

From: Martin Eng
949-953 Lombard Street, San Francisco, CA 94133
ME2461111@Gmail.com 415-246-1111
July 24, 2023

To:

The Honorable Connie Chan, District 1
The Honorable Catherine Stefani, District 2
The Honorable Chair Aaron Peskin, District 3
The Honorable Joel Engardio, District 4
The Honorable Dean Preston, District 5
The Honorable Matt Dorsey, District 6
The Honorable Myrna Melgar, District 7
The Honorable Rafael Mandelman, District 8
The Honorable Hillary Ronen, District 9
The Honorable Shamann Walton, District 10
The Honorable Ahsha Safai, District 11

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

Subject: Letter of Appeal to CEQA Exemption for Residential Project at 939 Lombard Street, 2021-007262DRP - 939 LOMBARD ST, June 29, 2023
Planning Commission hearing, item #20

Dear Members of the Board of Supervisors,

I am writing to urge you to reject the CEQA exemption for the residential project at 939 Lombard Street. 2021-007262DRP - 939 LOMBARD ST and quash the permit.

This project would have significant and irreversible impacts on the environment and the community that cannot be overlooked or mitigated.

One of the main reasons why this project should not be exempted from CEQA is its proximity to Yick Wo Elementary School. The project before is built is sharing and will remain sharing a retaining wall with the school front

to the end, all 137.5 feet long; posing a potential hazard to the safety and stability of the school building and grounds.

Moreover, the construction and operation of the project would generate noise, dust, traffic, and other disturbances that would disrupt the learning environment and the quality of life for the students, teachers, and staff at the school.

The school serves a diverse and includes some low-income population that deserves a healthy and supportive educational setting.

Another reason why this project should not be exempted from CEQA is its negative impact on the natural environment.

The project would destroy many trees and greenery that provide habitat for wildlife, and aesthetic value for the neighborhood.

Please note that on April 12, 2023; San Francisco supervisors voted unanimously to place a crown on the city's wild parrots, enshrining the colorful species — a relative newcomer — as S.F.'s official animal.

Trees play a crucial role to keep improving air quality, and mitigating the effects of climate change.

Destroying these trees would not only be detrimental to the local ecosystem but also contradict the goals of sustainable development and environmental stewardship.

Additionally, it is important to consider the potential negative impacts on the overall character and livability of the neighborhood.

Constructing such a large house that does not align with the scale and architectural style of the surrounding area can lead to an imbalance in the community and may not benefit the neighborhood residents or contribute positively to its development.

Preserving the existing character and maintaining a harmonious environment should be priorities when considering any construction projects.

There are much laws, codes, or CEQA regulations applicable to this specific project. I urge you to carefully reconsider granting the CEQA exemption for this residential project. It is crucial to quash this permit. I am afraid this lot is not suitable for anything; there is a 100 years old+ big house on the lot already, recently renovated, almost 4,000 sf and already created much profits for the speculator developer; who has never build homes in this area and with very little finance backings; leaving an eyesore abandon project is very possible.

Additionally, it is important to consider the potential negative impacts on the thousands of very young students right next door; overall character and livability of the neighborhood.

Constructing such a large house that does not align with the scale and architectural style of the surrounding area can lead to an imbalance in the community and may not benefit the neighborhood residents or contribute positively to its development. This is not what the Governor wants.

Preserving the existing character and maintaining a harmonious environment should be priorities when considering any construction projects.

The existing big house of about 4,000 sf is worth maybe about \$5 million; the new house is 5,200 sf, 45 feet tall with roof top access and need to be sold about \$7 million; these two big houses on a small lot are not affordable housing and will never benefit the poor but the greedy speculator of one. The rich will not benefit either, difficult to sell due to privacy and security concern for the well heeled rich buyers; bankruptcy is not far fetched

Furthermore, this project poses a serious risk of damage from earthquakes, landslides, mudslides, or mudflows.

These are different types of earth movement than earthquakes, which are caused by seismic activity. Landslides, mudslides, and mudflows occur when the land becomes unstable or saturated with water due to erosion or heavy rainfall.

According to the U.S. Geological Survey, these events cause more than \$1 billion in damages and 25–50 deaths every year in the United States.

Earthquake insurance does not cover damage caused by landslides, mudslides, or mudflows.

No new development is the only way for the environmental conservation, community well-being.

CEQA by failing to adequately analyze and mitigate the project's impacts on traffic, air quality, parkings, wild life, child safety, next to a elementary school with no separation but on a steep slope retaining wall, noise, shadows, sunshine, gas emissions, land use and aesthetics.

The construction's proximity to sensitive areas, including parks, schools, and wildlife habitats, raises concerns about potential adverse effects on air quality, noise pollution, and ecological balance.

CEQA Litigation: A California Appellate Court recently upheld a large attorneys' fees award under the private attorney general statute in a case involving a development project in Redondo Beach. Imposed jointly and severally on the City of Redondo Beach and the private developers, who were real parties in interest. Reminds local jurisdictions to consider the potential risk of attorneys' fees awards when approving development projects.

Environmental Impact Concerns: The proposed construction project presents significant environmental impacts that were not adequately addressed in the CEQA exemption determination.

Lack of Public Participation: The CEQA exemption determination process seems to have lacked sufficient public participation. The

community's concerns and feedback regarding the project's potential environmental impacts were not thoroughly considered, limiting the transparency and inclusiveness of the process.

Additional Details:

The proposed construction project poses significant risks to public safety and environmental health.

The project site is located on a steep hill that is prone to landslides, mudslides, and flood danger.

The construction would generate noise, dust, fumes, and traffic congestion that would disrupt the learning environment and pose hazards to students, teachers, and staff at the nearby elementary school.

The school playground is adjacent to the construction site, and many young children play there regularly, after school, weekends, summer school...

The construction would also involve large trucks delivering materials on a steep hill, causing further safety risks and traffic delays for parents picking up their children from school.

The project would also cast a giant shadow on the surrounding area due to its height of about 47 feet. This would result in a loss of green space, fresh air, and natural light for students; displace local wildlife such as raccoons and coyotes. The school would not be able to function at full capacity due to the noise and safety hazards posed by the construction site; students mentally would be affected.

Legal Citations:

References to relevant sections of the California Public Resources Code, CEQA Guidelines, and other applicable laws that pertain to the issues raised in this appeal.

SEC. 31.04. RESPONSIBILITY AND DEFINITIONS. (The public see it with conflict of interest)

(a) The City and all its officials, boards, commissions, departments, bureaus and offices shall constitute a single "local agency," "public agency" or "lead agency" as those terms are used in CEQA.

Violation of California Public Resources Code (CPRC) Sections 21000 et seq.:

The exemption determination appears to have overlooked the requirements of the California Public Resources Code, particularly Sections 21000 et seq., which mandate an evaluation of the environmental impacts of projects before granting exemptions.

Non-Compliance with CEQA Guidelines:

The CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000-15387) establish procedures for conducting environmental review, ensuring the protection of the environment, and public participation. The exemption determination did not adequately address the project's potential environmental impacts.

Violation of San Francisco Planning Code and Administrative

Code: The proposed construction's size, being 5,200 sf, exceeds the limits stipulated in the San Francisco Planning Code for a lot that is only 29.5 feet wide and 136 feet long. The project may not conform to the density and design standards set forth in the city's zoning regulations.

Non-Compliance with San Francisco Building Codes: The proposed construction may not comply with San Francisco Building Codes, which establish safety standards and requirements for structures within the city. The safety of such a large building on a small lot is a legitimate concern for public safety.

Ignoring Relevant Law Cases: [Mention specific law cases if any] demonstrate how similar projects have been evaluated and the importance of considering environmental impacts in such cases.

California Environmental Quality Act (CEQA) Guidelines: The CEQA Guidelines are available on the California Natural Resources Agency's website or the California Office of Planning and Research's website.

California Public Resources Code: This is the statutory law that includes CEQA. You can find it on the official California Legislative Information website.

California Code of Regulations, Title 14: The CEQA Guidelines, which are Title 14 of the California Code of Regulations, are officially adopted by the California Natural Resources Agency and are available on the California Office of Administrative Law website.

San Francisco Planning Code and Administrative Code: For local regulations, including any specific San Francisco requirements related to CEQA, you can visit the official San Francisco Planning Department's website or the website of the San Francisco City Attorney.

- CEQA Guidelines section 15126.2(a) that requires an analysis of significant environmental effects of the proposed project, including any growth-inducing impacts.
- The proposed project would cause significant adverse impacts on the environment, such as air quality, noise, traffic, aesthetics, or public health and safety. Again, the construction activities would generate dust, emissions, noise, and traffic that would affect the nearby residents, schools, and businesses; especially babies.
- The CEQA lead agency, must denial of the project approval is the only option to do justice, but can be open to a preparation of an environmental impact report (EIR). Actually this project is not a financially and feasible speculation, saving the developer from bankruptcy.

Yick Wo Elementary School is particularly concerned about the following potential impacts of the project:

- The construction activities would generate dust, noise, and traffic that would affect the quality of learning at the school; life and health of the little children. Moreover, the project would create an eyesore that would negatively affect the aesthetics of the neighborhood.
- Permit changes, loss of financing, high interest rate; unless \$3 million cash in escrow for construction: Too many unknown can delay or stop the work for years and increase costs.
- Material shortage: The construction site is already dangerous with bad fumes and traps, but it is also affected by worldwide construction material shortages. This alone can cause delay in construction.
- Health risks: The construction site is also a health risk for nearby schools and surrounding buildings. Children can suffer from IQ mental retardation due to lead poisoning.

Thank you for your attention to this matter.

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Public Comments: Copies of public comments and concerns raised during the project review process that were not adequately addressed in the CEQA exemption determination were in the June 29, 2023 Planning Commission minutes, item #20. Numerous parents, neighbors, staffs, teachers raise concern during the meeting by phoning in; at least 3 spoke against the 939 project personally in front of the commissioners.

The developer is a speculator; no guarantee of ample cash to finish the project without fear of construction loan cancellation or gaps; the construction should require \$3.5 million in cash, held by escrow.

Building materials are in worldwide shortage; that alone can cause delay and the construction site left empty and can be dangerous with bad fumes traps, squatting by homeless and animals; plus the construction site is being an eyesore. Tourist heavy famous crookedest Lombard Street, 1/2 block away. School and surrounding buildings will suffer with less enjoyment and higher crimes. Kids can suffer IQ mental retardation. Research has proven that children who have lead and chemical poisoning suffer lower IQ.

Thank you for considering the kindergarten parents concerns, plus all the other students, teachers, staffs, neighbors and all citizens of San Francisco, plus the wild parrots.

I trust that you will give thoughtful consideration to the points raised in this letter and act in the best interest of the community and the environment.

Sincerely,

/s/ Martin Lee Eng

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
 ABSENT: Ruiz

G. DISCRETIONARY REVIEW CALENDAR

The Commission Discretionary Review Hearing Procedures provide for presentations by staff; followed by the DR requestor team; followed by public comment opposed to the project; followed by the project sponsor team; followed by public comment in support of the project. Please be advised that the DR requestor and project sponsor teams include: the DR requestor and sponsor or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

19. [2023-002864DRM](#) (C. MAY: (628) 652-7359)
1 SANSOME STREET – northwest corner of Sutter Street; Lots 003 and 004 in Assessor's Block 0289 (District 3) – **Mandatory Discretionary Review** of Building Permit No. 2023.0526.8717 for a modification of the conditions of approval outlined in the 1981 discretionary review of the project (Planning Commission Resolution No. 9085) in order to allow flexibility to host periodic private events involving the closure of the publicly accessible atrium fronting Sansome and Sutter Streets (a General Entertainment Use), as well as the installation of interior green living walls within a C-3-O (Downtown-Office) Zoning District and 450-S Height and Bulk District.
Preliminary Recommendation: Take DR and Approve with Modifications

SPEAKERS: = Chris May – Staff report
 + Mark Loper – Project sponsor presentation
 + David Henderson – An anchor location
 + Julia Rome – Focal point for downtown events
 + Phil Speigle – Response to comments and questions
 = Corey Teague – Response to comments and questions
 = Rich Hillis – Response to comments and questions

ACTION: Took DR and Approved with Conditions
 AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
 ABSENT: Ruiz
 DRA: 828

20. [2021-007262DRP-02](#) (D. WINSLOW: (628) 652-7335)
939 LOMBARD STREET – south side between Leavenworth and Jones Streets; Lot 021 in Assessor's Block 0072 (District 3) – Request for **Discretionary Review** of Building Permit No. 2021.0709.4046 to demolish an existing two-car parking structure at the front of the lot and construct a new 5,173 square foot single-family dwelling within a RM-1 (Residential Mixed – Low Density) Zoning District and 40-X Height and Bulk District. The Planning Department found that the project is exempt from the California Environmental Quality Act (CEQA). The Commission's action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code section [31.04\(h\)](#).
Preliminary Recommendation: Do Not Take Discretionary Review and Approve

SPEAKERS: = David Winslow – Staff report
 - Martin Eng – DR 1
 - Mark Swartz – DR 2
 - Trae Sims – Read statement from a 92 yr. old neighbor

- Stephanie Falkenstein – Concerns to light, shadow in the school yard
- + Chloe Angelis – Project sponsor presentation
- Natasha – Concerns to shadow that will cast to the schoolyard
- Speaker – Concerns to shadow, contaminated soil, retaining wall
- Renee Kwong – Concerns to shadow, noise, character of neighborhood
- Mark – Mostly interior work, time of foundation work
- Speaker – Students that are sensitive to noise

ACTION: No DR
 AYES: Braun, Diamond, Koppel, Tanner
 NAYS : Imperial, Moore
 ABSENT: Ruiz
 DRA: 829

21. [2021-004066DRP](#) (D. WINSLOW: (628) 652-7335)

372 DOLORES STREET – west side between Chula Lane and 17th Street; Lot 008 in Assessor’s Block 3566 (District 8) – Request for **Discretionary Review** of Building Permit No. 2021.0820.6824 to convert existing first floor storage and basement of four-story multi-family residential building to one ADU using the Local ADU Program within a RH-3 (Residential House- Three Family) Zoning District and 40-X Height and Bulk District. The Planning Department found that the project is exempt from the California Environmental Quality Act (CEQA). The Commission’s action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section [31.04\(h\)](#).

Preliminary Recommendation: Do Not Take Discretionary Review and Approve
 (Continued from Joint hearing on June 15, 2023)

SPEAKERS: = David Winslow – Staff report
 + Mark Brand – Project sponsor presentation
 ACTION: No DR
 AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
 ABSENT: Ruiz
 DRA: 830

ADJOURNMENT 8:53 PM
 ADOPTED JULY 13, 2023

From: [jamie alemany](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: Letter of appeal for CEQA from martin eng, 4th email
Date: Friday, July 28, 2023 4:21:20 PM

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Many thousands of tourists walking by daily to the world famous crookedest Lombard Street, 1/2 a block from the site.



School and school parents double park twice a day, competing with construction delivery huge trucks, pedestrians...



Playground and classrooms are being used for summer school, after school hours as well



Just half a block from all the tourists in the world, building an ugly box house is not the place to build.



The 137 feet long retaining wall on a steep hill is very dangerous in a big earthquake and flooding; collapsed buildings will happen. The integrity of the land in surrounding area will be compromised.



Tourists and locals and school children do walk all over the streets, the construction can be 4 years long and create life threatening accidents.

From: [Martin Eng](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: CEQA appeal, martin eng (2nd email)
Date: Friday, July 28, 2023 4:12:28 PM

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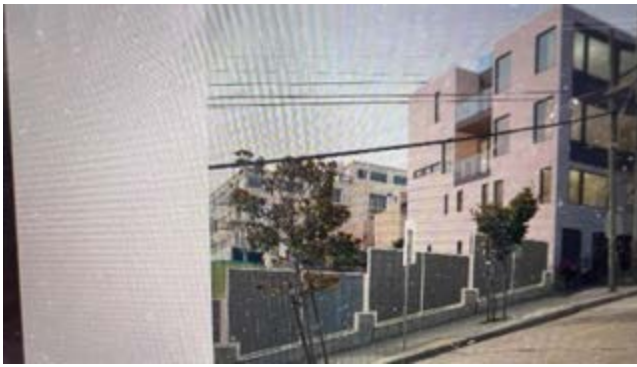
Subject: CEQA appeal, martin eng (2nd email)



New monster size house will destroy the seven units next door; 29.5 feet wide, there is no not enough room to build and dangerously on a steep hill with school children right next to it with no safety net or barrier. The land and buildings will be damaged and a big earthquake can caused the upper hill buildings to fall like dominos.



The speculator leave no room, build on every inch of land. Already a historical 100+ years old renovated about 4,000 sf house in the rear. All prospective buyers never desire to build anything in the front but leave the habitat of greenery intact; the SF parrots home as well



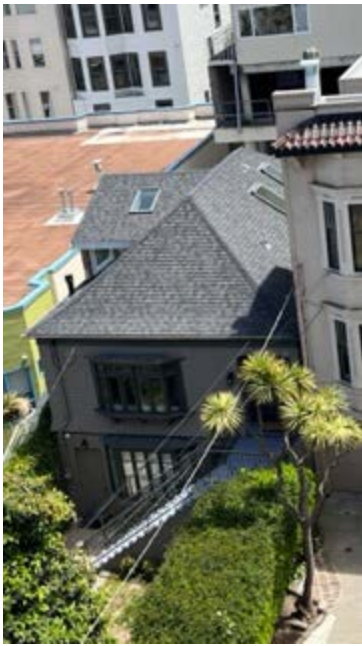
The proposed new house is totally out of character, 47 feet tall with roof top, box like, huge long shadows, wipe out the greenery, permanently weaken the school function, forever posing dangers when the big earthquake strike one day.



Huge disruption to the whole area, while many thousands of tourists suffer too.



Many small children at risk constantly. Breathing lead, fumes, dusts...have been proven to lower their IQ and mental health.



Historical 100+ year old house with facade that won't allow to be torn down. There is no room to build, this is not affordable housing by any means.



Construction will make current double parking for school parents even much ore dangerous.



Huge playground will become a danger zone, mindful of falling objects, roof top parties, construction accidents of falling hammers, tools, drill noise; school classes will be interrupted constantly and with very stressful construction noise; workers screaming, eating lunch on the streets...



July 26, 2023

Martin Eng
953 Lombard Street
San Francisco, CA 94133

RE: Discretionary Review Applications Fee Waiver Request

Project Address: 939 Lombard Street

Project Case Number: 2021-007262DRP

To Whom This May Concern:

We have confirmed that Martin Eng qualifies for the Indigent Individuals Fee Exemption and is therefore entitled to a fee waiver.

Thank you very much for your patience and cooperation.

Sincerely,

Deborah Landis

Deborah Landis
Deputy Director of Administration