Amendment to the department's Current Planning Division. The project description contained in this second conditional use authorization application is as follows:

On March 10, 2016, the Planning Commission approved Application No. 2015-000332CUA to permit (1) the construction of a non-retail car wash structure accessory to the existing motor vehicle repair operation on an adjacent parcel and (2) construction of vehicle storage stackers on lots 56 and 64, to be screened from view by a new screen wall along Howard and Kissling Streets. By this application, the Project Sponsor proposes to add 4-level vehicle stackers on lots 39-42, which are currently used for surface lot vehicle storage. The Project also includes adding an additional 10 feet of height to the already-approved architectural screening wall. There are 28 vehicle storage spaces on these lots and the stackers would allow for a total of 96 vehicle storage spaces on lots 39, 40, 41, and 42.

Compared to the project description in the conditional use authorization approved on March 10, 2016, the project description in the second conditional use authorization would result in an additional 68 vehicle storage spaces on Lots 39, 40, 41, and 42 and an additional 10 feet of height to the 21'-8"-tall screens along the Kissling Street frontage.

On September 27, 2016 the project sponsor also submitted an application for a Legislative Amendment to the department's Current Planning Division. The project description contained in this legislative amendment application included rezoning Lots 39, 40, 41, and 42 from a RED zoning district to a RED-MX (Residential Enclave-Mixed) zoning district. The project sponsor filed the application for a Legislative Amendment to facilitate the addition of mechanical vehicle stackers on an existing vehicle storage surface lot, as RED zoning generally does not permit non-residential uses.

On October 20, 2016 the project sponsor submitted an application for a CEQA determination to the planning department's Environmental Planning Division. The project description contained in this application for environmental review is as follows:

On March 10, 2016, the Planning Commission approved Application No. 2015-000332CUA to permit (1) the construction of a non-retail car wash structure accessory to the existing motor vehicle repair operation on an adjacent parcel and (2) construction of vehicle storage stackers on lots 56 and 64, to be screened from view by a new screen wall along Howard and Kissling Streets. The Project Sponsor now proposes to add 4-level vehicle stackers on

lots 39-42, which are currently used for surface lot vehicle storage. The Project also includes adding an additional 10 feet of height to the already-approved architectural screening wall. There are 28 vehicle storage spaces on these lots and the stackers would allow for a total of 96 vehicle storage spaces.

Compared to the project description contained in the March 2, 2016 categorical exemption determination, the project description in the environmental review application submitted on October 20, 2016 would result in an additional 68 vehicle storage spaces on Lots 39, 40, 41, and 42 and increase the height of the screens along the Kissling Street frontage by approximately 10 feet. The Environmental Planning Division determined that the project description in the sponsor's October 20, 2016 application for a CEQA determination constituted a modification of the project for which the department issued a categorical exemption determination on March 2, 2016. Accordingly, the department evaluated whether the modification to the project was a substantial modification under section 31.08(i) of chapter 31 of the San Francisco Administrative Code. Thus, for the purposes of the environmental review, the department treated the project as described in the March 1, 2016 categorical exemption determination and the project described in the October 20, 2016 application for a CEQA determination as one project.

For the purposes of the Current Planning Division's review, department staff considered the project approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization) the first phase of the project and considered the project described in the September 27, 2016 application for a conditional use authorization and legislative amendment the second phase of the project.

The project description for the modified project in the October 20, 2016 environmental review application matches the project description for the modified project in the September 27, 2016 conditional use authorization application in all respects. However, it does not include the proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX.

On August 8, 2017, the department determined that the modified project was not a substantial modification to the project that received a categorical exemption under Class 11 on March 2, 2016. This is because the modified project would not meet the substantial modification criteria identified in the categorical exemption checklist, which is based on section 31.08(1)(A) of chapter 31 of the San Francisco Administrative Code. The department determined that the proposed project would not result in a change of use. Rather, the proposed project would allow for the continuation of the existing land use at the site. Thus, the modified project did not include a change of use requiring section 311 or 312 noticing and instead required noticing under planning code section 309. In addition, the vehicle storage stackers would be open air and the screens would not create a building envelope pursuant to San Francisco Planning Code section 102, which defines a building as "Any structure having a roof supported by columns or walls". Accordingly, the department further determined pursuant to section 31.08(1)(3) of chapter 31 of the San Francisco Administrative Code that no additional CEQA environmental review was required for the modified project. The project description contained in this determination of no substantial modification is as follows:

"Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and construction of an approximately 1,283-gross-square-foot car wash on Lot 64. Installation of approximately 31'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately

200 net new vehicles. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street. The project [sic]"

As shown above, the project description for the determination of no substantial modification was cut off after "the project" and thus inadvertently omitted the description of the proposed rezoning of Lots 39, 40, 41, and 42.

The project description in the amended environmental review application for the original project proposed to increase the number of vehicle storage spaces on Lots 56 and 64 from 81 to 158 (net new 77 spaces). The project description in the environmental review application for modified project proposed to increase the number of vehicle storage spaces on Lots 39, 40, 41, and 42 from 28 to 96 spaces (68 net new spaces). This would result in a total of 145 net new spaces. During the environmental and current planning review of the modified project the project sponsor proposed up to 200 net new vehicle storage spaces on the project site across Lots 39, 40, 41, 42, 56, and 64. Thus, the environmental review for the modified project analyzed 200 net new vehicle storage spaces.

On October 25, 2018, the planning commission approved a conditional use authorization and adopted a zoning map amendment under Planning Commission Motion No. 20329 at a noticed public hearing for the project described in the September 27, 2016 conditional use authorization and legislative amendment applications. The project description contained in Planning Commission Motion No. 20329 is as follows:

"The Project includes constructing a four-level, 30-ft 6-in. tall, vehicle storage stacker for 96 spaces on Lots 039, 040, 041, and 042 in Block No. 3516 for an existing automotive repair shop (DBA Royal Motors). The Project also includes construction of a 32-ft 7-in. tall screen wall along Kissling Street."

The proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX are described in the findings section of Planning Commission Motion No. 20329.

It was disclosed to the planning commission that Planning Commission Motion No. 20329 would be an approval of the second phase of the project and that the first phase was approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization). This disclosure occurred as follows:

1. In the executive summary for Planning Commission Motion No. 20329, which notes that a "Phase One Approval" was granted by the planning commission under Planning Commission Motion No. 19588.
2. In the preamble for Planning Commission Motion No. 20329, which stated that: "On March 2, 2016, the proposed project was determined to be exempt from the California Environmental Quality Act (CEQA) under CEQA State Guidelines 15311, or Class 11. On October 20, 2016 the Project Sponsor proposed a modification to the approved project. On August 8, 2017, in accordance with Chapter 31 of the Administrative Code, the Planning Department determined the modification of the CEQA exempt project did not constitute a substantial modification of the Project."
3. At the October 25, 2018 hearing before the planning commission for Planning Commission Motion No. 20329, department staff stated that: "on March 10, 2016 this planning commission approved motion 19588, adopting findings related to the approval of a CUA pursuant to planning code section 303 and 844.71 for enclosed vehicle storage with a total of 132 spaces for an existing

automotive repair facility within the zoning district. The project was phase 1 of an automotive repair expansion for the entity doing business as Royal motors”

Compared to the project description in the August 8, 2017 determination of no substantial modification, the project description in Planning Commission Motion No. 20329 (the conditional use authorization approved on October 25, 2018) does not include the proposed vehicle storage stackers on Lots 56 and 64 as proposed changes to those lots were previously approved by the planning commission under Planning Commission Motion No. 19588. Similarly, as the modified project did not propose any changes to the height of the screen proposed along Howard Street or curb cut modifications on the project site’s Kissling Street frontage or Howard Street frontage, the screen and the curb cut modifications are not included in the project description in Planning Commission Motion No. 20329. However, the Howard Street screen and the Howard Street and Kissling Street curb cut modifications are included in the project description for the August 8, 2017 determination of no substantial modification

Appeal of the Determination of No Substantial Modification

On November 26, 2018, the appellant filed an appeal of the March 2, 2016 categorical exemption determination and of the August 8, 2017 determination of no substantial modification. The department found the appeal was not timely. However, as discussed above, the project description for the modified project contained in the August 8, 2017 determination of no substantial modification inadvertently omitted the description of the proposed rezoning of Lots 39, 40, 41, and 42. Thus, the department re-issued the determination of no substantial modification correcting this omission on December 4, 2019 and provided a new appeal period for this determination.

On December 16, 2019, the appellant appealed the December 4, 2019 determination of no substantial modification. The department reconsidered the determination of no substantial modification and concluded that the proposed additional vehicle storage stackers on Lot 39, 40, 41, and 42, which would result in an additional 68 vehicle storage spaces on those lots, and the proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX could be considered an intensification of the project, which would constitute a substantial modification as defined in section 31.08(i)(A) of chapter 31 of the administrative code.

Issuance of the New Categorical Exemption

On December 24, 2019, the department rescinded the December 4, 2019 determination of no substantial modification. Accordingly, pursuant to section 31.08(i)(2) of chapter 31 of the administrative code, on December 24, 2019, the department also rescinded the March 2, 2016 categorical exemption determination. Finally, on December 24, 2019, the department determined that, like the original project, the modified project was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required.

Appeal of the New Categorical Exemption

On January 23, 2020, the appellant filed an appeal of the categorical exemption determination, and on January 29, 2020 the department determined the appeal was timely filed.

As discussed above, the planning commission was aware that the project under consideration at the October 25, 2018 hearing and approved under Planning Commission Motion No. 20329 was the second phase of the project, and that it approved the first phase under Planning Commission Motion No. 19588.

The project sponsor does not propose any changes to the project as approved under Planning Commission Motion No. 19588 and Planning Commission Motion No. 20329.

Categorical Exemption Appeal

Attachment B:

1531-1581 Howard Street / 118-134 Kissling Street Preservation Team Review Form

Complies with the Secretary's Standards/Art 10/Art 11:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> N/A
CEQA Material Impairment:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Needs More Information:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Requires Design Revisions:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Defer to Residential Design Team:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	

* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

PRESERVATION TEAM COMMENTS:	
<p>As noted in the South of Market Historic Resource Survey, the project sites are assigned a California Historic Resource Status Code (CHRSC) of "6Z," which defines the properties as "found ineligible for NR, CR or Local Designation through survey evaluation." The existing surface parking lots are non-contributing resources to the eligible Western SoMa Light Industrial and Residential Historic District, which is considered to be a historic resource for the purposes of CEQA. Therefore, the demolition of these surface parking lots will not cause a substantial adverse impact upon any qualified historic resource in the vicinity of the project site.</p> <p>In addition, Department staff finds that the proposed project would not cause a significant adverse impact upon a historic resource such that the significance of the surrounding historic district would be materially impaired. The Department finds that the new construction is consistent with the historic industrial character of the surrounding eligible historic district, as well as the new construction within the district boundaries.</p> <p>The proposed project includes the new construction of painted metal screens (approximately 30-ft tall) along the property line on Kissling and Howard Streets. The height of these new screens/fences is relatable to the district's contributing industrial resources, which range in height from four-to-five-stories in height, and the new construction within the district boundaries, which range in height from four-to-six stories in height. The painted metal material palette evokes the industrial aesthetic of the surrounding district. Further, the proposed use as an off-street car stacking facility is consistent with the uses found within the surrounding district. Overall, the new construction is consistent with the district's mixed character and does not impact the district' character-defining features.</p>	

Signature of a Senior Preservation Planner / Preservation Coordinator:	Date:
<i>Uma D</i>	5-18-2015