



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

## Categorical Exemption Appeal

### Seawall Lot 330 SAFE Navigation Center

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**DATE:** June 17, 2019  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Lisa Gibson, Environmental Review Officer – (415) 575-9032  
 Laura Lynch– (415) 575-9045  
**RE:** Planning Case No. 2019-002440APL  
 Appeal of Categorical Exemption for SWL 330 SAFE Navigation Center  
**HEARING DATE:** June 25, 2019  
**ATTACHMENTS:** Attachment A - Rod K. Iwashita, Chief Harbor Engineer Memo and Emails  
 Attachment B – SF Port Letter to BOS  
 Attachment C – HSH Letter to BOS

---

**PROJECT SPONSOR:** Jeff Kositsky, Department of Homelessness and Supportive Housing  
**APPELLANTS:** Stephen M. Williams of the Law Offices of Stephen M. Williams, on behalf of the Portside Master Association and Portside Homeowners Association and Peter Prows of Briscoe Ivester & Bazel LLP, on behalf of Safe Embarcadero For All

---

### INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (the “Board”) regarding the San Francisco Planning Department’s (the “Department”) issuance of a Categorical Exemption under the California Environmental Quality Act (“CEQA Determination”) for the proposed SWL 330 SAFE Navigation Center (the “Project”).

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a Categorical Exemption for the Project on April 19, 2019 finding that the proposed project is exempt from the California Environmental Quality Act (CEQA) as a Class 32 Categorical Exemption. The first appeal to the Board was filed by Stephen M. Williams on behalf of the Portside Master Association and Portside Homeowners Association on May 22, 2019. The second appeal was filed by Peter Prows of Briscoe Ivester & Bazel LLP, on behalf of Safe Embarcadero For All, on May 23, 2019. The appeal letter filed by Peter Prows references a “Memorandum for Objector Safe Embarcadero For All”, prepared by Andrew Zacks and Sarah Hoffman of Zacks, Freedman & Patterson, PC. Both appeal letters are part of Board of Supervisors File No. 190611 and can be accessed here: <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3967858&GUID=C7EE0FB5-53DB-495A-9C8A-50E3B7661D45&Options=ID|Text|&Search=190611>

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 is located at Seawall Lot 330, on an irregularly shaped parcel of approximately 75,106 square feet, within the South of Market neighborhood. The parcel has frontages along the Embarcadero to the northeast, Beale Street to the southwest, and a vehicular access point along Bryant Street to the northwest. The existing site is owned by the Port of San Francisco and is currently leased out for private parking. The existing private parking lot use occupies two parcels (3771002 & 3770002), but the proposed project would only occupy parcel 3771002.

## **PROJECT DESCRIPTION**

The proposed project includes the removal of approximately 155 surface parking spaces at the subject parking lot and the construction of a 200-bed, Shelter Access for Everyone (SAFE) Navigation Center, providing services and temporary shelter for individuals experiencing homelessness. The Project would occupy approximately 46,255 square feet of the existing 74,106 square foot parcel. The Project would include the installation of two portable structures to serve as dormitories containing 200 total beds (total of approximately 11,350 square feet); a ventilation system equivalent to MERV13 filtration (or better) would be used for the structures. The project would also include the installation of an additional demountable tensile structure (a large canopy tent covered in fabric) of approximately 6,000 square feet, which includes 1,640 square feet of office space, 2,520 square feet of community/dining space with a pantry room, and 1,840 square feet of additional support space. No meals will be prepared on site. The project would additionally install temporary structures to contain 25 toilets, 6 urinals, and 18 showers, and place 12 shipping containers on-site for client storage needs. The temporary shipping containers and portable toilets and shower facilities would be placed to create an approximately 10,000 square foot outdoor gathering space. All structures would be placed on 4- to 6-inch reinforced concrete pads and anchored to the existing parking-lot surface, with excavation of approximately 4 feet in depth for footings of temporary structure pads. The project would retain approximately 140-150 public parking spaces at the adjacent parcel (3770002). Loading would occur on-site with vehicle access from the existing curb cut along Bryant Street. Fifteen of the existing trees within the parking lot would be removed, and the project would include additional landscaping. The project would require an encroachment permit for the installation of utilities from both the Port of San Francisco (Port) and San Francisco Public Works (Public Works). The proposed project would be constructed through Public Works and would therefore incorporate the Standard Construction Measures for Public Works Projects.

The Memorandum of Understanding between the Port and the Department of Homelessness and Supportive Housing (HSH) for the construction and operation of the SAFE Navigation Center also includes a set of Good Neighbor Policies that the SAFE Navigation Center operator must follow, which address issues including, but not limited to, the following: communication and information with the neighborhood; avoiding or minimizing the impact on the neighborhood of SAFE Navigation Center clients entering, exiting, or waiting for services; discouraging and addressing excessive noise from program clients and

others who may be just outside the program site; discouraging loitering in the area immediately surrounding the site; maintaining the safety and cleanliness of the area immediately surrounding the facility; and preventing any blocking of driveways or sidewalks near the site. A private security company would be hired for security services onsite and 24/7 front desk coverage, and the SAFE Navigation Center would contract with a community-based provider who will hire SAFE Navigation Center clients to keep the surrounding area clean.

## **BACKGROUND**

On February 25, 2019, Public Works, who would be the responsible agency for the construction of the proposed project, filed a Public Project Application with the Planning Department (hereinafter “Department”) for a CEQA determination for the proposed change of use.

On April 19, 2019, the Department determined that the Project was categorically exempt under CEQA Class 32 (CEQA Guidelines Section 15332).

On April 23, 2019, a Memorandum for Objector Safe Embarcadero For All was submitted to the San Francisco Port Commission, by Zacks, Freedman & Patterson, PC (“Zacks Memorandum”).

On April 23, 2019, the San Francisco Port Commission approved the Memorandum of Understanding between the Port and Department of Homelessness and Supportive Housing. This approval marked the First Approval Action pursuant to Chapter 31 of the San Francisco Administrative Code.

On May 22, 2019, an appeal of the Categorical Exemption determination was filed by the Law offices of Stephen M. Williams on behalf of Portside Master Association and Portside Homeowners Association (“Williams Appeal Letter”).

On May 23, 2019, an appeal of the Categorical Exemption determination was filed by Peter Prows of Briscoe Ivester & Bazel LLP on behalf of Safe Embarcadero For All (“Prows Appeal Letter”). This appeal letter referenced the Zacks Memorandum for Objector Safe Embarcadero For All, but was not included as an attachment.

The two parties who filed appeals are hereinafter referred to collectively as “Appellants.”

## **CEQA GUIDELINES**

### **Categorical Exemptions**

The determination of whether a project is eligible for a categorical exemption is based on a two-step analysis: 1) Determining whether the project meets the requirements of a categorical exemption; and 2) Determining whether any of the exceptions listed under CEQA Guidelines section 15300.2, such as location, cumulative impacts, unusual circumstances, or impacts to historic resources, apply to the project and would preclude use of the Class 32 Exemption. The department properly determined that the Project is

exempt under a Class 32 Categorical Exemption and none of the exceptions apply to the project for the reasons discussed below.

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 Guidelines section 15332, or Class 32 – In-Fill Development Projects, consists of projects characterized as in-fill development meeting the following conditions outlined in Section 15332(a)-(e):

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Additionally, CEQA Guidelines section 15300.2 establishes exceptions to the application of a categorical exemption. When any of the below exceptions apply, a project that otherwise fits within a categorical exemption must undergo some form of environmental review.

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. 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.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic

highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

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 15064(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

## **RESPONSES TO CEQA-RELATED APPELLANT ISSUES**

The concerns related to CEQA raised in the appeal letters dated May 22 and May 23, 2019 are addressed in the responses below. Two appeal letters were timely filed concerning the Categorical Exemption determination for the proposed SAFE Navigation Center at Seawall Lot 330. The concerns raised in each appeal letter are responded to below. Concerns raised within the Zacks Memorandum, which was referenced in the Prows appeal letter, are considered part of that appeal letter and referenced accordingly. Where multiple appellants raise a similar concern, the response below refers to those concerns in the plural (e.g., "Appellants"). Where an individual (e.g., Williams or Prows) raises a concern, that individual will be identified accordingly.

**Response 1: The project meets the five conditions outlined in CEQA Guidelines Section 15332, qualifying it as an in-fill development. A Class 32 Categorical Exemption is the appropriate level of environmental review for the proposed project.**

The Prows appeal states that the proposed "homeless shelter" use is not considered an "in-fill" development project, because it is not a permanent residential or commercial use. Further, the Prows appeal makes the claim that the temporary duration of the proposed use would prevent other in-fill development from being built at the proposed site.

CEQA does not state that the proposed use must be permanent, nor does it specify types of uses that are considered "In-fill" development. CEQA Guidelines Section 15332 classifies in-fill development as projects that are consistent with the following:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Therefore, because the project would comply with the above five criteria, the project was properly categorized as an in-fill development. Furthermore, the appellant does not provide any substantial evidence that the project would result in any significant impacts requiring a different environmental determination. The following sub-responses address in detail how the project is consistent with these five criteria, qualifying the project as an in-fill development.

**Response 1a: The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.**

As stated within the Categorical Exemption determination, the proposed project would not conflict with General Plan objectives or policies and would meet applicable controls for the area. The project is located within the East SOMA Area Plan and the South Beach Downtown Residential Mixed-Use District (SB-DTR). Pursuant to Planning Code Section 829.46, a homeless shelter use is a principally permitted use. The Appellants accurately remark that the project is located within the Waterfront Special Use District 3; however, the Appellants inaccurately state that the Categorical Exemption determination missed that that the proposed project was located in Waterfront Special Use District 3; this statement is inaccurate. The Categorical Exemption determination notes that the Port of San Francisco Waterfront Land Use Plan allows short term interim uses, while not explicitly stating that the property is located within Waterfront Special Use District 3, consistency with all zoning regulations was reviewed by the Planning Department, prior to the appropriate issuance of the Categorical Exemption determination. As stated by the Appellants, the project is subject to Planning Code Section 240.3 which establishes guidance on what types of development are subject to the Waterfront Design Advisory Committee and explains that uses over ½ acre are required to go to the Waterfront Design Advisory Committee. As explained in more detail under **Non-CEQA Response 1**, the Port of San Francisco does not send temporary uses (generally up to 10 years) on Port property that are consistent with the City's zoning for review by the WDAC. Additionally, **Non-CEQA Response 1** goes on to state that the square footage of the building footprints would be under ½ acre. The categorical exemption was accurately issued, and the proposed project would be consistent with applicable zoning designations and regulations.

The Appellants go on to state that the project is not compatible with the General Plan, specifically citing consistency with the Waterfront Design Advisory Committee, which was responded to in the above paragraph. The project has been reviewed by the Department and deemed on balance and consistent with the following Objectives and Policies of the General Plan:

## **Housing Element**

### **Policy 6.1**

**Prioritize permanent housing and service-enriched solutions while pursuing both short and long-term strategies to eliminate homelessness.**

The SAFE Navigation Center will provide temporary shelter, services and amenities for the City's individuals experiencing homeless with assistance to locate more permanent housing.

**Policy 6.2**

**Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants.**

The SAFE Navigation Center will provide opportunities to serve the highest incidences of individuals experiencing homelessness in need of housing and supportive services.

**POLICY 6.3 Aggressively pursue other strategies to prevent homelessness and the risk of homelessness by addressing its contributory factors.**

In addition to providing shelter, the SAFE Navigation Center will involve partnerships with community-based nonprofit organizations serving the homeless, as well as provide medical and mental health supportive services to address the contributory factors to homelessness.

**POLICY 6.4**

**Improve coordination among emergency assistance efforts, existing shelter programs, and health care outreach services.**

The SAFE Navigation Center and its services will be coordinated with other existing programs and services for the City's individuals experiencing homelessness and provide intensive case management for the clients of the SAFE Navigation Center.

**Northeastern Waterfront Area Plan**

OBJECTIVE 6: To Develop and maintain residential uses along the Northeastern Eastern Waterfront in order to assist in satisfying the City's housing needs and capitalize on the area's potential as a desirable living Environment

**POLICY 6.3**

**Preserve and expand the supply of low and moderate income housing and encourage the economic integration of housing.**

The SAFE Navigation Center will provide temporary shelter, services and amenities for the City's individuals experiencing homeless.

As stated above the proposed project is consistent with General Plan designations and policies and applicable zoning designations and regulations and the Categorical Exemption determination was appropriately issued.

**Response 1b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The proposed project lies on an approximately 1.72 acre parcel within the city limits of San Francisco. The project site is currently occupied by a parking lot and is located in a densely urban area. Therefore, proposed project is consistent with CEQA Guidelines Section 15332b.

**Response 1c. The project has no value as habitat for endangered, rare or threatened species.**

The Prows appeal appears to suggest that the project site has value as habitat for endangered, rare or threatened species because the project site is located on the historic San Francisco Bay, which is habitat for many endangered, rare or threatened species. The appellant does not provide specific information, supported by facts, explaining what endangered, rare, or threatened species currently reside on the existing parking lot. In fact, the categorical exemption states that the existing project site consists of a paved site used as a parking lot, with trees and a limited amount of landscaping. The Department determined that the existing parking lot is not suitable habitat for endangered, rare or threatened species and the property has no value for such habitat. According to the California Natural Diversity Database<sup>1</sup> there are no endangered, rare or threatened animal species located at the site and the only plants listed on the database are the Beach Layia and Rose Linanthus, which are listed to generally be located in San Francisco, Marin, Monterey, Humboldt and San Mateo County. Both plants are generally found in coastal bluffs. The only vegetation located at the project site includes trees and minimal landscaping. The site does not include coastal bluffs and is not suitable habitat for either the Beach Layia or Rose Linanthus. Additionally, in accordance with the Standard Construction Measures for Public Works, the project site would be screened to determine whether biological resources may be affected by construction. If biological resources are present, a qualified biologist would carry out a survey of the project and identify whether habitat for special-status species and/or migratory birds are present. If necessary, measures will be implemented to protect biological resources, such as installing wildlife exclusion fencing, establishing buffer zones, etc. The project is also required to comply with the federal Migratory Bird Treaty Act and the State Endangered Species Act. The appellant does not list any specific endangered, rare or threatened species located on the site.

The appellant accurately describes that the project is located in close proximity to the San Francisco Bay. The project site, at its southernmost corner, is located approximately (200 feet) from the San Francisco Bay. The project would be required to comply with Article 22B of the San Francisco Health Code, requiring dust control methods to be applied throughout construction. Compliance with Article 22B would prevent dust related to construction activities (i.e. excavation for foundation and installment of utilities) from entering the surrounding San Francisco Bay. Additionally, as stated within the Categorical Exemption determination prepared for the Project, the Project would be subject to the San Francisco Public Works Standard Construction Measures which require the project to implement erosion and sedimentation controls tailored to the project site, such as fiber rolls and/or gravel bags around storm drain inlets, installation of silt fences, and other such measures sufficient to prevent discharges of sediment and other

---

<sup>1</sup> California Natural Diversity Database is an inventory of the status and locations of rare plants and animals in California.



pollutants to storm drains and all surface waterways, such as San Francisco Bay. This would prevent any water runoff from the construction of the site from entering the San Francisco Bay. Operation of the proposed project would include a temporary homeless services use where the Memorandum of Understanding between HSH and the Port of San Francisco requires for regular cleaning of the surrounding area of the project, eliminating the possibility for any debris from the project site or vicinity from entering the San Francisco Bay. There are no anticipated operational impacts from the project to the surrounding San Francisco Bay habitat or endangered, rare, or threatened species.

**Response 1d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality.**

The Prows appeal claims that the project would require an increase in emergency services and that the level of emergency services required by the proposed project would result in significant effects relating to traffic, noise, air quality or water quality. The appellant submitted a number of incident reports from other similar Navigation Center locations that specify emergency services (police, fire, etc.) that were called for each incident. The Prows appeal argues that police and paramedic services would be needed daily at the Project site, based on incident reports from other locations. The proposed project program would include relocating individuals experiencing homelessness from the surrounding neighborhood (“Outreach Zone<sup>2</sup>”) into the SAFE Navigation Center. The relocation of individuals from one location to another from within the same area along the Embarcadero and surrounding streets would not increase the number of emergency services required to serve the area and would therefore have less than significant impacts on traffic, noise, air quality or water quality. In addition, the additional vehicles are not expected to result in a significant change in noise levels, or traffic changes nor it result in significant new air quality impacts. The Prows appeal does not explain how emergency services might affect water quality.

Although the Prows appeal included incident reports for other navigation centers, the appellant did not explain how the consolidation of services and individuals experiencing homelessness would cause a significant impact on the environment. Further, the City of San Francisco currently operates six navigation centers and nine adult shelters in neighborhoods throughout the city. For example, the opening of two navigation centers in the Mission District helped achieve an 87% reduction in tent encampments in less than one year throughout that neighborhood. Additionally, SFPD data demonstrates that crime in areas near navigation centers decreases after the opening of the program. For example, in the six months after the opening of the Division Circle Navigation Center, the surrounding area saw a 17% decrease in crime and in the two months following the opening of the Bryant Navigation Center the surrounding area saw a 14% decrease in crime. The appellant’s arguments do not provide any substantial evidence presenting a fair argument that the project would have an effect on any environmental resources such as traffic, noise air quality or water quality.

---

<sup>2</sup> “Outreach Zone” means the area around the Premises bounded by Market Street, Fourth Street and the Bay. (M-16518 MOU between The San Francisco Port Commission and The San Francisco Department of Homelessness and Supportive Housing, April 27, 2019)

**Response 1e. The site can be adequately served by all required utilities and public services.**

The Prows appeal states that the project location does not have adequate utilities and public services. The appellant misunderstands the explicit criterion for a Categorical Exemption Class 32, that a site can be adequately served by all required utilities and public services – not that every site must have all required utilities already installed on-site prior to approval of any development on the site. The project would involve the furnishing of new utilities at the proposed location. The project is similar to all projects on parcels that currently have no existing utilities on-site, and would be required to procure an encroachment permit for the installation of utilities, from both the Port and Public Works. The Project is located within an urban area, surrounded by developed properties that have furnished new utilities for new residential and commercial uses. The assumption that adequate utilities could not be installed or connected to the Project site has no basis. The appellant does not provide any substantial evidence presenting a fair argument that the Project would not be able to install utilities at the subject site and meet the criterion that the site can be adequately served by all required utilities and public services. This site may be easily and adequately served by any required utilities.

The Prows appeal implies that the City will not be able to provide public services to this SAFE Navigation Center because it is larger than other navigation centers in the City. Currently, the two largest Navigation Centers in operation by the City include the 125 Bayshore Navigation Center (128 beds) and the Division Circle Navigation Center (126 beds). The proposed project would include 130 beds for the first three months and gradually increase the bed count to 200 beds. The proposed 130-200 bed SAFE Navigation Center would not be substantially larger than existing Navigation Centers operated by the City where utilities and public services are provided. In addition, the Prows appeal makes claims that the City will not have adequate emergency services to serve the proposed project. Please see **Response 1b** for comments related to emergency service access to the project site.

**Response 2. The proposed project would be required to comply with existing regulations of Article 22a and 22b of the San Francisco Health Code, intended to safeguard the public and the environment.**

The Prows appeal claims that the proposed project is located on a site that contains soil and groundwater contamination and that the Project would delay cleanup of the contamination and that it may adversely affect water quality. The presence of contaminants in soil or groundwater due to historical land uses is fairly commonplace in the City. The State Water Resources Control Board GeoTracker database identifies approximately 2,500 records of facilities in San Francisco County that are located on a site that is included on a list of hazardous waste and substances sites compiled pursuant to Government Code section 65962.5. The Project is not located on any list compiled pursuant to Government Code section 65962.5.

As discussed in the categorical exemption, Article 22A of the Health Code, also known as the Maher Ordinance, routinely addresses development on sites with potentially hazardous soil or groundwater in order to protect public health and safety (unless oversight is under the purview of a State or federal agency). The Department of Public Health (DPH) oversees the investigation and remediation of sites throughout the City to ensure that cleanup is performed to levels appropriate for site uses and remediation procedures are in accordance with regulations intended to safeguard the public and the environment. Pursuant to Article

22A of the Health Code, the project is required to enroll in the Maher Program, which is administered by DPH. On April 5th, 2019, the project sponsor enrolled within the Maher Program through DPH. DPH would be the responsible agency to review and request any additional soil testing at the site, prior to the issuance of a Port Building Permit. Where such analysis reveals the presence of hazardous substances that exceed Cal/EPA public health risk levels given the intended use, the project sponsor must submit a site mitigation plan (SMP) to DPH. The SMP must identify the measures that the project sponsor will take to ensure that the intended use will not result in public health or safety hazards in excess of acceptable levels established by Cal/EPA or other applicable regulatory standards. The SMP also must identify any soil and/or groundwater sampling and analysis that DPH recommends the project sponsor conduct following completion of the measures to verify that remediation is complete. A San Francisco Health Code Article 22A Compliance work plan was issued on April 14, 2019, requiring further testing prior to the issuance of any permit related to construction.

The categorical exemption determination goes on to explain if remediation is required, it would typically be achieved through one of several methods that include off-haul and disposal of contaminated soils<sup>3</sup>, on-site treatment of soil or groundwater, or a vapor barrier installation. Alternatively, or in addition, restriction on uses or activities at the project site may be required along with a recorded deed restriction. Compliance with Health Code Article 22A and related regulations identified above would ensure that project activities that disturb or release hazardous substances that may be present at the project site would not expose users of the site to unacceptable risk levels for the intended project uses. As stated in **Response 1c.**, although the project is located in close proximity to the San Francisco Bay, the Project would comply with existing regulations including Article 22B of the San Francisco Health Code and the San Francisco Public Works Standard Construction Measures, preventing construction related dust and water from the project site from entering the San Francisco Bay.

The Prows appeal claims that the project would delay any cleanup at the project site. This statement is incorrect and is not supported by any factual information or analysis. When there is no project proposed at a site, no clean-up of the underlying soils and/or groundwater would be required by the City. The proposed project construction here triggers the potential analysis and cleanup of the underlying soils and groundwater in preparation for the Project. Although the proposed project is a temporary use, this does not change the applicability of the Maher program or change the level of analysis that would be associated with the cleanup of the underlying soils. The appellant does not provide any substantial evidence presenting a fair argument that the Project could cause any significant effects related to hazardous materials. The Department has determined that routine cleanup of subsurface contamination, such as that at the Seawall Lot 330 property, would not have a significant effect on the environment, given the mandatory compliance with the robust framework of City, State, and federal hazardous materials regulations.

**Response 3. There is no reasonable possibility that the project would have a significant effect on the environment due to unusual circumstances.**

---

<sup>3</sup> Off-haul and disposal of contaminated materials from the project site would be in accordance with the federal Resource Conservation and Recovery Act (RCRA) and United States Department of Transportation regulations and the California Hazardous Waste Control program (Cal. Health and Safety Code Section 21000 *et seq.*)

The Prows appeal claims that the Project's proposed use, size and location present an unusual circumstance under which an exemption could not be issued. 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." Pursuant to CEQA, a two-part test is established to determine whether there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances, as follows:

- 1) The lead agency first determines whether unusual circumstances are present. If a lead agency determines that a project does not present unusual circumstances, that determination will be upheld if it is supported by substantial evidence. CEQA Guidelines define substantial evidence as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."
  
- 2) If the lead agency determines that a project does present unusual circumstances, then the lead agency must determine whether a fair argument has been made supported by substantial evidence in the record that the project may result in significant effects. CEQA Guidelines states that whether "a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence."

The Prows appeal has not established what the unusual circumstances are at the site or with the proposed project. The project is located in an urbanized area, surrounded by neighboring residential, commercial, and public facility uses. Development on such vacant lots are routinely reviewed and construction undertaken in accordance with applicable City regulations. Additionally, this project was reviewed in a similar manner to other temporary homeless services uses that were also issued categorical exemptions. These projects include: Division Circle Navigation Center (150 Beds), 125 Bayshore Navigation Center (128 Beds), 5th and Bryant Navigation Center (88 beds), and 25th Street Navigation Center (68 beds). These projects are similar in use, size, construction, location and operation and are all located within San Francisco. The closest similar Navigation Center, in size, use and construction, is the existing Navigation Center at Division Circle. The Division Circle Navigation Center project included the construction of an approximately 71,500 square foot Navigation Center using a similar mix of temporary tent and storage container structures on an existing parking lot. The existing bed count for the Division Circle Navigation Center is 126 beds (but will ultimately offer 150 beds). The proposed SAFE Navigation Center, while ultimately capping the bed count at 200 beds, would be larger in number than the Division Circle Navigation Center, the overall operation is approximately 25,245 square feet smaller than the SAFE Navigation Center. The similarities in the projects show that the SAFE Navigation Center project use would not constitute as an unusual use within San Francisco. As the appellant observes, other navigation centers already exist in the surrounding area. The appellant has not demonstrated what unusual feature of this approximately 46,255 square-foot portion of an existing parking lot would prevent it from being able to be

developed in compliance with the Department's recommendations and why, in a City with numerous surface parking lots, this lot is so unusual that the site's requirements could not be adequately addressed through the Port's permit review.

The Prows appeal also claims that, because the project is located adjacent to residential uses, that constitutes an unusual circumstance. The Navigation Center at 1950 Mission Street, was located directly adjacent to a multifamily housing building, making it not uncommon for similar type uses to be located in neighborhoods with residential uses. Additionally, the neighborhood surrounding the proposed project consists of a variety of uses including residential, commercial, a ball park, private parking lots and utility and storage facilities for the California Department of Transportation. These circumstances are typically present in any dense urban setting, and are not unusual to the site or the neighborhood. The proposed homeless services use is consistent with the underlying zoning district and does not pose any unusual circumstance in accordance with CEQA.

The project is consistent with the criteria set forth in CEQA Guidelines Section 15332 for a Class 32 exemption, and none of the circumstances articulated in CEQA Guidelines Section 15300.2 would preclude the use of the exemption. The project would construct a temporary 46,255 square foot navigation center on a level parking lot. There are no unusual circumstances associated with the neighborhood, the project site, or the proposed project activities that could result in a significant environmental effect, and no further environmental review is required.

**Response 4. There are no projects, existing or proposed, that qualify as contributing cumulative impacts to the environment.**

CEQA Guidelines section 15300.2(b) provides an exception to categorical exemptions when the cumulative impact of successive projects of the same type in the same place, over time is significant. The Prows appeal states that "District Six already houses several navigation centers and homeless services. Adding yet another Center to this District creates a significant cumulative impact, by concentrating multiple Centers." However, the appellant provide no substantial evidence of any specific cumulative impacts, nor does the appellant cite any other similar projects that would result in any combined impacts. Rather, the appellant provides generalized information stating that there are "several" navigation and homeless centers already located in the same supervisorial district and provides no substantial evidence or information as to what or how cumulative impacts would result. Of the City's existing six Navigation Centers currently in operation, two are located within District 6. The two existing District 6 Navigation Centers are located at 20 12th Street (2.4 miles from the project site) and 680 Bryant Street (0.8 miles from the project site), are currently in operation, and contain separate utilities and programs that cannot be considered cumulatively connected to the proposed project at Seawall Lot 330. As they are more than one-quarter mile away from Seawall Lot 330, the Department would generally not consider them within the cumulative context. The Department finds that there is no possibility of any significant cumulative environmental effects as a result of the project in combination with cumulative projects; therefore, this exception to the categorical exemption does not apply.

**Response 5: The appellant does not provide substantial evidence or information to support the claim that the excavation work for the foundation would destabilize the foundation of the adjacent properties.**

As stated within the categorical exemption determination, a Geotechnical Memorandum was prepared by the Public Works Bureau of Engineering Section on April 2, 2019, confirming that the proposed project is located on a site subject to liquefaction. The proposed project would require new foundations for the proposed use and these foundations would be removed once the use has been abandoned. The proposed project would be required to procure a building permit from the Port's Chief Harbor Engineer. Pursuant to sections 106A.3.3.16<sup>4</sup>, of the Port of San Francisco Building Code, geotechnical reports are required when work involves significant grading, excavation or fill, or uses special foundations, or when the site is included in the State of California Seismic Hazard Zones Map, Special Soils Map. The proposed project would involve foundation work in a State of California Seismic Hazard Zone (liquefaction) and would be required to comply with the geotechnical report requirement outlined within the Port of San Francisco Building Code. Additionally, Port of San Francisco Building Code Section 106A.3.3.24<sup>5</sup> allows for the Chief Harbor Engineer to request other information as necessary for determining compliance with applicable codes and regulations. Through the existing Port building permit process, the project would be required to provide a geotechnical investigation for all work, prior to the issuance of a permit related to construction or excavation. Further, in exercising existing authority outlined in the Port of San Francisco Building Code, the Chief Harbor Engineer has requested that the project provide peer reviews for all structural and geotechnical designs and calculations<sup>6</sup>. The Prows appeal has provided a declaration from Patrick Buscovich, a civil and structural engineer. In the declaration, Mr. Buscovich appears to agree that the proposed foundation type (mat slab) that was preliminarily recommended within the Public Works Geotechnical Memo is appropriate, but disagrees with the preliminarily proposed depth of thickness of the foundation (4-6"); additionally, Mr. Buscovich argues that the estimated cubic yards of soil disturbance of 43 cubic yards is inaccurate, but does not provide an alternative number. The project would be subject to existing regulations that would require geotechnical investigations and peer reviews of geotechnical and structural calculations, prior to the issuance of any permit allowing for construction work to commence. Speculation about calculations without reviewing final structural drawings does not provide substantiated evidence that the project would have significant impacts related to geology and soils.

Mr. Buscovich also claims that after the use is vacated and the foundation is removed, the excavation and heavy machinery involved in the foundation removal would destabilize the foundation of the adjacent properties. The removal of such foundation work would be reviewed by the Chief Harbor Engineer before excavation and construction work can commence. In addition, Rod Iwashita, Chief Harbor Engineer, determined that the improvements are shallow enough and far enough away from the existing buildings, that it would not be anticipated that the removal of the foundation would cause damage in 'nearby' buildings. The foundations of the surrounding properties would most likely be driven into bedrock or into dense sands/firm soils, thus, it is not anticipated that the heavy machinery used to demolish surficial slabs

---

<sup>4</sup> 2016 Port Building Code Section 106A.3.3, provides regulations for plans submitted to the Chief Harbor Engineer and other background studies required for certain scopes of work. Subsection 16 provides regulations on when a geotechnical investigation is required. 2016 Port of San Francisco Building Code can be found here: <https://sfport.com/sites/default/files/Business/Docs/Permit%20Services/2016%20Port%20Building%20Codes/2016%20Port%20Building%20Code%2012-15-16.pdf> (accessed 6/14/2019).

<sup>5</sup> 2016 Port Building Code Section 106A.3.3.24, states that the Chief Harbor Engineer can request all other information as determined by the Chief Harbor Engineer necessary for determining compliance with applicable codes and regulations.

<sup>6</sup> Rod K. Iwashita, Chief Harbor Engineer, Port of San Francisco, Memorandum to Rachel Alonso, Project Manager, Public Works, Subject: Peer Review of Structural and Geotechnical Calculations for Seawall Lot 330 Project, June 5, 2019 (Attachment A)

to cause damage to the nearby buildings.<sup>7</sup> Additionally, Section 106A.1 of the Port Building Code<sup>8</sup> would require a separate permit to be obtained from the Chief Harbor Engineer for the demolition of a building or structure; therefore, the demolition of the proposed SAFE Navigation Center and its foundations would require a separate permit and review from the Chief Harbor Engineer. The response from the Chief Harbor Engineer explains that such construction work associated with the removal of the foundation is not likely to adversely impact adjacent buildings, and that the existing permitting process and review would apply.

The Department determined that there are no unusual circumstances present at the project site, and therefore correctly issued a categorical exemption. The question of whether the Project would result in a significant impact is a question that should only be considered in the context of the second part of the unusual circumstance exception test (above). The Prows appeal does not substantiate how the removal of the foundation would have an impact on the neighboring foundations, nor does it provide any information as to what the existing foundations types are for the surrounding buildings, that would make the location so unusual and/or create a significant impact on the environment.

Further, the Prows appeal argues that the excavation associated with the construction and removal of the foundation would have the potential to kick up contaminated soil, creating air and water quality impacts. As stated above in the **Response 2** of this document, in accordance with Article 22A of the San Francisco Health Code, the project is required to comply with the Maher Ordinance and review by the Department of Public Health. No permits related to construction or removal activities would be issued without compliance with the Maher Ordinance. Further, the project is required to conform with Article 22B of the San Francisco Health Code, requiring dust control methods to be applied throughout construction. The appellant is speculating that the project would not comply with Article 22A and 22B of the San Francisco Health Code; in accordance with CEQA State Guidelines section 15064(f)(5), 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. The appellant has not provided any substantial evidence that the construction and removal of the existing use and foundations would not be subject to City regulations or would otherwise lead to significant impacts on the environment.

**Response 6: The Department finds the appellants' claim that environmental impacts related to an increase of trash, abandoned property, discarded syringes, and crime to be speculative and unsupported by evidence.**

The Prows appeal argues that the project would have physical impacts as a result of the project including an increase of trash, abandoned property, discarded syringes, and crime in surrounding neighborhoods. The Planning Department has reviewed these claims and determined that these alleged indirect environmental effects are speculative and are not supported by evidence. There is no support in the record

---

<sup>7</sup> Rod Iwashita, Chief Harbor Engineer, Port of San Francisco, e-mail correspondence with Rachel Alonso, Project Manager, Public Works, June 10<sup>th</sup>, 2019 (Attachment A)

<sup>8</sup> 2016 Port Building Code Section 106A.1 states that no building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building, pier or structure has first been obtained from the Chief Harbor Engineer.

<https://sfport.com/sites/default/files/Business/Docs/Permit%20Services/2016%20Port%20Building%20Codes/2016%20Port%20Building%20Code%2012-15-16.pdf> (accessed 6/14/2019).

that the proposed project would result in the above-mentioned types of indirect physical changes in the environment, and the Department has no reason to believe that it would, as the alleged effects are highly speculative.

The appellants do not provide specific facts demonstrating that the project would result in increases in trash, syringes, etc. on the streets surrounding the proposed project. In addition, the MOU approved by the San Francisco Port Commission states that the operation of the project will include dedicated beat officers within the area surrounding the proposed project as well as cleaning services. Further, the MOU states that HSH agrees to remove all graffiti from the premises, including from the exterior of any building, within seventy-two (72) hours of HSH's discovery of the graffiti. HSH is also responsible for conducting or causing its agents to conduct, frequent walk throughs of the area surrounding the SAFE Navigation Center for trash collection and pick-up and disposal of any of used sharps along the fence on Beale, The Embarcadero and Bryant streets. In the Department's experience, assumptions that rules or agreements are not going to be followed are unreasonable assumptions, because there are agreements and requirements in place that will prevent the kind of outcome appellant predict. Therefore, the Department finds the hypothetical environmental impacts set forth in the submittals by the appellant to be speculative and unsupported by the administrative record. Please see **Non-CEQA Response 3** for more information about crime data surrounding existing homeless services uses and shelters.

**Response 7: The appellant is correct that an EIR was prepared for a project on this site, but that EIR was prepared for a much larger, long-term, project that included a cruise ship terminal and encompassed the entire Pier 30-32 and Seawall Lot 330. The SAFE Navigation Center Categorical Exemption was issued appropriately.**

The Department prepared a Final Supplemental EIR (Case no. 2000.1229E) Pier 30-32 and Seawall Lot 330 for the Proposed Mixed-Use Cruise Terminal Facility/Residential Project including, at Pier 30-32: a 100,000 gross square foot (gsf) cruise ship terminal, 370,000gsf of office space, 220,000gsf of retail/entertainment space, and an open space program; at Seawall Lot 330: 350 condominiums in eight buildings atop a two-level 350-space parking garage. The Planning Commission certified the FEIR on May 9, 2000, but the project was never built.

In 2012, the Department began preparation of an EIR for the Piers 30-32, 26, 28 and Seawall Lot 330 Project - Warriors Arena, Cruise Terminal, and Hotel project (Case no. 2012.0718E). That proposal was a large mixed-use project that would have included the Warriors Arena, a cruise terminal, parking, and a new fire station at Pier 30/32, and residential and hotel on Seawall Lot 330. The project was ultimately withdrawn and no EIR was drafted or certified.

In comparison to the two mixed-use proposals above, the SAFE Navigation Center would only occupy one of two lots on Seawall Lot 330 and none of Pier 30-32. Additionally, because of the use, size, and temporary nature of the SAFE Navigation Center, the Department determined that a Class 32 Categorical Exemption was appropriate under the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code. The appellant have not provided any substantial evidence that the project would result in a significant



impact requiring an EIR, or that this project is similar to the permanent, larger projects for which the City prepared EIRs.

## **RESPONSES TO NON- CEQA ISSUES**

The appellants both raise a number of concerns that are not related to CEQA and are instead concerns related to the merits of the project and the process by which the project was approved. Although these comments are outside the realm of CEQA and cannot be considered for the appeal on the categorical exemption determination, this appeal response summarizes and attaches responses to these comments provided by City agencies for informational purposes.

### **Non-CEQA Response 1: In practice, the Port of San Francisco does not send temporary projects to the Waterfront Design Advisory Committee.**

The following summarizes the response provided by Elaine Forbes, Executive Director, Port of San Francisco from a letter dated June 13, 2019 to President Norman Yee<sup>9</sup>. The Port Director's letter is attached at Attachment B and incorporated herein by reference.

As explained in the Director's letter, the Appellants incorrectly claim that the project is subject to additional review by the Waterfront Design Advisory Committee (WDAC). Pursuant to Planning Code Section 240.3(d), any new development on property under the jurisdiction of the Port Commission, (excluding alterations to existing development) which includes an area (excluding the area of public streets and alleys) of at least ½ acre shall be subject to review of the urban design of the proposed use by the waterfront design review process.

WDAC review is only intended and applicable to permanent development of all or a portion of a site. The Port does not submit temporary projects to the WDAC for review. For example, use of Port property by Teatro Zinzanni was not subjected to WDAC review because the use was temporary. Similarly, the Farmers Market near the Ferry Building on Port Property was also not subjected to WDAC review.

The project proposal is to place 2 light-weight tensile temporary housing structures, a similar community services structure, a restroom/showers building, and 2 storage lockers on an existing asphalt parking lot. Four of the six structures would be placed on thin concrete pads over the existing asphalt to create a level and clean surface. No other permanent foundation would be constructed. The footprint of the proposed structures including storage lockers total 20,932 square feet, or .48 acres.

Because the proposed project is for a temporary use of the site and the proposed project footprint is less than one-half acre, WDAC review is not required.

---

<sup>9</sup> Elaine Forbes, Executive Director, Port of San Francisco, letter to President Norman Yee- c/o Angela Calvillo, Clerk of the Board, June 13, 2019. (Attachment B)

**Non-CEQA Response 2: The facility to be opened at the Embarcadero is not subject to Chapter 106 of the Administrative Code, and the City does not need to comply with the program implementation requirements established therein.**

The following summarizes the response provided by Jeff Kositsky, Director of the San Francisco Department of Homelessness and Supportive Housing (HSH) <sup>10</sup> The HSH Director's letter is attached at Attachment C and incorporated herein by reference.

The appellants allege that the City has failed to comply with Chapter 106 of the San Francisco Administrative Code, which governs the opening and operation of Navigation Centers. Though Chapter 106 does not apply to the proposed project, HSH has nevertheless complied with its requirements.

Chapter 106 was enacted in 2016, and required the City to open and operate a total of six Navigation Centers within two years. Chapter 106 specifies that Navigation Centers may have no fewer than 40 residents, and no more than 100 residents, although the 100-resident cap may be exceeded upon a written finding by the Director of the Department of HSH that exceeding the cap would not compromise the objectives of Chapter 106. The attached letter (Attachment C) confirms that the Director of HSH has made such finding.

As originally enacted, Chapter 106 provided that a Navigation Center could be operated on a site for no fewer than six months, and for no more than two years, without approval of an extension of the time limit by resolution of the Board of Supervisors. In recognition of the success of Navigation Centers, the capital investments that are required to open a center, and the fact that Navigation Centers have not been found to have had adverse impacts on the neighborhoods in which they have been located, the Board of Supervisors amended Chapter 106 earlier this year to remove the two-year time limit.

Since the enactment of Chapter 106, the City has opened eight Navigation Centers that meet the operational requirements of the Chapter. Thus, the City has not only fulfilled – but in fact exceeded – its duties under Chapter 106.

It is important to note that while Chapter 106 imposed a duty on the City to open and operate six Navigation Centers, it does not restrict the City from opening and operating additional or different types of facilities that serve people experiencing homelessness. For example, Chapter 106 does not preclude the City from opening and operating a facility that offers only one meal per day, does not allow pets, has fewer than 40 beds or more than 100 beds; such a facility simply would not count towards the City's duty under Chapter 106 to open and operate six Navigation Centers.

Having already fulfilled its obligation under Chapter 106, the City's proposed project is not subject to the requirements of that Chapter. Nevertheless, the City has still complied with the requirements of Chapter 106. For example, although Chapter 106 imposes a limit of 100 residents, it allows the 100-resident cap to

---

<sup>10</sup> Jeff Kositsky, Director of the San Francisco Department of Homelessness and Supportive Housing, letter to President Norman Yee- c/o Angela Calvillo, Clerk of the Board, June 06, 2019. (Attachment C)

be exceeded upon a written finding by the Director of HSH that exceeding the cap would not compromise the objectives of Chapter 106 or the operations of the center. HSH and the Mayor's Office, in consultation with Supervisor Haney's Office, and with the support of Port and Public Works, committed to and executed a robust community outreach plan that included: meetings with neighborhood HOAs, consultations with elected and appointed officials, formal presentations in public hearings and large community meetings, and conversations with individual community members.

Furthermore, the facility that would be operated on Seawall Lot 330 would be a Shelter Access for Everyone (SAFE) Navigation Center, which is a new model that differs from the Navigation Centers contemplated in Chapter 106. For example, SAFE Navigation Centers are larger than their predecessors which allows the City to serve more people in need. In addition, SAFE Navigation Centers, unlike Navigation Centers: 1) are developed on sites that can accommodate 150-225 clients; 2) offer more privacy to clients by providing increased separation between sleeping spaces and community spaces; 3) are designed to include loading zones and parking for client pick-ups/drop off and supply deliveries.

Notwithstanding the fact that the City is not required by Chapter 106 to engage in community outreach, it has chosen to do so in order to educate neighbors, neighboring businesses, and other stakeholders about the critical need for additional shelter, and the steps that will be taken to ensure that the proposed SAFE Navigation Center is a good neighbor.

**Non-CEQA Issue 3: The assumption that the existence of a SAFE Navigation Center will create urban decay is meritless.**

The following response was provided by Jeff Kositsky, Director of the San Francisco Department of Homelessness and Supportive Housing (Attachment C).

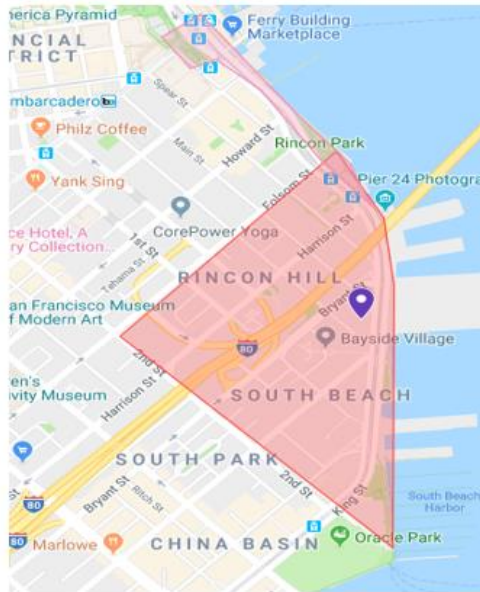
The appellants argue that the construction of the SAFE Navigation Center would cause an increase of trash, abandoned property, discarded syringes, and crime in surrounding neighborhoods. The City currently operates six navigation centers and nine adult shelters in neighborhoods throughout the city. Navigation centers and shelters can serve as assets to communities. In the Mission, for example, the opening of two navigation centers helped achieve an 87% reduction in tent encampments in less than one year throughout the neighborhood. Additionally, SFPD data demonstrates that crime in areas near navigation centers decreases after the opening of the program. For example, in the six months after the opening of the Division Circle Navigation Center, the surrounding area saw a 17% decrease in crime and in the two months following the opening of the Bryant Navigation Center the surrounding area saw a 14% decrease in crime.

Based on the City's experience operating shelters and Navigation Centers, the City does not expect the SAFE Navigation Center to harm the surrounding area. To further ensure that the surrounding neighborhood is not negatively impacted, the City has taken several steps to prioritize safety and cleanliness in the area, including:

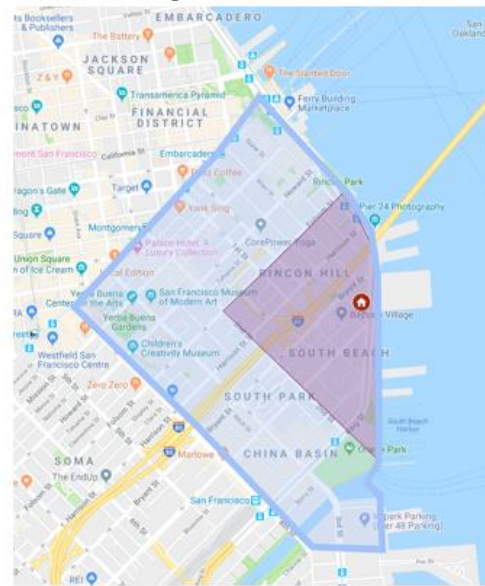
- 1) The inclusion of a Good Neighbor Policy in the Department of Homelessness and Supportive Housing's contract with its nonprofit service provider. Typical "Good Neighbor Policy" provisions address cleanliness and loitering, including:
  - Working with neighbors & City departments to address neighborhood concerns.
  - Participating in appropriate neighborhood and community meetings.
  - Having on-site staff available via phone 24/7 to address on-site concerns.
  - Minimizing neighborhood impact by having 24/7 security and not allowing walk ins.
  - Actively discourage loitering in the immediate area.
  - Inform the community of the services available at the Navigation Center.
  - Maintain the safety and cleanliness of the area immediately surrounding the facility with security and cleaning crews.
  - Ensure the sidewalks and driveway adjacent to the facility are not blocked.
  - Prioritizing clients who are sleeping in the area.
- 2) Dedicated cleaning services in the area: Through the MOU between the Port and HSH, HSH committed to providing specialized cleaning services in the area (days and hours of cleaning to be determined) through a partnership with a nonprofit organization.
- 3) Prioritizing unsheltered people from the neighborhood for placement into the SAFE Navigation Center by conducting outreach in a specified zone surrounding the SAFE Navigation Center.
- 4) Providing the following services in a designated safety zone surrounding the SAFE Navigation Center:
  - Dedicated SFPD beat officers in the safety zone 7 days per week.
  - On-site security guards responsible for security within the program and will proactively patrol the perimeter of the facility.
  - The on-site security guards will have a direct contact to the Healthy Streets Operations Center to report loitering, drug use/sale and tents. In the event of criminal activity, security will alert SFPD via 911.

Figure 1: The Safety and Outreach Zones

### Safety Zone



### Primary Outreach Zone



#### Non-CEQA Issue 4: Seawall Lot 330 is not subject to Chapter 61 of the Administrative Code.

The following response was provided by Elaine Forbes, Executive Director, Port of San Francisco from a letter dated June 13, 2019 to President Norman Yee (Attachment C).

The appellants inaccurately argue that the property is subject to Chapter 61 of the Administrative Code. Chapter 61 of the Administrative Code required the Port to adopt the Waterfront Land Use Plan (WLUP) and further governs land uses for Port property that is within the Port's jurisdiction, and is either a pier, within the shoreline band (defined in California Government Code Sec. 66610(b) as property within 100 feet of the shoreline), or specified areas south of Pier 98. Seawall Lot 330 is not a pier, is more than 100 feet from the shoreline and therefore not part of the shoreline band, and is north of Pier 98. Accordingly, Chapter 61 of the Administrative Code does not govern land uses with respect to Seawall Lot 330.

The Property is subject to the WLUP, which governs land uses for property in the Port's jurisdiction beyond that identified in Chapter 61 of the Administrative Code. The WLUP expressly articulates that residential use is an "acceptable use" for Seawall Lot 330 as described in table 140A of The Waterfront Land Use Plan available here: <https://sfport.com/sites/default/files/FileCenter/Documents/4651-j1%20-%20sb%20cb%20land%20use%20table.pdf>

Because the WLUP expressly allows for residential uses on Seawall Lot 330 and the project proposes to provide shelter to people experiencing homelessness in our community, the project is an acceptable use.

**Non-CEQA Issue 6: Appellants fail to acknowledge that AB 2797 amends SB 815 and State Lands Commission approval is not required for transactions that are within the Port's existing authority. The proposed project is in compliance with the Burton Act and the use is consistent with the Port's public obligations .**

The following response was provided by Elaine Forbes, Executive Director, Port of San Francisco from a letter dated June 13, 2019 to President Norman Yee (Attachment B).

**Burton Act and State Lands Commission Review:** The Port Commission has explicit authority under the Burton Act (1968) and the Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco (Transfer Agreement, 1969) to enter into non-trust leases of property within the Port's jurisdiction so long as the Port Commission finds that such non-trust uses yield maximum profits to be used by the Port Commission in furtherance of commerce and navigation.

The Property is subject to state legislation Senate Bill 815 (SB 815), Assembly Bill 418 (AB 418) and Assembly Bill 2797 (AB 2797). Appellants argue that AB 2797 obligates the Port to seek State Lands Commission approval prior to entering into leases for the Property. Appellants fail to acknowledge that AB 2797 amends SB 815 and State Lands Commission approval is not required by SB 815 for transactions that are within the Port's existing authority.

SB 815 does not limit the Port's authority to use or lease certain designated seawall lots, including the Property, under the Burton Act, subject to any applicable limitations of state law. Nothing in SB 815, AB 418 or AB 2797 limits that existing authority. In accordance with the Burton Act and Section VII.6 of the Transfer Agreement, the Port Commission has full authority to enter into leases of Port property, including interim leases of Port property for non-trust purposes, so long as the Port receives fair market value for use of the property. In addition, AB 418 provides that it is the intent of the state legislature to facilitate the Port's implementation of the WLUP, which includes the right of the Port to enter into interim leases of terms of up to five years. The Port has entered into dozens of such interim agreements that comply with this requirement. Despite not needing State Lands Commission approval or consent, Port staff briefed State Lands Commission staff on the project prior to April 23, 2019.

**Fair Market Value Determination:** Currently there are no plans to develop Seawall Lot 330 and the lot is being used for parking. Based on real estate data gathered to ascertain equivalent market rates for its properties, Port staff determined a rate of \$0.45 - \$0.50 psf as the fair market rent for paved land. For the interim use of the Property, the Port will charge a rate based on parking revenues which exceeds the established fair market rent thereby maximizing profit and not losing revenue. The initial rental rate of \$0.79 psf per month includes base rent for paved land and potential lost revenue from existing parking operations. The Port Commission approved a Rental Rate Schedule for interim leasing for Fiscal Year 2018-19 on July 10, 2018 with an effective date of August 1, 2018. The current base rent for Seawall Lot 330 is \$0.46 psf/mo., and the percentage rent the Port receives is equal to 66% of gross receipts after parking taxes. For Fiscal Year 2016/2017, total rent received by the Port for Seawall Lot 330 was \$697,711.30 or \$0.57 psf/mo and for the 2017/2018 Fiscal Year, total rent received was \$817,484.59 or \$0.67 psf/mo.

For the 2018/2019 Fiscal Year, the parking lot operator's projected revenue for the lot is \$990,000, which equates to \$0.82/sq. ft. per month, however, based on year to date actuals, the amount received only equates to \$0.67 psf/mo.

Based on actual revenues for Fiscal Year 2017/2018 and the percentage increase in revenue from the previous year (approximately 17%), the monthly rate per square foot was calculated as follows:

- a. Parking lot revenue for Seawall Lot FY 17-18:  $\$817,484.59 \times 17\% = \$956,456.97/\text{year}$
- b. Rental rate =  $\$956,456.97/\text{year}$  divided by 100,598 sq. ft. divided by 12 months =  $\$0.79/\text{sq.ft.}$   
per month.

The maximum profit that the property could realistically yield must be based on the fair market value the Port could reasonably obtain now, until permanent plans or development proposals are underway. In the event that permanent plans are approved for the site, the SAFE Navigation Center could be removed from the site to allow other permanent, long term development of the site to be undertaken. Appellants have erroneously valued Seawall Lot 330 based on what the value may be for selling the site or leasing the site for an extended term as if a transfer of ownership will occur for a different development scenario than exists today. Seawall Lot 330 is not being sold or developed and the proposed use is short-term and temporary; therefore the valuation methods outlined in the appraisal provided by Mansbach Associates referenced in Briscoe's letter on behalf of appellants Safer Embarcadero for All are not applicable.

By basing the rent on the parking revenues the Port is capturing the true fair market value for short term use of a portion of the undeveloped site.

Allowing the use of the Property for the temporary shelter of vulnerable San Francisco residents experiencing homelessness rather than cars enhances the Port's obligations to the residents of the City and County of San Francisco and the State and serves a much higher public purpose.

## **CONCLUSION**

No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project 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 Appellants have not provided any substantial evidence to change the conclusions of the Department about required CEQA review and the applicability of the Class 32 exemption.

For the reasons stated above and in the April 19, 2019 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.



---

**Memorandum**

To: Rachel Alonso (DPW)  
From: Rod K. Iwashita  
CC: Neil Friedman  
Date: 5 June 2019  
Subject: Peer Review of Structural and Geotechnical Calculations for Seawall Lot 330 Project

---

Project Peer Reviews are independent evaluations of project designs that are performed by professionals within the same design discipline. They enhance public safety by increasing the reliability of the engineering design by way of additional review. Reviews shall be performed by peers with the same professional background and either an equal or greater level of experience. Building officials can also require independent peer reviews be completed for unusually complicated or controversial designs.

The Port has performed peer review for past projects such as Wharf J-9 Sea Wall Repair and the Pier 94 Backlands with success. The Seawall Earthquake Safety Program has a seismic peer review committee that meets regularly to discuss design assumptions and methodology for the Port.

In the case of the Navigation Center to be located at Seawall Lot 330, some members of the public are concerned about the safety of the site due to the potential for liquefaction at the site and the seismic safety of the proposed structures at the site. Based on these concerns from the public, I am requiring Public Works to have both structural and geotechnical designs and calculations peer reviewed. The peer review process I recommend is for the designer/engineer of record to provide their design to the peer reviewer with discussion, as needed. Subsequently, the peer reviewer performs their review separately and then provides comments to the owner. The owner then resolves any conflicts of opinion between the designer/engineer of record and peer reviewer. Depending on the resolution of conflicts, the designer/engineer of record will modify their design to reflect the comments.

Prior to issuance of a building permit, Public Works shall provide the Port the record of the peer review in addition to the designs and calculations.



**From:** [Iwashita, Rod \(PRT\)](#)  
**To:** [Alonso, Rachel \(DPW\)](#)  
**Cc:** [Quezada, Randolph \(PRT\)](#); [Lynch, Laura \(CPC\)](#)  
**Subject:** RE: SWL CEQA Appeal - foundation removal  
**Date:** Monday, June 10, 2019 6:31:49 PM  
**Attachments:** [image002.png](#)

---

Hi Rachel,

My reaction to the CEQA appeal is that the improvements are surficial and far enough away from the existing buildings that I would not expect their removal to cause damage in "nearby" buildings. My understanding is the nearby buildings are founded on piled (deep) foundations driven to either bedrock or into dense sands/firm soils.

Therefore, I do not expect the heavy machinery used to demolish surficial slabs to cause damage to the nearby buildings, as any disturbance in the surface soils would not radiate to such a distance to affect the piled foundations.

Please let me know if there are any questions.

Best Regards,

Rod K. Iwashita, P.E., F.ASCE  
Deputy Director, Chief Harbor Engineer | Port of San Francisco | Pier 1, The Embarcadero | San Francisco, CA 94111  
Office: 415-274-0570 | Fax: 415-544-1770 | Email: [Rod.Iwashita@sfport.com](mailto:Rod.Iwashita@sfport.com) | [www.sfport.com](http://www.sfport.com)

---

**From:** Alonso, Rachel (DPW) <rachel.alonso@sfdpw.org>  
**Sent:** Monday, June 10, 2019 1:08 PM  
**To:** Iwashita, Rod (PRT) <rod.iwashita@sfport.com>  
**Cc:** Quezada, Randolph (PRT) <randolph.quezada@sfport.com>; Lynch, Laura (CPC) <laura.lynych@sfgov.org>  
**Subject:** SWL CEQA Appeal - foundation removal

Hi Rod,

I am requesting your professional opinion, as the Chief Harbor Engineer, regarding a claim made in the CEQA Appeal of the SAFE Navigation Center at Seawall Lot 330. Laura Lynch (cc'd) from the Planning Department will enter your determination into the official CEQA appeal response submitted to the Board of Supervisors.

When the center closes, we will need to demolish the reinforced concrete foundation. Opponents claim the "heavy machinery [that] will be required to remove the slabs...will create vibrations that could damage nearby buildings, particularly given that the soil in this area is prone to liquefaction."

The Catex Determination also fails to consider the effects of removing the concrete slabs at the end of the lease – the removal the concrete slabs will kick up the contaminated soil, creating potential air and water quality impacts. (Buscovich Declaration, ¶ 9.) Heavy machinery will be required to remove the slabs, which will create vibrations that could damage nearby buildings, particularly given that the soil in this area is prone to liquefaction. (*Id.*) These potential impacts are unusual and should be fully reviewed under CEQA.



Rachel Alonso, MCP  
Project Manager

Building Design & Construction | San Francisco Public Works | City and County of San Francisco  
30 Van Ness, 4<sup>th</sup> floor | San Francisco, CA 94102 | 415.557.4784 | [sfpublicworks.org](http://sfpublicworks.org) · [twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)



June 13, 2019

President Norman Yee  
c/o Angela Calvillo, Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

**Subject: Port's Response to Seawall Lot 330 CEQA Appeals**

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

I am writing to respond to concerns raised by appellants to the Port Commission's decision on April 23, 2019 to approve a memorandum of understanding between the Port and the Department of Homelessness and Supportive Housing to develop and operate a temporary S.A.F.E. Navigation Center on a portion of Seawall Lot 330 (Property). Appellants erroneously argue (A) that the Port Commission does not have the authority to enter into such an agreement without the consent of the State Lands Commission, (B) that shelter use is a prohibited use under Chapter 61 of the Administrative Code, and (C) that the proposed project was subject to additional review by the Waterfront Design Advisory Committee (WDAC) prior to the Port Commission vote.

In each case, appellants' are mistaken: (A) State law grants the Port Commission the authority to enter into interim leases without State Lands Commission approval or consent; (B) the Waterfront Land Use Plan (WLUP) allows the shelter as an acceptable use of the Property; and (C) because of the temporary nature of the project, the project is not subject to WDAC review.

A. State Lands Commission Approval

1. *Port's authority to enter into interim leases*

The Port Commission has explicit authority under the Burton Act (1968) and the Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco (Transfer Agreement, 1969) to enter into non-trust leases of property within the Port's jurisdiction so long as such non-trust uses yield maximum profits to be used in furtherance of commerce and navigation.

The Property is subject to state legislation Senate Bill 815 (SB 815), Assembly Bill 418 (AB 418) and Assembly Bill 2797 (AB 2797). Appellants argue that AB 2797 obligates the Port to seek State Lands Commission approval prior to entering into leases for the Property. Appellants fail to acknowledge that



AB 2797 amends SB 815 and State Lands Commission approval is not required by SB 815 for transactions that are within the Port's existing authority.

SB 815 does not limit the Port's authority to use or lease certain designated seawall lots, including the Property, under the Burton Act, subject to any applicable limitations of state law. Nothing in SB 815, AB 418 or AB 2797 limits that existing authority. In accordance with the Burton Act and Section VII.6 of the Transfer Agreement, the Port Commission has full authority to enter into leases of Port property, including interim leases of Port property for non-trust purposes, so long as the Port receives fair market value for use of the property. In addition, AB 418 provides that it is the intent of the state legislature to facilitate the Port's implementation of the WLUP, which includes the right of the Port to enter into interim leases of terms of up to five years (renewable for additional five-year terms). The Port has entered into dozens of such interim agreements that comply with this requirement. In fact, despite not needing State Lands Commission approval or consent, Port staff briefed State Lands Commission staff prior to April 23, 2019.

## 2. *Fair Market Value determination*

Currently there are not any approved plans to develop Seawall Lot 330 and the lot is being used for parking which reflects the maximum revenue use for undeveloped paved land. Based on real estate data gathered to ascertain equivalent market rates for its properties, Port staff determined a rate of \$0.45 - \$0.50 psf as the fair market rent for paved land. For the interim use of the Property, the Port will charge a rate based on parking revenues which exceeds the established fair market for paved land, but reflects the true loss of revenues from the parking operations thereby maximizing profit and not losing revenue. The initial rental rate of \$0.79 psf per month includes base rent for paved land and potential lost revenue from existing parking operations. The Port Commission approved a Rental Rate Schedule for interim leasing for Fiscal Year 2018-19 on July 10, 2018 with an effective date of August 1, 2018. The current base rent for Seawall Lot 330 is \$0.46 psf/mo., and the percentage rent the Port receives is equal to 66% of gross receipts after parking taxes. For Fiscal Year 2016/2017, total rent received by the Port for Seawall Lot 330 was \$697,711.30 or \$0.57 psf/mo and for the 2017/2018 Fiscal Year, total rent received was \$817,484.59 or \$0.67 psf/mo.

For the 2018/2019 Fiscal Year, the parking lot operator's projected revenue for the lot is \$990,000, which equates to \$.82/sq. ft. per month, however, based on year to date actuals, the amount received only equates to \$0.67 psf/mo.

Based on actual revenues for Fiscal Year 2017/2018 and the percentage increase in revenue from the previous year (approximately 17%), the monthly rate per square foot was calculated as follows:

- a. Parking lot revenue for Seawall Lot FY 17-18:  $\$817,484.59 \times 17\% = \$956,456.97/\text{year}$
- b. Rental rate =  $\$956,456.97/\text{year}$  divided by 100,598 sq. ft. divided by 12 months =  $\$0.79/\text{sq.ft. per month}$ .

Appellants have erroneously valued Seawall Lot 330 based on what the value may be for selling the site or leasing the site for an extended term as if a transfer of ownership will occur. Seawall Lot 330 is not being



sold or developed at this time and the proposed use is short-term and temporary; therefore, the valuation methods outlined in the appraisal provided by Mansbach Associates referenced in Briscoe's letter on behalf of appellants Safer Embarcadero for All are not applicable.

By basing the rent on the parking revenues, the Port is capturing the true fair market value for short term use of a portion of the undeveloped site, thereby maximizing Port's profit.

Allowing the use of the Property for the temporary shelter of vulnerable San Francisco residents experiencing homelessness rather than cars enhances the Port's obligations to the residents of the City and County of San Francisco and the State and serves a much higher public purpose.

### B. Shelter Use of the Property

Chapter 61 of the Administrative Code required the Port to adopt the WLUP and it governs land uses for Port property that is within the Port's jurisdiction, and is a pier, within the shoreline band (defined in California Government Code Sec. 66610(b) as property within 100 feet of the shoreline), or for certain land south of Pier 98. Seawall Lot 330 is not a pier, is more than 100 feet from the shoreline and therefore not part of the shoreline band, and is north of Pier 98. Accordingly, Chapter 61 of the Administrative Code does not govern land uses with respect to Seawall Lot 330.

The Property is subject to the WLUP, which governs land uses for property in the Port's jurisdiction beyond that identified in Chapter 61 of the Administrative Code. The WLUP expressly articulates that residential use is an "acceptable use" for Seawall Lot 330 as described in table 140A of The Waterfront Land Use Plan available here: <https://sfport.com/sites/default/files/FileCenter/Documents/4651-j1%20-%20sb%20cb%20land%20use%20table.pdf>

Because the WLUP expressly allows for residential uses on Seawall Lot 330 and the project is temporary, use of a portion of the property to provide shelter to people experiencing homelessness in our community is acceptable.

### C. WDAC Review

Waterfront Design Advisory Committee review is required for new development of one-half acre or greater sites consistent with applicable provisions of the Port's *Waterfront Land Use Plan* and its *Waterfront Design and Access Element* goals, objectives, and criteria objectives pertaining to the urban design of proposed uses.

The project proposal is to place 2 light-weight tensile temporary housing structures, a similar community services structure, a restroom/showers building, and 2 storage lockers on an existing asphalt parking lot. Four of the six structures are placed on thin concrete pads over the existing asphalt to create a level and clean surface. No other permanent foundation would be constructed. The footprint of the proposed structures including storage lockers total 20,932 square feet, or .48 acres.

Also, the Port does not submit temporary projects to the WDAC for review. For example, use of Port property by Teatro Zinzanni was not subjected to WDAC review because the use was temporary. Teatro

Zinzanni was in the same SUD as the Property. Similarly, the Farmers Market near the Ferry Building on Port property was also not subjected to WDAC review.

Because the proposed project is for a temporary use of the Property and the proposed project footprint is less than one-half acre, WDAC review is not required.

Respectfully, I urge you to reject the appeals raised by appellants. The Port Commission, acting within its authority, found this temporary use of Port property to be consistent with our public obligations to the greater community and to the Port. First, providing shelter to unhoused people along the Waterfront and in adjacent communities serves a greater public interest than providing parking. Secondly, the Port will receive fair market rent resulting in maximum profits for use of the paved land: parking; which is the rent the Port is currently receiving. Lastly, residential uses such as shelter, are acceptable uses of Seawall Lot 330.

Sincerely,



Elaine Forbes  
Executive Director  
Port of San Francisco

cc: Angela Calvillo  
Lisa Gibson  
Jeff Kositsky



June 6, 2019

Norman Yee, President  
c/o Angela Calvillo, Clerk  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

**Subject: Appeals of the Categorical Exemption from Environmental Review – Embarcadero SAFE Navigation Center**

Dear President Yee and Members of the Board of Supervisors:

This letter is in response to the two appeals filed with the Clerk of the San Francisco Board of Supervisors regarding the San Francisco Planning Department’s (Planning) Categorical Exemption from Environmental Review for the Embarcadero SAFE Navigation Center at Seawall Lot 330 (Case No. 2019-002440ENV). The first appeal was filed by the Law Offices of Stephen M. Williams on May 22, 2019 and the second by Briscoe Ivester & Bazel LLP on May 23, 2019. The intent of this letter is not to address the City’s environmental review process, but to speak to other issues raised in the letter pertaining to the project and the Department of Homelessness and Supportive Housing (HSH) policies and procedures.

**The Challenge of Homelessness**

On January 24, 2019, with the assistance of hundreds of volunteers, HSH conducted the 2019 Point-in-Time (PIT) count to assess the number of individuals experiencing homelessness in San Francisco. US Department of Housing and Urban Development (HUD) requires that communities conduct the PIT Count at least every other year. The chart below represents the HUD reportable numbers for 2017 and 2019:

HUD Reportable Numbers	2017	2019	Change	% Change
Unsheltered	4353	5180	827	19%
Sheltered	2505	2831	326	13%
Total	6858	8011	1153	17%





Unfortunately, the number of people experiencing homelessness in San Francisco increased 17% between 2017 and 2019. Neighboring counties also showed increases; people experiencing homelessness increased 43% and 31% in Alameda and Santa Clara Counties, respectively, over the past two years.

A full report will be available in July as San Francisco engages in a more robust process that includes individuals and programs not required by HUD to be counted. The initial numbers show that two-thirds of the increase in unsheltered homelessness in our city was attributable to people sleeping in vehicles. It also appears that the number of newly homeless people each year continues to be a major challenge. Family homelessness has stayed flat while adult homelessness has increased significantly. Fortunately there is also some good news to report: Veteran homelessness is down 11% and youth homelessness is down 10%. In San Francisco, there are regularly over 1,100 people on the shelter waiting list each night.

### **The City's Response**

In response to our oversubscribed shelter system, Mayor London Breed announced in October 2018 that the City would add 1000 shelter beds by the end of calendar year 2020. San Francisco has opened eight Navigation Centers and currently has six in operation. HSH has developed the Shelter and Access for Everyone (SAFE) Navigation Center model to build off of the best aspects of Navigation Centers making them more scalable, sustainable, and effective. Some successful attributes of the Navigation Center model incorporated into the SAFE Navigation Center model include high-quality temporary residential facilities; onsite support services; no walk-ins or lines; and client-serving amenities

The City is looking to expand SAFE Navigation Centers in neighborhoods across the city to respond to the homelessness crisis and has been conducting a coordinated and comprehensive citywide search for viable shelter sites in order to accomplish the Mayor's initiative. Over one hundred sites have been evaluated for feasibility.

### **Project Description**

SAFE Navigation Centers are essential to reducing unsheltered homelessness and connecting clients to services and housing assistance. The project site is located at Seawall Lot 330, within the South of Market South Beach neighborhood on an irregularly shaped parcel of approximately 75,106 sqft. The parcel has frontages along the Embarcadero to the northeast, Beale Street to the southwest, and a vehicular access point along Bryant Street to the northwest. The parcel is within Supervisorial District 6.

The project would include the installation of two structures to serve as dormitories containing a total of 200 beds as well as an additional demountable tensile structure to be used as offices and community/dining space. The project would also include temporary structures to contain toilets, urinals, and showers as well as 12 shipping containers placed onsite for client storage needs. The temporary structures would be installed in such a configuration to create an outdoor gathering space for clients.



The SAFE Navigation Center would provide room and board to those experiencing homelessness while case managers work to connect them to support services, including: income, public benefits, health services, shelter, and housing. SAFE Navigation Centers differ from traditional shelters in that they have lower barriers for participation by clients, allowing for people to come inside with partners, pets, and possessions. The Centers are open 24 hours a day, seven days a week. HSH makes placements into these shelters through its designated referral programs; currently, external and self-referrals are not accepted. A client's length of stay can range from a few hours to 30 or 60 days - with extensions for those with a known pathway to a housing placement.

HSH would contract with a service provider who would perform onsite program and operations functions. Staff would be present at the SAFE Navigation Center to oversee activities on-site, including, but not limited to:

- meal provision
- supportive services
- referrals and support for treatment
- housing navigation through coordinated entry
- coordination of site security
- uniform and effective program entry
- property searches
- methods to control access
- managing and tracking clients
- collaboration with service partners who are on the program site

Staff would provide oversight of and janitorial and maintenance service for: the sleeping areas, bathrooms/showers, laundry facilities, client storage areas, the dining and community room, and general grounds of the program site. Staff would also: provide access for clients to delivered prepared meals, beverages, and snacks; conduct wellness checks; and escort clients to critical appointments off-site. Staff would educate clients about how to avoid or reduce impacts and implement "good neighbor" considerations when they leave the SAFE Navigation Center.

The Memorandum of Understanding (MOU) between the Port of San Francisco and HSH regarding the construction and operation of the SAFE Navigation Center also includes a set of Good Neighbor Policies that the SAFE Navigation Center operator must follow. HSH includes a Good Neighbor Policy in all SAFE Navigation Center operator contracts. The policy would be implemented by the onsite service provider and would include, but not be limited to:

- Communicating with and providing information to the neighborhood
- Avoiding or minimizing the impact on the neighborhood of clients entering, exiting, or waiting for services
- Discouraging and addressing any excessive noise from the program clients and others who may be just outside the program site

- Discouraging loitering in the area immediately surrounding the facility
- Preventing any blocking of driveways or sidewalks near the site
- Working with neighbors and City departments to address neighborhood concerns
- Participating in appropriate neighborhood and community meetings
- Having onsite staff available via phone 24/7 to address on-site concerns
- Minimizing neighborhood impact by having 24/7 security and not allowing walk-ins
- Informing the community of the services available at the Navigation Center
- Maintaining the safety and cleanliness of the area immediately surrounding the facility with security and cleaning crews
- Ensuring the sidewalks and driveway adjacent to the facility are not blocked
- Prioritizing placement of clients who are sleeping in the area

Additionally, a private security company would be hired for security services onsite, including 24/7 front desk coverage. The SAFE Navigation Center would also contract with a community-based organization to regularly clean the surrounding area.

### **Community Engagement**

HSH has chosen to engage in extended community outreach to educate neighbors, neighboring businesses, and other stakeholders about the critical need for additional shelter, and the steps that will be taken to ensure that the proposed SAFE Navigation center is a good neighbor.

Specific to Seawall 330, HSH and the Mayor's Office, in consultation with Supervisor Haney's Office, committed to and executed a robust community outreach plan that included: meetings with neighborhood HOAs, consultations with elected and appointed officials, formal presentations in public hearings and large community meetings, and conversations with individual community members. The list below outlines some of these efforts up through the April 23<sup>rd</sup> Port Commission hearing.

1. 1:1 Conversations with community members
2. Port Commission informational hearing (3/12)
3. Two City-sponsored large community meetings (3/12 & 4/3)
4. Convening of a neighborhood working group (9 meetings beginning 3/20)
5. Fisherman's Wharf Advisory Group informational meeting (3/19)
6. Central Waterfront Advisory Group & Northeast Waterfront Advisory Group informational meeting (3/20)
7. Home Owners Association Meetings:
  - a. The Watermark (3/21)
  - b. The Portside (3/27)
  - c. The Brannan (4/1)
  - d. Townsend HOAs (4/10)
  - e. 88 King (4/11)
  - f. The Infinity & Embarcadero Lofts (4/14)

8. Navigation Center tours for community members and neighborhood organizations (March – May)
9. South Beach/Rincon/Mission Bay Neighborhood Association (4/15)
10. Central Waterfront Advisory Group (4/17)
11. Port Commission Hearing (4/23)
12. District 6 Community Planners (5/8)

Engagement with the community has continued through an informal working group and would continue in the form of informational meetings with formal groups such as the Central Waterfront Advisory Group (CWAG) and the to-be-created Embarcadero SAFE Navigation Center Community Advisory Group throughout the construction and operational phases of the project.

### **Chapter 106**

As part of its CEQA appeal, Appellants allege that the City has failed to comply with Chapter 106 of the San Francisco Administrative Code, which governs the opening and operation of six Navigation Centers. Although the City's adherence to Chapter 106 is not relevant to the question of whether the Planning Department's categorical exemption determination was appropriate, nor is it applicable to the proposed project, which does not qualify as a Navigation Center, we nevertheless welcome the opportunity to describe the requirements of Chapter 106 and demonstrate how the City has already fulfilled those requirements.

Chapter 106 was enacted in 2016, and required the City to open and operate a total of six Navigation Centers within two years. As defined by Chapter 106, Navigation Centers are temporary, low-barrier-to-entry shelters that, through case management and social service programs, aid in moving homeless people off the streets and into permanent housing or transitional or stable supportive housing that eventually leads to permanent housing. Navigation Centers are also defined by the services they offer. For example, Chapter 106 requires that Navigation Centers offer three meals per day and allow residents to keep their pets with them. Chapter 106 further specifies that Navigation Centers may have no fewer than 40 residents, and no more than 100 residents, although the 100-resident cap may be exceeded upon a written finding by the Director of the Department of Homelessness and Supportive Housing ("HSH") that exceeding the cap would not compromise the objectives of Chapter 106.

As originally enacted, Chapter 106 provided that a Navigation Center could be operated on a site for no fewer than six months, and for no more than two years, without approval of an extension of the time limit by resolution of the Board of Supervisors. In recognition of the success of Navigation Centers, the capital investments that are required to open a center, and the fact that Navigation Centers have not been found to have had adverse impacts on the neighborhoods in which they have been located, the Board of Supervisors amended Chapter 106 earlier this year to remove the two-year time limit.

Prior to opening a Navigation Center, Chapter 106 requires that HSH, in consultation with the Supervisor who represents the district in which the identified site is located, conduct a

thorough community outreach process with neighbors, neighborhood associations, and merchant associations on the site selection.

It is important to note that while Chapter 106 imposed a duty on the City to open and operate six Navigation Centers – which duty the City has fulfilled – it does not restrict the City from opening and operating different types of facilities that serve people experiencing homelessness. For example, Chapter 106 does not preclude the City from opening and operating a facility that offers only one meal per day, does not allow pets, has fewer than 40 beds, or more than 100 beds; such a facility simply would not count towards the City's duty under Chapter 106 to open and operate six Navigation Centers

**The City has already met the requirements of Chapter 106.** Since the enactment of Chapter 106, the City has opened eight Navigation Centers that met the operational requirements of the Chapter. Prior to the opening of each Navigation Center, HSH engaged in robust community outreach, as required by Chapter 106. With the opening of the Bayshore and the Bryant Navigation Centers, the City not only fulfilled – but in fact exceeded - its duties under Chapter 106.

**Chapter 106 is inapplicable because the proposed facility is not a Navigation Center.** The facility that would be operated on Seawall Lot 330 would be a Shelter Access for Everyone (SAFE) Navigation Center. A SAFE Navigation Center is a new model of shelter delivery that builds off of the best practices and lessons learned through the Navigation Center model. SAFE Navigation Centers are similar to Navigation Centers in that they maintain a low-barrier philosophy, but differ from Navigation Centers in a few significant ways. First and most significantly, SAFE Navigation Centers are larger than their predecessors which allows the City to serve more people in need. In addition, SAFE Navigation Centers, unlike Navigation Centers: 1) are developed on sites that and can accommodate 150-225 clients; 2) offer more privacy to clients by providing increased separation between sleeping spaces and community spaces; 3) are designed to include loading zones and parking for client pick-ups/drop off and supply deliveries.

Because the City has already fulfilled its duties under Chapter 106, and because the facility to be opened at the Embarcadero is not a Navigation Center, the requirements of Chapter 106 do not apply.

**Even though Chapter 106 is inapplicable to the opening of the proposed SAFE Navigation Center, the City has complied with its requirements.** Appellants argue that the proposed SAFE Navigation Center is in violation of Chapter 106 because: 1) it would have more than 100 beds; 2) there is an option for it to be operated for more than two years; and 3) the City has failed to engage in the types of community outreach required by Chapter 106. All of these claims are without merit, and are irrelevant to the question of whether the Planning Department's categorical exemption determination was appropriate. Nevertheless, we welcome the opportunity to set the record straight.

First, although Chapter 106 imposes on Navigation Centers a limit of 100 residents, it allows the 100-resident cap to be exceeded upon a written finding by Director of HSH that exceeding the cap would not compromise the objectives of Chapter 106 or the operations of the center. In the case of the proposed Embarcadero SAFE Navigation Center, I have made that finding and I reiterate it here. The operation of a 200-bed SAFE Navigation Center is in fact consistent with the objective of Chapter 106, which is to address street homelessness and connect homeless people to services and housing. HSH will work with the provider to prepare a careful operations plan to ensure that a project of this size will run safely.

---

Second, the two-year cap on Navigation Centers was removed by the Board of Supervisors through the enactment of Ord. No. 061-19.

Third, HSH has gone above and beyond the community outreach requirements that are imposed by Chapter 106. Specifically, HSH and the Mayor's Office, in consultation with Supervisor Haney's Office, and with the support of the Port and Public Works, committed to and executed a robust community outreach plan that included: meetings with neighborhood HOAs, consultations with elected and appointed officials, formal presentations in public hearings and large community meetings, and conversations with individual community members. The list included above on pages 4-5 outlines some of these efforts up through the April 23rd Port Commission hearing.

Sincerely,



Jeff Kositsky  
Director