File No. 150167 Committee Item No. _____
Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____ Date _____
Board of Supervisors Meeting Date April 7, 2015

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☐	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☒	Introduction Form
☐	☐	Department/Agency Cover Letter and/or Report
☐	☐	MOU
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☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER (Use back side if additional space is needed)

☐	☒	Appeal Letter - February 9, 2015
☐	☒	Emails agreeing to a continuance to April 7 - March 24, 2015
☐	☒	Planning Response Memo - March 19, 2015
☐	☒	Planning Response Memo - March 16, 2015
☐	☒	Appellant Supplemental Letter - March 13, 2015
☐	☒	Clerical Documents and Hearing Notice
☐	☐	

Completed by: John Carroll Date April 2, 2015
Completed by: _____ Date _____

February 9, 2015

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

From: Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Please take notice that I wish to appeal the decision of the San Francisco Planning Commission that occurred at the January 8, 2015 hearing regarding 53 States Street. The basis for my appeal, in part, is that that the Planning Commission's CEQA determination failed to consider, among other things, the cumulative and potentially piecemeal impacts of this project with other ongoing projects along States Street and nearby neighborhoods.

Hector Martinez — Date 2/9/15

HectorMartz@hotmail.com

SAN FRANCISCO
PLANNING DEPARTMENT

Discretionary Review Action DRA-0399

HEARING DATE: JANUARY 8, 2015

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DOCKET COPY
DO NOT REMOVE

Date:	January 12, 2015
Case No.:	**2014.0177D / 2014.0178D**
Project Address:	**53 STATES STREET**
Permit Application:	2014.0130.7476
	2014.0130.7472
Zoning:	RH-2 (Residential House, Two-Family)
	40-X Height and Bulk District
Block/Lot:	2623/074
Project Sponsor:	John Lum, John Lum Architecture
	3246 17th Street
	San Francisco, CA 94110
Staff Contact:	Tina Chang – (415) 575-9197
	tina.chang@sfgov.org
	tina.chang@sfgov.org

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF CASE NO. 2014.0177D / 2014.0178D, AND THE APPROVAL OF BUILDING PERMIT APPLICATIONS 2014.0130.7476 AND 2014.0130.7472 PROPOSING THE DEMOLITION OF AN EXISTING, VACANT, 1,554 SQUARE FOOT SINGLE-FAMILY DWELLING UNIT AND THE NEW CONSTRUCTION OF A THREE-STORY, TWO-UNIT STRUCTURE WITHIN AN RH-2 (RESIDENTIAL, HOUSE, TWO-FAMILY) AND 40-X HEIGHT AND BULK ZONING DISTRICT.

PREAMBLE

On January 30, 2014, James Barker on behalf of Marvin and Elizabeth Tien (hereinafter "project sponsor") filed Building Permit Application Numbers 2014.0130.7476 and 2014.0130.7472, and associated Mandatory Discretionary Review Cases 2014.0177D and 2014.0178D on January 31, 2014, proposing the demolition of an existing, single-family dwelling and the new construction of a three-story (four level), two-unit building.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption).

On November 20, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Mandatory Discretionary Review Applications 2014.0177D and 2014.0178D on Building Permit Applications 2014.0130.7476 and 2014.0130.7472. After public testimony opposing the project, the Commissioners voted to continue the item to January 8, 2015, allowing time to the Project Sponsor to make several changes to increase the

project's compatibility with the neighborhood, including the removal of the proposed stair penthouse and roof deck, and the reduction in scale and massing of the overall structure.

The following changes were made to the project:

- Removal of car lift for a subterranean garage reducing the gross square footage of the structure by approximately 1,000 square feet, the number of parking spaces from four to two, and the scale of the proposed building from five levels to four
- Removal of the proposed roof deck and stair penthouse
- Additional setback of the fourth level from 13'-9" to approximately 18'-2" from the front building wall on the west side of the building and 26'-11"on the east side of the building
- Reduction in size of the lower unit from 2,357 square feet to 2,125 square feet
- Reduction in size of the upper unit from 2,620 square feet to 2,220 square feet
- Reduction of building's gross square feet from approximately 7,103 to 5,480 square fet

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department Staff and other interested parties.

ACTION

The Commission hereby took Discretionary Review requested in Application No. 2014.0177D/ 2014.0178D and approved Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified.

BASIS FOR RECOMMENDATION:

The reason(s) the Commission took the action described above include:

1. The Commission determined that the proposed units were consistent and compatible with the neighborhood character.
2. The demolition of the existing single family structure was not found to be affordable.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal the decision for this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is approved. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street #304, San Francisco, CA 94103-2481.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission took Discretionary Review and approved the project as referenced in this action memo on January 8, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Moore, and Richards

NAYS:

ABSENT: Commissioner Wu

ADOPTED: January 8, 2015.

SAN FRANCISCO
PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
53 States St		2623/074	
Case No.	Permit No.	Plans Dated	
2014.0177E		1/31/14	
☑ Addition/ Alteration	☐ Demolition (requires HRER if over 50 years old)	☐ New Construction	☐ Project Modification (GO TO STEP 7)

Project description for Planning Department approval.

Demolition of a single-family dwelling and new construction of a two-residential-unit building with parking.

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an *Environmental Evaluation Application* is required.	
☐	**Class 1 – Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.; change of use if principally permitted or with a CU.
☑	**Class 3 – New Construction.** Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.
☐	Class__

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an *Environmental Evaluation Application* is required.	
☐	**Transportation:** Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
☐	**Air Quality:** Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an air pollution hot spot? *(refer to EP _ArcMap > CEQA Catex Determination Layers > Air Pollution Hot Spots)*
☐	**Hazardous Materials:** Any project site that is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve soil disturbance of any amount or a change of use from industrial to commercial/residential? If yes, should the applicant present documentation of a completed Maher Application that has been submitted to the San Francisco Department of Public Health (DPH), this box does not need to be checked, but such documentation must be appended to this form. In all other circumstances, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment and/or file a Maher Application with DPH. (refer to EP_ArcMap > Maher layer.)

☐	**Soil Disturbance/Modification:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)*
☐	**Noise:** Does the project include new noise-sensitive receptors (schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Noise Mitigation Area)*
☐	**Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or on a lot with a slope average of 20% or more? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)*
☐	**Slope = or > 20%: :** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, or grading on a lot with a slope average of 20% or more? *Exceptions: do not check box for work performed on a previously developed portion of site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* **If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required**
☐	**Seismic: Landslide Zone:** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, grading –including excavation and fill on a landslide zone – as identified in the San Francisco General Plan? *Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required**
☐	**Seismic: Liquefaction Zone:** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1000 sq ft, shoring, underpinning, retaining wall work, or grading on a lot in a liquefaction zone? *Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report will likely be required**
☐	**Serpentine Rock:** Does the project involve any excavation on a property containing serpentine rock? *Exceptions: do not check box for stairs, patio, deck, retaining walls, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)*
If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an *Environmental Evaluation Application* is required.	
☑	**Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.**
Comments and Planner Signature (*optional*): Jean Poling	

STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: *(refer to Parcel Information Map)*	
☐	Category A: Known Historical Resource. **GO TO STEP 5.**
☒	Category B: Potential Historical Resource (over 50 years of age). **GO TO STEP 4.**
☐	Category C: Not a Historical Resource or Not Age Eligible (under 50 years of age). **GO TO STEP 6.**

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

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

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
☐	1. Project involves a **known historical resource** (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
☐	2. **Interior alterations to publicly accessible spaces.**
☐	3. **Window replacement** of original/historic windows that are not "in-kind" but are consistent with existing historic character.
☐	4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.
☐	5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.
☐	6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
☐	7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right-of-way and meet the *Secretary of the Interior's Standards for Rehabilitation*.

☐	8. Other work consistent with the *Secretary of the Interior Standards for the Treatment of Historic Properties* (*specify or add comments*):
☒	9. Reclassification of property status to Category C. (*Requires approval by Senior Preservation Planner/Preservation Coordinator*) a. Per HRER dated: _____ (*attach HRER*) b. Other (*specify*): per PTR form dated 5/16/2014

Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
☐	**Further environmental review required.** Based on the information provided, the project requires an *Environmental Evaluation Application* to be submitted. **GO TO STEP 6.**
☒	**Project can proceed with categorical exemption review.** The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. **GO TO STEP 6.**
Comments (*optional*): Gretchen A. Hilyard 5-28-2014	
Preservation Planner Signature:	

STEP 6: CATEGORICAL EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER

☐	**Further environmental review required.** Proposed project does not meet scopes of work in either (*check all that apply*): ☐ Step 2 – CEQA Impacts ☐ Step 5 – Advanced Historical Review **STOP! Must file an *Environmental Evaluation Application.***
☒	**No further environmental review is required. The project is categorically exempt under CEQA.**
Planner Name: Gretchen A. Hilyard	Signature or Stamp: Gretchen A. Hilyard 5-28-2014
Project Approval Action: Select One CPC Action *If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	
Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.	

SAN FRANCISCO
PLANNING DEPARTMENT

PRESERVATION TEAM REVIEW FORM

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Preservation Team Meeting Date:		Date of Form Completion	5/16/2014

PROJECT INFORMATION:		
Planner:	Address:	
Gretchen Hilyard	53 States Street	
Block/Lot:	Cross Streets:	
2623/074	Castro Street	
CEQA Category:	Art. 10/11:	BPA/Case No.:
B	n/a	2014.0177E

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
(•) CEQA	( ) Article 10/11	( ) Preliminary/PIC	(•) Alteration	( ) Demo/New Construction

DATE OF PLANS UNDER REVIEW:	1/31/2014

PROJECT ISSUES:	
☒	Is the subject Property an eligible historic resource?
☐	If so, are the proposed changes a significant impact?
Additional Notes:	
Submitted: Supplemental Information Form prepared by Tim Kelley Consulting (dated November 2013). Proposed project: demolition of existing single-family residence and construction of a two-unit residential building with parking.	

PRESERVATION TEAM REVIEW:			
Historic Resource Present:	( ) Yes	(•) No *	( ) N/A

Individual	Historic District/Context
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:	Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:
Criterion 1 - Event: ( ) Yes (•) No	Criterion 1 - Event: ( ) Yes (•) No
Criterion 2 -Persons: ( ) Yes (•) No	Criterion 2 -Persons: ( ) Yes (•) No
Criterion 3 - Architecture: ( ) Yes (•) No	Criterion 3 - Architecture: ( ) Yes (•) No
Criterion 4 - Info. Potential: ( ) Yes (•) No	Criterion 4 - Info. Potential: ( ) Yes (•) No
Period of Significance:	Period of Significance:
	( ) Contributor ( ) Non-Contributor

Complies with the Secretary's Standards/Art 10/Art 11:	○ Yes	○ No	◉ N/A
CEQA Material Impairment:	○ Yes	◉ No	
Needs More Information:	○ Yes	◉ No	
Requires Design Revisions:	○ Yes	◉ No	
Defer to Residential Design Team:	◉ Yes	○ No	

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

PRESERVATION TEAM COMMENTS:

According to the Supplemental Information Form for Historic Resource Determination prepared by Tim Kelley Consulting (dated November 2013) and information found in the Planning Department files, the subject property at 53 States Street contains a 1-story-over basement; wood frame single-family residence constructed in 1911 in a Vernacular architectural style. The original architect is unknown. Known alterations to the property include: recladding the front with wood shingles (1956), foundation work (2008, 2009), retaining wall work (2009), and convert existing storage space on lower level to living space, new windows (2009). Unpermitted alterations include: enclosure of the entry porch (unknown date), construction of a rear addition (between 1913 and 1938).

No known historic events occurred at the property (Criterion 1). None of the owners or occupants have been identified as important to history (Criterion 2). The subject building has been altered from its original appearance and represents a vernacular single-family residence. The building is not architecturally distinct such that it would qualify individually for listing in the California Register under Criterion 3.

The subject property is not located within the boundaries of any identified historic districts. The subject property is located within the Castro/Upper Market and Corona Heights neighborhood on a block that exhibits a great variety of architectural styles, construction dates, and subsequent alterations that compromise historic integrity. The area surrounding the subject property does not contain a significant concentration of historically or aesthetically unified buildings.

Therefore, the subject property is not eligible for listing in the California Register under any criteria individually or as part of a historic district.

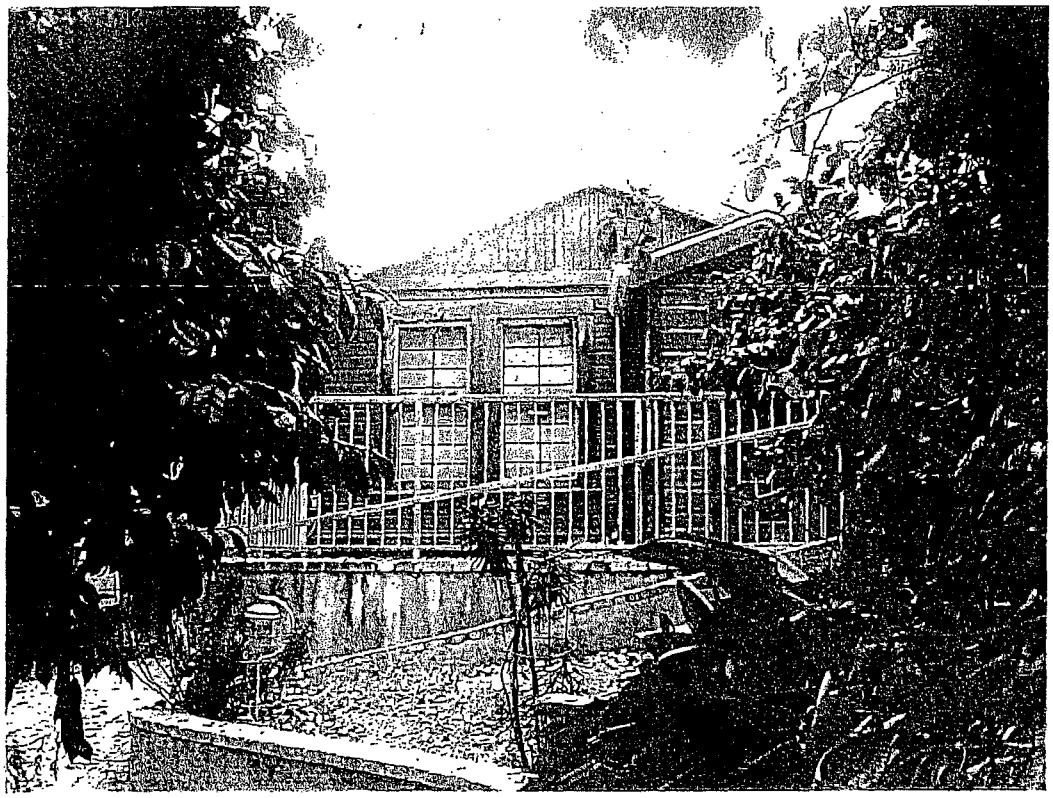
Signature of a Senior Preservation Planner / Preservation Coordinator:	Date:
Mada	5-23-14

SAN FRANCISCO
PLANNING DEPARTMENT

Part I Historical Resource

53 States Street

San Francisco, California



Tim Kelley Consulting, LLC

Historical Resources

2912 Diamond Street #330

San Francisco, CA 94131

415.337-5824

tim@timkelleyconsulting.com

HISTORICAL LIST
UPDATED 4/2/2014
(DO NOT SEND EIRs UNLESS SPECIFIED BY CONTACT PERSON)

Gerald D. Adams
San Francisco Towers
1661 Pine Street, #1028
San Francisco, CA 94109

Assistant Deputy Chief Ken Lombardi
698 Second Street, Room 304
San Francisco, CA 94102
Ken.lombardi@sfgov.org

Mary Miles
Coalition for Adequate Review
364 Page Street, #36
San Francisco, CA 94102

Lucinda Woodward
State Office of Historic Preservation
Local Government Unit
1725 – 23rd Street, Suite 100
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Sue Hestor
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[illegible]n Francisco, CA 94102
hestor@earthlink.net
415-846-1021

Regional Clearinghouse Coordinator
c/o ABAG
PO Box 2050
Oakland, CA 94604-2050

Karin Flood
Union Square Business Improvement District (BID)
323 Geary Street, Suite 203
San Francisco, CA 94102
Karin@unionsquarebid.com
415-781-7880

National Trust for Historic Preservation
5 Third Street, Suite 707
San Francisco, CA 94103

The Art Deco Society of California
100 Bush Street, Suite 511
San Francisco, CA 94104
[illegible]da1927@artdecosociety.org
[illegible]efer to be notified via email)

:xecutive Director
:an Francisco Heritage
007 Franklin Street
:an Francisco, CA 94109
fheritage.org
15-441-3015

:ourtney Damkroger
626 Hyde Street
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damkroger@hotmail.com
15-923-0920

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San Francisco, CA 94111

Johnathan Perlman
ELEVATIONachitects
1099 23rd Street, Suite 18
San Francisco, CA 94107

Ellen Joslin Johnck, RPA
101 Lombard Street, 3rd Floor
San Francisco, CA 94103

CATEGORICAL EXEMPTIONS

Case #: 2014.0177E Date: 5-28-2014

"E" Planner's Name: Gretchen Hilyard

FOR HRER LOG:

Historic Resource Present: ☐ YES ☒ NO
Individual Resource: ☐ YES ☒ NO
Historic District: ☐ YES ☒ NO
Contributor ☐ Non Contributor ☐

FOR MAILING

☒ Attach to Cat Ex for closure

Copy and send to: ☒ Owner

Address: Marvin + Elisabeth Tien
3796 16th St, 94114

☒ Project Contact

Address: Jill Allen
3246 Fell St, 94110

☒ Planner/Other: Delvin Washington

☒ Historic Preservation List

☐ Board of Supervisors _____ (if action to be taken by the Board)

Close in Case Editing: ☒ Yes ☐ No

☐ Other instructions if any: _____

Updated 43/31/2014

F Chang TT

Bridge to Bridge
REAL ESTATE
APPRAISERS

454 Las Gallinas Ave., Suite 111, San Rafael, CA 94903 415-640-0916 voice 800-499-1489 fax

January 8, 2015

Marvin Tien
3796 16th Street
San Francisco, CA 94114

RE: Appraisal – Residential Property
53 States Street
San Francisco, CA 94114
APN: Block 2623 Lot 074

Dear Mr. Tien:

In accordance with your recent request and authorization I have inspected and appraised the residential property located at 53 States in the city and county of San Francisco, California. The appraisal was made to provide you with an independent opinion of the market value of the fee simple interest on an as-is basis in the property. My recent exterior inspection was on January 6, 2015 and prior interior/exterior inspection was September 9, 2014. The purpose of the appraisal is to a determine current market value only. This appraisal is not for loan purposes.

The report which will follow on January 9, 2015, has been prepared to the standards addressed in the Uniform Standards of Professional Appraisal Practice (USPAP). It describes in summary fashion the area, neighborhood, site, improvements, highest and best use, and my appraisal. It contains pertinent data considered in reaching the valuation conclusions. Please note in particular, the Statement of Limiting Conditions and Assumptions found in the report.

The interior and exterior of the property was inspected and appraised by Paula Saling without significant professional assistance from any other persons. I performed a complete appraisal process and a report as described in USPAP.

Based on my inspection, investigation, and analyses undertaken, I have formed the opinion that as of January 6, 2015, and subject to the definition of value, assumptions, and limiting conditions, and certification herein, the subject property has a fee simple market value in its as-is condition as follows:

ONE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS

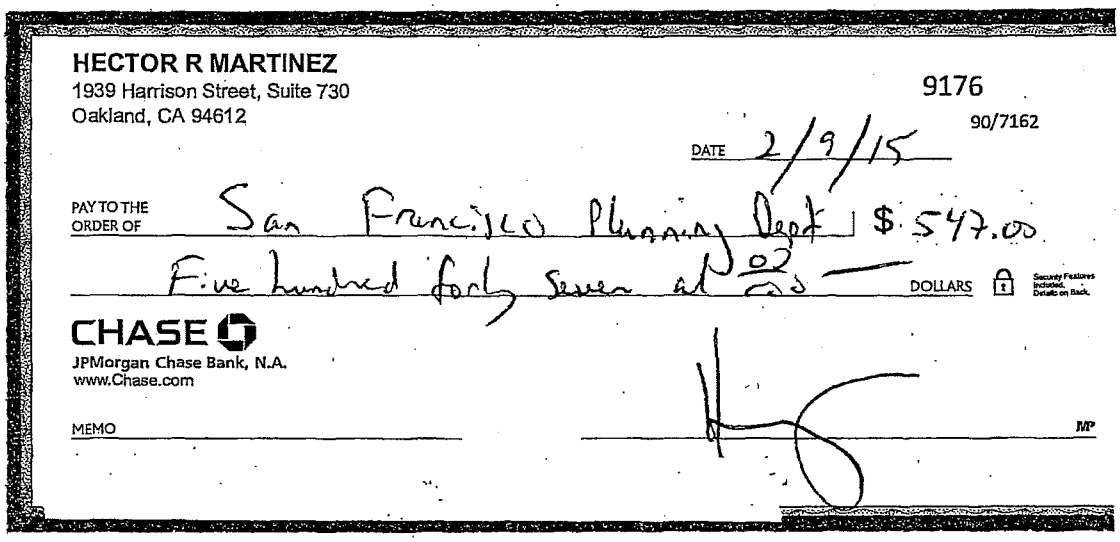
$1,550,000

The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. The above value estimate does not include any personal property, fixtures, or intangibles.

This letter is not intended to provide the data or conclusions. The report, which follows on January 9, 2015, must be read in its entirety to allow the user to fully comprehend the market data I relied on, my value conclusions, assumptions, and limiting conditions.

Respectfully submitted,

Paula Nowicki Saling
State of California
Certified General Real Estate Appraiser #AG016454



HECTOR R MARTINEZ
1939 Harrison Street, Suite 730
Oakland, CA 94612

9176
90/7162

DATE 2/9/15

PAY TO THE ORDER OF San Francisco Planning Dept $ 547.00

Five hundred forty seven and 00/100 DOLLARS

Security Features Included. Details on back.

CHASE
JPMorgan Chase Bank, N.A.
www.Chase.com

MEMO

From: Caldeira, Rick (BOS)
To: BOS Legislation (BOS)
Subject: FW: Continuance - 53 States Street
Date: Tuesday, March 24, 2015 10:15:43 AM

For the official file.

From: Tang, Katy (BOS)
Sent: Tuesday, March 24, 2015 10:05 AM
To: BOS-Supervisors
Cc: BOS-Legislative Aides; Calvillo, Angela (BOS); Caldeira, Rick (BOS); Givner, Jon (CAT); Jones, Sarah (CPC); Poling, Jeanie (CPC); Starr, Aaron (CPC)
Subject: FW: Continuance - 53 States Street

All,

Both the project sponsors and appellants involved in the 53 States Street appeal scheduled for today's Board meeting have agreed to a two-week continuance. I will be making a motion to request such a continuance today.

Thanks,
Katy

Katy Tang
District 4 Supervisor
San Francisco Board of Supervisors
City Hall, Room 264
Phone: (415) 554-7460

Office website:
www.sfbos.org/Tang

View our Sunset District Blueprint:
www.sfbos.org/SunsetBlueprint

From: Brett Gladstone [mailto:BGladstone@hansonbridgett.com]
Sent: Tuesday, March 24, 2015 9:58 AM
To: Tang, Katy (BOS)
Cc: Summers, Ashley (BOS); Quizon, Dyanna (BOS)
Subject: RE: Continuance

This is acceptable to my client.

I will not be attending the hearing today to request a continuance, since there is an agreement as to same.

If you feel I should attend for some reason, to speak on the matter, please let me know.

Thanks.

Brett Gladstone 601-3178

From: Tang, Katy (BOS) [mailto:katy.tang@sfgov.org]
Sent: Tuesday, March 24, 2015 9:55 AM
To: Brett Gladstone
Cc: Summers, Ashley (BOS); Quizon, Dyanna (BOS)
Subject: FW: Continuance

Brett,

Below is a message from the appellant's side, agreeing to a two-week continuance on the 53 States Street hearing. Please confirm this works for the project sponsors.

Thanks,
Katy

Katy Tang
District 4 Supervisor
San Francisco Board of Supervisors
City Hall, Room 264
Phone: (415) 554-7460

Office website:
www.sfbos.org/Tang

View our Sunset District Blueprint:
www.sfbos.org/SunsetBlueprint

From: Hector Martinez [mailto:hectorm@themmlawfirm.com]
Sent: Monday, March 23, 2015 6:38 PM
To: Roxanna Altholz
Cc: Board of Supervisors (BOS); Summers, Ashley (BOS); Quizon, Dyanna (BOS); Tang, Katy (BOS); Henry Eissler; Kathryn
Subject: Re: Continuance

Confirmed.

Regards,

Hector R Martinez, Esq
Mallison & Martinez
1939 Harrison Street, Suite 730
Oakland, CA 94612
Tel: (510) 832-9999
Fax: (510) 832-1101
Email: HectorM@TheMMLawFirm.com

On Mar 23, 2015, at 5:39 PM, Roxanna Altholz <roxannapab@yahoo.com> wrote:

I am writing on behalf of Hector Martinez, appellant in the matter of the

demolition and construction at 53 States Street to confirm that we are amenable to a two-week continuance of the appeal hearing.

Best,
Roxanna

Sent from my iPhone

Carroll, John (BOS)

From:	BOS Legislation (BOS)
Sent:	Thursday, March 19, 2015 2:39 PM
To:	'HectorMarz@hotmail.com'; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); 'john@johnlumarchitecture.com'; bgladstone@hansonbridgett.com; Susanne B. Kelly; Poling, Jeanie (CPC); Chang, Tina (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Caldeira, Rick (BOS); Somera, Alisa (BOS); Carroll, John (BOS); BOS Legislation (BOS)
Subject:	California Environmental Quality Act - Categorical Exemption Appeal - 53 States Street - Planning Department Supplemental Appeal Response
Categories:	150167

Good afternoon,

Please find linked below a memo received by the Office of the Clerk of the Board from the Planning Department, concerning the appeal of the proposed project at 53 States Street.

Planning Memo - 03/19/2015

You are invited to review the entire matter on our Legislative Research Center by following the link below.

Board of Supervisors File No. 150167

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on March 24, 2015.

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking here.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Notice of Electronic Transmittal

Planning Department Response to the Appeal of the Categorical Exemption for 53 States Street

DATE: March 19, 2015

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Sarah Jones, Environmental Review Officer – (415) 575-9034
Jeanie Poling, Environmental Planner – (415) 575-9072

RE: BOS File No. 150167 [Planning Case No. 2014.0177E]
Supplemental Appeal of Categorical Exemption for 53 States Street

HEARING DATE: March 24, 2015

In compliance with San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-Page Documents," the Planning Department has submitted a multi-page response to the Supplemental Appeal of Categorical Exemption for 53 States Street [BF 15067] in digital format. A hard copy of this response has been provided to the Clerk of the Board. Additional hard copies may be requested by contacting Jeanie Poling of the Planning Department at (415) 575-9072.

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

BOARD OF SUPERVISORS
SAN FRANCISCO

2015 MAR 19 PM 1:23

1650 Mission St.
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Information:
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Categorical Exemption Appeal

53 States Street

DATE: March 19, 2015
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sarah B. Jones, Environmental Review Officer – (415) 558-9048
Jeanie Poling – (415) 575-9072
RE: Planning Case No. 2014.0177E
Appeal of Categorical Exemption for 53 States Street
HEARING DATE: March 24, 2015
ATTACHMENT: March 13, 2015 Supplemental Appeal Letter from Hector Martinez

---

PROJECT SPONSOR: Jill Allen, John Lum Architecture Inc., (415) 558-9550
APPELLANT: Hector Martinez, 51 States Street, Unit A, San Francisco hectormarz@hotmail.com

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INTRODUCTION

This memorandum and the attached document are a response to a second appeal letter ("Supplemental Appeal Letter") received by the Board of Supervisors (the "Board") on March 13, 2015, regarding the Planning Department's (the "Department") issuance of a Categorical Exemption under the California Environmental Quality Act ("CEQA Determination") for the proposed 53 States Street project (the "Project").

The Department, pursuant to Title 14 of the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15300–15387), issued a Categorical Exemption for the Project on May 28, 2014, finding that the Project is exempt from the California Environmental Quality Act (CEQA) as a Class 3 categorical exemption. The Class 3 exemption applies to new construction of small structures, including multi-family residential structures in urban areas designed for not more than six dwelling units.

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 the Department staff for additional environmental review.

PROJECT DESCRIPTION

Please refer to the Department's Original Appeal Response for a description of existing conditions and the Project.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The new concerns raised in the March 13, 2015 Supplemental Appeal Letter are cited below and are followed by the Department's responses. The new concerns are identified as Appeal Issues 3 to 7 to continue the numbering of the issues addressed in the Department's Original Appeal Response, which ended with Appeal Issue 2.

Issue 3: The Appellant states that the exemption subsection that the Project relies upon is not specified. "The Commission is relying on the Class 1 CEQA Exemption without specifying which subpart is relied upon."

Response 3: Under CEQA State Guidelines Section 15301(l)(1), or Class 1(l)(1), demolition of a single-family home that is not a historic resource, as defined for purposes of CEQA, is exempt from environmental review. The Project involves the demolition of an existing 1,554-square-foot single-family home that was determined by the Department not to be a historic resource. Under CEQA State Guidelines Section 15303(b), or Class 3(b), construction of a multi-family residential structure with up to four dwelling units in a residential zone is exempt from environmental review. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units. The Project involves the construction of a residential structure with two dwelling units in a residential zoning district. Therefore, the Project is exempt from environmental review under Class 1(d) and Class 3(b).

The Department developed the CEQA Categorical Exemption Determination Form to facilitate and streamline compliance with Chapter 31 of the San Francisco Administrative Code, which requires the public posting of all exemptions. The form includes checkboxes for Class 1 (existing facilities under 10,000 square feet) and Class 3 (new construction up to three single-family dwellings or six dwelling units in one building). The CEQA Categorical Exemption Determination issued for the Project has Class 3 checked; however, the Discretionary Review Action states that the Project is exempt under Class 1. This inconsistency was an administrative oversight – as discussed above, the appropriate exemption classification for the Project is both Class 1 and Class 3. The administrative oversight of not checking both boxes does not affect the validity of the exemption determination. If a project meets the criteria for an exemption, it is exempt from further environmental review, regardless of when that determination is made in the process.

Issue 4: The Appellant states that proposed interim zoning controls are evidence that speculative development in Corona Heights is an unusual circumstance.[1] "This very recently adopted resolution is compelling evidence that the Project [and other nearby projects] will have significant cumulative environmental impacts on the Corona Heights neighborhood."

Response 4: The Planning Code guides residential land use to ensure that densities in established residential areas promote compatibility with prevailing neighborhood character. The interim zoning controls would change the Planning Code and require Conditional Use authorization for certain projects on Corona Heights (but not for the Project, which is located approximately 800 feet east of the eastern

[1] San Francisco Board of Supervisors File No. 150192, "Interim Zoning Controls – Large Residential Projects in RH-1, RH-2, and RH-3 Zoning Districts." Passed at first reading, March 10, 2015.

boundary of the area subject to the interim zoning controls). While the Project is of greater mass than other buildings along States Street, it is consistent with the Planning Code. The Planning Commission considered the Project in the context of Discretionary Review and approved the Project.[2] The trend toward larger and denser housing is widespread throughout San Francisco. While legislative controls may focus development away from the interim zoning control area, the Appellant has not described unusual circumstances or provided any evidence to support the claim that the Project and in combination with other projects would result in a significant cumulative impact under CEQA. Please also see Responses 2 and 5.

Issue 5: The Appellant states that the Project's inconsistencies with local plans and policies constitute significant impacts under CEQA and that the elimination of affordable housing is an unusual circumstance. "The demolition proposed by the Project is inconsistent with the stated purposes of the San Francisco Planning Code....and with Planning Code Priority Polic[y] Number...3, [which] establishes that the city's supply of affordable housing be preserved and enhanced. The existing sound house fits the profile of housing that should be conserved in the city...The Project would add zero units of affordable housing...Speculative development projects such as the Project contribute to the displacement of affordable housing and persons of low to moderate income...[T]he project will eliminate critical affordable housing for residents who currently live and work in San Francisco in favor of extremely wealthy investors, renters or homeowners and force those with relatively low or modest incomes out of San Francisco...The Project in combination with the other projects in the Corona Heights area will have a significant impact in that it will displace substantial numbers of people when more affordable housing is replaced with ultra expensive housing...[T]he rush of speculative developers to Corona Heights creates an unusual circumstance and cumulative environmental impacts."

Response 5: Under CEQA, land use impacts are considered to be significant if the proposed project would conflict with any plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Environmental plans and policies are those, like the Bay Area Air Quality Management District (BAAQMD) 2010 Clean Air Plan, which directly address environmental issues and/or contain targets or standards that must be met in order to preserve or improve characteristics of the City's physical environment. The proposed project would not obviously or substantially conflict with applicable plans, policies, and regulations such that an adverse physical change would result. No evidence has been presented that any unusual circumstances would cause the project to have anything but a less-than-significant impact with regard to conflicts with existing plans and zoning.

Issues related to the cost of housing are socioeconomic rather than physical and are relevant to CEQA only inasmuch as they are connected to physical environmental impacts. Under CEQA, a project may have a significant impact if it will displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. The replacement of a single-family residence with two residences would not displace substantial numbers of people.

The Appellant does not include what physical impacts would result from the proposed project. Additionally, Class 1 Categorical Exemption allows for demolition and removal of individual small

[2] San Francisco Planning Commission, 53 States Street Discretionary Review Action DRA-0399, January 12, 2015. Approved 5-0.

structures including up to three single-family residences. In urbanized areas, this exemption applies to duplexes and similar structures where no more than six dwelling units will be demolished. Effects analyzed under CEQA must be related to a physical change in the environment. The Appellant does not state how this would result in an adverse physical change in the environment, and therefore no further response is required.

Issue 6: The Appellant states that the Project would result in elimination of open space. "The Project eliminates open space such as a large front yard and side yard."

Response 6: The Project does not involve the removal of publically accessible open space. The Planning Commission considered the Project's open space in the context of Discretionary Review and approved the Project. The proposed plan was found to be consistent with the pattern of adjacent lots on the same side of States Street. While the Project would reduce the amount of open space in the front portion of the project site, and provide the open space in the rear of the project site, this does not constitute an unusual circumstance that would result in a significant effect on the environment.

Issue 7: The Appellant states that the project would have significant environmental impacts related to trees and wildlife. "The project requires that large trees be removed...The project will remove habitat for wildlife in the area."

Response 7: The Project involves the removal of one street tree in the public right-of-way along the front property line; in compliance with the Urban Forestry Ordinance (Article 16 of the Public Works Code), it would replace the tree with a new street tree. Bird nesting is protected under the federal Migratory Bird Treaty Act (MBTA), which forbids harming or removing the nests of migratory bird species. The project site is a 2,642-square-foot lot in an urban area where there are no known rare, threatened, or endangered wildlife species. The project site is not in an identified habitat plan area, sensitive natural community, or wetlands area. Thus, the Project would not involve any unusual circumstances regarding biological resources.

CONCLUSION

The Appellant has not presented substantial evidence to the Department that would support the conclusion that (1) there are unusual circumstances that justify removing the project from the exempt class, and (2) there is a reasonable possibility of significant environmental impacts due to those unusual circumstances.

For the reasons stated above and in the Department's Original Appeal Response, the CEQA Determination complies with the requirements of CEQA and the Project is appropriately exempt from environmental review. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal.

Attachment

March 13, 2015 Supplemental Appeal Letter from Hector Martinez

Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Via Electronic Mail and Personal Delivery

March 13, 2015

President London Breed
c/o Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors of the City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
Email: Board.of.Supervisors@sfgov.org

Re: Appeal of Approval and Categorical Exemption Determination of
53 States Street Demolition and Construction Project, San Francisco, CEQA Categorical Exemption Case No. 2014.0177E
Planning Discretionary Review Case No. 2014.0177D/2014.0178D
Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified.

Dear President Breed and Honorable Members of the Board of Supervisors:

I, the Appellant, submit the following letter in support of my appeal of the categorical exemption determination for the project at 53 States Street ("Project"), as an affected neighborhood resident. James Barker initiated the Project on behalf of Marvin and Elizabeth Tien (hereafter "Project Sponsor"), and filed building permit applications 2014.0130.7476 and 2014.0130.7472 on January 30, 2014. These comments supplement my previous comments and comments of the general public.

Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Via Electronic Mail and Personal Delivery

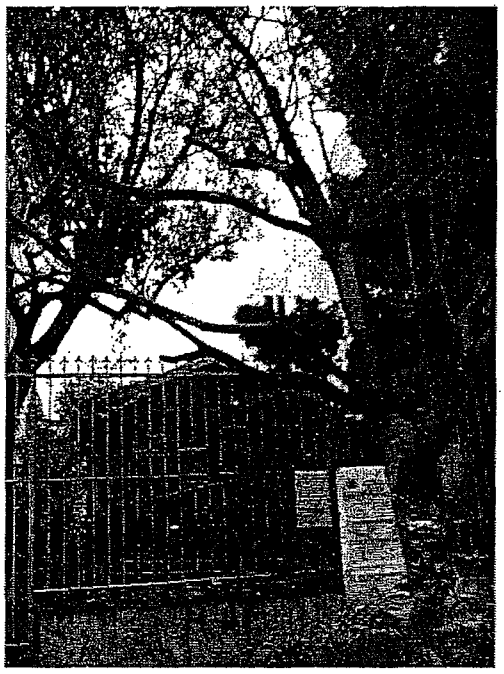
March 13, 2015

President London Breed
c/o Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors of the City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
Email: Board.of.Supervisors@sfgov.org

Re: Appeal of Approval and Categorical Exemption Determination of
53 States Street Demolition and Construction Project, San Francisco, CEQA Categorical Exemption Case No. 2014.0177E
Planning Discretionary Review Case No. 2014.0177D/2014.0178D
Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified.

Dear President Breed and Honorable Members of the Board of Supervisors:

I, the Appellant, submit the following letter in support of my appeal of the categorical exemption determination for the project at 53 States Street ("Project"), as an affected neighborhood resident. James Barker initiated the Project on behalf of Marvin and Elizabeth Tien (hereafter "Project Sponsor"), and filed building permit applications 2014.0130.7476 and 2014.0130.7472 on January 30, 2014. These comments supplement my previous comments and comments of the general public.



Procedural History

On November 20, 1014, the San Francisco Planning Commission ("Commission") held a public hearing regarding Mandatory Discretionary Review Applications 2014.0177D and 2014.0178D and Building Permit Applications 2014.0130.7476 and 2014.0130.7472. At the hearing, all members of the public present opposed the Project expressing multiple environmental concerns, including (i) the Project's significant impact on the nature and character of States Street; (ii) the proposed demolition of a home which was deemed affordable according to the Project Sponsor's appraisal of 53 States Street; (iii) the proposed elimination of open space, including a front and side yard, as well as trees and foliage; (iv) the proposed construction of two enormous, unaffordable units out of character for the neighborhood; (v) the accumulated impacts of the Project combined with other ongoing and proposed projects in the area; and (vi) the speculative nature of the project.

Several Commissioners also voiced concerns about the Project. Commissioner Moore stated that she wanted the Project downsized. She suggested that one unit could be larger than the other and the building should be 3 stories rather than 4 stories. She urged the architect to be more creative in designing something "more compatible with a small-scale, special neighborhood." Commissioner Johnson said she wanted to see "a more responsive design," a Project that would be "more responsive to the neighborhood." She explained that a more responsive design would necessarily have "smaller units" and suggested that the Project Sponsor eliminate the parking spots. Commissioner Wu also stated that she wanted to see design refinements. Commissioner Hillis expressed concern that the Project Sponsor should do more to work with neighbors. Commissioner Antonini suggested a more traditional façade that was more compatible with the "rustic" feel of States street. Commissioner Richards was most emphatic in stating that the Project had square footages "like tract homes in Tracy." He said that these square footages "don't belong in our neighborhood, ...They are so monstrous. They are on steroids..., it's code compliant but it's not compatible." As a result of these concerns, the Commission voted to continue the item to January 8, 2015 to allow the Project Sponsor to make substantial changes with the aim of increasing the Project's compatibility with the neighborhood.

On January 8, 2015, the Commission conducted the continued public hearing regarding the Project. Changes were made to reduce the square footage of the Project by reducing the size of parking garage from a four space parking garage with a car elevator to a two space parking garage without a car lift. The façade was modified somewhat but the changes did not invoke a "rustic" feel in keeping with the character of the neighborhood. The Project Sponsor also submitted a revised appraisal of 53 States, which was obtained on the same day as the continued public hearing. According to the revised appraisal without any explanation, the value of 53 States Street had increased substantially.[1] A true and correct copy of the last minute appraisal is attached hereto as Exhibit 1.

The Commission approved Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified after taking Discretionary Review requested in Application No. 2014.0177D/2014.0178D. In approving the Project, the Commission determined "that the proposed units were consistent and compatible with the neighborhood character" . . . and that "[t]he demolition of the existing single family structure was not found to be affordable." The Commission also found that the Project at 53 States Street "is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption."

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[1] The January 8, 2015 appraisal was obtained on the same day that the Project came before the Commission for reconsideration. That revised appraiser is clearly suspect in light of the timing and given that is likely based on the speculative development value of the Project and other surround projects.

Pursuant to San Francisco Administrative Code ("Admin. Code") Section 31.16, I ("Appellant") timely appealed the January 8, 2015 decision of the San Francisco Planning Commission regarding the approval of Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified after taking Discretionary Review requested in Application No. 2014.0177/D2014.0178D, including but not limited to (1) the Commission's approval of the 53 States Street Project; and (2) the determination by the Commission that "[t]he Project is exempt form the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption. I hereby incorporate by reference all documents contained within: 1) the administrative file concerning/relating to the Project and other administrative files concerning/relating to other projects in Corona Heights; 2) minutes of the Commission concerning/regarding the Project and minutes of the Commission concerning/regarding other projects in Corona Height; and 3) public comments made before the Commission concerning/regarding the Project and public comments made concerning/regarding other projects in Corona Heights.

A. CEQA Review is Required to Analyze the Environmental Impacts of the Project and to Propose Mitigation Measures and Alternatives.

1. Legal Standard

CEQA mandates that "the long-term protection of the environment...shall be the guiding criterion in public decisions" throughout California. PRC § 21001(d). A "project" is "the whole of an action" directly undertaken, supported, or authorized by a public agency "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." PRC § 21065; CEQA Guidelines [14 CCR] § 15378(a). For this reason, CEQA is concerned with an action's ultimate "impact on the environment." *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. CEQA requires environmental factors to be considered at the "earliest possible stage . . . before [the project] gains irreversible momentum," Id. 13 Cal.3d at 277, "at a point in the planning process where genuine flexibility remains." *Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. Guidelines, § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86. First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. *Id.*; Guidelines, § 15063(a). If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. *Id.*, Guidelines, §§ 15063(b)(2), 15070. Finally, if the project will have a significant effect on the environment, an environmental impact report ("EIR") is required. *Id.* Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

2. CEQA Exemptions

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. Guidelines, §§ 15300, 15354. "Exemptions to CEQA are narrowly construed and '[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.'" *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125. In this case, the Commission is relying on the Class 1 CEQA Exemption without specifying which subpart is relied upon or any other justification for the exemption in its final January 8, 2015 determination. Guidelines, §15301.

The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 ("[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations omitted) Thus, for example, interpreting the scope of a CEQA exemption presents 'a question of law, subject to de novo review by this court.' (Citations omitted).")

There are several exceptions to the categorical exemptions. 14 CCR § 15300.2. At least three exceptions are relevant here:

(1) Significant Effects. A project may never be exempted from CEQA if there is a reasonable possibility that the project may have significant environmental impacts due to "unusual circumstances." Guidelines, §15300.2(c). \

(2) Serious or Major Disturbance to an Environmental Resource: Class 1 itself is qualified in that the exemption states that it "[t]he key consideration is whether the project involves negligible or no expansion of an existing use."

(3) Cumulative Impacts. A project may not be exempted from CEQA review "when the cumulative impact of successive projects of the same type in the same place, over time is significant."

3. The Class 1 Exemption Does Not Apply as a Matter of Law

The Commission found that the Project is exempt entirely from all CEQA review pursuant to the "Class 1 categorical exemption" Guidelines, §15301, without specifying which subpart of the Class 1 categorical exemption or any other justification for the exemption it was relying on when making its determination. The Class 1 categorical exemption states that no CEQA review is required for:

"the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of 'existing facilities' itemized below are not intended to be all-inclusive of the types of projects that might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use."

An example set forth in Guidelines §15301(l) provides:

Demolition and removal of small structures listed in this subdivision:

(1) One single-family residence. In urbanized areas, up to the three single-family residences may be demolished under this exemption.
(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where no more than six dwelling units will be demolished.
(3) A store, motel, office, restaurant, and similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial building on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Class 1 is plainly intended to exempt projects involving "negligible or no expansion of an existing use." Common examples would be the demolition of a single family home and the rebuilding of a single family home on a similar or slightly larger footprint.

The Commission expanded the exemption far beyond any reasonable interpretation of "negligible or no expansion of an existing use." The current structure at 53 States Street is certainly not a "duplex or similar multifamily residential structure." It is a single-family residence that may be demolished under the exemption only if the new structure that takes its place involves negligible or no expansion of an existing use. The Commission has ignored CEQA's mandate that "[e]xemptions to CEQA are narrowly construed and "'[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.'" *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.

4. The Current Onslaught of Speculative Development in Corona Heights Creates an Unusual Circumstance and Potential Environmental Cumulative Impacts That Trigger Environmental Review.

A lead agency must find that a project may have a significant effect on the environment and must therefore require an EIR if the project's potential environmental impacts, although individually limited, are cumulatively considerable. Pub. Res. C §21083(b); Guidelines, §§15064(h)(l), 15065(a)(3). "Cumulatively considerable" means that the incremental effects of a project are significant when viewed in connection with the effect of past projects, other current projects, and probably future projects. Pub Res C §21083(b)(2); Guidelines, §§15064(h)(1), 15065(a)(3). See *San Bernardino Valley Audubon Soc'y v. Metropolitan Water Dist.* (1999) 71 Cal.App.4th 382, 398 (EIR required for habitat conservation plan in part because initial study did not adequately explain why cumulative adverse effects to endangered species would not occur).

To assess whether a cumulative effect triggers the need for an EIR, the lead agency must answer two questions: whether the cumulative impact itself may be significant and whether the project's incremental contribution to that effect would be "cumulatively considerable." Guidelines, §15064(h)(1), 15065(a)(3). *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 622 (citing Practice Under the California Environmental Quality Act, §6.34).

On March 9, 2015, during a public hearing before the Board of Supervisors Land Use and Transportation Committee, Supervisor Scott Wiener stated that:

> *I just want to really dispel what we've been hearing from some, that this neighborhood is somehow a NIMBY, 'not in my backyard, don't you dare do anything in my backyard do it all in the Mission or do it somewhere else.' That is absolutely false. This neighborhood has absorbed more density and is continuing to absorb more density but also wants to retain what is amazing about this neighborhood, which is the absolute, the beauty, the green space, and you can have both. You can create housing, which I have advocated for, while also respecting the fabric of neighborhoods and that is an important balance for us to always keep in mind."*

The balance referred to by Supervisor Wiener is threatened when the current planning process looks at proposed projects on States Street on a case by case basis, and disregards the cumulative environmental impacts of past, current, and probably future projects. The Commission should have considered the cumulative impacts of the Project proposed for 53 States Street, the 176/178 States Street Project, the 190/192 Museum Way Project, 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project. It did not.

These cumulative projects on States Street and Ord Court were the catalyst for a San Francisco Chronicle January 6, 2015 front page news article. A true and correct copy of that January 6, 2015 news article is attached hereto as Exhibit 2. The cumulative projects were also the catalyst for emergency legislations recently proposed by Supervisor Wiener to address the proliferation and impact of overly large homes in a neighborhood of modest-sized homes. A true and correct news article concerning Supervisor Wiener's legislative efforts is attached hereto as Exhibit 3.

On March 10, 2015, the San Francisco Board of Supervisors unanimously adopted Resolution, File Number 150192 [Interim Zoning Controls – Large Residential Projects in RH-1, RH-2, and RH-3 Zoning Districts]. As part of the Board Packet, the City Attorney Dennis J. Herrera and Deputy City Attorney Robb Kapla approved as to form the following language in said resolution presented to the Board of Supervisors prior to their vote:

> . . .
>
> *WHEREAS, Existing zoning controls generally allow residential development much larger in scale than the existing residential fabric within the boundaries established by this Resolution; and*
>
> *WHERE?AS, the Planning Code encourages development that preserves existing neighborhood character yet recent residential development proposals within the boundaries established by this Resolution have been significantly larger and bulkier than existing residential buildings; . . .*

This very recently adopted resolution is compelling evidence that the Project, the 176/178 States Street Project, the 190/192 Museum Way Project, 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project will have significant cumulative environmental impacts on the Corona Heights neighborhood. The intensity of development plans on States Street creates an unusual circumstance and potential environmental cumulative impacts and requires an EIR of the Project.

5. The Project will have significant Environmental Impacts.

The Project, in conjunction with other ongoing and proposed projects in the area, will have significant adverse impacts in the following areas:

1. Open Space. The Project eliminates open space such as a large front yard and side yard.
2. Trees: The Project requires that large trees be removed.
3. Wildlife: The Project will remove habitat for wildlife in the area.

The impacts must be analyzed and mitigated in a CEQA document. The CEQA exemption in this case is improper.

6. The Project's Inconsistencies with Local Plans and Policies Constitute Significant Impacts Under CEQA

Where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. *Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903. A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).

The demolition proposed by the Project is inconsistent with the stated purposes of the San Francisco Planning Code (b) and with Planning Code Priority Policies, Numbers 2 and 3. Planning Code (b) aims to protect the character and stability of residential . . . areas within the city. Planning Code Priority Policy (2) establishes that existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; and Planning Code Priority Policy (3) establishes that the city's supply of affordable housing be preserved and enhanced. The existing sound house fits the profile of housing that should be conserved in the city. It is valuable in terms of conservation of resources and affordability, as well as preservation of neighborhood character, economic diversity and stability. The Project would add zero units of affordable housing and would, incidentally, encourage the use of automobiles in a transit-rich district.

7. Speculative Development Projects Such As the Project Contributes to the Displacement of Affordable Housing and Persons of Low to Moderate Income

CEQA requires the lead agency to determine whether the "environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly," (PRC § 21083(b)(3), (d)), and to "take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached." See PRC §21000 et seq.

CEQA Guidelines Appendix G, Section XII provides that a project will have significant impacts where it will:

- Induce substantial population growth or concentration of population in an area, either directly (for example, by proposing new housing or businesses), or indirectly (for example, through extension of roads or other infrastructure);
- Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. See Appendix G, Section XII.

Here, the Project will eliminate critical affordable housing for residents who currently live and work in San Francisco in favor of extremely wealthy investors, renters or homeowners and force those with relatively low or modest incomes out of San Francisco. See Kalama D. Harris, Attorney General,

"Environmental Justice at the Local and Regional Level," Updated July 10, 2012, available at: http://oag.ca.gov/sites/all/files/agweb/pdfs/environment/ej_fact_sheet.pdf

It constitutes an "unusual circumstance" that the Project and the other projects in the area result in the loss of affordable housing. The Project in combination with the other projects in the Corona Heights area will have a significant impact in that it will displace substantial numbers of people when more affordable housing is replaced with ultra expensive housing.

The current structure at 53 States Street is a modest home that was previously classified as affordable up until the Project Sponsor submitted a last minute revised appraisal at the January 8, 2015 public hearing before the Commission. Similar modest, affordable homes are slated to be longer be affordable in the Corona Heights neighborhood as proposed by 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project.

B. CONCLUSION

Based on the arguments detailed above, I, as the Appellant, request the Board find the categorical exemption was inappropriately applied to the Project because the new structure involves significant expansion of existing use and will have significant environmental impacts. The Project falls does not fall within an exception to the categorical exemption. Moreover, the rush of speculative developers to Corona Heights creates an unusual circumstance and cumulative environmental cumulative impacts that require an EIR for the Project.

Thank you for your consideration.

Sincerely,

Hector Martinez

cc: Environmental Review Officer
John.Avalos@sfgov.org
Julie.Christensen@sfgov.org
London.Breed@sfgov.org
David.Campos@sfgov.org
Malia.Cohen@sfgov.org
Mark.Farrell@sfgov.org
Jane.Kim@sfgov.org
Eric.L.Mar@sfgov.org
Katy.Tang@sfgov.org
Scott.Wiener@sfgov.org
Norman.Yee@sfgov.org

EXHIBIT 1

Bridge to Bridge
REAL ESTATE
APPRAISERS

454 Las Gallinas Ave., Suite 111, San Rafael, CA 94903 415-640-0916 voice 800-499-1489 fax

January 8, 2015

Marvin Tien
3796 16th Street
San Francisco, CA 94114

RE: Appraisal – Residential Property
53 States Street
San Francisco, CA 94114
APN: Block 2623 Lot 074

Dear Mr. Tien:

In accordance with your recent request and authorization I have inspected and appraised the residential property located at 53 States in the city and county of San Francisco, California. The appraisal was made to provide you with an independent opinion of the market value of the fee simple interest on an as-is basis in the property. My recent exterior inspection was on January 6, 2015 and prior interior/exterior inspection was September 9, 2014. The purpose of the appraisal is to a determine current market value only. This appraisal is not for loan purposes.

The report which will follow on January 9, 2015, has been prepared to the standards addressed in the Uniform Standards of Professional Appraisal Practice (USPAP). It describes in summary fashion the area, neighborhood, site, improvements, highest and best use, and my appraisal. It contains pertinent data considered in reaching the valuation conclusions. Please note in particular, the Statement of Limiting Conditions and Assumptions found in the report.

The interior and exterior of the property was inspected and appraised by Paula Saling without significant professional assistance from any other persons. I performed a complete appraisal process and a report as described in USPAP.

Based on my inspection, investigation, and analyses undertaken, I have formed the opinion that as of January 6, 2015, and subject to the definition of value, assumptions, and limiting conditions, and certification herein, the subject property has a fee simple market value in its as-is condition as follows:

ONE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS

$1,550,000

The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. The above value estimate does not include any personal property, fixtures, or intangibles.

This letter is not intended to provide the data or conclusions. The report, which follows on January 9, 2015, must be read in its entirety to allow the user to fully comprehend the market data I relied on, my value conclusions, assumptions, and limiting conditions.

Respectfully submitted,

Paula Nowicki Saling
State of California
Certified General Real Estate Appraiser #AG016454

EXHIBIT 2

member of the grand jury in the Ferguson, Mo., case seeks to have a gag order lifted. A5

» Same-sex marriage: Florida becomes the 36th state where gay couples can marry. A12

510 MILLER
1927-20*

» The f ...ciants reliever was best known for an All-Star Game incident he swore was greatly exaggerated. B1

gram pays owners of electric cars not to drive. D1

Datebook

» Remembering dancer: Chitresh Das gave Bay Area audiences insight into Indian traditions. E1

Scott Strazzante / The Chronicle

San Francisco Chronicle

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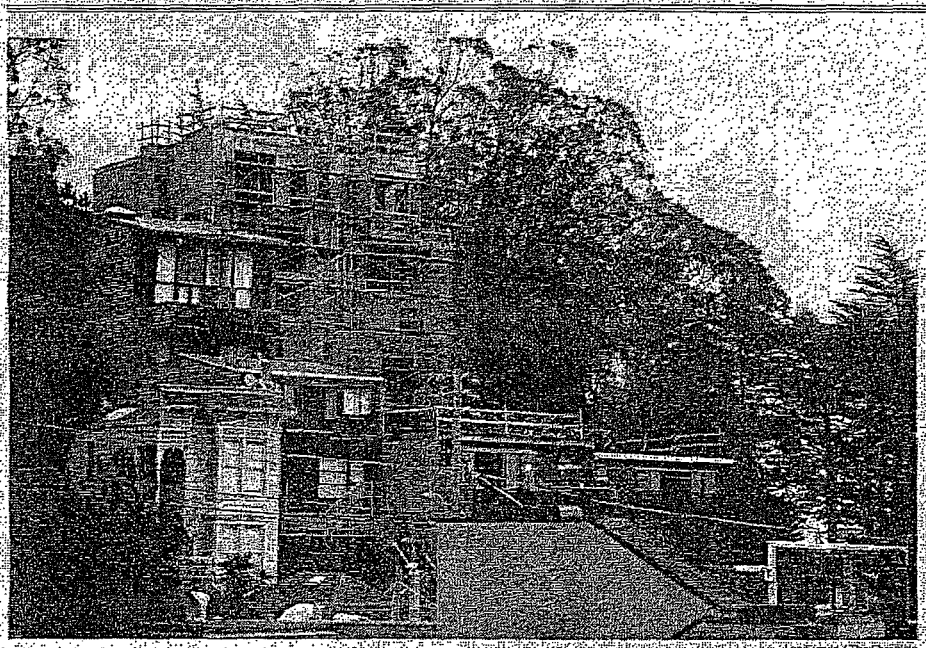
...and bridge maintenance. | *Brown continues on A8.* ... 50 percent of power from renewable sources.



Lea Suzuki / The Chronicle

A six-story building is under construction on States Street amid Corona Heights' cottages, staircases and winding lanes.

Growing controversy

Developers with big plans descend on fanciful, quirky Corona Heights

By J.K. Dineen

The residential enclave below the Randall Museum is a magical corner in the hilly center of San Francisco, a lush world of secret staircases and crooked lanes, Monterey pines and funky cottages.

"Most people don't know it exists, and when you walk through it for the first time your first reaction is, 'I can't believe this is in the middle of the city,'" said Supervisor Scott Wiener, who represents the area.

"None of these developers live in the neighborhood. There is not one instance where it's the homeowner."

Longtime resident Rick Walsh

But while many San Franciscans have not ventured to Corona Heights to explore Ord Court or walked the beautifully landscaped Vulcan Stairs, there is one group that has the neighborhood in its crosshairs: speculative developers.

Over the last two years, builders have bought up parcels in the neighborhood, taking advantage of large hillside "through lots" that run between States Street and Ord Court. Others have purchased cottages along Ord Street and sought to double or triple the size of the home. From his

Developers continues on A9

$20 TV service may alter industry

By Benny Evangelista

Televised sports are the biggest reason cable and satellite customers don't cancel their subscriptions for online alternatives, surveys show. That gives cable and satellite companies little incentive to stream games online.

But Dish Network is betting its future on a stand-alone streaming service that includes the most popular TV sports network, ESPN, and a dozen other top channels for just $20 a month, with no cable or satellite subscription required.

It's a move that could change the pay TV industry.

Sling TV, which Dish Network unveiled Monday, is the satellite TV provider's answer to the growing trend of cord-cutting, in which viewers drop their traditional plans for online-only alternatives like YouTube or Netflix.

Sling TV says it will launch in the first quarter with a basic "Best of Live TV" package that includes the Disney Channel, Food Network, CNN, ABC Family, HGTV, Travel Channel, TNT, CNN, TBS, Cartoon Network and Adult Swim. The service will also include a best-of-Internet video channel from Maker Studios and some video-on-demand programs.

But its key offerings are

Television continues on A8

» **In business:** A day ahead of the international CES' official opening, pre-event events set the stage in Las Vegas. D1

FROM THE COVER

Corona Heights developers think big

Developers from page A1

home on the Vulcan Stairs, resident Rick Walsh can count 10 development projects that have either been proposed or are already under way.

"It's small homes, big lots and the geographic center of the city," Walsh said. "Put all three together, and the greed quotient goes through the roof. With the amount of money that is sitting on the table, people are willing to do some pretty crazy stuff. None of these developers live in the neighborhood. There is not one instance where it's the homeowner."

What is happening in the neighborhood shows how the real estate boom is changing the city's fabric and feel in ways that go beyond the escalating cost of housing and the high-rises popping up on Rincon Hill and in Mission Bay. It's a house-by-house transformation that, in some neighborhoods, is making the city's modest Victorian cottages a thing of the past.

Cottages changing

"We have seen many of our cherished cottages transformed into massive concrete hulks," said Gary Weiss, president of Corbett Heights Neighbors.

At 22-24 Ord Court, SIA Consulting has filed an application to build three homes, a project that would result in two new large single-family homes while doubling the size of the structure currently on the property. At 53 States St., a developer is hoping to tear down a 1,500-square-foot house and replace it with two homes totaling more than 5,000 square feet. Nearby at 24-26 Ord St., an investor who bought out the longtime tenants is proposing to convert the 2,000-square-foot building to a 4,000-square-foot home. There are at least four other similar proposals.

Developers argue that the proposals will generate much-needed housing, particularly larger homes that can accommodate families with children. Attorney John Kevlin, who is representing the developer at 22-24 Ord Court, said objections to the projects "seem to be less about the size and massing and more about a general concern about development in the overall neighborhood." He said the desire to see the neighborhood's character preserved is "a valid concern," but that the city needs the housing.

Creating housing

"What this analysis needs to be balanced against is the city's growing housing crisis. If you had to pick a policy that is most highly valued at the moment, it's the creation of new housing," Kevlin said. "Neighborhoods in San Francisco have the right not to have new development that changes the character of their neighborhood, but they don't have the right to not take on their fair share of solving the housing crisis."

While none of the housing that exists there today could be considered "affordable" — even small cottages in the area would sell for north of $900,000 — neighbors are quick to point out that the housing that has been proposed, over $3 million per home in the current market, is far less affordable than what is there now. In addition, all of the projects in the Ord Court, Ord Street and States Street area are being proposed by developers rather than families planning to live there.

"I don't think any of us begrudges people the ability to add to their homes," Wiener said. "We all want to make sure if a family needs to add bedroom or a deck, many times it's totally appropriate. When you talk about developers turning standard-size homes into monster homes, it's a different situation."

When Rick Walsh and Pat Dowd moved to Ord Street 20 years ago, they were drawn to the eclectic population. A poet lived next door and every week would post her latest verses on a telephone pole. There were musicians and teachers and electricians and waiters on the street. Dowd and Walsh built the terraced gardens on the Vulcan Stairs by salvaging cobblestones that were unearthed when AT&T Park was being built. They then replanted the entire public stairway from the base of Ord Street up to about 150 steps. They continue to water and tend the verdant steps.

'A little beauty'

"This staircase brings a lot of happiness to a lot of people, and we have done this because we like providing a little beauty and tranquillity," Walsh said.

If the projects at 22-24 Ord Court and 53 States St. go forward, the result will be homes that are out of reach of any middle-class or even upper-middle-class family, he said.

"The result will be another home that only the wealthiest can afford. And the guest suite will sit empty," Walsh said. "What used to be home to three small households of modest means will become a single home occupied by someone who is very wealthy."

But Michael Antonini, a member of the San Francisco Planning Commission who supports the projects, argues, "We have to build homes that are large enough for families with multiple children." Antonini said that he wished prices were lower, but the city can't control the market.

"This isn't rural Kansas," he said. "It's San Francisco. It's expensive. If you want a big home in San Francisco you're going to have to pay for it. But people with families are going to demand larger homes. If they can't get them here, they will get them somewhere else."

Jeff Joslin, director of current planning for the City Planning Department, said booms like the one San Francisco is going though are a "mixed blessing."

"Derelict properties get improved, rebuilt or underbuilt lots get infilled. Property values increase, increased property values create new comps, which allow neighboring properties to benefit. These are generally thought of as good things," he said. "However, with such changes come broader shifts. Increases in property values encourage others to follow suit. These types of gentrifying forces are fairly universal."

Most expansions are "intended to accommodate growing families for whom it makes more sense to expand or tear down and build than move," he said. "On a lot-by-lot basis in single-family neighborhoods, we're also focusing on ensuring these houses and expansions are no larger than necessary to address growing families and family-scaled housing, while still being neighborhood-compatible."

Eureka Valley activist Judith Hoyem said, "There is a disconnect between what residents consider to be the character of their neighborhood and the guidelines the Planning Department has at its disposal to apply to protect neighborhood character in the face of development pressures."

Speculators' impact

"Individual homeowners want to expand their houses and sometimes forget that their expansion might have negative impacts on neighboring properties or neighborhood character," she said. "But (speculators) simply don't care about impacts."

Supervisor Wiener, who is generally pro-development, said he will continue to help neighbors fight homes that are out of scale. "Turning regular-sized homes into monster homes isn't adding new housing," Wiener said.

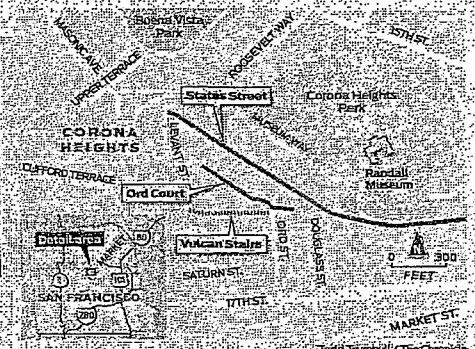
Walsh, who recently retired, said all the development is making him seriously consider leaving the neighborhood. "We will leave the maintenance of the Vulcan Stairs to the developers," Walsh said.

J.K. Dineen is a San Francisco Chronicle staff writer. E-mail: jkdineen@sfchronicle.com Twitter: @sfkdineen

Photos by Lea Suzuki / The Chronicle

Corona Heights resident Duke Dahlin has lived on Ord Court for 29 years. His lush backyard displays the neighborhood's character, which he fears will be lost as more and more megahomes replace the venerable cottages.

Two modest older homes on States Street in Corona Heights are surrounded by verdant open space.



Todd Trumbull / The Chronicle

EXHIBIT 3

Quest to scrutinize plans for big homes

Housing from page C1

have purchased cottages along Ord Street and sought to double or triple the size of the home. Corona Heights is a rustic-feeling enclave nestled in the hillside between the Castro and Corona Heights Park.

Wiener said the bill is meant to counter the "trend toward turning regular-sized homes that really fit into the fabric of the neighborhood into exceptionally large homes that are really out of whack with the surrounding neighborhood.

"Nobody begrudges people the ability to expand to accommodate a growing family, that is not what we are trying to do here," Wiener said.

Rick Walsh, who from his home on Ord Street can see 10 properties targeted for development — some proposed and some already under construction — said the Wiener legislation would save the neighbors fighting projects from filing "discretionary review" requests, which are time consuming and can be expensive.

"What Scott is trying to do is not going to hurt the average homeowner and will only target the developers who are trying to make a huge amount of money by flipping real estate," he said.

The legislation would slow down, and possibly eventually downsize, multiple projects that are already well into the approval process, including large homes proposed for 22-24 Ord Court, 53 States St. and 24-26 Ord St.

Attorney John Kevlin, who represents several of the developers active in the neighborhood, did not return calls or e-mails seeking comment. Representatives from developer SIA Consulting also didn't return calls.

At a Planning Commission hearing in December on 22-24 Ord Court, Kevlin said objections to the projects "seem to be less about the size and massing and more about a general concern about development in the overall neighborhood." He said that the desire to see the neighborhood's character preserved is "a valid concern" but that the city needs the housing.

"What this analysis needs to be balanced against is the city's growing housing crisis. If you had to pick a policy that is most highly valued at the moment, it's the creation of new housing," Kevlin said at the time.

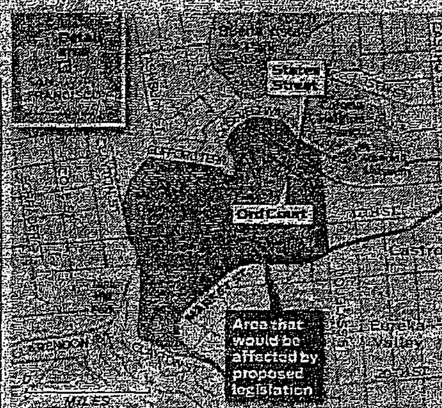
Wiener said the intent is "not to ban anything" but to "put a check in place" that requires the developer to "demonstrate that what is being proposed is necessary and desirable and the community will be able to weigh in on it." He said the proposals that increase the total units of housing could increase total square footage by 100 percent before triggering the conditional use process.

The proposed zoning controls would last 18 months. During that time, the Planning Department would develop permanent controls.

J.K. Dineen is a San Francisco Chronicle staff writer. E-mail: jdineen@sfchronicle.com Twitter: @sfjkdineen

Targeting 'monster homes'

A proposed law would require that large homes or large additions to homes in the area shown below be given additional environmental evaluation before approval.



Todd Trumbull / The Chronicle

Bid to slow building of 'monster homes'

By J.K. Dineen

In an effort to slow down the proliferation of "monster homes" in Corona Heights, Supervisor Scott Wiener will introduce legislation Tuesday that would require additional scrutiny of proposed large homes and additions in the neighborhood.

The legislation would require a conditional use hearing, a more in-depth environmental evaluation than is typical, for any new structure that exceeds 3,000 square feet or for any addition that would increase the size of an existing home by more than 75 percent. It would also limit extensions to 55 percent of lot coverage.

The legislation comes at a time when builders have bought multiple parcels in the neighborhood, taking advantage of large hillside "through lots" that run between States Street and Ord Court. Others

Housing continues on C2

Pregnancy clinics' ad limits upheld

Clinics from page C1

charge for its medical [illegible] the attention of women searching for help online, [illegible] Armstrong said.

The ruling helps to assure that "indigent women facing an unexpected pregnancy are not harmed by false or misleading advertising," said City Attorney Dennis Herrera, whose office [illegible] "a discriminatory and unnecessary infringement on constitutional rights" that holds the clinic to tougher standards than abortion providers. By classifying its advertisements as commercial speech, the

Carroll, John (BOS)

From: BOS Legislation (BOS)
Sent: Monday, March 16, 2015 2:03 PM
To: 'HectorMarz@hotmail.com'; BOS-Supervisors; BOS-Legislative Aides; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); 'john@johnlumarchitecture.com'; bgladstone@hansonbridgett.com; Susanne B. Kelly; Poling, Jeanie (CPC); Chang, Tina (CPC); Ionin, Jonas (CPC)
Cc: Calvillo, Angela (BOS); Caldeira, Rick (BOS); Somera, Alisa (BOS); Carroll, John (BOS); BOS Legislation (BOS)
Subject: California Environmental Quality Act - Categorical Exemption Appeal - 53 States Street - Planning Department Appeal Response

Categories: 150167

Good afternoon,

Please find linked below a memo received by the Office of the Clerk of the Board from the Planning Department, concerning the appeal of the proposed project at 53 States Street.

Planning Memo – 03/16/2015

You are invited to review the entire matter on our Legislative Research Center by following the link below.

Board of Supervisors File No. 150167

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on March 24, 2015.

Thank you,

Joy Lamug
Legislative Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Direct: (415) 554-7712 | Fax: (415) 554-5163
Email: joy.lamug@sfgov.org
Web: www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking here.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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Fax:
415.558.6409

Planning
Information:
415.558.6377

Categorical Exemption Appeal

53 States Street

DATE:	March 16, 2015
TO:	Angela Calvillo, Clerk of the Board of Supervisors
FROM:	Sarah B. Jones, Environmental Review Officer – (415) 558-9048
	Jeanie Poling – (415) 575-9072
RE:	Planning Case No. 2014.01777E
	Appeal of Categorical Exemption for 53 States Street
HEARING DATE:	March 24, 2015
ATTACHMENT:	Attachment A – February 9, 2015 Appeal Letter from Hector Martinez

PROJECT SPONSOR:	Jill Allen, John Lum Architecture Inc., (415) 558-9550
APPELLANT:	Hector Martinez, 51 States Street, Unit A, San Francisco hectormarz@hotmail.com

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") issuance of a Categorical Exemption under the California Environmental Quality Act ("CEQA Determination") for the proposed 53 States Street project (the "Project").

The Department, pursuant to Title 14 of the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15300–15387), issued a Categorical Exemption for the Project on May 28, 2014, finding that the proposed Project is exempt from the California Environmental Quality Act (CEQA) as a Class 3 categorical exemption. The Class 3 exemption applies to new construction of small structures, including multi-family residential structures in urban areas designed for not more than six dwelling units.

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 the Department staff for additional environmental review.

SITE DESCRIPTION & EXISTING USE

The project site contains a two-story, 1,554-square-foot single-family residence set back approximately 30 feet from the front property line. The project lot measures 25 feet wide by 105 feet 8 inches deep with an area of 2,623 square feet, and is zoned RH-2 (Residential House, Two Family). Along States Street and

adjacent streets is a mix of housing types, from single-family to apartment buildings, ranging from one story to three stories, consistent with the RH-2 and RH-3 (Residential House, Two and Three Family) zoning of the project vicinity. Generally, more recently constructed buildings are larger and contain more residential units than the older housing stock in the project vicinity.

PROJECT DESCRIPTION

The Project would involve demolition of the existing building on site, and construction of a four-story 7,103-square-foot building containing two residential units and four vehicle parking spaces. The project would involve 940 cubic yards of excavation to a depth of 14 feet.

BACKGROUND

On March 4, 2014, John Lum Architects (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for CEQA determination for the project described above.

On May 28, 2014, the Department determined that the project was categorically exempt under CEQA Class 3, New Construction and Conversion of Small Structures (CEQA Guidelines Section 15303(b)), and that no further environmental review was required. The Project was approved on January 8, 2015 at a Discretionary Review Hearing before the Planning Commission.

On February 9, 2015, an appeal of the Categorical Exemption Determination was filed by Hector Martinez. On March 13, 2015, a secondary appeal was filed by Hector Martinez. This document responds to the first appeal; a second appeal response will be submitted prior to the March 24, 2015 appeal hearing.

CEQA GUIDELINES

Categorical Exemptions

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

CEQA State Guidelines Section 15303(b), or Class 3(b), allows for the construction of a multi-family residential structure with up to four dwelling units, or up to six dwelling units in urbanized areas.

In determining the significance of environmental effects caused by a project, CEQA State 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 State 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."

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the February 9, 2015 Appeal Letter are cited below and are followed by the Department's responses.

Issue 1: The CEQA determination failed to consider the potential piecemeal impacts of this project with other ongoing projects along States Street and nearby neighborhoods

Response 1: CEQA Section 21065 defines a project as the issuance of an entitlement to a person. CEQA Section 21159.27 states that a project may not be divided into smaller projects to qualify for one or more exemptions. The proposed project involves the demolition and new construction on one privately owned lot. Concurrent projects on nearby lots are not part of the same project but may be considered under cumulative effects. See the response to Issue 2.

Issue 2: The CEQA determination failed to consider the cumulative impacts of this project with other ongoing projects along States Street and nearby neighborhoods.

Response 2: CEQA Guidelines Section 15300.2(c) states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Here, there is substantial evidence in the record that the project meets the requirements for this categorical exemption, and there is no substantial evidence to suggest that there exists a reasonable possibility of any significant direct or cumulative environmental effects due to any unusual circumstances.

CEQA Guidelines Section 15355 states that "cumulative impacts" refers to two or more individual effects from separate projects which, when considered together, are considerable or which compound or increase other environmental effects. The cumulative impact from several projects is the change in the environment that results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.

Department staff has reviewed permit history and planning efforts in the project vicinity and found no unusual circumstances that would result in any past, present, or reasonably foreseeable future projects combining with the effects of the project to result in significant environmental impacts. Nearby projects currently under review by the Planning Department include an addition to an existing building at the front of 22-24 Ord Court and the construction of two new residential units at the rear of the properties, which front States Street (2013.1521E); an addition to the single-family residence at 20 Vulcan Stairway (2014.1506E); and an addition to a single-family home at 32 Ord Street (2014-000174ENV). These project sites are all at least 1,200 feet from the proposed project at 53 States Street. However, even if more

expansion and new construction projects were proposed in the neighborhood, that would not be in itself an unusual circumstance in a dense urban neighborhood, nor would such projects be likely to have environmental effects that could combine with environmental effects of the proposed Project resulting in a significant impact. The project and the nearby projects mentioned above were each found to be or are expected to be found to be categorically exempt from CEQA. The California State Legislature created categorical exemptions and directed the Secretary of the Natural Resources Agency (the Secretary) to list classes of projects exempt from CEQA review. Public Resources Code Section 21084, subdivision (a) provides: "The guidelines prepared and adopted pursuant to Section 21083 shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from this division. In adopting the guidelines, the Secretary of the Natural Resources Agency shall make a finding that the listed classes of projects referred to in this section do not have a significant effect on the environment." Thus, section 21084(a) instructs the Secretary to exempt from CEQA review only classes of projects that do not have a significant effect on the environment. As these projects were not found to have a significant effect on the environment, the Planning Department determined there would be no significant cumulative impacts.

The project site is not within the proposed interim zoning control district on Corona Heights.[1] The eastern boundary of the proposed interim control district is approximately 800 feet west of the project site.

A mixture of building scales does not constitute an unusual circumstance that could result in a significant effect on the environment under the CEQA Guidelines Section 15300.2.

The Appellant has not submitted any evidence that the Project would result in individual or cumulative impacts under CEQA due to any usual circumstances, let alone unusual circumstances as required by CEQA. The Appellant has not even specified any resource topics of concern; nonetheless, cumulative project effects that are addressed in this appeal response include traffic and noise effects during construction, historic resources, and geological issues.

There are no unusual circumstances regarding the project or the project site that could result in significant transportation impacts. Traffic effects from the proposed project and other construction in the project vicinity would be limited in scope and temporary in duration, and would not be significant. There are no unusual circumstances at the project site that would result in significant impacts from construction activities.

Project construction would result in a temporary or periodic increase in ambient noise levels from project construction. These effects may be considered an annoyance by occupants of nearby properties, particularly in combination with the noise effects of other nearby projects, but they are not in themselves an unusual circumstance. The San Francisco Noise Ordinance (Article 29 of the Police Code) regulates construction-related noise. The Noise Ordinance is required by law and would serve to avoid significant negative impacts of the proposed project on sensitive receptors. Sensitive receptors are people requiring quiet, for sleep or concentration, such as residences, schools, or hospitals. Construction activities other than pile driving typically generate noise levels no greater than 90 dBA (for instance, for excavation) at 50

[1] San Francisco Board of Supervisors File No. 150192, "Interim Zoning Controls – Large Residential Projects in RH-1, RH-2, and RH-3 Zoning Districts." Passed at first reading, March 10, 2015.

feet from the activity, while other activities, such as concrete work, are much less noisy. Given the above-mentioned City noise regulations and the temporary nature of construction work, construction noise would have a less-than-significant effect on the environment.

Because the project site contains no historic resources, no impact is identified that could contribute to a cumulative effect on historic resources.

CONCLUSION

No substantial evidence demonstrating that any unusual circumstances exist that could result in significant impacts to the environment has been presented that would warrant preparation of further environmental review. The Department has found that the proposed project is consistent with the cited exemption. The Appellant has not provided any substantial evidence or expert opinion to refute the conclusions of the Department.

For the reasons stated above and in the May 28, 2014 CEQA Categorical Exemption Determination, the CEQA Determination complies with the requirements of CEQA and the Project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal of the CEQA Determination.

Attachment A – February 9, 2015 Appeal Letter from Hector Martinez

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

February 10, 2015

To: John Rahaim
Planning Director

From: Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 53 States Street

An appeal of CEQA Categorical Exemption Determination from Environmental Review for 53 States Street was filed with the Office of the Clerk of the Board on February 9, 2015, by Hector Martinez.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Tina Tam, Planning Department
Tina Chang, Planning Department
Jonas Ionin, Planning Department

February 9, 2015

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

From: Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Please take notice that I wish to appeal the decision of the San Francisco Planning Commission that occurred at the January 8, 2015 hearing regarding 53 States Street. The basis for my appeal, in part, is that that the Planning Commission's CEQA determination failed to consider, among other things, the cumulative and potentially piecemeal impacts of this project with other ongoing projects along States Street and nearby neighborhoods.

Hector Martinez

2/9/15
Date

HectorMartz@hotmail.com

SAN FRANCISCO
PLANNING DEPARTMENT

Discretionary Review Action DRA-0399

HEARING DATE: JANUARY 8, 2015

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date:	January 12, 2015
Case No.:	**2014.0177D / 2014.0178D**
Project Address:	**53 STATES STREET**
Permit Application:	2014.0130.7476
	2014.0130.7472
Zoning:	RH-2 (Residential House, Two-Family)
	40-X Height and Bulk District
Block/Lot:	2623/074
Project Sponsor:	John Lum, John Lum Architecture
	3246 17th Street
	San Francisco, CA 94110
Staff Contact:	Tina Chang – (415) 575-9197
	tina.chang@sfgov.org
	tina.chang@sfgov.org

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF CASE NO. 2014.0177D / 2014.0178D, AND THE APPROVAL OF BUILDING PERMIT APPLICATIONS 2014.0130.7476 AND 2014.0130.7472 PROPOSING THE DEMOLITION OF AN EXISTING, VACANT, 1,554 SQUARE FOOT SINGLE-FAMILY DWELLING UNIT AND THE NEW CONSTRUCTION OF A THREE-STORY, TWO-UNIT STRUCTURE WITHIN AN RH-2 (RESIDENTIAL, HOUSE, TWO-FAMILY) AND 40-X HEIGHT AND BULK ZONING DISTRICT.

PREAMBLE

On January 30, 2014, James Barker on behalf of Marvin and Elizabeth Tien (hereinafter "project sponsor") filed Building Permit Application Numbers 2014.0130.7476 and 2014.0130.7472, and associated Mandatory Discretionary Review Cases 2014.0177D and 2014.0178D on January 31, 2014, proposing the demolition of an existing, single-family dwelling and the new construction of a three-story (four level), two-unit building.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption).

On November 20, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Mandatory Discretionary Review Applications 2014.0177D and 2014.0178D on Building Permit Applications 2014.0130.7476 and 2014.0130.7472. After public testimony opposing the project, the Commissioners voted to continue the item to January 8, 2015, allowing time to the Project Sponsor to make several changes to increase the

project's compatibility with the neighborhood, including the removal of the proposed stair penthouse and roof deck, and the reduction in scale and massing of the overall structure.

The following changes were made to the project:

- Removal of car lift for a subterranean garage reducing the gross square footage of the structure by approximately 1,000 square feet, the number of parking spaces from four to two, and the scale of the proposed building from five levels to four
- Removal of the proposed roof deck and stair penthouse
- Additional setback of the fourth level from 13'-9" to approximately 18'-2" from the front building wall on the west side of the building and 26'-11" on the east side of the building
- Reduction in size of the lower unit from 2,357 square feet to 2,125 square feet
- Reduction in size of the upper unit from 2,620 square feet to 2,220 square feet
- Reduction of building's gross square feet from approximately 7,103 to 5,480 square fet

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department Staff and other interested parties.

ACTION

The Commission hereby took Discretionary Review requested in Application No. 2014.0177D/ 2014.0178D and approved Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified.

BASIS FOR RECOMMENDATION:

The reason(s) the Commission took the action described above include:

1. The Commission determined that the proposed units were consistent and compatible with the neighborhood character.
2. The demolition of the existing single family structure was not found to be affordable.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal the decision for this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is approved. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street #304, San Francisco, CA 94103-2481.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission took Discretionary Review and approved the project as referenced in this action memo on January 8, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Fong, Hillis, Moore, and Richards

NAYS:

ABSENT: Commissioner Wu

ADOPTED: January 8, 2015.

SAN FRANCISCO
PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
53 States St		2623/074	
Case No.	Permit No.	Plans Dated	
2014.0177E		1/31/14	
☑ Addition/ Alteration	☐ Demolition (requires HRER if over 50 years old)	☐ New Construction	☐ Project Modification (GO TO STEP 7)

Project description for Planning Department approval.

Demolition of a single-family dwelling and new construction of a two-residential-unit building with parking.

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an *Environmental Evaluation Application* is required.	
☐	**Class 1 – Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.; change of use if principally permitted or with a CU.
☑	**Class 3 – New Construction.** Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.
☐	Class__

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an *Environmental Evaluation Application* is required.	
☐	**Transportation:** Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
☐	**Air Quality:** Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an air pollution hot spot? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Hot Spots)*
☐	**Hazardous Materials:** Any project site that is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve soil disturbance of any amount or a change of use from industrial to commercial/residential? If yes, should the applicant present documentation of a completed Maher Application that has been submitted to the San Francisco Department of Public Health (DPH), this box does not need to be checked, but such documentation must be appended to this form. In all other circumstances, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment and/or file a Maher Application with DPH. (refer to EP_ArcMap > Maher layer.)

☐	**Soil Disturbance/Modification:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)*
☐	**Noise:** Does the project include new noise-sensitive receptors (schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Noise Mitigation Area)*
☐	**Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or on a lot with a slope average of 20% or more? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)*
☐	**Slope = or > 20%: :** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, or grading on a lot with a slope average of 20% or more? *Exceptions: do not check box for work performed on a previously developed portion of site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* **If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required**
☐	**Seismic Landslide Zone:** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, grading –including excavation and fill on a landslide zone – as identified in the San Francisco General Plan? *Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required**
☐	**Seismic Liquefaction Zone:** Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1000 sq ft, shoring, underpinning, retaining wall work, or grading on a lot in a liquefaction zone? *Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report will likely be required**
☐	**Serpentine Rock:** Does the project involve any excavation on a property containing serpentine rock? *Exceptions: do not check box for stairs, patio, deck, retaining walls, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)*
If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an *Environmental Evaluation Application* is required.	
☑	**Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.**
Comments and Planner Signature (*optional*): Jean Poling	

STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: *(refer to Parcel Information Map)*	
☐	Category A: Known Historical Resource. GO TO STEP 5.
☒	Category B: Potential Historical Resource (over 50 years of age). GO TO STEP 4.
☐	Category C: Not a Historical Resource or Not Age Eligible (under 50 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

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

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
☐	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
☐	2. Interior alterations to publicly accessible spaces.
☐	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
☐	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
☐	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
☐	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
☐	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the *Secretary of the Interior's Standards for Rehabilitation*.

☐	8. Other work consistent with the *Secretary of the Interior Standards for the Treatment of Historic Properties* (*specify or add comments*):
☒	9. Reclassification of property status to Category C. (*Requires approval by Senior Preservation Planner/Preservation Coordinator*) a. Per HRER dated: _____ (*attach HRER*) b. Other (*specify*): per PTR form dated 5/16/2014
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
☐	**Further environmental review required.** Based on the information provided, the project requires an *Environmental Evaluation Application* to be submitted. GO TO STEP 6.
☒	**Project can proceed with categorical exemption review.** The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (*optional*): Gretchen A. Hilyard 5-28-2014	
Preservation Planner Signature:	

STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

☐	**Further environmental review required.** Proposed project does not meet scopes of work in either (*check all that apply*): ☐ Step 2 – CEQA Impacts ☐ Step 5 – Advanced Historical Review STOP! Must file an *Environmental Evaluation Application.*
☒	**No further environmental review is required. The project is categorically exempt under CEQA.**
Planner Name: Gretchen A. Hilyard	Signature or Stamp: Gretchen A. Hilyard 5-28-2014
Project Approval Action: Select One CPC Action *If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	
Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.	

SAN FRANCISCO
PLANNING DEPARTMENT

PRESERVATION TEAM REVIEW FORM

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Preservation Team Meeting Date:		Date of Form Completion	5/16/2014

PROJECT INFORMATION:		
Planner:	Address:	
Gretchen Hilyard	53 States Street	
Block/Lot:	Cross Streets:	
2623/074	Castro Street	
CEQA Category:	Art. 10/11:	BPA/Case No:
B	n/a	2014.0177E

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
(•) CEQA	( ) Article 10/11	( ) Preliminary/PIC	(•) Alteration	( ) Demo/New Construction

DATE OF PLANS UNDER REVIEW:	1/31/2014

PROJECT ISSUES:

- [x] Is the subject Property an eligible historic resource?
- [ ] If so, are the proposed changes a significant impact?

Additional Notes:

Submitted: Supplemental Information Form prepared by Tim Kelley Consulting (dated November 2013).

Proposed project: demolition of existing single-family residence and construction of a two-unit residential building with parking.

PRESERVATION TEAM REVIEW:

Historic Resource Present:	( ) Yes	(•) No *	( ) N/A

Individual	Historic District/Context
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:	Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:
Criterion 1 - Event: ( ) Yes (•) No	Criterion 1 - Event: ( ) Yes (•) No
Criterion 2 - Persons: ( ) Yes (•) No	Criterion 2 - Persons: ( ) Yes (•) No
Criterion 3 - Architecture: ( ) Yes (•) No	Criterion 3 - Architecture: ( ) Yes (•) No
Criterion 4 - Info. Potential: ( ) Yes (•) No	Criterion 4 - Info. Potential: ( ) Yes (•) No
Period of Significance:	Period of Significance:
	( ) Contributor ( ) Non-Contributor

Complies with the Secretary's Standards/Art 10/Art 11:	○ Yes	○ No	◉ N/A
CEQA Material Impairment:	○ Yes	◉ No	
Needs More Information:	○ Yes	◉ No	
Requires Design Revisions:	○ Yes	◉ No	
Defer to Residential Design Team:	◉ Yes	○ No	

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

PRESERVATION TEAM COMMENTS:

According to the Supplemental Information Form for Historic Resource Determination prepared by Tim Kelley Consulting (dated November 2013) and information found in the Planning Department files, the subject property at 53 States Street contains a 1-story-over basement; wood frame single-family residence constructed in 1911 in a Vernacular architectural style. The original architect is unknown. Known alterations to the property include: recladding the front with wood shingles (1956), foundation work (2008, 2009), retaining wall work (2009), and convert existing storage space on lower level to living space, new windows (2009). Unpermitted alterations include: enclosure of the entry porch (unknown date), construction of a rear addition (between 1913 and 1938).

No known historic events occurred at the property (Criterion 1). None of the owners or occupants have been identified as important to history (Criterion 2). The subject building has been altered from its original appearance and represents a vernacular single-family residence. The building is not architecturally distinct such that it would qualify individually for listing in the California Register under Criterion 3.

The subject property is not located within the boundaries of any identified historic districts. The subject property is located within the Castro/Upper Market and Corona Heights neighborhood on a block that exhibits a great variety of architectural styles, construction dates, and subsequent alterations that compromise historic integrity. The area surrounding the subject property does not contain a significant concentration of historically or aesthetically unified buildings.

Therefore, the subject property is not eligible for listing in the California Register under any criteria individually or as part of a historic district.

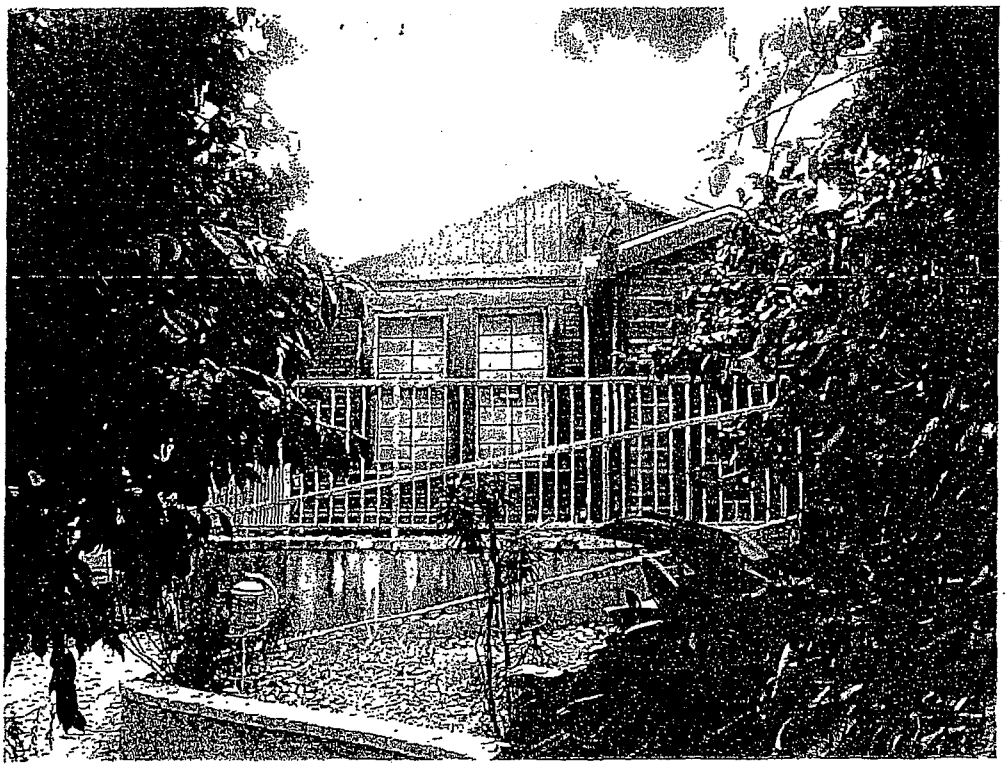
Signature of a Senior Preservation Planner / Preservation Coordinator:	Date:
Imada	5-23-14

SAN FRANCISCO
PLANNING DEPARTMENT

Part I Historical Resource

53 States Street

San Francisco, California



Tim Kelley Consulting, LLC

Historical Resources

2912 Diamond Street #330

San Francisco, CA 94131

415.337-5824

tim@timkelleyconsulting.com

HISTORICAL LIST
UPDATED 4/2/2014
(DO NOT SEND EIRs UNLESS SPECIFIED BY CONTACT PERSON)

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San Francisco Towers
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698 Second Street, Room 304
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Mary Miles
Coalition for Adequate Review
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Oakland, CA 94604-2050

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National Trust for Historic Preservation
5 Third Street, Suite 707
San Francisco, CA 94103

The Art Deco Society of California
100 Bush Street, Suite 511
San Francisco, CA 94104
zelda1927@artdecosociety.org
(Prefer to be notified via email)

Executive Director
San Francisco Heritage
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San Francisco, CA 94109
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Government Information Center
SF Public Library
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F Planning Department
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Richard S.E. Johns
Law Offices of Richard S.E. Johns
2431 Fillmore Street
San Francisco, CA 94115-1814
RSEJohns@yahoo.com
415-781-8494

Hisashi Sugaya
900 Bush Street, #419
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John Burton Foundation
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San Francisco, CA 94111

Johnathan Perlman
ELEVATIONachitects
1099 23rd Street, Suite 18
San Francisco, CA 94107

Ellen Joslin Johnck, RPA
101 Lombard Street, 3rd Floor
San Francisco, CA 94103

CATEGORICAL EXEMPTIONS

Case #: 2014.0177E Date: 5.28.2014

"E" Planner's Name: Gretchen Hilyard

FOR HRER LOG:

Historic Resource Present: ☐ YES ☒ NO
Individual Resource: ☐ YES ☒ NO
Historic District: ☐ YES ☒ NO
Contributor ☐ Non Contributor ☐

FOR MAILING

☒ Attach to Cat Ex for closure

Copy and send to: ☒ Owner

Address: Marvin + Elisabeth Tien
3796 16th St, 94114

☒ Project Contact

Address: Jill Allen
3246 Fell St, 94110

☒ Planner/Other: Delvin Washington

☒ Historic Preservation List

☐ Board of Supervisors _____ (if action to be taken by the Board)

Close in Case Editing: ☒ Yes ☐ No

☐ Other instructions if any: _____

Updated 43/31/2014

Bridge to Bridge
REAL ESTATE
APPRAISERS

454 Las Gallinas Ave., Suite 111, San Rafael, CA 94903 415-640-0916 voice 800-499-1489 fax

January 8, 2015

Marvin Tien
3796 16th Street
San Francisco, CA 94114

RE: Appraisal – Residential Property
53 States Street
San Francisco, CA 94114
APN: Block 2623 Lot 074

Dear Mr. Tien:

In accordance with your recent request and authorization I have inspected and appraised the residential property located at 53 States in the city and county of San Francisco, California. The appraisal was made to provide you with an independent opinion of the market value of the fee simple interest on an as-is basis in the property. My recent exterior inspection was on January 6, 2015 and prior interior/exterior inspection was September 9, 2014. The purpose of the appraisal is to a determine current market value only. This appraisal is not for loan purposes.

The report which will follow on January 9, 2015, has been prepared to the standards addressed in the Uniform Standards of Professional Appraisal Practice (USPAP). It describes in summary fashion the area, neighborhood, site, improvements, highest and best use, and my appraisal. It contains pertinent data considered in reaching the valuation conclusions. Please note in particular, the Statement of Limiting Conditions and Assumptions found in the report.

The interior and exterior of the property was inspected and appraised by Paula Saling without significant professional assistance from any other persons. I performed a complete appraisal process and a report as described in USPAP.

Based on my inspection, investigation, and analyses undertaken, I have formed the opinion that as of January 6, 2015, and subject to the definition of value, assumptions, and limiting conditions, and certification herein, the subject property has a fee simple market value in its as-is condition as follows:

ONE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS

$1,550,000

The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. The above value estimate does not include any personal property, fixtures, or intangibles.

This letter is not intended to provide the data or conclusions. The report, which follows on January 9, 2015, must be read in its entirety to allow the user to fully comprehend the market data I relied on, my value conclusions, assumptions, and limiting conditions.

Respectfully submitted,

Paula Nowicki Saling
State of California
Certified General Real Estate Appraiser #AG016454

HECTOR R MARTINEZ
1939 Harrison Street, Suite 730
Oakland, CA 94612

9176
90/7162

DATE 2/9/15

PAY TO THE ORDER OF San Francisco Planning Dept $ 547.00

Five hundred forty seven and 00/100 DOLLARS

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MEMO

Carroll, John (BOS)

om:	BOS Legislation (BOS)
ent:	Friday, March 13, 2015 2:13 PM
To:	HectorMarz@hotmail.com; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Ionin, Jonas (CPC); Chang, Tina (CPC); john@johnlumarchitecture.com; skelly@hansonbridgett.com; BOS-Supervisors; BOS-Legislative Aides
Cc:	Calvillo, Angela (BOS); Caldeira, Rick (BOS); Somera, Alisa (BOS); Carroll, John (BOS); BOS Legislation (BOS)
Subject:	California Environmental Quality Act - Categorical Exemption Determination Appeal - 53 States Street - Supplemental Documentation
Categories:	150167

Good afternoon,

Please find linked below supplemental documentation received by the Office of the Clerk of the Board from Hector Martinez, concerning his appeal of the CEQA categorical exemption determination for the project at 53 States Street.

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on March 24, 2015.

Project Sponsor's Letter - 3/13/2015

You are invited to review the entire matter on our Legislative Research Center by following the link below.

ard of Supervisors File No. 150167

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking here.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Via Electronic Mail and Personal Delivery

March 13, 2015

President London Breed
c/o Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors of the City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
Email: Board.of.Supervisors@sfgov.org

Re: Appeal of Approval and Categorical Exemption Determination of
53 States Street Demolition and Construction Project, San Francisco, CEQA Categorical Exemption Case No. 2014.0177E
Planning Discretionary Review Case No. 2014.0177D/2014.0178D
Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified.

Dear President Breed and Honorable Members of the Board of Supervisors:

I, the Appellant, submit the following letter in support of my appeal of the categorical exemption determination for the project at 53 States Street ("Project"), as an affected neighborhood resident. James Barker initiated the Project on behalf of Marvin and Elizabeth Tien (hereafter "Project Sponsor"), and filed building permit applications 2014.0130.7476 and 2014.0130.7472 on January 30, 2014. These comments supplement my previous comments and comments of the general public.

Procedural History

On November 20, 1014, the San Francisco Planning Commission ("Commission") held a public hearing regarding Mandatory Discretionary Review Applications 2014.0177D and 2014.0178D and Building Permit Applications 2014.0130.7476 and 2014.0130.7472. At the hearing, all members of the public present opposed the Project expressing multiple environmental concerns, including (i) the Project's significant impact on the nature and character of States Street; (ii) the proposed demolition of a home which was deemed affordable according to the Project Sponsor's appraisal of 53 States Street; (iii) the proposed elimination of open space, including a front and side yard, as well as trees and foliage; (iv) the proposed construction of two enormous, unaffordable units out of character for the neighborhood; (v) the accumulated impacts of the Project combined with other ongoing and proposed projects in the area; and (vi) the speculative nature of the project.

Several Commissioners also voiced concerns about the Project. Commissioner Moore stated that she wanted the Project downsized. She suggested that one unit could be larger than the other and the building should be 3 stories rather than 4 stories. She urged the architect to be more creative in designing something "more compatible with a small-scale, special neighborhood." Commissioner Johnson said she wanted to see "a more responsive design," a Project that would be "more responsive to the neighborhood." She explained that a more responsive design would necessarily have "smaller units" and suggested that the Project Sponsor eliminate the parking spots. Commissioner Wu also stated that she wanted to see design refinements. Commissioner Hillis expressed concern that the Project Sponsor should do more to work with neighbors. Commissioner Antonini suggested a more traditional façade that was more compatible with the "rustic" feel of States street. Commissioner Richards was most emphatic in stating that the Project had square footages "like tract homes in Tracy." He said that these square footages "don't belong in our neighborhood, ...They are so monstrous. They are on steroids..., it's code compliant but it's not compatible." As a result of these concerns, the Commission voted to continue the item to January 8, 2015 to allow the Project Sponsor to make substantial changes with the aim of increasing the Project's compatibility with the neighborhood.

On January 8, 2015, the Commission conducted the continued public hearing regarding the Project. Changes were made to reduce the square footage of the Project by reducing the size of parking garage from a four space parking garage with a car elevator to a two space parking garage without a car lift. The façade was modified somewhat but the changes did not invoke a "rustic" feel in keeping with the character of the neighborhood. The Project Sponsor also submitted a revised appraisal of 53 States, which was obtained on the same day as the continued public hearing. According to the revised appraisal without any explanation, the value of 53 States Street had increased substantially.[1] A true and correct copy of the last minute appraisal is attached hereto as Exhibit 1.

The Commission approved Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified after taking Discretionary Review requested in Application No. 2014.0177D/2014.0178D. In approving the Project, the Commission determined "that the proposed units were consistent and compatible with the neighborhood character" . . . and that "[t]he demolition of the existing single family structure was not found to be affordable." The Commission also found that the Project at 53 States Street "is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption."

[1] The January 8, 2015 appraisal was obtained on the same day that the Project came before the Commission for reconsideration. That revised appraiser is clearly suspect in light of the timing and given that is likely based on the speculative development value of the Project and other surround projects.

Pursuant to San Francisco Administrative Code ("Admin. Code") Section 31.16, I ("Appellant") timely appealed the January 8, 2015 decision of the San Francisco Planning Commission regarding the approval of Building Permit Applications 2014.0130.7476 and 2014.0130.7472 as modified after taking Discretionary Review requested in Application No. 2014.0177/D2014.0178D, including but not limited to (1) the Commission's approval of the 53 States Street Project; and (2) the determination by the Commission that "[t]he Project is exempt form the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption. I hereby incorporate by reference all documents contained within: 1) the administrative file concerning/relating to the Project and other administrative files concerning/relating to other projects in Corona Heights; 2) minutes of the Commission concerning/regarding the Project and minutes of the Commission concerning/regarding other projects in Corona Height; and 3) public comments made before the Commission concerning/regarding the Project and public comments made concerning/regarding other projects in Corona Heights.

A. CEQA Review is Required to Analyze the Environmental Impacts of the Project and to Propose Mitigation Measures and Alternatives.

1. Legal Standard

CEQA mandates that "the long-term protection of the environment...shall be the guiding criterion in public decisions" throughout California. PRC § 21001(d). A "project" is "the whole of an action" directly undertaken, supported, or authorized by a public agency "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." PRC § 21065; CEQA Guidelines [14 CCR] § 15378(a). For this reason, CEQA is concerned with an action's ultimate "impact on the environment." *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. CEQA requires environmental factors to be considered at the "earliest possible stage . . . before [the project] gains irreversible momentum," Id. 13 Cal.3d at 277, "at a point in the planning process where genuine flexibility remains." *Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. Guidelines, § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86. First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. *Id.*; Guidelines, § 15063(a). If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. *Id.*, Guidelines, §§ 15063(b)(2), 15070. Finally, if the project will have a significant effect on the environment, an environmental impact report ("EIR") is required. *Id.* Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

2. CEQA Exemptions

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. Guidelines, §§ 15300, 15354. "Exemptions to CEQA are narrowly construed and '[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.'" *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125. In this case, the Commission is relying on the Class 1 CEQA Exemption without specifying which subpart is relied upon or any other justification for the exemption in its final January 8, 2015 determination. Guidelines, §15301.

The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 ("[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations omitted) Thus, for example, interpreting the scope of a CEQA exemption presents 'a question of law, subject to de novo review by this court.' (Citations omitted).")

There are several exceptions to the categorical exemptions. 14 CCR § 15300.2. At least three exceptions are relevant here:

(1) Significant Effects. A project may never be exempted from CEQA if there is a reasonable possibility that the project may have significant environmental impacts due to "unusual circumstances." Guidelines, §15300.2(c). \

(2) Serious or Major Disturbance to an Environmental Resource: Class 1 itself is qualified in that the exemption states that it "[t]he key consideration is whether the project involves negligible or no expansion of an existing use."

(3) Cumulative Impacts. A project may not be exempted from CEQA review "when the cumulative impact of successive projects of the same type in the same place, over time is significant."

3. The Class 1 Exemption Does Not Apply as a Matter of Law

The Commission found that the Project is exempt entirely from all CEQA review pursuant to the "Class 1 categorical exemption" Guidelines, §15301, without specifying which subpart of the Class 1 categorical exemption or any other justification for the exemption it was relying on when making its determination. The Class 1 categorical exemption states that no CEQA review is required for:

"the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of 'existing facilities' itemized below are not intended to be all-inclusive of the types of projects that might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use."

An example set forth in Guidelines §15301(l) provides:

Demolition and removal of small structures listed in this subdivision:

(1) One single-family residence. In urbanized areas, up to the three single-family residences may be demolished under this exemption.
(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where no more than six dwelling units will be demolished.
(3) A store, motel, office, restaurant, and similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial building on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Class 1 is plainly intended to exempt projects involving "negligible or no expansion of an existing use." Common examples would be the demolition of a single family home and the rebuilding of a single family home on a similar or slightly larger footprint.

The Commission expanded the exemption far beyond any reasonable interpretation of "negligible or no expansion of an existing use." The current structure at 53 States Street is certainly not a "duplex or similar multifamily residential structure." It is a single-family residence that may be demolished under the exemption only if the new structure that takes its place involves negligible or no expansion of an existing use. The Commission has ignored CEQA's mandate that "[e]xemptions to CEQA are narrowly construed and "'[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.'" *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.

4. The Current Onslaught of Speculative Development in Corona Heights Creates an Unusual Circumstance and Potential Environmental Cumulative Impacts That Trigger Environmental Review.

A lead agency must find that a project may have a significant effect on the environment and must therefore require an EIR if the project's potential environmental impacts, although individually limited, are cumulatively considerable. Pub. Res. C §21083(b); Guidelines, §§15064(h)(l), 15065(a)(3). "Cumulatively considerable" means that the incremental effects of a project are significant when viewed in connection with the effect of past projects, other current projects, and probably future projects. Pub Res C §21083(b)(2); Guidelines, §§15064(h)(1), 15065(a)(3). See *San Bernardino Valley Audubon Soc'y v. Metropolitan Water Dist.* (1999) 71 Cal.App.4th 382, 398 (EIR required for habitat conservation plan in part because initial study did not adequately explain why cumulative adverse effects to endangered species would not occur).

To assess whether a cumulative effect triggers the need for an EIR, the lead agency must answer two questions: whether the cumulative impact itself may be significant and whether the project's incremental contribution to that effect would be "cumulatively considerable." Guidelines, §15064(h)(1), 15065(a)(3). *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 622 (citing Practice Under the California Environmental Quality Act, §6.34).

On March 9, 2015, during a public hearing before the Board of Supervisors Land Use and Transportation Committee, Supervisor Scott Wiener stated that:

> *I just want to really dispel what we've been hearing from some, that this neighborhood is somehow a NIMBY, 'not in my backyard, don't you dare do anything in my backyard do it all in the Mission or do it somewhere else.' That is absolutely false. This neighborhood has absorbed more density and is continuing to absorb more density but also wants to retain what is amazing about this neighborhood, which is the absolute, the beauty, the green space, and you can have both. You can create housing, which I have advocated for, while also respecting the fabric of neighborhoods and that is an important balance for us to always keep in mind."*

The balance referred to by Supervisor Wiener is threatened when the current planning process looks at proposed projects on States Street on a case by case basis, and disregards the cumulative environmental impacts of past, current, and probably future projects. The Commission should have considered the cumulative impacts of the Project proposed for 53 States Street, the 176/178 States Street Project, the 190/192 Museum Way Project, 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project. It did not.

These cumulative projects on States Street and Ord Court were the catalyst for a San Francisco Chronicle January 6, 2015 front page news article. A true and correct copy of that January 6, 2015 news article is attached hereto as Exhibit 2. The cumulative projects were also the catalyst for emergency legislations recently proposed by Supervisor Wiener to address the proliferation and impact of overly large homes in a neighborhood of modest-sized homes. A true and correct news article concerning Supervisor Wiener's legislative efforts is attached hereto as Exhibit 3.

On March 10, 2015, the San Francisco Board of Supervisors unanimously adopted Resolution, File Number 150192 [Interim Zoning Controls – Large Residential Projects in RH-1, RH-2, and RH-3 Zoning Districts]. As part of the Board Packet, the City Attorney Dennis J. Herrera and Deputy City Attorney Robb Kapla approved as to form the following language in said resolution presented to the Board of Supervisors prior to their vote:

...

WHEREAS, Existing zoning controls generally allow residential development much larger in scale than the existing residential fabric within the boundaries established by this Resolution; and

WHERE?AS, the Planning Code encourages development that preserves existing neighborhood character yet recent residential development proposals within the boundaries established by this Resolution have been significantly larger and bulkier than existing residential buildings; ...

This very recently adopted resolution is compelling evidence that the Project, the 176/178 States Street Project, the 190/192 Museum Way Project, 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project will have significant cumulative environmental impacts on the Corona Heights neighborhood. The intensity of development plans on States Street creates an unusual circumstance and potential environmental cumulative impacts and requires an EIR of the Project.

5. The Project will have significant Environmental Impacts.

The Project, in conjunction with other ongoing and proposed projects in the area, will have significant adverse impacts in the following areas:

1. Open Space. The Project eliminates open space such as a large front yard and side yard.
2. Trees: The Project requires that large trees be removed.
3. Wildlife: The Project will remove habitat for wildlife in the area.

The impacts must be analyzed and mitigated in a CEQA document. The CEQA exemption in this case is improper.

6. The Project's Inconsistencies with Local Plans and Policies Constitute Significant Impacts Under CEQA

Where a local or regional policy of general applicability, such as an ordinance, is adopted in order to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. *Pocket Protectors v. City of Sacramento* (2005) 124 Cal.App.4th 903. A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).

The demolition proposed by the Project is inconsistent with the stated purposes of the San Francisco Planning Code (b) and with Planning Code Priority Policies, Numbers 2 and 3. Planning Code (b) aims to protect the character and stability of residential . . . areas within the city. Planning Code Priority Policy (2) establishes that existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; and Planning Code Priority Policy (3) establishes that the city's supply of affordable housing be preserved and enhanced. The existing sound house fits the profile of housing that should be conserved in the city. It is valuable in terms of conservation of resources and affordability, as well as preservation of neighborhood character, economic diversity and stability. The Project would add zero units of affordable housing and would, incidentally, encourage the use of automobiles in a transit-rich district.

7. Speculative Development Projects Such As the Project Contributes to the Displacement of Affordable Housing and Persons of Low to Moderate Income

CEQA requires the lead agency to determine whether the "environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly," (PRC § 21083(b)(3), (d)), and to "take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached." See PRC §21000 et seq.

CEQA Guidelines Appendix G, Section XII provides that a project will have significant impacts where it will:

- Induce substantial population growth or concentration of population in an area, either directly (for example, by proposing new housing or businesses), or indirectly (for example, through extension of roads or other infrastructure);
- Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. See Appendix G, Section XII.

Here, the Project will eliminate critical affordable housing for residents who currently live and work in San Francisco in favor of extremely wealthy investors, renters or homeowners and force those with relatively low or modest incomes out of San Francisco. See Kalama D. Harris, Attorney General,

"Environmental Justice at the Local and Regional Level," Updated July 10, 2012, available at: http://oag.ca.gov/sites/all/files/agweb/pdfs/environment/ej_fact_sheet.pdf

It constitutes an "unusual circumstance" that the Project and the other projects in the area result in the loss of affordable housing. The Project in combination with the other projects in the Corona Heights area will have a significant impact in that it will displace substantial numbers of people when more affordable housing is replaced with ultra expensive housing.

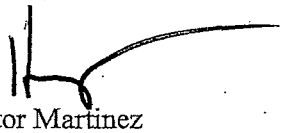
The current structure at 53 States Street is a modest home that was previously classified as affordable up until the Project Sponsor submitted a last minute revised appraisal at the January 8, 2015 public hearing before the Commission. Similar modest, affordable homes are slated to be longer be affordable in the Corona Heights neighborhood as proposed by 214 States Street Project, the 22/24 Ord Court Project, and more recently, the 76 Museum Way Project.

B. CONCLUSION

Based on the arguments detailed above, I, as the Appellant, request the Board find the categorical exemption was inappropriately applied to the Project because the new structure involves significant expansion of existing use and will have significant environmental impacts. The Project falls does not fall within an exception to the categorical exemption. Moreover, the rush of speculative developers to Corona Heights creates an unusual circumstance and cumulative environmental cumulative impacts that require an EIR for the Project.

Thank you for your consideration.

Sincerely,



Hector Martinez

cc: Environmental Review Officer
John.Avalos@sfgov.org
Julie.Christensen@sfgov.org
London.Breed@sfgov.org
David.Campos@sfgov.org
Malia.Cohen@sfgov.org
Mark.Farrell@sfgov.org
Jane.Kim@sfgov.org
Eric.L.Mar@sfgov.org
Katy.Tang@sfgov.org
Scott.Wiener@sfgov.org
Norman.Yee@sfgov.org

EXHIBIT 1

Received at BOS Hearing 1-Chang

Bridge to Bridge
REAL ESTATE
APPRAISERS

454 Las Gallinas Ave., Suite 111, San Rafael, CA 94903 415-640-0916 voice 800-499-1489 fax

January 8, 2015

Marvin Tien
3796 16th Street
San Francisco, CA 94114

RE: Appraisal – Residential Property
53 States Street
San Francisco, CA 94114
APN: Block 2623 Lot 074

Dear Mr. Tien:

In accordance with your recent request and authorization I have inspected and appraised the residential property located at 53 States in the city and county of San Francisco, California. The appraisal was made to provide you with an independent opinion of the market value of the fee simple interest on an as-is basis in the property. My recent exterior inspection was on January 6, 2015 and prior interior/exterior inspection was September 9, 2014. The purpose of the appraisal is to a determine current market value only. This appraisal is not for loan purposes.

The report which will follow on January 9, 2015, has been prepared to the standards addressed in the Uniform Standards of Professional Appraisal Practice (USPAP). It describes in summary fashion the area, neighborhood, site, improvements, highest and best use, and my appraisal. It contains pertinent data considered in reaching the valuation conclusions. Please note in particular, the Statement of Limiting Conditions and Assumptions found in the report.

The interior and exterior of the property was inspected and appraised by Paula Saling without significant professional assistance from any other persons. I performed a complete appraisal process and a report as described in USPAP.

Based on my inspection, investigation, and analyses undertaken, I have formed the opinion that as of January 6, 2015, and subject to the definition of value, assumptions, and limiting conditions, and certification herein, the subject property has a fee simple market value in its as-is condition as follows:

ONE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS

$1,550,000

The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. The above value estimate does not include any personal property, fixtures, or intangibles.

This letter is not intended to provide the data or conclusions. The report, which follows on January 9, 2015, must be read in its entirety to allow the user to fully comprehend the market data I relied on, my value conclusions, assumptions, and limiting conditions.

Respectfully submitted,

Paula Nowicki Saling
State of California
Certified General Real Estate Appraiser #AG016454

EXHIBIT 2

member of the grand jury in the Ferguson, Mo., case seeks to have a gag order lifted. A5

» **Same-sex marriage:** Florida becomes the 36th state where gay couples can marry. A12

STU MILLER
1 015

» ___former Giants reliever was best known for an All-Star Game incident he swore was greatly exaggerated. B1

gram pays owners of electric cars not to drive. D1

Datebook

» **Remembering dancer:** Chitresh Das gave Bay Area audiences insight into Indian traditions. E1

Scott Strazzante / The Chronicle

San Francisco Chronicle

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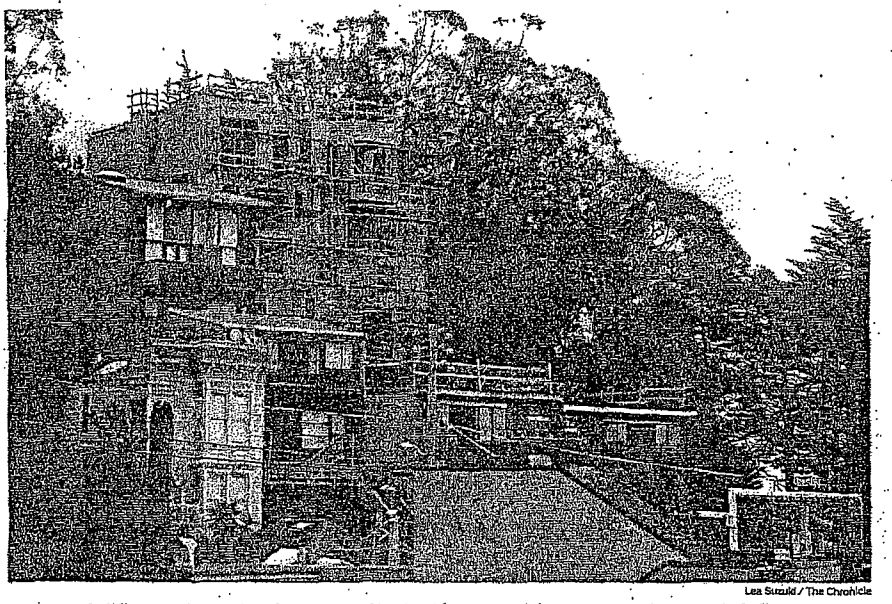


Lea Suzuki / The Chronicle

A six-story building is under construction on States Street amid Corona Heights' cottages, staircases and winding lanes.

Growing controversy

Developers with big plans descend on fanciful, quirky Corona Heights

By J.K. Dineen

The residential enclave below the Randall Museum is a magical corner in the hilly center of San Francisco, a lush world of secret staircases and crooked lanes, Monterey pines and funky cottages.

"Most people don't know it exists, and when you walk through it for the first time your first reaction is, 'I can't believe this is in the middle of the city,' " said Supervisor Scott Wiener, who represents the area.

"None of these developers live in the neighborhood. There is not one instance where it's the homeowner."

Longtime resident Rick Walsh

But while many San Franciscans have not ventured to Corona Heights to explore Ord Court or walked the beautifully landscaped Vulcan Stairs, there is one group that has the neighborhood in its crosshairs: speculative developers.

Over the last two years, builders have bought up parcels in the neighborhood, taking advantage of large hillside "through lots" that run between States Street and Ord Court. Others have purchased cottages along Ord Street and sought to double or triple the size of the home. From his

Developers continues on A9

$20 TV service may alter industry

By Benny Evangelista

Televised sports are the biggest reason cable and satellite customers don't cancel their subscriptions for online alternatives, surveys show. That gives cable and satellite companies little incentive to stream games online.

But Dish Network is betting its future on a stand-alone streaming service that includes the most popular TV sports network, ESPN, and a dozen other top channels for just $20 a month, with no cable or satellite subscription required.

It's a move that could change the pay TV industry.

Sling TV, which Dish Network unveiled Monday, is the satellite TV provider's answer to the growing trend of cord-cutting, in which viewers drop their traditional plans for online-only alternatives like YouTube or Netflix.

Sling TV says it will launch in the first quarter with a basic "Best of Live TV" package that includes the Disney Channel, Food Network, CNN, ABC Family, HGTV, Travel Channel, TNT, CNN, TBS, Cartoon Network and Adult Swim. The service will also include a best-of-Internet video channel from Maker Studios and some video-on-demand programs.

But its key offerings are

Television continues on A8

» **In Business:** A day ahead of the International CES' official opening, pre-event events set the stage in Las Vegas. D1

FROM THE COVER

Corona Heights developers think big

Developers from page A1

home on the Vulcan Stairs, resident Rick Walsh can count 10 development projects that have either been proposed or are already under way.

"It's small homes, big lots and the geographic center of the city," Walsh said. "Put all three together, and the greed quotient goes through the roof. With the amount of money that is sitting on the table, people are willing to do some pretty crazy stuff. None of these developers live in the neighborhood. There is not one instance where it's the homeowner."

What is happening in the neighborhood shows how the real estate boom is changing the city's fabric and feel in ways that go beyond the escalating cost of housing and the high-rises popping up on Rincon Hill and in Mission Bay. It's a house-by-house transformation that, in some neighborhoods, is making the city's modest Victorian cottages a thing of the past.

Cottages changing

"We have seen many of our cherished cottages transformed into massive concrete hulks," said Gary Weiss, president of Corbett Heights Neighbors.

At 22-24 Ord Court, SIA Consulting has filed an application to build three homes, a project that would result in two new large single-family homes while doubling the size of the structure currently on the property. At 53 States St., a developer is hoping to tear down a 1,500-square-foot house and replace it with two homes totaling more than 5,000 square feet. Nearby, at 24-26 Ord St., an investor who bought out the longtime tenants is proposing to convert the 2,000-square-foot building to a 4,000-square-foot home. There are at least four other similar proposals.

Developers argue that the proposals will generate much-needed housing, particularly larger homes that can accommodate families with children. Attorney John Kevlin, who is representing the developer at 22-24 Ord Court, said objections to the projects "seem to be less about the size and massing and more about a general concern about development in the overall neighborhood." He said the desire to see the neighborhood's character preserved is "a valid concern," but that the city needs the housing.

Creating housing

"What this analysis needs to be balanced against is the city's growing housing crisis. If you had to pick a policy that is most highly valued at the moment, it's the creation of new housing," Kevlin said. "Neighborhoods in San Francisco have the right not to have new development that changes the character of their neighborhood, but they don't have the right to not take on their fair share of solving the housing crisis."

While none of the housing that exists there today could be considered "affordable" — even small cottages in the area would sell for north of $900,000 — neighbors are quick to point out that the housing that has been proposed, over $3 million per home in the current market, is far less affordable than what is there now. In addition, all of the projects in the Ord Court, Ord Street and States Street area are being proposed by developers rather than families planning to live there.

"I don't think any of us begrudges people the ability to add to their homes," Wiener said. "We all want to make sure if a family needs to add bedroom or a deck, many times it's totally appropriate. When you talk about developers turning standard-size homes into monster homes, it's a different situation."

When Rick Walsh and Pat Dowd moved to Ord Street 20 years ago, they were drawn to the eclectic population. A poet lived next door and every week would post her latest verses on a telephone pole. There were musicians and teachers and electricians and waiters on the street. Dowd and Walsh built the terraced gardens on the Vulcan Stairs by salvaging cobblestones that were unearthed when AT&T Park was being built. They then replanted the entire public stairway from the base of Ord Street up to about 150 steps. They continue to water and tend the verdant steps.

'A little beauty'

"This staircase brings a lot of happiness to a lot of people, and we have done this because we like providing a little beauty and tranquillity," Walsh said.

If the projects at 22-24 Ord Court and 53 States St. go forward, the result will be homes that are out of reach of any middle-class or even upper-middle-class family, he said.

"The result will be another home that only the wealthiest can afford. And the 'guest suite' will sit empty," Walsh said. "What used to be home to three small households of modest means will become a single home occupied by someone who is very wealthy."

But Michael Antonini, a member of the San Francisco Planning Commission who supports the projects, argues, "We have to build homes that are large enough for families with multiple children." Antonini said that he wished prices were lower, but the city can't control the market.

"This isn't rural Kansas," he said. "It's San Francisco. It's expensive. If you want a big home in San Francisco you're going to have to pay for it. But people with families are going to demand larger homes. If they can't get them here, they will get them somewhere else."

Jeff Joslin, director of current planning for the City Planning Department, said booms like the one San Francisco is going though are a "mixed blessing."

"Derelict properties get improved; unbuilt or underbuilt lots get infilled. Property values increase; increased property values create new comps, which allow neighboring properties to benefit. These are generally thought of as good things," he said. "However, with such changes come broader shifts: Increases in property values encourage others to follow suit. These types of gentrifying forces are fairly universal."

Most expansions are "intended to accommodate growing families for whom it makes more sense to expand or tear down and build than move," he said. "On a lot-by-lot basis in single-family neighborhoods, we're also focusing on ensuring these houses and expansions are no larger than necessary to address growing families and family-scaled housing, while still being neighborhood-compatible."

Eureka Valley activist Judith Hoyem said, "There is a disconnect between what residents consider to be the character of their neighborhood and the guidelines the Planning Department has at its disposal to apply to protect neighborhood character in the face of development pressures.

Speculators' impact

"Individual homeowners want to expand their houses and sometimes forget that their expansion might have negative impacts on neighboring properties or neighborhood character," she said. "But (speculators) simply don't care about impacts."

Supervisor Wiener, who is generally pro-development, said he will continue to help neighbors fight homes that are out of scale. "Turning regular-sized homes into monster homes isn't adding new housing," Wiener said.

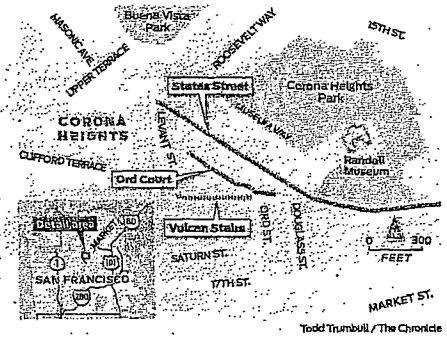
Walsh, who recently retired, said all the development is making him seriously consider leaving the neighborhood. "We will leave the maintenance of the Vulcan Stairs to the developers," Walsh said.

J.K. Dineen is a San Francisco Chronicle staff writer. E-mail: jkdineen@sfchronicle.com Twitter: @sfjkdineen

Photos by Lea Suzuki / The Chronicle

Corona Heights resident Duke Dahlin has lived on Ord Court for 29 years. His lush backyard displays the neighborhood's character, which he fears will be lost as more and more megahomes replace the venerable cottages.

Two modest older homes on States Street in Corona Heights are surrounded by verdant open space.



Todd Trumbull / The Chronicle

EXHIBIT 3

Quest to scrutinize plans for big homes

Housing from page C1

have purchased cottages along Ord Street and sought to double or triple the size of the home. Corona Heights is a rustic feeling enclave nestled in the hillside between the Castro and Corona Heights Park.

Wiener said the bill is meant to counter the "trend toward turning regular-sized homes that really fit into the fabric of the neighborhood into exceptionally large homes that are really out of whack with the surrounding neighborhood."

"Nobody begrudges people the ability to expand to accommodate a growing family; that is not what we are trying to do here," Wiener said.

Rick Walsh, who from his home on Ord Street can see 10 properties targeted for development — some proposed and some already under construction — said the Wiener legislation would save the neighbors fighting projects from filing "discretionary review" requests, which are time consuming and can be expensive.

"What Scott is trying to do is not going to hurt the average homeowner and will only target the developers who are trying to make a huge amount of money by flipping real estate," he said.

The legislation would slow down, and possibly eventually downsize, multiple projects that are already well into the approval process, including large homes proposed for 22-24 Ord Court, 58 States St. and 24-26 Ord St.

Attorney John Kevlin, who represents several of the developers active in the neighborhood, did not return calls or e-mails seeking comment. Representatives from developer SIA Consulting also didn't return calls.

At a Planning Commission hearing in December on 22-24 Ord Court, Kevlin said objections to the projects "seem to be less about the size and massing and more about a general concern about development in the overall neighborhood." He said that the desire to see the neighborhood's character preserved is "a valid concern" but that the city needs the housing.

"What this analysis needs to be balanced against is the city's growing housing crisis. If you had to pick a policy that is most highly valued at the moment, it's the creation of new housing," Kevlin said at the time.

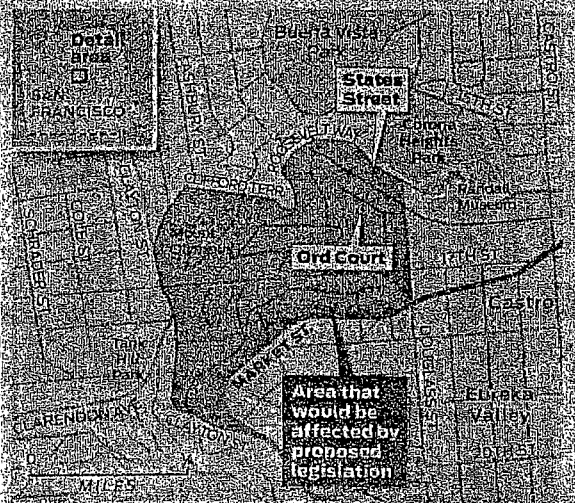
Wiener said the intent is "not to ban anything" but to "put a check in place" that requires the developer to "demonstrate that what is being proposed is necessary and desirable and the community will be able to weigh in on it." He said the proposals that increase the total units of housing could increase total square footage by 100 percent before triggering the conditional use process.

The proposed zoning controls would last 18 months. During that time, the Planning Department would develop permanent controls.

J.K. Dineen is a San Francisco Chronicle staff writer. E-mail: jdineen@sfchronicle.com Twitter: @sfkdineen

Targeting 'monster homes'

A proposed law would require that large homes or large additions to homes in the area shown below be given additional environmental evaluation before approval.



Todd Trumbull / The Chronicle

Bid to slow building of 'monster homes'

By J.K. Dineen

In an effort to slow down the proliferation of "monster homes" in Corona Heights, Supervisor Scott Wiener will introduce legislation Tuesday that would require additional scrutiny of proposed large homes and additions in the neighborhood.

The legislation would require a conditional use hearing, a more in-depth environmental evaluation than is typical for any new structure that exceeds 3,000 square feet or for any addition that would increase the size of an existing home by more than 75 percent. It would also limit extensions to 55 percent of lot coverage.

The legislation comes at a time when builders have bought multiple parcels in the neighborhood, taking advantage of large hillside "through lots" that run between States Street and Ord Court. Others

Housing continues on C4

Pregnancy clinics' ad limits upheld

Clinics from page C1

charge for its medical the attention of women searching for help on line.

Armstrong said.

The ruling helps to assure that "indigent women facing an unexpected pregnancy are not harmed by false or misleading advertising," said City Attorney Dennis Herrera, whose office "a discriminatory and unnecessary infringement on constitutional rights" that holds the clinic to tougher standards than abortion providers. By classifying its advertisements as commercial speech, the

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No 554-5184
Fax No. 554-5163
TTD/TTY No. 5545227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: ~~**Tuesday, March 24, 2015**~~ **Continued to April 7, 2015**

Time: **3:00 p.m.**

Location: **City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102**

Subject: **File No. 150167.** Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review under the California Environmental Quality Act issued by the Planning Department on January 8, 2015, for the proposed project at 53 States Street. (District 8) (Appellant: Hector Martinez) (Filed February 9, 2015).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Board. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, March 20, 2015.

Alisa Somera

for Angela Calvillo
Clerk of the Board

DATED: **March 10, 2015**
MAILED/POSTED: **March 10, 2015**

Carroll, John (BOS)

From: BOS Legislation (BOS)
Sent: Tuesday, March 10, 2015 12:32 PM
To: Lombardi, Ken (FIR)
Cc: BOS Legislation (BOS)
Subject: FW: California Environmental Quality Act - Categorical Exemption Appeal - 53 States Street - Hearing Notice

Categories: 150167

Good afternoon,

The Office of the Clerk of the Board has scheduled an appeal hearing for a Special Order before the Board on March 24, 2015, at 3:00 p.m.

Please find linked below the Hearing Notice for the 53 States Street Categorical Exemption appeal.

Hearing Notice – 53 States Street

You are invited to review the entire matter on our Legislative Research Center by following the link below.

Board of Supervisors File No. 150167

Thank you,

/ Lamug
Legislative Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Direct: (415) 554-7712 | Fax: (415) 554-5163
Email: joy.lamug@sfgov.org
Web: www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking here.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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Alisa Somera

for Angela Calvillo
Clerk of the Board

DATED: **March 10, 2015**
MAILED/POSTED: **March 10, 2015**

BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

PROOF OF MAILING

Legislative File No. 150167

Description of Items: 185 copies of Hearing notice for Mar 24, 2015 Appeal hearing.

I, John Carroll , an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: March 10, 2015

Time: 11:04 AM

USPS Location: Clerk's Office USPS pickup

Mailbox/Mailslot Pick-Up Times (if applicable): _____

Signature: _____

Instructions: Upon completion, original must be filed in the above referenced file.

Carroll, John (BOS)

From: SF Docs (LIB)
Sent: Monday, March 09, 2015 9:42 AM
To: Carroll, John (BOS)
Subject: Re: Please Post the Attached Hearing Notices

Categories: 150171, 150167

Hi John,

I have posted the notices.

Thank you,

Michael

From: Carroll, John (BOS)
Sent: Monday, March 9, 2015 9:24 AM
To: SF Docs (LIB)
Cc: BOS Legislation (BOS)
Subject: Please Post the Attached Hearing Notices

Good morning,

Please kindly post the attached hearing notices for:

53 States Street – Board File No. 150167
340 Bryant Street – Board File No. 150171

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking here.

The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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San Francisco, CA 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

February 13, 2015

Hector Martinez
51 States Street, Unit A
San Francisco, CA 94114

Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 53 States Street

Dear Mr. Martinez:

The Office of the Clerk of the Board is in receipt of a memo dated February 12, 2015, (copy attached), from the Planning Department regarding the timely filing of your appeal of the categorical exemption determination from environmental review for 53 States Street.

The Planning Department has determined that the appeal was filed in a timely manner.

The appeal filing period closed on Monday, February 9, 2015. Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, March 24, 2015, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by 12:00 noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and one hard copy of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

Sincerely,

Angela Calvillo
Clerk of the Board

c:
John Lum, Project Sponsor
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Rahaim, Planning Director
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
Aaron Starr, Planning Department
AnMarie Rodgers, Planning Department
Tina Chang, Planning Department
Jonas Ionin, Planning Commission

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: February 12, 2015

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Sarah B. Jones, Environmental Review Officer

RE: Appeal timeliness determination – 53 States Street, Planning Department Case No. 2014.0177E

An appeal of the categorical exemption for the proposed project at 53 States Street (Planning Department Case No. 2014.0177E) was filed with the Office of the Clerk of the Board on February 9, 2015 by Hector Martinez, owner of 51 States Street.

Timeline: The Categorical Exemption was issued on May 28, 2014. The exemption identified the Approval Action for the project as the Discretionary Review Hearing by the Planning Commission, as provided for in Planning Code Section 311, which occurred on January 8, 2015 (Date of the Approval Action).

Timeliness Determination: Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action.

The appeal of the exemption determination was filed on February 9, 2015, which is the first business day within 30 days after the Date of the Approval Action and is within the time frame specified above. Therefore the appeal is considered timely.

Section 31.16(b)(4) of the San Francisco Administrative Code states that the Clerk of the Board shall schedule the appeal hearing no less than 21 days and no more than 45 days following expiration of the specified time period for filing of the appeal.

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San Francisco 94102-4689
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Fax No. 554-5163
TDD/TTY No. 544-5227

February 10, 2015

To: John Rahaim
Planning Director

From: Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 53 States Street

An appeal of CEQA Categorical Exemption Determination from Environmental Review for 53 States Street was filed with the Office of the Clerk of the Board on February 9, 2015, by Hector Martinez.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Tina Tam, Planning Department
Tina Chang, Planning Department
Jonas Ionin, Planning Department

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February 20, 2015

FILE NO. 150167

Received from the Board of Supervisors-Clerk's Office a check in the amount of Five Hundred Forty Seven Dollars ($547), representing filing fee paid by Hector Martinez (Appellant), for the Appeal of Categorical Exemption for 53 States Street.

Planning Department
By:

Theresa Moncrue
Print Name

2/20/15
Signature and Date

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2015 FEB 20 AM 10:38

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)

☐ 2. Request for next printed agenda Without Reference to Committee.

☒ 3. Request for hearing on a subject matter at Committee.

☐ 4. Request for letter beginning "Supervisor [ ] inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. [ ] from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. [ ]

☐ 9. Reactivate File No. [ ]

☐ 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Public Hearing - Appeal of Categorical Exemption from Environmental Review - 53 States Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review under the California Environmental Quality Act issued by the Planning Department on January 8, 2015, for the proposed project at 53 States Street. (District 8) (Appellant: Hector Martinez) (Filed February 9, 2015).

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only:

150167

File No. 150167 Committee Item No. _____
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____ Date _____
Board of Supervisors Meeting Date March 24, 2015

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☐	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☐	☒	Introduction Form
☐	☐	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER (Use back side if additional space is needed)

☐	☒	Appeal Letter - February 9, 2015
☐	☒	Planning Response Memo - March 19, 2015
☐	☒	Planning Response Memo - March 16, 2015
☐	☒	Appellant Supplemental Letter - March 13, 2015
☐	☒	Clerical Documents and Hearing Notice
☐	☐	

Completed by: John Carroll Date March 19, 2015
Completed by: _____ Date _____