

Carroll, John (BOS)

From: Jani Musse <janimusse@gmail.com>
Sent: Tuesday, July 26, 2016 1:13 PM
To: BOS Legislation, (BOS)
Cc: BOS-Legislative Aides; BOS-Supervisors
Subject: Appeal of the certification of the EIR for the 901 16th Street and 1200 17th Street Mixed Use Project

Categories: 160683

To all of the supervisors of San Francisco,

I support the appeal of certification of the EIR for the 901 16th Street and 1200 17th Street Mixed Use Project. I strongly suggest you do as well. This eastern neighborhood has been insanely developed and without any real infrastructure for traffic, parking, public transportation etc... Yes, you built Owens Street, but it still remains closed. It seems it remains closed because THERE IS A NEW DEVELOPMENT BEING BUILT!!!! God, forbid any traffic would impede that!!

We are just asking for a more neighborhood friendly design. You know what we want. An adaptive reuse of a historical building. Have you ever been in it?? Actually, go inside and look at it? IT'S REALLY COOL!!!!

Thank you,
Jani Mussetter

Board of Supervisors
Re: Corovan Site Development
Carolyn Kahn
254 Pennsylvania Ave
San Francisco, 94107

July 26, 2016

Potrero Hill Community Involvement
Green not Greed

- Development for a community is healthy but unbridled development without delivery of advantages to the community is not healthy.
- It is a two way street . My husband and I moved to California over a decade, I launched a business here while we worked to improve the community.
- Individuals, business people and even commercial developers who benefit from neighborhoods have an obligation to improve those neighborhoods. We will all be served well in the long run.
- When we first purchased our home on Pennsylvania Avenue, now in Ms. Cohen's district, large evergreen trees shielded the view of 280. They stood on a piece of land bordered by 280, and the Mariposa exits to 18th Street and Pennsylvania. Shortly after moving in they were cut down. My husband, Jim Wilkins, planted a lone Princess tree in the middle of the empty lot. He found the lonely tree in a tub, discarded on our street corner; He dug a hole and watered it by bucket. This gave our neighbor Annie Shaw the idea to develop Potrero Garden. She began on her own, paying for plants with her Christmas money to create a greenery in our 'hood' then worked with our neighbors and subsequently the two public entities that owned the land, wrote grants, got the sprinklers revitalized and developed an incredible garden with a bench for reflection. She went on to then develop another garden further north on Pennsylvania Avenue. Other than these two fabulous volunteer driven community improvements we have not seen any other new green park like development in our increasingly densely populated neighborhood. With the Corovan development we do not see public facing green space that will provide relief to the community. Is publicly accessible space really defined by private terraces and internal courtyards?

- There was an effort several years ago to put parking meters in front of our house. As a neighborhood group of 2,500 individuals we were able to lobby to increase the number of resident parking stickers and to avoid meters at our front door. The Corovan development cannot address this parking problem but will magnify it. In light of the difficulty with access to public transportation in Potrero Hill, in light of the huge traffic backups on the corner of Mariposa and Pennsylvania as cars wait to get on and off 280, as well as the backup at 16th street and Mississippi, I have given up my car and now either walk, cycle or Lyft. I find cycling a bit scary in the city because trucks, cars and even public vehicles often intrude upon or block the bike lanes.
- At the previous planning commission meeting we were told that two sections of the curb in front of the Corovan development would be designated for moving trucks. If our current experience is any indicator moving trucks will be impeding both bike and car traffic on a frequent basis. We live next to relatively low-density work-study rental units and movers are parked on Pennsylvania several times a month because our neighborhood has become increasingly transient over the past several years. With nearly 400 planned units the in out movement will increase substantially. This will be disastrous for bicyclists.
- Exacerbation of the currently awful traffic problem will be even more dangerous to pedestrians, bicyclists and frustrating to cars, which in my personal experience have taken out their road rage on me while both a walking and cycling. Angry drivers try to beat me through crosswalks by speeding up after I have entered the intersection.
- For 8 years Susanna Bruder taught yoga in her studio on Mariposa, across the street from Jackson Square. She had a faithful group of practitioners but had to close her studio when her rent was doubled overnight. With proper consideration I believe the Corovan building could provide commercial facilities for the community at affordable prices.

Board of Supervisors

TO THE ~~PLANNING COMMISSION~~ — Corovan Project, comment July 26, 2016

My name is Kora Dwyer and

~~OUT OF CURIOSITY, HOW MANY OF YOU LIVE IN THE SOUTHEAST NEIGHBORHOOD? HMMM?~~

I LIVE IN POTRERO HILL. I LIVE ON MISSISSIPPI ST AT ONE OF THE EPI-CENTERS OF MASSIVE GROWTH AND CONGESTION

I HAVE BEEN IN FRONT OF YOU BEFORE, COMMENTING AND READING OTHERS COMMENTS ON THE COROVAN AND OTHER PROJECTS AND THE THEME IS:

TOO MUCH TOO BIG TOO QUICKLY

I DONT KNOW WHAT MORE I CAN ADD BUT ONLY TO REITERATE THAT:

1 + PUBLIC TRANSPORTATION AND FUNDING- DO NOT MEET THE NEEDS OF THE COMMUNITY NOW OR IS THERE ADEQUATE PLANNING TO IMPROVE

2 + PARKING- WELL FORGET IT!

3 + CONGESTION- I RECENTLY FILED A PETITION WITH MY BLOCK FOR TRAFFIC CALMING DUE TO SPEEDING AND SAFETY ISSUES. OUR CAR HAS ALREADY BEEN IN THE SHOP BECAUSE OF COLLISIONS DUE TO SPEEDING.

4+ ENVIRONMENTAL- INCREASED AIR POLLUTION DUE TO MASSIVE CONSTRUCTION AND RELEASE OF SERPENTINE AND OTHER TOXINS INTO THE ENVIRONMENT INCREASE THE RISK OF A VARIETY OF HEALTH PROBLEMS. THE EIR IS INADEQUATE AND SERIOUSLY FLAWED.

5+ AESTHETICS- DOESN'T SEEM TO BE IN CONSIDERATION IN THE DESIGN OF THE MAJORITY OF THESE BUILDINGS AND WILL ONLY GROW UGLIER WITH AGE.

+ I HAVE LIVED ON POTRERO FOR THE PAST 24 YEARS AND I JUST RETIRED, THIS IS OUR ONE AND ONLY HOME AND I HAVE INVESTED IN ITS COMMUNITY AND SAFETY AND WOULD LIKE TO PRESERVE WHAT THERE IS OF ITS UNIQUENESS.

+ AGAIN, ITS TOO MUCH STUFF- TOO LITTLE SPACE— — ITS LIKE A 100LBS OF BUILDING INTO A 5LB BAG

I REQUEST THAT THE BOARD UPHOLD THE APPEAL

THANK YOU

Carroll, John (BOS)

From: Catherine Lee <videovision_cml@yahoo.com>
Sent: Monday, July 25, 2016 11:57 PM
To: BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors; Cohen, Malia (BOS)
Cc: Mar, Eric (BOS); Farrell, Mark (BOS); Peskin, Aaron (BOS); Tang, Katy (BOS); Breed, London (BOS); Kim, Jane (BOS); Yee, Norman (BOS); Wiener, Scott; Campos, David (BOS); Avalos, John (BOS)
Subject: Please reject EIR for "Corovan" site/ accept appeal attached
Attachments: 901_16th_Street_appeal letter-2_2016July.pdf
Categories: 160683

Dear Supervisor Cohen and Supervisors for the CCSF,
(collectively:

bos.legislation@sfgov.org
bos-legislative_aides@sfgov.org
bos-supervisors@sfgov.org)

Regarding the EIR for the "Corovan" Site (901 16th / 1200 17th Streets)

Many of us have organized our neighborhood in opposition to the current proposed development at the former "Corovan" site, and we oppose the approval of the faulty EIR and it's shoddy conclusions.

We are tired of going to community meetings held by developers and not being heard. Attached is our legitimate appeal to the approval of the EIR - we have done this "by the book" and there are many many of us who oppose this project as proposed.

It is a terrible threat to neighborhood character - and there has been so much housing built in the neighborhood, that there's no way the impacts of THIS development can be evaluated until the full impacts are felt from the others that are in process.

The key issue though is that the current EIR is flawed and does not accurately account for impact to the cultural resources of: Bottom of the Hill (an essential community space for the beginning arts and music members), and urban views: it blocks a key entry point to the P. Hill neighborhood **which you must see to** appreciate. No map on paper will do that. Finally, the neighborhood preferred alternative was not given adequate consideration.

There are many more reasons why their EIR is flawed, but this email should remain short.

Please help us put a pause in the process and help us save the places we love.

This is not just D10 issue - this will impact all of us, so please view it as part of our city-wide response, and not just a P-Hill issue!

I cannot be at the BOS meeting today but I hope you can **help the thousands of us** who care and live in the area; and you can value our input - since the developers have not. Do the right thing - accept our appeal.

Sincerely,

Catherine Lee

contact: 415-647-2304

Voter District 10/Community Organizer

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Board of Supervisors
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Room #244
San Francisco, CA 94102

July 15, 2016

Via Hand and Electronic Delivery

**RE: Appeal of the certification of the EIR for the 901 16th Street and
1200 17th Street Mixed Use Project**

Dear Members of the Board of Supervisors,

These comments are submitted on behalf of Appellants, Grow Potrero Responsibly and Save the Hill ("Citizens", hereafter).

The proposed Project is one of the largest projects to be proposed in the history of Potrero Hill; it is positioned at the gateway of the Potrero Hill community and covers 3.5 acres; and it has the capacity to alter the very nature of the Potrero Hill community.

The Environmental Impact Report (EIR) fails to adequately analyze impacts in the areas of cumulative impacts, traffic and circulation, transportation, aesthetics and views, shadows, land use, cultural and historic, and consistency with area plans and policies; fails to adequately review alternatives; and the Final EIR (sometimes referred to as the RTC or Responses to Comments) fails to respond adequately to substantive comments made on the Draft EIR. The Project EIR and Community Plan Exemption (CPE) tiers off of and relies upon the EIR prepared for the Eastern Neighborhoods Area Plan (PEIR; sometimes referred to as the EN Plan EIR). The PEIR did not provide for the impacts of a project at this site at this height and scale and with these traffic impacts; and it underestimated the level of development of residential units and the loss of Production, Distribution and Repair (PDR) uses throughout the Potrero Hill / Showplace Areas. The EIR is defective in its reliance on the PEIR in the areas that affect these issues.

Potrero Hill is poorly served by area transit, yet the developer asserts the Project's addition of 395 residential units, with admitted impacts to traffic and loss of PDR, is a transit friendly project merely because the site is located within a Transit Priority Area. Citizens will show that the EIR's reliance on this assertion is misplaced.

The Project admittedly results in impacts to traffic and circulation and loss of PDR. Two of the alternatives reviewed in the EIR substantially lessen or avoid these impacts and comment letters in the Final EIR show that there is overwhelming support for the adoption of this alternative. Planning's Findings assert alternatives are infeasible based upon a flawed developer study that used land value instead of land acquisition costs, which artificially reduced profits and skewed the feasibility analysis; neglected to include data about the Project that would allow a fair comparison of the costs and profits of the Project to the alternatives; and unnecessarily burdened alternatives with flaws that made them appear to result in more severe traffic impacts and less profit. When considering a project with admitted impacts, as here, the City is required to fairly consider and adopt feasible alternatives that would substantially reduce Project impacts prior to considering adoption of a Statement of Overriding Considerations and did not.

For ease of review, this letter summarizes the main facts and legal issues at stake in the appeal. The attached Memos augment the facts cited herein and offer extensive analysis on the issues of concern. **Exhibit E**, Memos 1-7: 1 Transportation; 2, Cumulative Impacts; 3, Public Views; 4, Loss of PDR; 5, Historic Resources; 6, Objectivity; 7, Shadows and Open Space; and 8, Alternatives. Citizens include the Draft Eastern Neighborhoods Monitoring Report, the TSF Nexus Study and the TIS traffic study, 2/20/15 Ed Lee letter, 2015 State of Local Manufacturing (SFMade), and evidence regarding historic resources and view corridors, in **Exhibit F** and information received from the City *via* a Public Records Act Record in **Exhibit G**.

Alternatives Analysis

If a project will result in significant environmental impacts that will not be avoided or substantially lessened by mitigation measures, the agency must consider the environmentally superior alternatives identified in the EIR and find that they are "infeasible" before approving the project. (Pub. Res. Code § 21081(a)(3), *See also* CEQA Guidelines 14 Cal. Code Regs. § 15091(a)(3).) Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (Pub. Res. Code § 21061.1; Guidelines §15364.) The requirement for an infeasibility finding flows from the public policy that states:

It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...the Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

(Pub. Res. Code § 21002.) Reflecting this policy, Public Resources Code section 21081(a)(1)-(3) provides that if one or more significant impacts will not be avoided or substantially lessened by adopting mitigation measures, alternatives described in the EIR that can avoid or reduce the impact must be found infeasible if they are not adopted. Under this scheme, a public agency must avoid or reduce a project's significant environmental effects when it is feasible to do so. (Pub. Res. Code §§ 21002, 21002.1(b); 14 Cal. Code Regs §§ 15021(a) and 15091(a)(1).) As explained by the California Supreme Court in *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 124, "Under CEQA, a public agency must . . . consider measures that might mitigate a project's adverse environmental impact and adopt them if feasible. (Pub. Res. Code §§ 21002, 21081.)" The Court reiterated "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures." (*Id.* at 134.) CEQA's substantive mandate was again underscored by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4th 412; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, and by the Court of Appeal in *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4th 86 and *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336.

Increased costs of an alternative do not equate to economic infeasibility: "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors (Goleta I)* (1988) 197 Cal.App.3d 1167, 1181. See also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736; *City of Fremont v. San Francisco Bay Area Rapid Transit District* (1995) 34 Cal.App.3d 1780 (addition of \$60 million in costs rendered subterranean alternative for BART extension infeasible.) In *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167, the court found that the record included no analysis of the comparative costs, profits, or economic benefits of scaled down project alternative and was insufficient to support finding of economic infeasibility. In *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th

587, a project applicant's preference against an alternative does not render it infeasible. In *County of San Diego v. Grossmont Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 108, the court found that a community college's proportional share of cost of off-campus traffic mitigation measures could not be found economically infeasible in absence of cost estimates. In *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, the court found that an infeasibility finding based on economic factors cannot be made without estimate of income or expenditures to support conclusion that reduction of motel project or relocation of some units would make project unprofitable.

Here, the EIR has conceded significant traffic and circulation impacts and the Project's contribution to the cumulative loss of PDR; the EIR is thus required to adequately analyze a reasonable range of alternatives that reduce all potentially significant environmental impacts. Citizens assert that substantive comments on the Draft EIR provide the bases for finding substantial environmental impacts due to aesthetics and views, inconsistency with area plans, land use, growth inducing and cumulative impacts and shade and shadow of area parks.

When a project results in admitted environmental impacts, a lead agency cannot merely adopt a statement of overriding considerations and approve it; the agency must *first* adopt feasible alternatives and mitigation measures. (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 185; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341 ["CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible."])

Metal Shed Reuse Alternative

The EIR identified a feasible alternative that Citizens argue, would reduce impacts to traffic and loss of PDR and yield sufficient profits, yet the EIR determined that the Metal Shed Reuse alternative is infeasible, asserting additional costs and loss of profit. Numerous residents and the Historic Preservation Commission offered extensive comments on the advantages of the alternative and recommended its adoption. (RTC pgs. 131-157; Memo 8; *see also* Memo 5, recommending adoption of the alternative as it relates to historic resources.) Citizens concur with this recommendation and encourage the Board to adopt the Metal Shed Reuse alternative.

The determination of infeasibility is based upon the recently submitted developer prepared financial study. Citizens reference Memo 3 that details the reasons why the alternative is feasible and shows how the developer's study is

inadequate and incomplete and fails to show that that additional costs or loss of profits would render the project impractical to proceed.

The developer's study cites to a targeted range of margins of profit but fails to provide actual cost and profit information. It is impossible to make an effective comparison without this information and runs counter to the requirements set forth for feasibility findings in *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167.

Even using the target profit margin asserted by the developer, the alternative should be found feasible. The Planning Department stated that assessing feasibility was based upon land acquisition costs, whereas the developer's study used current "land value" instead of land cost data, thereby inflating the costs of the Project considerably. Utilizing land cost data, the Metal Shed Alternative meets the targeted 18%-25% profit margin cited by the developer. Other errors in the study include the use of outdated information regarding the value of rental square footage in PDR uses. The study assumed a \$2.50 per square foot value, whereas current figures are estimated at nearly twice that, at \$4.00/ square foot, thereby considerably devaluing the alternative's profit.

The EIR also fails to support its allegation that the greater percentage of PDR in the Metal Shed alternative would render higher traffic counts. The Final EIR does not adequately respond to comments asking why a lower density, PDR-focused project would not result in significantly lower traffic impacts. Planning inexplicably chose to use "office" rather than "manufacturing" rates from the Transportation Impact Analysis Guidelines, even though the PEIR specifically stated that "PDR" was less impactful than "office" using the same Guidelines. The analysis using TSF Nexus Rates appears to cherry pick data, rather than doing the complete analysis. The Planning Department also chose the most intensive commercial use (restaurant) for nearly half of the non-PDR commercial space in the Metal Shed Alternative. The calculations are therefore unfairly skewed to make the Metal Shed Alternative appear more impactful under Transportation Impact Analysis rates when they would be actually be substantially less. Using the full set of motorized TSF rates for PDR, non-PDR commercial and residential shows that the Metal Shed Alternative will have the lowest impact on traffic. Without this impediment, the alternative would have been considered the environmentally superior alternative. For the foregoing reasons, the determination that the Metal Shed Reuse Alternative is infeasible and results in the same or higher traffic impacts is not supported by substantial evidence.

Reduced Density Alternative

The EIR states

The Reduced Density Alternative is identified as the environmentally superior alternative because it would “to some extent” meet the project sponsor’s basic objectives, while avoiding all but one of the traffic-related significant unavoidable impacts of the proposed project. This impact reduction would be achieved because the alternative would have fewer residential units and commercial space at the site compared to the proposed Project, and therefore have associated reductions in vehicle traffic compared to the proposed project. (DEIR pg. S-22.)

The EIR states that this alternative would include 273 residential units, 16,880 square feet of commercial space and have more open space that would total 56,850 square feet. (DEIR pg. S-23.) The Project would have 395 residential units, 24,968 square feet of commercial/public space and 50,932 square feet of open space. A reduction of 122 residential units and 8,088 square feet of commercial space would mitigate the traffic impact to insignificance and produce 5,918 more square feet of open space. (RTC pgs. 131-157; Memo 8.) The chart at page S-25 also shows that the Reduced Density Alternative would mitigate the traffic impacts to insignificance. The EIR states that the financial feasibility of the Reduced Density Alternative is unknown. (DEIR pg. S-24.) As noted, an alternative need not meet every project objective to be considered feasible. Similar to the analysis of the Metal Shed Reuse Alternative, the developer’s study asserts the alternative would not yield sufficient profits to be considered feasible. As noted, the developer’s study utilized a flawed analysis to determine infeasibility and the determination of infeasibility is not supported.

Failure to Respond Adequately to Comments

Responses should explain any rejections of the commentors’ proposed mitigations and alternatives. Evasive, conclusory responses and mere excuses are not legally sufficient. (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 355-360 (failure to adequately respond to any significant public comment is an abuse of discretion); Guideline §15088(b).) A general response to a specific question is usually insufficient. (*People v. County of Kern* (1976) 62 Cal.App.3d 761 [when a comment questioned the availability of water, a response was ruled inadequate when it stated that “all available data” showed underground water supplies to be sufficient]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859 [specific comments regarding Eel River environmental setting and pending diversions required additional responses].) Comments from responsible experts or sister agencies that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. (*Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4th 1344, citing *Cleary v.*

County of Stanislaus (1981) 118 Cal.App.3d 348, 357.) The FEIR fails to conform to these requirements in responding to comments in the areas discussed below.

Cumulative Impacts

The EIR's cumulative impacts analysis relies on the information regarding projected growth in the Eastern Neighborhoods Plan EIR (PEIR) cumulative impacts analysis that is eight years old and is now shown to be outdated. (Memo 2, Cumulative impacts and 4, PDR loss; Exhibit F [Monitoring Report]; RTC pgs. 158-164.) Given the unanticipated level of development in the Showplace Square/Potrero Hill Area, the assumption that cumulative impacts were addressed in the PEIR is no longer true. As a result, the EIR's analysis and determinations are materially flawed. In fact, the City already has more residential units constructed, entitled or in the pipeline for the Showplace Square/Potrero Area than were anticipated to be built in the area by the year 2025.

In 2008, the PEIR adopted a **3180** residential unit scenario for the Showplace Square/Potrero Hill area. (FEIR I.2-3.) The Project EIR states that as of February 23, 2016, **3315** units have been completed or are planned to complete environmental review within the area, whereas, additional analysis conducted for the 2010-2015 *Eastern Neighborhoods Monitoring Report* reveals that the Showplace/Potrero Hill Area actually had **4526** residential units under construction, entitled or under review. (FEIR IV.55) This is well in excess of the numbers analyzed in the PEIR and the figures used in the EIR. Notably, the *Monitoring Report* indicates that the entire Eastern Neighborhoods Area has exceeded those estimated in the PEIR (9785) by nearly 2000 units. (Exhibit F, Eastern Neighborhoods Monitoring Report 2011-2015 Draft Executive Summary pg. 7)

The Project EIR erroneously concludes:

Growth that has occurred within the Plan area since adoption of the *Eastern Neighborhoods PEIR* has been planned for and the effects of that growth were anticipated and considered in the *Eastern Neighborhoods PEIR*.

(FEIR IV.54)

The Project EIR claims that although the residential land use category is approaching projected levels, non-residential uses have not been exceeded. (RTC IV.54) However, the residential levels have been exceeded and the primary goal of the Eastern Neighborhoods Plan is to provide a balance between land uses, therefore, it is critical that the environmental review consider the impacts of this exceedence.

At their core, the Eastern Neighborhoods Plans try to accomplish two key policy goals:

1) They attempt to ensure a stable future for Production, Distribution and Repair (PDR) businesses in the city, mainly by reserving a certain amount of land for this purpose; and

2) they strive to provide a significant amount of new housing affordable to low, moderate and middle income families and individuals, along with “complete neighborhoods” that provide appropriate amenities for these new residents.

(Showplace Square/Potrero Hill Area Plan, pg. v.)

Because many of the assumptions regarding cumulative impacts in the underlying PEIR were based on unanticipated levels of residential development, the project EIR fails to adequately examine cumulative impacts.

Perhaps the most devastating failure of the Eastern Neighborhoods Plan for the Potrero Hill and Showplace Square residents has been the failure to provide the Community Benefits asserted in the PEIR and that are needed to enable, what amounts to, a near doubling of population. The Eastern Neighborhoods Plan took the long view, seeking to balance growth over a period of 25 years, but instead, growth is being compressed into several short years with almost no support for that growth. By relying on inaccurate assumptions regarding cumulative growth and together with the gap in adequate infrastructure provisions and benefits, the EIR does not address the level of development Potrero Hill has undergone and it's cumulative analysis fails as an informational document for this reason.

A Nexus Study was prepared in 2007 to determine the cost of the impacts identified in the PEIR with the idea that developers would pay impact fees to fund infrastructure improvements. Unfortunately, due to concerns that development would lag during the 2008 recession, impact fees were set at only 1/3 of the actual amount needed and adequate alternative funding sources have never been identified. The Showplace Square Potrero Plan included a mandate to provide four acres of new open space to accommodate expected growth. (Showplace Square/Potrero Hill Area Plan, pg. 51.) To date only one acre of public open space has been provided at Daggett Park, which is just enough to

provide open space for the 1000 new residents moving into 1010 Potrero. Finally, transit improvements were studied for an inadequate system that was already at capacity. Despite the Eastern Neighborhood Transit Implementation Planning Study (ENTRIPS) and the subsequent Transit Effectiveness Plan (TEP), the area has never received the transit improvements it needs.

A draft version of the EIR noted that the analysis in the EIR on this issue was based upon a “soft site” analysis and “not based upon the created capacity of the rezoning options (the total potential for development that would be created indefinitely.” The City attorney noted the legal vulnerability in that statement and proposed its deletion, stating that the EIR must consider the most conservative estimate of those effects and must also consider direct and indirect impacts of the Project. Citizens concur that the most conservative standard must be considered for review of indirect and cumulative impacts in order to satisfy CEQA’s full disclosure requirements and was not.

Regarding the issues relating to the cumulative loss of PDR, please refer to Memo 4.

Inconsistency with Area Plans and Policies

The FEIR fails to respond adequately to comments made about the Project’s inconsistency with area plans and policies, including the Showplace Square/Potrero Area Plan and the Urban Design and Housing Elements of the City’s General Plan. The EIR disregards established City policies and fails to adequately respond to comments regarding the Project’s conflicts with neighborhood scale and character, the requirement to provide adequate infrastructure, and the preservation of PDR uses. (RTC pgs. 38-44.)

Objective 3 of the San Francisco General Plan’s Urban Design Element requires: “Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.” The scale and density of the Project are substantially greater than existing surrounding Potrero Hill land uses and the project would be inconsistent with the established land use character of the neighborhood.

The Project conflicts with a number of Area Plan objectives including Objective 1.2 of the Showplace Square/Potrero Hill Area Plan, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character of Potrero Hill. Policy 3.1.6 of the Showplace Square/Potrero Hill Area Plan, states, “new buildings should epitomize the best in contemporary architecture, but should do so with a full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.” As proposed, the Project’s

16th Street building is inconsistent with the height, mass, and articulation of existing buildings in the Potrero Hill vicinity and provides little awareness of surrounding neighborhood structures.

Policy 2 of the City's General Plan states, "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." The Project is not consistent with this policy because its scale, mass, bulk and height are inconsistent with and will negatively impact established neighborhood development patterns and character. The proposed development is dramatically out of scale with nearby residences and small businesses.

The FEIR brushes off these and like comments on these critically important issues by broadly claiming that inconsistency with area plans does not relate to environmental impacts. (RTC pg. 43.) This is false; the reason EIRs are required to analyze a project's consistency with area plans is that inconsistency may result in impacts to, among other things, land use, traffic and circulation and influence the consideration of cumulative impacts. The FEIR fails to adequately respond to comments made about the inconsistency of the Project with area plans and policies concerning these issues.

Scale / Height / Density

The scale, height, and density of the proposed Project (72 to 83 feet and 395 residential units) is inconsistent with numerous provisions of the Showplace/Potrero Hill Area Plan and the Final EIR fails to adequately respond to comments on this issue. (Memo 3; RTC pgs. 35-38.)

Prior analysis in the PEIR, relied upon by City Planning for all new development in the Eastern Neighborhoods, is now eight years old and did not adequately evaluate or anticipate a project of commensurate size, height, or density as the Project. All of the analyses completed for the PEIR anticipated a height on the Project parcel of 68 feet – not 72 to 83 feet as proposed by the Project. As shown in height maps, the PEIR actually anticipated and analyzed lower heights at the site of 40 feet to 45 feet.

In accordance with the Showplace Square/Potrero Hill Area Plan policy that calls for lowered heights on the south side of 16th Street, the underlying PEIR addresses heights rising 65 feet to 68 feet – but only on the north side of 16th Street – not the south side of 16th where the Project is proposed. Objective 3.1/Policies 3.1.1 & 3.1.2 state that heights should be adopted that respect, "the residential character of Potrero Hill", "Respect the natural topography of Potrero Hill", and that "Lowering heights from the north to the south side of 16th Street would help accentuate Potrero Hill." The Final EIR fails to adequately respond to

comments that the size and scope of the Project conflicts with policies that provide a mechanism to avoid land use impacts.

Assertions by City Planning that the density and height for the Project were adequately evaluated in the PEIR are inaccurate and misleading. In July of 2014, senior City Planner Wade Wietgreffe inaccurately cited information in the PEIR. Wietgreffe claimed the following.

... As noted on page C&R-5, the preferred project changed between publication of the Draft EIR and publication of the C&R document. Therefore, the C&R document analyzed the environmental effects from the proposed changes, as well as responding to comments received on the Draft EIR. Figure C&R-2 identifies the heights for the Eastern Neighborhoods Plan, which includes 68-foot designations along 16th Street.

In actuality, the PEIR addressed heights rising to 65-68 feet on the north side of 16th but not the south side of 16th Street, consistent with the Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16th Street. The PEIR cited a map showing frontages along 16th Street had been raised to 65 feet in comparison to Option B (one of the iterations of the project proposed for consideration in the PEIR) yet the analysis emphasized that the added height would remain on the *north* side of 16th Street (Showplace Square) and *not the south side of 16th* (Potrero Hill). As stated in "Changes by Neighborhood — Showplace Square/Potrero Hill" page 12:

No changes in height limits are proposed on Potrero Hill. The Preferred Project would establish height limits of 65 - 68 feet within the core of Showplace Square between US-101 and I-280, north of 16th and south of Bryant Streets." This statement is repeated on page C&R-21: "In Showplace Square/Potrero Hill plan area, height limits would be similar to those analyzed for Options B, with minor height increases (to 45 feet as opposed to 40 feet in the DEIR) proposed to areas north of Mariposa Street, between De Haro Street and Seventh/Pennsylvania Streets. Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-280, north of 16th and south of Bryant Streets.

The PEIR repeatedly uses the above phrasing regarding limiting the height increase to the north side of 16th and not the south side of 16th Street.

The PEIR did not address or analyze issues about heights or zoning at the Project site. As stated on page 147:

A number of comments were directed at the proposed rezoning and area plans, and do not address the adequacy or accuracy of the EIR. Because these comments do not address the adequacy or accuracy of the EIR, no responses are required.

As shown in the PEIR, the Project sponsor lobbied to overturn the proposed 40 to 45 foot height at the Project site stating:

Sixteenth Street should be designated a “transit corridor” with a height limit of 65 feet near Mission Bay and Interstate 280. Seventh Street should have a height limit of 55 feet.

Aesthetics / Public View Corridors and Scenic Vistas

The EIR acknowledges that “views from surrounding public vantage points would be altered” but claims the Project need not consider aesthetic or views impacts because it meets the definition of a mixed-use residential project on an infill site within a transit priority area as defined by Public Resources Code section 21099(a). Nonetheless the EIR provided a curtailed analysis of aesthetics and views impacts. (Draft EIR S-2; RTC 36-38; 42-44; Memo 3.) While the Project is identified as being within a transit priority area, the area is admittedly underserved by transit and proposed upgrades to transit are tenuous, such that, the Project should not be exempted from review of aesthetics and views impacts. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to “relatively long headways between buses and indirect lines limits the usability of service” and that “steep topography of Potrero Hill and the discontinuous street network in some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

The Project’s single massive structure positioned at the base of Potrero Hill, along with its height, bulk, and massing will obscure a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. Potrero Hill, like San Francisco as a whole, is known for its dramatic City views and sweeping vistas. The height, bulk, and mass of the proposed Project would effectively wall off a large portion of lower Potrero Hill from public views of downtown enjoyed by neighborhood visitors for generations. Just like the recent campaign against “walling off” the waterfront, we believe Potrero Hill should be protected from “walls” of out-of-scale development.

This conflicts with long-standing City and state policies regarding protection of public scenic vistas. The Project is inconsistent with multiple Area Plan principles including provisions to “respect the natural topography of Potrero Hill”, to lower building “heights from the north to south side of 16th

Street” and to “promote preservation of other buildings and features that provide continuity with past development.” Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states:

San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.

As noted, the scale, height, and density of the Project (72 feet to 83 feet, including parapet and mechanical penthouses, and 395 residential units) are inconsistent with numerous terms set out in the Showplace/Potrero Hill Area Plan. Prior study contained in the PEIR, produced and relied upon by City Planning for all new development, is now eight-years old and did not adequately evaluate, analyze, consider or anticipate a specific project of the size, height, or density proposed by the developer at this location. All of the analyses completed for the Eastern Neighborhoods Plan anticipated a height on this parcel of 40 to 45-feet, not 83-feet as proposed by the Project.

The EIR failed to provide accurate and adequate 3-D modeling visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered by the Project sponsor for the EIR remain inadequate and do not accurately reflect the impact on scenic public vistas of a 72 to 83 foot high building in lower Potrero Hill. The visual simulations were effectively limited to a single North-South Street (Texas Street) and failed to include other North-South streets as well including Mississippi, Pennsylvania Streets, and Missouri Streets. (DEIR Chapter II, Project Description, pages II.26 – II.36.) Moreover, the Texas Street visuals are misleading because they are framed from a single vantage point in the middle of the roadway looking directly north and do not capture varied and wider angles, for example, from the north west). The significant impacts of added height due to roof top mechanical penthouses and massing are not presented.

The Project would also contribute to the cumulative loss of public view corridors. Review of photo simulations of building development in Potrero Hill over the past several years shows the significant and destructive impact on Potrero Hill’s cherished public view corridors. The continuing loss of public view corridors due to Mission Bay and 1010 16th Street Daggett/Equity Residential developments has been incremental but dramatic. The Project would contribute significantly to this continuing erosion of Potrero Hill’s public scenic view corridors.

The significant impacts on aesthetics, public views and cumulatively significant impacts have not been adequately evaluated in the EIR and the FEIR inadequately responds to comments on this issue.

Traffic / Transportation

The PEIR, upon which the EIR relies, did not fully consider the traffic impacts of a residential project of this size at this location, thus the EIR's traffic analysis of direct and cumulatively significant impacts is inadequate and incomplete; the EIR fails to adequately consider or adopt feasible mitigation measures; and the findings are not supported by substantial evidence. (Memo 1; Exhibit F; RTC pgs. 59-63; 71-98; 101-107)

The PEIR's evaluation of traffic impacts extending to the year 2025, upon which the FEIR relies, were based on assumptions about the level of development that is now outdated. Most of the traffic counts studied in the TIS were from 2013 and 2014, before the UCSF hospital had opened. 14 intersections were studied but key intersections were left out along Mariposa Street and 17th Streets. Additional studies, completed in 2015 (FEIR, Appendix C) for five of the intersections also omitted the intersections along Mariposa and 17th Streets.

Although the proposed project is in a Transit Priority area, public transit service is inadequate with most commuters have to rely on other modes of travel. Traffic congestion in the immediate area of the project is already a fact of life, with multiple intersections operating at F levels. Contrary to the principles of the City's Transit First Policy, the project was granted an exception to the parking maximum requirement of .75. The TIS studies extrapolated 2025 cumulative conditions based on outdated growth assumptions and neglected to consider large projects such as the Warriors Arena. (Exhibit F.) Four intersections were identified in the DEIR as impacted, with no identified mitigations, while mitigations for a fifth were based on reasonable assumptions, with no supporting evidence.

As the record shows, Potrero Hill is poorly served by area transit, yet the EIR claims that the Project's traffic impacts are offset because the Project is located within a transit area and is "within close proximity to numerous transit routes." (DEIR III.11.)

The draft Showplace/Potrero Monitoring Report shows that transit use in the area is at 24%, lagging well behind the City as a whole. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to "relatively long headways between buses and indirect lines limits the usability of service" and that "steep topography of Potrero Hill and the discontinuous street network in

some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

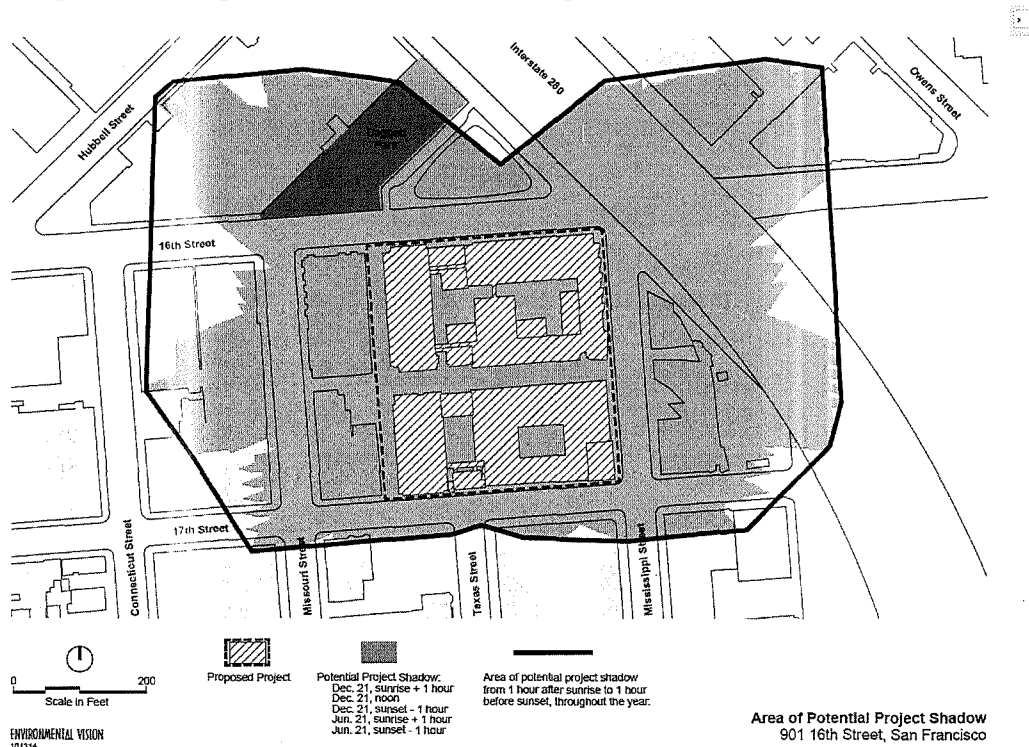
The *only* transit that is currently within a 5-minute walk from 901-16th Street is the temporary 55-16th route (which will eventually be replaced with the re-routed 22) and all other routes are nearly a half-mile or more away. The 10-Townsend (currently operating at or above capacity) and 19-Polk (which is expected to stop service to this area) are .4 miles away. Caltrain is .7 miles away and involves a walk over a steep hill (not the half mile claimed in the DEIR) and the T-Third is .5 miles away, a 9-minute walk. The 2.2 mile Transit to downtown (Montgomery and Market) takes an average of 30 minutes, excluding headways of 9-10 minutes or more; walking the route would take 43 minutes. While the 22 Fillmore will eventually become a BRT route and there are streetscape improvements slated for 16th Street, there is currently no other targeted funding to directly improve transit in the area or fill the need for better transit to serve a growing population. Impact fees have been reduced and partially replaced by the TSP (Transit Sustainability Program) that benefits the city as a whole but are inadequate to fully fund SFMTA deficits.

Open Space / Recreation / Shadow

The Showplace Square / Potrero Hill Area is underserved in terms of open space. Citizens assert additional shadow on Daggett Park, the only area of new open space identified in the PEIR that serves this area, will add to the incremental shadowing of the park and compromise the neighborhood’s limited recreational opportunities. At 68+ feet, the proposed Project will individually and cumulatively cast shadow on the park; 1010 Potrero which surrounds Daggett park on the north, east and west sides, also casts shadows on Daggett Park. (RTC pgs. 175-179; Memo 7.)

Because of unanticipated growth in the Showplace/Potrero Area, cumulative impacts on Recreation were not anticipated in the Eastern Neighborhoods Plan. The studies in the PEIR were based on outdated population data, with acquisition policies based on need using population levels in the 2000 census. (PEIR IV.H. pg. 370.) The PEIR did not identify adequate funding sources to meet the needs of the Eastern Neighborhoods for either maintenance of existing parks and recreation facilities or for the acquisition of new open space. The Showplace Square/Potrero Hill Plan specifically called for four acres of new space for the Area: “Analysis reveals that a total of about 4.0 acres of new space should be provided in this area to accommodate expected growth.” But only one acre of new space has been provided, Daggett Park, so far.

A shadow study dated October 13, 2014 prepared by Environmental Vision found that the Project would cast shadows on nearby Daggett Park but determined that the amount of area shadowed by the Project is minimal, the duration of shadow is limited, and the amount of the sunlight to this type of open space is acceptable. (Motion 19645, pg. 31.)



The CPE Checklist identified new net shadow from the Project in the mornings between mid-fall and mid-winter. (CPE, pg. 44) It also identified cumulative shadowing that would result in the Park being “largely” shadowed from 8:00 to 11:00 AM between mid-fall and mid-winter and notes that the Project related net new shadowing would impact lawn areas during the morning hours but the Project would not “substantially” contribute to shadowing in the afternoon. The conclusion was made that the lack of substantial afternoon shadowing, would result in overall less than significant impacts despite the addition of substantial morning shadowing. The impact of cumulative shadow was not considered.

Because the Project adds new net and cumulative shadow to Daggett Park, the City should consider adoption of an alternative that reduces the height of the building along 16th Street and increases setbacks. Additionally the rooftop mechanical structures should be designed to minimize shadow and reduce overall height.

On the topic of Recreation, the Community Plan Exemption (CPE) Checklist states that the project is within the development projected under the Eastern Neighborhoods Plan and that there would be no unanticipated impacts. (CPE Checklist pg. 49.) The Final EIR reiterates this without adequately responding to concerns about excessive residential growth. The Final EIR states "Recreation was addressed in the CPE Checklist which determined that the proposed project would be within the development projected in the Eastern Neighborhoods Rezoning and Area Plans."

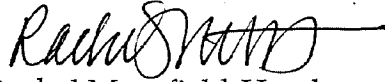
The shadowing of Daggett Park is in conflict with the General Plan provision, which protects open space from shadowing including the recommendation that "our parks and open space and their access to sunlight and vistas be protected from development." The Final EIR doesn't respond directly to stated concerns about this inconsistency, claiming that, "project related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts." (RTC pg. 179; PO-2.)

Cultural and Historic Resources

The DEIR does not adequately or accurately address issues related to the historic merit and integrity of the existing metal warehouses. (RTC pgs. 113-126; Memo 5; 7/11/16 letter from historic expert Katherine Petrin.) The EIR rejects arguments supporting historic integrity of the metal buildings, including the research and opinion of highly respected architectural historian, Katherine Petrin. Petrin's expert testimony demonstrates these buildings remain historic despite alterations and company mergers over the years. In her compelling report, Petrin documents a strong case for finding historic integrity, among other things, she stated the Period of Significance was longer than City Planning's claim of 1906 – 1928, it should be extended through at least to mid 1947. While the steel warehouses may have been altered to some degree over the years, modifications in industrial spaces are to be expected given the utilitarian purpose of these buildings and the need for flexible space. Collectively, the Potrero Hill industrial complex contains the last remaining structures of the Pacific Rolling Mill, which began operating in the Central Waterfront in 1868 before reorganizing and relocating to Potrero Hill in the early 1900s. The buildings are also the last remaining extant structures of the merged companies, Judson Pacific Company (1928), and Judson Pacific Company (1945) in San Francisco. Petrin, along with numerous others, urged the adoption of the Metal Shed Reuse Alternative.

For the foregoing reasons, Citizens request the Board uphold the appeal.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Rachel Mansfield-Howlett', with a long horizontal flourish extending to the right.

Rachel Mansfield-Howlett

Carroll, John (BOS)

From: SF Judith <fogcitycomments@gmail.com>
Sent: Monday, July 25, 2016 8:17 PM
To: Campos, David (BOS); BOS-Supervisors
Cc: BOS Legislation, (BOS); BOS-Legislative Aides
Subject: July 26 Meeting Agenda Item 49: Support Appeal of EIR. Urge adoption of Motion 51 reversing certification due to inaccurate, inadequate analysis and lack of objective support of public interest in critical transportation thoroughfare (Caltrain, Warrior...

Categories: 160683

Supervisor Campos and other members of the Board,

I urge you to reverse the final EIR certification of the Corovan site/ 901 16th St/ 1200 17th Street. The EIR is flawed and limited in scope and relies on an Eastern Neighborhoods PEIR which is inadequate for the project proposed, fails to account for site specific conditions, and ignores reasonably foreseeable major changes adjacent to the site. The community in this case engaged in a deep and meaningful way with presentation of the Metal Shed Reuse Alternative which better supports the public interest and community values.

Metal Shed Reuse Alternative should have been adopted in FEIR as it would mitigate impacts related to the site and is feasible. This Metal Shed Reuse Alternative was studied in the EIR and was environmentally preferred and supports the heritage of the site. The Planning Department provided an inadequate basis for deeming it infeasible. A minimal financial analysis overseen by a staff member at the planning department for less than a year and working directly with the developer resulted in deeming the environmentally superior alternative infeasible. However the analysis failed to include documentation of methodology. Elements such as the Federal subsidy Facade Easement Preservation Tax Credit per IRS were not incorporated. The alternative should be deemed feasible.

Eastern Neighborhood PEIR did not adequately study or provide mitigation for this project as the number of housing units studied has been exceeded, and transit and recreation are inadequate. The number of housing units studied under the EN PEIR has been exceeded per appellants brief. Recreation in the area available to children (not private adult-only gyms) is extremely scarce and is being degraded by shadow casting development and increased use due to growth. Nearby Jackson Playground is visually degraded and shadowed by multiple projects. Daggett Open Space would be significantly shadowed by the project as proposed.

The FEIR was inadequate and inaccurate regarding transportation resources and impairment of critical transit and emergency service elements. Transportation for the surrounding area would be further impaired and was not adequately studied in the FEIR or EN PEIR.

- Major At Grade Caltrain crossing is at 16th and Mississippi immediately adjacent to the project. This area already has major back ups and zero tolerance for vehicles getting stuck on the tracks.

- Caltrain will electrify within the next few years (less than five) in order to eliminate diesel emissions for air quality reasons. This added infrastructure may require wider crossing area.

- 16th Street is slated for transit/bus lane. Project developer proposed to widen the sidewalk (for Better Streets Compliance/Vision Zero) and narrow the street width 5 feet. Instead the developer should move the building back so an adequate loading/turning area can be provided and the sidewalk needs to be widened by pushing back the building from the property line as this may become a major pedestrian thoroughfare to go from 16th St BART to the Warriors Stadium. The widening the sidewalk and narrowing the street was not adequately treated

with regard to the public interest. Developers need to provide adequate pedestrian passages not takeover public right of ways such as 16th Street. Planning Department needs better MOUs with MTA and DPW to effectively provide proper management of the public right of way and adjacent private space needed for public benefit and safety such as wider sidewalks.

-17th Street is a proposed bike lane and will support the Blueway to Greenway. Impacts were not adequately studied.

- Truck Routes are marked and used on 17th and Mississippi. Impacts were not adequately mitigated or studied. Large and extra large trucks regularly use this route. For example, State Department of Toxics is routing trucks with contaminated soils on this route from Related California Mariposa St. project site. Even though the truck route is plainly marked and used, Planning Department claimed these routes weren't noted in general plan.

- One can regularly witness commercial vehicles going into oncoming traffic lanes at the 17th and Mississippi intersection due to severe congestion especially in the morning.

-The Bomb Squad for CCSF is a few blocks to the West between 16th and 17th. The new UCSF Children's Hospital is a few blocks to the East of the site. Impacts on emergency services were not accurately analyzed.

I urge you to adopt Motion 51 reversing the Final EIR Certification. The FEIR is not accurate or objective.

As a District 9 resident, I have seen the consequences of processes that ignored and discounted community input.

Thanks for your consideration and I hope you will reverse the certification of the EIR,
Judith

Sent from my iPad

Carroll, John (BOS)

From: Somera, Alisa (BOS)
Sent: Monday, July 25, 2016 5:21 PM
To: BOS Legislation, (BOS)
Subject: FW: 901-16th Street and 1200-17th Street ("Corovan") Project
Attachments: 7-15-16 901 16th Street appeal letter.pdf

Categories: 160683

Alisa Somera
Legislative Deputy Director
San Francisco Board of Supervisors
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-----Original Message-----

**From:** Calvillo, Angela (BOS)  
**Sent:** Monday, July 25, 2016 5:20 PM  
**To:** Somera, Alisa (BOS) <alisa.somera@sfgov.org>  
**Subject:** FW: 901-16th Street and 1200-17th Street ("Corovan") Project

Alisa,  
For the file please.  
Angela

-----Original Message-----

**From:** Yoram Meroz [mailto:yoram.meroz@gmail.com]  
**Sent:** Monday, July 25, 2016 4:04 PM  
**To:** BOS Legislation, (BOS) <bos.legislation@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative\_aides@sfgov.org>

Subject: 901-16th Street and 1200-17th Street ("Corovan") Project

Dear Supervisors,

As a resident of Potrero Hill, I am writing to ask that on 7/26/2016 you vote to reverse the EIR for the Corovan site project on Potrero Hill (901 16th St. / 1200-17th St.). The site, at the gateway to Potrero, currently has the Hill's last remaining large industrial metal building, adjacent to our busiest intersections. The EIR manages to approve the demolition of this century-old historical building, and the jamming of hundreds of daily passenger car trips into an area of severe traffic which already stretches for blocks in every direction.

Despite neighborhood pleas since the project's inception, the developers have refused to listen to any of our needs, and would not compromise to permit any adaptive reuse of the building. Having purchased the property for less than \$10m, they are preparing to build \$500m worth of market-rate apartments. We do not have their resources, but we have you, our representatives. Please vote to reverse this flawed EIR.

Sincerely,

Yoram Meroz

PROVENCHER & FLATT, LLP  
823 Sonoma Ave. Santa Rosa, CA 95404  
Phone: 707-284.2380 Fax: 707-284.2387

ATTORNEYS AT LAW  
Douglas B. Provencher  
Gail F. Flatt

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OF COUNSEL  
Janis H. Grattan  
Rachel Mansfield-Howlett  
Roz Bateman Smith

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

July 15, 2016

*Via Hand and Electronic Delivery*

**RE: Appeal of the certification of the EIR for the 901 16th Street and  
1200 17th Street Mixed Use Project**

Dear Members of the Board of Supervisors,

These comments are submitted on behalf of Appellants, Grow Potrero Responsibly and Save the Hill ("Citizens", hereafter).

The proposed Project is one of the largest projects to be proposed in the history of Potrero Hill; it is positioned at the gateway of the Potrero Hill community and covers 3.5 acres; and it has the capacity to alter the very nature of the Potrero Hill community.

The Environmental Impact Report (EIR) fails to adequately analyze impacts in the areas of cumulative impacts, traffic and circulation, transportation, aesthetics and views, shadows, land use, cultural and historic, and consistency with area plans and policies; fails to adequately review alternatives; and the Final EIR (sometimes referred to as the RTC or Responses to Comments) fails to respond adequately to substantive comments made on the Draft EIR. The Project EIR and Community Plan Exemption (CPE) tiers off of and relies upon the EIR prepared for the Eastern Neighborhoods Area Plan (PEIR; sometimes referred to as the EN Plan EIR). The PEIR did not provide for the impacts of a project at this site at this height and scale and with these traffic impacts; and it underestimated the level of development of residential units and the loss of Production, Distribution and Repair (PDR) uses throughout the Potrero Hill / Showplace Areas. The EIR is defective in its reliance on the PEIR in the areas that affect these issues.

Potrero Hill is poorly served by area transit, yet the developer asserts the Project's addition of 395 residential units, with admitted impacts to traffic and loss of PDR, is a transit friendly project merely because the site is located within a Transit Priority Area. Citizens will show that the EIR's reliance on this assertion is misplaced.

The Project admittedly results in impacts to traffic and circulation and loss of PDR. Two of the alternatives reviewed in the EIR substantially lessen or avoid these impacts and comment letters in the Final EIR show that there is overwhelming support for the adoption of this alternative. Planning's Findings assert alternatives are infeasible based upon a flawed developer study that used land value instead of land acquisition costs, which artificially reduced profits and skewed the feasibility analysis; neglected to include data about the Project that would allow a fair comparison of the costs and profits of the Project to the alternatives; and unnecessarily burdened alternatives with flaws that made them appear to result in more severe traffic impacts and less profit. When considering a project with admitted impacts, as here, the City is required to fairly consider and adopt feasible alternatives that would substantially reduce Project impacts prior to considering adoption of a Statement of Overriding Considerations and did not.

For ease of review, this letter summarizes the main facts and legal issues at stake in the appeal. The attached Memos augment the facts cited herein and offer extensive analysis on the issues of concern. **Exhibit E**, Memos 1-7: 1 Transportation; 2, Cumulative Impacts; 3, Public Views; 4, Loss of PDR; 5, Historic Resources; 6, Objectivity; 7, Shadows and Open Space; and 8, Alternatives. Citizens include the Draft Eastern Neighborhoods Monitoring Report, the TSF Nexus Study and the TIS traffic study, 2/20/15 Ed Lee letter, 2015 State of Local Manufacturing (SFMade), and evidence regarding historic resources and view corridors, in **Exhibit F** and information received from the City *via* a Public Records Act Record in **Exhibit G**.

### **Alternatives Analysis**

If a project will result in significant environmental impacts that will not be avoided or substantially lessened by mitigation measures, the agency must consider the environmentally superior alternatives identified in the EIR and find that they are "infeasible" before approving the project. (Pub. Res. Code § 21081(a)(3), *See also* CEQA Guidelines 14 Cal. Code Regs. § 15091(a)(3).) Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (Pub. Res. Code § 21061.1; Guidelines §15364.) The requirement for an infeasibility finding flows from the public policy that states:

It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...the Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

(Pub. Res. Code § 21002.) Reflecting this policy, Public Resources Code section 21081(a)(1)-(3) provides that if one or more significant impacts will not be avoided or substantially lessened by adopting mitigation measures, alternatives described in the EIR that can avoid or reduce the impact must be found infeasible if they are not adopted. Under this scheme, a public agency must avoid or reduce a project's significant environmental effects when it is feasible to do so. (Pub. Res. Code §§ 21002, 21002.1(b); 14 Cal. Code Regs §§ 15021(a) and 15091(a)(1).) As explained by the California Supreme Court in *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4<sup>th</sup> 105, 124, "Under CEQA, a public agency must . . . consider measures that might mitigate a project's adverse environmental impact and adopt them if feasible. (Pub. Res. Code §§ 21002, 21081.)" The Court reiterated "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures." (*Id.* at 134.) CEQA's substantive mandate was again underscored by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4<sup>th</sup> 341, and by the Court of Appeal in *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4<sup>th</sup> 86 and *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4<sup>th</sup> 1336.

Increased costs of an alternative do not equate to economic infeasibility: "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors (Goleta I)* (1988) 197 Cal.App.3d 1167, 1181. See also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736; *City of Fremont v. San Francisco Bay Area Rapid Transit District* (1995) 34 Cal.App.3d 1780 (addition of \$60 million in costs rendered subterranean alternative for BART extension infeasible.) In *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167, the court found that the record included no analysis of the comparative costs, profits, or economic benefits of scaled down project alternative and was insufficient to support finding of economic infeasibility. In *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4<sup>th</sup>

587, a project applicant's preference against an alternative does not render it infeasible. In *County of San Diego v. Grossmont Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 108, the court found that a community college's proportional share of cost of off-campus traffic mitigation measures could not be found economically infeasible in absence of cost estimates. In *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, the court found that an infeasibility finding based on economic factors cannot be made without estimate of income or expenditures to support conclusion that reduction of motel project or relocation of some units would make project unprofitable.

Here, the EIR has conceded significant traffic and circulation impacts and the Project's contribution to the cumulative loss of PDR; the EIR is thus required to adequately analyze a reasonable range of alternatives that reduce all potentially significant environmental impacts. Citizens assert that substantive comments on the Draft EIR provide the bases for finding substantial environmental impacts due to aesthetics and views, inconsistency with area plans, land use, growth inducing and cumulative impacts and shade and shadow of area parks.

When a project results in admitted environmental impacts, a lead agency cannot merely adopt a statement of overriding considerations and approve it; the agency must *first* adopt feasible alternatives and mitigation measures. (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 185; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341 [“CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible.”

#### ***Metal Shed Reuse Alternative***

The EIR identified a feasible alternative that Citizens argue, would reduce impacts to traffic and loss of PDR and yield sufficient profits, yet the EIR determined that the Metal Shed Reuse alternative is infeasible, asserting additional costs and loss of profit. Numerous residents and the Historic Preservation Commission offered extensive comments on the advantages of the alternative and recommended its adoption. (RTC pgs. 131-157; Memo 8; *see also* Memo 5, recommending adoption of the alternative as it relates to historic resources.) Citizens concur with this recommendation and encourage the Board to adopt the Metal Shed Reuse alternative.

The determination of infeasibility is based upon the recently submitted developer prepared financial study. Citizens reference Memo 3 that details the reasons why the alternative is feasible and shows how the developer's study is



inadequate and incomplete and fails to show that that additional costs or loss of profits would render the project impractical to proceed.

The developer's study cites to a targeted range of margins of profit but fails to provide actual cost and profit information. It is impossible to make an effective comparison without this information and runs counter to the requirements set forth for feasibility findings in *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167.

Even using the target profit margin asserted by the developer, the alternative should be found feasible. The Planning Department stated that assessing feasibility was based upon land acquisition costs, whereas the developer's study used current "land value" instead of land cost data, thereby inflating the costs of the Project considerably. Utilizing land cost data, the Metal Shed Alternative meets the targeted 18%-25% profit margin cited by the developer. Other errors in the study include the use of outdated information regarding the value of rental square footage in PDR uses. The study assumed a \$2.50 per square foot value, whereas current figures are estimated at nearly twice that, at \$4.00/ square foot, thereby considerably devaluing the alternative's profit.

The EIR also fails to support its allegation that the greater percentage of PDR in the Metal Shed alternative would render higher traffic counts. The Final EIR does not adequately respond to comments asking why a lower density, PDR-focused project would not result in significantly lower traffic impacts. Planning inexplicably chose to use "office" rather than "manufacturing" rates from the Transportation Impact Analysis Guidelines, even though the PEIR specifically stated that "PDR" was less impactful than "office" using the same Guidelines. The analysis using TSF Nexus Rates appears to cherry pick data, rather than doing the complete analysis. The Planning Department also chose the most intensive commercial use (restaurant) for nearly half of the non-PDR commercial space in the Metal Shed Alternative. The calculations are therefore unfairly skewed to make the Metal Shed Alternative appear more impactful under Transportation Impact Analysis rates when they would be actually be substantially less. Using the full set of motorized TSF rates for PDR, non-PDR commercial and residential shows that the Metal Shed Alternative will have the lowest impact on traffic. Without this impediment, the alternative would have been considered the environmentally superior alternative. For the foregoing reasons, the determination that the Metal Shed Reuse Alternative is infeasible and results in the same or higher traffic impacts is not supported by substantial evidence.

### ***Reduced Density Alternative***

The EIR states

The Reduced Density Alternative is identified as the environmentally superior alternative because it would “to some extent” meet the project sponsor’s basic objectives, while avoiding all but one of the traffic-related significant unavoidable impacts of the proposed project. This impact reduction would be achieved because the alternative would have fewer residential units and commercial space at the site compared to the proposed Project, and therefore have associated reductions in vehicle traffic compared to the proposed project. (DEIR pg. S-22.)

The EIR states that this alternative would include 273 residential units, 16,880 square feet of commercial space and have more open space that would total 56,850 square feet. (DEIR pg. S-23.) The Project would have 395 residential units, 24,968 square feet of commercial/public space and 50,932 square feet of open space. A reduction of 122 residential units and 8,088 square feet of commercial space would mitigate the traffic impact to insignificance and produce 5,918 more square feet of open space. (RTC pgs. 131-157; Memo 8.) The chart at page S-25 also shows that the Reduced Density Alternative would mitigate the traffic impacts to insignificance. The EIR states that the financial feasibility of the Reduced Density Alternative is unknown. (DEIR pg. S-24.) As noted, an alternative need not meet every project objective to be considered feasible. Similar to the analysis of the Metal Shed Reuse Alternative, the developer’s study asserts the alternative would not yield sufficient profits to be considered feasible. As noted, the developer’s study utilized a flawed analysis to determine infeasibility and the determination of infeasibility is not supported.

### **Failure to Respond Adequately to Comments**

Responses should explain any rejections of the commentors’ proposed mitigations and alternatives. Evasive, conclusory responses and mere excuses are not legally sufficient. (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 355-360 (failure to adequately respond to any significant public comment is an abuse of discretion); Guideline §15088(b).) A general response to a specific question is usually insufficient. (*People v. County of Kern* (1976) 62 Cal.App.3d 761 [when a comment questioned the availability of water, a response was ruled inadequate when it stated that “all available data” showed underground water supplies to be sufficient]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4<sup>th</sup> 859 [specific comments regarding Eel River environmental setting and pending diversions required additional responses].) Comments from responsible experts or sister agencies that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. (*Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4<sup>th</sup> 1344, citing *Cleary v.*

*County of Stanislaus* (1981) 118 Cal.App.3d 348, 357.) The FEIR fails to conform to these requirements in responding to comments in the areas discussed below.

### **Cumulative Impacts**

The EIR's cumulative impacts analysis relies on the information regarding projected growth in the Eastern Neighborhoods Plan EIR (PEIR) cumulative impacts analysis that is eight years old and is now shown to be outdated. (Memo 2, Cumulative impacts and 4, PDR loss; Exhibit F [Monitoring Report]; RTC pgs. 158-164.) Given the unanticipated level of development in the Showplace Square/Potrero Hill Area, the assumption that cumulative impacts were addressed in the PEIR is no longer true. As a result, the EIR's analysis and determinations are materially flawed. In fact, the City already has more residential units constructed, entitled or in the pipeline for the Showplace Square/Potrero Area than were anticipated to be built in the area by the year 2025.

In 2008, the PEIR adopted a 3180 residential unit scenario for the Showplace Square/Potrero Hill area. (FEIR I.2-3.) The Project EIR states that as of February 23, 2016, 3315 units have been completed or are planned to complete environmental review within the area, whereas, additional analysis conducted for the 2010-2015 *Eastern Neighborhoods Monitoring Report* reveals that the Showplace/Potrero Hill Area actually had 4526 residential units under construction, entitled or under review. (FEIR IV.55) This is well in excess of the numbers analyzed in the PEIR and the figures used in the EIR. Notably, the *Monitoring Report* indicates that the entire Eastern Neighborhoods Area has exceeded those estimated in the PEIR (9785) by nearly 2000 units. (Exhibit F, Eastern Neighborhoods Monitoring Report 2011-2015 Draft Executive Summary pg. 7)

The Project EIR erroneously concludes:

Growth that has occurred within the Plan area since adoption of the *Eastern Neighborhoods PEIR* has been planned for and the effects of that growth were anticipated and considered in the *Eastern Neighborhoods PEIR*.

(FEIR IV.54)

The Project EIR claims that although the residential land use category is approaching projected levels, non-residential uses have not been exceeded. (RTC IV.54) However, the residential levels have been exceeded and the primary goal of the Eastern Neighborhoods Plan is to provide a balance between land uses, therefore, it is critical that the environmental review consider the impacts of this exceedence.

**At their core, the Eastern Neighborhoods Plans try to accomplish two key policy goals:**

1) They attempt to ensure a stable future for Production, Distribution and Repair (PDR) businesses in the city, mainly by reserving a certain amount of land for this purpose; and

2) they strive to provide a significant amount of new housing affordable to low, moderate and middle income families and individuals, along with “complete neighborhoods” that provide appropriate amenities for these new residents.

(Showplace Square/Potrero Hill Area Plan, pg. v.)

Because many of the assumptions regarding cumulative impacts in the underlying PEIR were based on unanticipated levels of residential development, the project EIR fails to adequately examine cumulative impacts.

Perhaps the most devastating failure of the Eastern Neighborhoods Plan for the Potrero Hill and Showplace Square residents has been the failure to provide the Community Benefits asserted in the PEIR and that are needed to enable, what amounts to, a near doubling of population. The Eastern Neighborhoods Plan took the long view, seeking to balance growth over a period of 25 years, but instead, growth is being compressed into several short years with almost no support for that growth. By relying on inaccurate assumptions regarding cumulative growth and together with the gap in adequate infrastructure provisions and benefits, the EIR does not address the level of development Potrero Hill has undergone and its cumulative analysis fails as an informational document for this reason.

A Nexus Study was prepared in 2007 to determine the cost of the impacts identified in the PEIR with the idea that developers would pay impact fees to fund infrastructure improvements. Unfortunately, due to concerns that development would lag during the 2008 recession, impact fees were set at only 1/3 of the actual amount needed and adequate alternative funding sources have never been identified. The Showplace Square Potrero Plan included a mandate to provide four acres of new open space to accommodate expected growth. (Showplace Square/Potrero Hill Area Plan, pg. 51.) To date only one acre of public open space has been provided at Daggett Park, which is just enough to

provide open space for the 1000 new residents moving into 1010 Potrero. Finally, transit improvements were studied for an inadequate system that was already at capacity. Despite the Eastern Neighborhood Transit Implementation Planning Study (ENTRIPS) and the subsequent Transit Effectiveness Plan (TEP), the area has never received the transit improvements it needs.

A draft version of the EIR noted that the analysis in the EIR on this issue was based upon a “soft site” analysis and “not based upon the created capacity of the rezoning options (the total potential for development that would be created indefinitely.” The City attorney noted the legal vulnerability in that statement and proposed its deletion, stating that the EIR must consider the most conservative estimate of those effects and must also consider direct and indirect impacts of the Project. Citizens concur that the most conservative standard must be considered for review of indirect and cumulative impacts in order to satisfy CEQA’s full disclosure requirements and was not.

Regarding the issues relating to the cumulative loss of PDR, please refer to Memo 4.

#### **Inconsistency with Area Plans and Policies**

The FEIR fails to respond adequately to comments made about the Project’s inconsistency with area plans and policies, including the Showplace Square/Potrero Area Plan and the Urban Design and Housing Elements of the City’s General Plan. The EIR disregards established City policies and fails to adequately respond to comments regarding the Project’s conflicts with neighborhood scale and character, the requirement to provide adequate infrastructure, and the preservation of PDR uses. (RTC pgs. 38-44.)

Objective 3 of the San Francisco General Plan’s Urban Design Element requires: “Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.” The scale and density of the Project are substantially greater than existing surrounding Potrero Hill land uses and the project would be inconsistent with the established land use character of the neighborhood.

The Project conflicts with a number of Area Plan objectives including Objective 1.2 of the Showplace Square/Potrero Hill Area Plan, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character of Potrero Hill. Policy 3.1.6 of the Showplace Square/Potrero Hill Area Plan, states, “new buildings should epitomize the best in contemporary architecture, but should do so with a full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.” As proposed, the Project’s

16<sup>th</sup> Street building is inconsistent with the height, mass, and articulation of existing buildings in the Potrero Hill vicinity and provides little awareness of surrounding neighborhood structures.

Policy 2 of the City's General Plan states, "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." The Project is not consistent with this policy because its scale, mass, bulk and height are inconsistent with and will negatively impact established neighborhood development patterns and character. The proposed development is dramatically out of scale with nearby residences and small businesses.

The FEIR brushes off these and like comments on these critically important issues by broadly claiming that inconsistency with area plans does not relate to environmental impacts. (RTC pg. 43.) This is false; the reason EIRs are required to analyze a project's consistency with area plans is that inconsistency may result in impacts to, among other things, land use, traffic and circulation and influence the consideration of cumulative impacts. The FEIR fails to adequately respond to comments made about the inconsistency of the Project with area plans and policies concerning these issues.

### **Scale / Height / Density**

The scale, height, and density of the proposed Project (72 to 83 feet and 395 residential units) is inconsistent with numerous provisions of the Showplace/Potrero Hill Area Plan and the Final EIR fails to adequately respond to comments on this issue. (Memo 3; RTC pgs. 35-38.)

Prior analysis in the PEIR, relied upon by City Planning for all new development in the Eastern Neighborhoods, is now eight years old and did not adequately evaluate or anticipate a project of commensurate size, height, or density as the Project. All of the analyses completed for the PEIR anticipated a height on the Project parcel of 68 feet – not 72 to 83 feet as proposed by the Project. As shown in height maps, the PEIR actually anticipated and analyzed lower heights at the site of 40 feet to 45 feet.

In accordance with the Showplace Square/Potrero Hill Area Plan policy that calls for lowered heights on the south side of 16<sup>th</sup> Street, the underlying PEIR addresses heights rising 65 feet to 68 feet – but only on the north side of 16<sup>th</sup> Street – not the south side of 16<sup>th</sup> where the Project is proposed. Objective 3.1/Policies 3.1.1 & 3.1.2 state that heights should be adopted that respect, "the residential character of Potrero Hill", "Respect the natural topography of Potrero Hill", and that "Lowering heights from the north to the south side of 16<sup>th</sup> Street would help accentuate Potrero Hill." The Final EIR fails to adequately respond to

comments that the size and scope of the Project conflicts with policies that provide a mechanism to avoid land use impacts.

Assertions by City Planning that the density and height for the Project were adequately evaluated in the PEIR are inaccurate and misleading. In July of 2014, senior City Planner Wade Wietgreffe inaccurately cited information in the PEIR. Wietgreffe claimed the following.

... As noted on page C&R-5, the preferred project changed between publication of the Draft EIR and publication of the C&R document. Therefore, the C&R document analyzed the environmental effects from the proposed changes, as well as responding to comments received on the Draft EIR. Figure C&R-2 identifies the heights for the Eastern Neighborhoods Plan, which includes 68-foot designations along 16<sup>th</sup> Street.

In actuality, the PEIR addressed heights rising to 65-68 feet on the north side of 16<sup>th</sup> but not the south side of 16<sup>th</sup> Street, consistent with the Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16<sup>th</sup> Street. The PEIR cited a map showing frontages along 16<sup>th</sup> Street had been raised to 65 feet in comparison to Option B (one of the iterations of the project proposed for consideration in the PEIR) yet the analysis emphasized that the added height would remain on the *north* side of 16th Street (Showplace Square) and *not the south side of 16<sup>th</sup>* (Potrero Hill). As stated in "Changes by Neighborhood — Showplace Square/Potrero Hill" page 12:

No changes in height limits are proposed on Potrero Hill. The Preferred Project would establish height limits of 65 - 68 feet within the core of Showplace Square between US-101 and I-280, north of 16th and south of Bryant Streets." This statement is repeated on page C&R-21: "In Showplace Square/Potrero Hill plan area, height limits would be similar to those analyzed for Options B, with minor height increases (to 45 feet as opposed to 40 feet in the DEIR) proposed to areas north of Mariposa Street, between De Haro Street and Seventh/Pennsylvania Streets. Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-280, north of 16th and south of Bryant Streets.

The PEIR repeatedly uses the above phrasing regarding limiting the height increase to the north side of 16<sup>th</sup> and not the south side of 16<sup>th</sup> Street.

The PEIR did not address or analyze issues about heights or zoning at the Project site. As stated on page 147:

A number of comments were directed at the proposed rezoning and area plans, and do not address the adequacy or accuracy of the EIR. Because these comments do not address the adequacy or accuracy of the EIR, no responses are required.

As shown in the PEIR, the Project sponsor lobbied to overturn the proposed 40 to 45 foot height at the Project site stating:

Sixteenth Street should be designated a “transit corridor” with a height limit of 65 feet near Mission Bay and Interstate 280. Seventh Street should have a height limit of 55 feet.

### **Aesthetics / Public View Corridors and Scenic Vistas**

The EIR acknowledges that “views from surrounding public vantage points would be altered” but claims the Project need not consider aesthetic or views impacts because it meets the definition of a mixed-use residential project on an infill site within a transit priority area as defined by Public Resources Code section 21099(a). Nonetheless the EIR provided a curtailed analysis of aesthetics and views impacts. (Draft EIR S-2; RTC 36-38; 42-44; Memo 3.) While the Project is identified as being within a transit priority area, the area is admittedly underserved by transit and proposed upgrades to transit are tenuous, such that, the Project should not be exempted from review of aesthetics and views impacts. The PEIR noted that in the Potrero Hill / Showplace area, transit was subject to “relatively long headways between buses and indirect lines limits the usability of service” and that “steep topography of Potrero Hill and the discontinuous street network in some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

The Project’s single massive structure positioned at the base of Potrero Hill, along with its height, bulk, and massing will obscure a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. Potrero Hill, like San Francisco as a whole, is known for its dramatic City views and sweeping vistas. The height, bulk, and mass of the proposed Project would effectively wall off a large portion of lower Potrero Hill from public views of downtown enjoyed by neighborhood visitors for generations. Just like the recent campaign against “walling off” the waterfront, we believe Potrero Hill should be protected from “walls” of out-of-scale development.

This conflicts with long-standing City and state policies regarding protection of public scenic vistas. The Project is inconsistent with multiple Area Plan principles including provisions to “respect the natural topography of Potrero Hill”, to lower building “heights from the north to south side of 16th



Street” and to “promote preservation of other buildings and features that provide continuity with past development.” Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states:

San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.

As noted, the scale, height, and density of the Project (72 feet to 83 feet, including parapet and mechanical penthouses, and 395 residential units) are inconsistent with numerous terms set out in the Showplace/Potrero Hill Area Plan. Prior study contained in the PEIR, produced and relied upon by City Planning for all new development, is now eight-years old and did not adequately evaluate, analyze, consider or anticipate a specific project of the size, height, or density proposed by the developer at this location. All of the analyses completed for the Eastern Neighborhoods Plan anticipated a height on this parcel of 40 to 45-feet, not 83-feet as proposed by the Project.

The EIR failed to provide accurate and adequate 3-D modeling visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered by the Project sponsor for the EIR remain inadequate and do not accurately reflect the impact on scenic public vistas of a 72 to 83 foot high building in lower Potrero Hill. The visual simulations were effectively limited to a single North-South Street (Texas Street) and failed to include other North-South streets as well including Mississippi, Pennsylvania Streets, and Missouri Streets. (DEIR Chapter II, Project Description, pages II.26 – II.36.) Moreover, the Texas Street visuals are misleading because they are framed from a single vantage point in the middle of the roadway looking directly north and do not capture varied and wider angles, for example, from the north west). The significant impacts of added height due to roof top mechanical penthouses and massing are not presented.

The Project would also contribute to the cumulative loss of public view corridors. Review of photo simulations of building development in Potrero Hill over the past several years shows the significant and destructive impact on Potrero Hill’s cherished public view corridors. The continuing loss of public view corridors due to Mission Bay and 1010 16<sup>th</sup> Street Daggett/Equity Residential developments has been incremental but dramatic. The Project would contribute significantly to this continuing erosion of Potrero Hill’s public scenic view corridors.

The significant impacts on aesthetics, public views and cumulatively significant impacts have not been adequately evaluated in the EIR and the FEIR inadequately responds to comments on this issue.

### **Traffic / Transportation**

The PEIR, upon which the EIR relies, did not fully consider the traffic impacts of a residential project of this size at this location, thus the EIR's traffic analysis of direct and cumulatively significant impacts is inadequate and incomplete; the EIR fails to adequately consider or adopt feasible mitigation measures; and the findings are not supported by substantial evidence. (Memo 1; Exhibit F; RTC pgs. 59-63; 71-98; 101-107)

The PEIR's evaluation of traffic impacts extending to the year 2025, upon which the FEIR relies, were based on assumptions about the level of development that is now outdated. Most of the traffic counts studied in the TIS were from 2013 and 2014, before the UCSF hospital had opened. 14 intersections were studied but key intersections were left out along Mariposa Street and 17<sup>th</sup> Streets. Additional studies, completed in 2015 (FEIR, Appendix C) for five of the intersections also omitted the intersections along Mariposa and 17<sup>th</sup> Streets.

Although the proposed project is in a Transit Priority area, public transit service is inadequate with most commuters have to rely on other modes of travel. Traffic congestion in the immediate area of the project is already a fact of life, with multiple intersections operating at F levels. Contrary to the principles of the City's Transit First Policy, the project was granted an exception to the parking maximum requirement of .75. The TIS studies extrapolated 2025 cumulative conditions based on outdated growth assumptions and neglected to consider large projects such as the Warriors Arena. (Exhibit F.) Four intersections were identified in the DEIR as impacted, with no identified mitigations, while mitigations for a fifth were based on reasonable assumptions, with no supporting evidence.

As the record shows, Potrero Hill is poorly served by area transit, yet the EIR claims that the Project's traffic impacts are offset because the Project is located within a transit area and is "within close proximity to numerous transit routes." (DEIR III.11.)

The draft Showplace/Potrero Monitoring Report shows that transit use in the area is at 24%, lagging well behind the City as a whole. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to "relatively long headways between buses and indirect lines limits the usability of service" and that "steep topography of Potrero Hill and the discontinuous street network in

some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

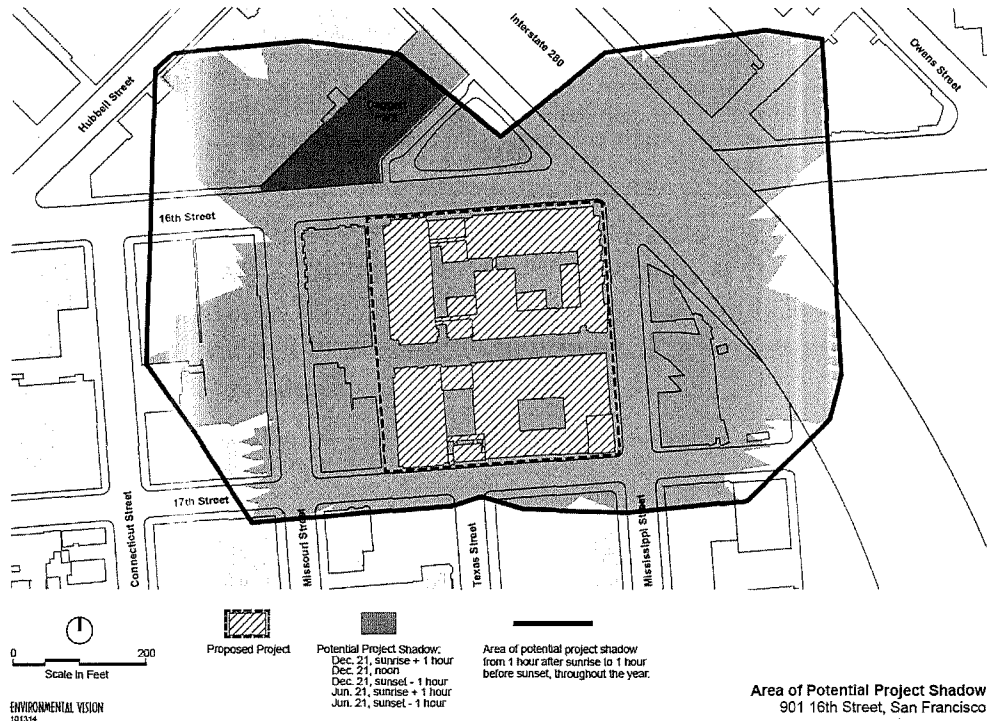
The *only* transit that is currently within a 5-minute walk from 901-16<sup>th</sup> Street is the temporary 55-16<sup>th</sup> route (which will eventually be replaced with the re-routed 22) and all other routes are nearly a half-mile or more away. The 10-Townsend (currently operating at or above capacity) and 19-Polk (which is expected to stop service to this area) are .4 miles away. Caltrain is .7 miles away and involves a walk over a steep hill (not the half mile claimed in the DEIR) and the T-Third is .5 miles away, a 9-minute walk. The 2.2 mile Transit to downtown (Montgomery and Market) takes an average of 30 minutes, excluding headways of 9-10 minutes or more; walking the route would take 43 minutes. While the 22 Fillmore will eventually become a BRT route and there are streetscape improvements slated for 16<sup>th</sup> Street, there is currently no other targeted funding to directly improve transit in the area or fill the need for better transit to serve a growing population. Impact fees have been reduced and partially replaced by the TSP (Transit Sustainability Program) that benefits the city as a whole but are inadequate to fully fund SFMTA deficits.

#### **Open Space / Recreation / Shadow**

The Showplace Square / Potrero Hill Area is underserved in terms of open space. Citizens assert additional shadow on Daggett Park, the only area of new open space identified in the PEIR that serves this area, will add to the incremental shadowing of the park and compromise the neighborhood’s limited recreational opportunities. At 68+ feet, the proposed Project will individually and cumulatively cast shadow on the park; 1010 Potrero which surrounds Daggett park on the north, east and west sides, also casts shadows on Daggett Park. (RTC pgs. 175-179; Memo 7.)

Because of unanticipated growth in the Showplace/Potrero Area, cumulative impacts on Recreation were not anticipated in the Eastern Neighborhoods Plan. The studies in the PEIR were based on outdated population data, with acquisition policies based on need using population levels in the 2000 census. (PEIR IV.H. pg. 370.) The PEIR did not identify adequate funding sources to meet the needs of the Eastern Neighborhoods for either maintenance of existing parks and recreation facilities or for the acquisition of new open space. The Showplace Square/Potrero Hill Plan specifically called for four acres of new space for the Area: “Analysis reveals that a total of about 4.0 acres of new space should be provided in this area to accommodate expected growth.” But only one acre of new space has been provided, Daggett Park, so far.

A shadow study dated October 13, 2014 prepared by Environmental Vision found that the Project would cast shadows on nearby Daggett Park but determined that the amount of area shadowed by the Project is minimal, the duration of shadow is limited, and the amount of the sunlight to this type of open space is acceptable. (Motion 19645, pg. 31.)



The CPE Checklist identified new net shadow from the Project in the mornings between mid-fall and mid-winter. (CPE, pg. 44) It also identified cumulative shadowing that would result in the Park being “largely” shadowed from 8:00 to 11:00 AM between mid-fall and mid-winter and notes that the Project related net new shadowing would impact lawn areas during the morning hours but the Project would not “substantially” contribute to shadowing in the afternoon. The conclusion was made that the lack of substantial afternoon shadowing, would result in overall less than significant impacts despite the addition of substantial morning shadowing. The impact of cumulative shadow was not considered.

Because the Project adds new net and cumulative shadow to Daggett Park, the City should consider adoption of an alternative that reduces the height of the building along 16<sup>th</sup> Street and increases setbacks. Additionally the rooftop mechanical structures should be designed to minimize shadow and reduce overall height.

On the topic of Recreation, the Community Plan Exemption (CPE) Checklist states that the project is within the development projected under the Eastern Neighborhoods Plan and that there would be no unanticipated impacts. (CPE Checklist pg. 49.) The Final EIR reiterates this without adequately responding to concerns about excessive residential growth. The Final EIR states "Recreation was addressed in the CPE Checklist which determined that the proposed project would be within the development projected in the Eastern Neighborhoods Rezoning and Area Plans."

The shadowing of Daggett Park is in conflict with the General Plan provision, which protects open space from shadowing including the recommendation that "our parks and open space and their access to sunlight and vistas be protected from development." The Final EIR doesn't respond directly to stated concerns about this inconsistency, claiming that, "project related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts." (RTC pg. 179; PO-2.)

### **Cultural and Historic Resources**

The DEIR does not adequately or accurately address issues related to the historic merit and integrity of the existing metal warehouses. (RTC pgs. 113-126; Memo 5; 7/11/16 letter from historic expert Katherine Petrin.) The EIR rejects arguments supporting historic integrity of the metal buildings, including the research and opinion of highly respected architectural historian, Katherine Petrin. Petrin's expert testimony demonstrates these buildings remain historic despite alterations and company mergers over the years. In her compelling report, Petrin documents a strong case for finding historic integrity, among other things, she stated the Period of Significance was longer than City Planning's claim of 1906 – 1928, it should be extended through at least to mid 1947. While the steel warehouses may have been altered to some degree over the years, modifications in industrial spaces are to be expected given the utilitarian purpose of these buildings and the need for flexible space. Collectively, the Potrero Hill industrial complex contains the last remaining structures of the Pacific Rolling Mill, which began operating in the Central Waterfront in 1868 before reorganizing and relocating to Potrero Hill in the early 1900s. The buildings are also the last remaining extant structures of the merged companies, Judson Pacific Company (1928), and Judson Pacific Company (1945) in San Francisco. Petrin, along with numerous others, urged the adoption of the Metal Shed Reuse Alternative.

For the foregoing reasons, Citizens request the Board uphold the appeal.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Rachel Mansfield-Howlett', with a long horizontal flourish extending to the right.

Rachel Mansfield-Howlett

## Carroll, John (BOS)

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**From:** Thomas, Christopher (CPC)  
**Sent:** Monday, July 25, 2016 4:58 PM  
**To:** BOS Legislation, (BOS)  
**Cc:** Wietgreffe, Wade (CPC)  
**Subject:** 901 16/1200 17 Street appeal hearing tomorrow

**Categories:** 160683

Good Afternoon,

Planning expects to bring some supplemental exhibits (about 10 PowerPoint slides on paper) for the 901 16<sup>th</sup> Street/ 1200 17<sup>th</sup> Street hearing tomorrow at 3:00 pm. Should we bring extra copies for the Board?

Thank you,

Chris Thomas, AICP  
Environmental Planner

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## Carroll, John (BOS)

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**From:** Board of Supervisors, (BOS)  
**Sent:** Monday, July 25, 2016 4:40 PM  
**To:** BOS Legislation, (BOS)  
**Subject:** FW: Special 3 PM Order Corovan Project

**Categories:** 160683

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**From:** mari eliza [mailto:mari.eliza@sbcglobal.net]  
**Sent:** Monday, July 25, 2016 4:03 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Cc:** Tang, Katy (BOS) <katy.tang@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Wiener, Scott <scott.wiener@sfgov.org>; Campos, David (BOS) <david.campos@sfgov.org>; Chung Hagen, Sheila (BOS) <sheila.chung.hagen@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Avalos, John (BOS) <john.avalos@sfgov.org>; Ang, April (BOS) <april.ang@sfgov.org>; Mar, Eric (BOS) <eric.mar@sfgov.org>  
**Subject:** Special 3 PM Order Corovan Project

July 25, 2016

Supervisors:

re: Special 3 PM Order 901-16th Street/1200-17th Street

We support the appeal of the project because we believe the EIR was inadequate and seriously flawed. An environmentally superior alternative that would have mitigated some of the negative effects was rejected by Planning. Please reconsider these other options.

The EIR was based on old data that does not take into account the current conditions, especially where traffic and transit options are concerned.

The removal of PDR businesses has resulted in a huge uptick in incoming traffic as the construction workers, contractors and other service industries are forced to drive back into the city to work in the neighborhoods they formerly resided in. We have added hundreds of hours to their commutes as created a monster that has given us the dubious recognition as the city with the third worst traffic in the country. We are fast losing tolerance and civility on the streets. Our citizens are filled with anger and frustration as we are forced to deal with somebody else's idea of success.

The profound negative consequences on regional traffic we are experiencing today are the result of a head-in-the-sands approach to social engineering for a glorious future based on total denial of the bad circumstances we find ourselves in today. Warnings from a number of voices that this day would come have been ignored long enough.

How much longer will we pretend that the current transit options are sufficient, or that the traffic and parking problems causing major headaches and stress on our society is not the fault of bad planning and execution by the authorities in charge?



Here you have a chance to send back a bad project to the developers and demand some real changes that will start to correct some of the problems we see coming if this project is allowed to progress in its current form. Please listen to the public that is screaming for relief and a slower pace of change so we can adapt in a more graceful fashion. Tone this one down, do not allow the removal of another 109,000 square feet of PDR space and send a message to the voters that they can expect more from their city government than a rubber stamp on every project that comes before them for approval, regardless of the consequences.

I know at least one architect who only takes on projects that do not require CUs or variances so it is possible to build a project that meets all legal constraints and code requirements.

Thank you for your time and attention to this important issue.

Sincerely,

Mari Eliza

## Carroll, John (BOS)

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**From:** Yoram Meroz <yoram.meroz@gmail.com>  
**Sent:** Monday, July 25, 2016 4:04 PM  
**To:** BOS Legislation, (BOS); BOS-Supervisors; BOS-Legislative Aides  
**Subject:** 901-16th Street and 1200-17th Street ("Corovan") Project  
**Attachments:** 7-15-16 901 16th Street appeal letter.pdf

**Categories:** 160683

Dear Supervisors,

As a resident of Potrero Hill, I am writing to ask that on 7/26/2016 you vote to reverse the EIR for the Corovan site project on Potrero Hill (901 16th St. / 1200-17th St.). The site, at the gateway to Potrero, currently has the Hill's last remaining large industrial metal building, adjacent to our busiest intersections. The EIR manages to approve the demolition of this century-old historical building, and the jamming of hundreds of daily passenger car trips into an area of severe traffic which already stretches for blocks in every direction.

Despite neighborhood pleas since the project's inception, the developers have refused to listen to any of our needs, and would not compromise to permit any adaptive reuse of the building. Having purchased the property for less than \$10m, they are preparing to build \$500m worth of market-rate apartments. We do not have their resources, but we have you, our representatives. Please vote to reverse this flawed EIR.

Sincerely,

Yoram Meroz

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

July 15, 2016

*Via Hand and Electronic Delivery*

**RE: Appeal of the certification of the EIR for the 901 16th Street and  
1200 17th Street Mixed Use Project**

Dear Members of the Board of Supervisors,

These comments are submitted on behalf of Appellants, Grow Potrero Responsibly and Save the Hill ("Citizens", hereafter).

The proposed Project is one of the largest projects to be proposed in the history of Potrero Hill; it is positioned at the gateway of the Potrero Hill community and covers 3.5 acres; and it has the capacity to alter the very nature of the Potrero Hill community.

The Environmental Impact Report (EIR) fails to adequately analyze impacts in the areas of cumulative impacts, traffic and circulation, transportation, aesthetics and views, shadows, land use, cultural and historic, and consistency with area plans and policies; fails to adequately review alternatives; and the Final EIR (sometimes referred to as the RTC or Responses to Comments) fails to respond adequately to substantive comments made on the Draft EIR. The Project EIR and Community Plan Exemption (CPE) tiers off of and relies upon the EIR prepared for the Eastern Neighborhoods Area Plan (PEIR; sometimes referred to as the EN Plan EIR). The PEIR did not provide for the impacts of a project at this site at this height and scale and with these traffic impacts; and it underestimated the level of development of residential units and the loss of Production, Distribution and Repair (PDR) uses throughout the Potrero Hill / Showplace Areas. The EIR is defective in its reliance on the PEIR in the areas that affect these issues.

Potrero Hill is poorly served by area transit, yet the developer asserts the Project's addition of 395 residential units, with admitted impacts to traffic and loss of PDR, is a transit friendly project merely because the site is located within a Transit Priority Area. Citizens will show that the EIR's reliance on this assertion is misplaced.

The Project admittedly results in impacts to traffic and circulation and loss of PDR. Two of the alternatives reviewed in the EIR substantially lessen or avoid these impacts and comment letters in the Final EIR show that there is overwhelming support for the adoption of this alternative. Planning's Findings assert alternatives are infeasible based upon a flawed developer study that used land value instead of land acquisition costs, which artificially reduced profits and skewed the feasibility analysis; neglected to include data about the Project that would allow a fair comparison of the costs and profits of the Project to the alternatives; and unnecessarily burdened alternatives with flaws that made them appear to result in more severe traffic impacts and less profit. When considering a project with admitted impacts, as here, the City is required to fairly consider and adopt feasible alternatives that would substantially reduce Project impacts prior to considering adoption of a Statement of Overriding Considerations and did not.

For ease of review, this letter summarizes the main facts and legal issues at stake in the appeal. The attached Memos augment the facts cited herein and offer extensive analysis on the issues of concern. **Exhibit E**, Memos 1-7: 1 Transportation; 2, Cumulative Impacts; 3, Public Views; 4, Loss of PDR; 5, Historic Resources; 6, Objectivity; 7, Shadows and Open Space; and 8, Alternatives. Citizens include the Draft Eastern Neighborhoods Monitoring Report, the TSF Nexus Study and the TIS traffic study, 2/20/15 Ed Lee letter, 2015 State of Local Manufacturing (SFMade), and evidence regarding historic resources and view corridors, in **Exhibit F** and information received from the City *via* a Public Records Act Record in **Exhibit G**.

### **Alternatives Analysis**

If a project will result in significant environmental impacts that will not be avoided or substantially lessened by mitigation measures, the agency must consider the environmentally superior alternatives identified in the EIR and find that they are "infeasible" before approving the project. (Pub. Res. Code § 21081(a)(3), *See also* CEQA Guidelines 14 Cal. Code Regs. § 15091(a)(3).) Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (Pub. Res. Code § 21061.1; Guidelines §15364.) The requirement for an infeasibility finding flows from the public policy that states:

It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...the Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

(Pub. Res. Code § 21002.) Reflecting this policy, Public Resources Code section 21081(a)(1)-(3) provides that if one or more significant impacts will not be avoided or substantially lessened by adopting mitigation measures, alternatives described in the EIR that can avoid or reduce the impact must be found infeasible if they are not adopted. Under this scheme, a public agency must avoid or reduce a project's significant environmental effects when it is feasible to do so. (Pub. Res. Code §§ 21002, 21002.1(b); 14 Cal. Code Regs §§ 15021(a) and 15091(a)(1).) As explained by the California Supreme Court in *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4<sup>th</sup> 105, 124, "Under CEQA, a public agency must . . . consider measures that might mitigate a project's adverse environmental impact and adopt them if feasible. (Pub. Res. Code §§ 21002, 21081.)" The Court reiterated "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures." (*Id.* at 134.) CEQA's substantive mandate was again underscored by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4<sup>th</sup> 341, and by the Court of Appeal in *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4<sup>th</sup> 86 and *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4<sup>th</sup> 1336.

Increased costs of an alternative do not equate to economic infeasibility: "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors (Goleta I)* (1988) 197 Cal.App.3d 1167, 1181. See also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736; *City of Fremont v. San Francisco Bay Area Rapid Transit District* (1995) 34 Cal.App.3d 1780 (addition of \$60 million in costs rendered subterranean alternative for BART extension infeasible.) In *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167, the court found that the record included no analysis of the comparative costs, profits, or economic benefits of scaled down project alternative and was insufficient to support finding of economic infeasibility. In *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4<sup>th</sup>

587, a project applicant's preference against an alternative does not render it infeasible. In *County of San Diego v. Grossmont Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 108, the court found that a community college's proportional share of cost of off-campus traffic mitigation measures could not be found economically infeasible in absence of cost estimates. In *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, the court found that an infeasibility finding based on economic factors cannot be made without estimate of income or expenditures to support conclusion that reduction of motel project or relocation of some units would make project unprofitable.

Here, the EIR has conceded significant traffic and circulation impacts and the Project's contribution to the cumulative loss of PDR; the EIR is thus required to adequately analyze a reasonable range of alternatives that reduce all potentially significant environmental impacts. Citizens assert that substantive comments on the Draft EIR provide the bases for finding substantial environmental impacts due to aesthetics and views, inconsistency with area plans, land use, growth inducing and cumulative impacts and shade and shadow of area parks.

When a project results in admitted environmental impacts, a lead agency cannot merely adopt a statement of overriding considerations and approve it; the agency must *first* adopt feasible alternatives and mitigation measures. (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 185; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341 ["CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible."])

#### ***Metal Shed Reuse Alternative***

The EIR identified a feasible alternative that Citizens argue, would reduce impacts to traffic and loss of PDR and yield sufficient profits, yet the EIR determined that the Metal Shed Reuse alternative is infeasible, asserting additional costs and loss of profit. Numerous residents and the Historic Preservation Commission offered extensive comments on the advantages of the alternative and recommended its adoption. (RTC pgs. 131-157; Memo 8; *see also* Memo 5, recommending adoption of the alternative as it relates to historic resources.) Citizens concur with this recommendation and encourage the Board to adopt the Metal Shed Reuse alternative.

The determination of infeasibility is based upon the recently submitted developer prepared financial study. Citizens reference Memo 3 that details the reasons why the alternative is feasible and shows how the developer's study is

inadequate and incomplete and fails to show that that additional costs or loss of profits would render the project impractical to proceed.

The developer's study cites to a targeted range of margins of profit but fails to provide actual cost and profit information. It is impossible to make an effective comparison without this information and runs counter to the requirements set forth for feasibility findings in *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167.

Even using the target profit margin asserted by the developer, the alternative should be found feasible. The Planning Department stated that assessing feasibility was based upon land acquisition costs, whereas the developer's study used current "land value" instead of land cost data, thereby inflating the costs of the Project considerably. Utilizing land cost data, the Metal Shed Alternative meets the targeted 18%-25% profit margin cited by the developer. Other errors in the study include the use of outdated information regarding the value of rental square footage in PDR uses. The study assumed a \$2.50 per square foot value, whereas current figures are estimated at nearly twice that, at \$4.00/ square foot, thereby considerably devaluing the alternative's profit.

The EIR also fails to support its allegation that the greater percentage of PDR in the Metal Shed alternative would render higher traffic counts. The Final EIR does not adequately respond to comments asking why a lower density, PDR-focused project would not result in significantly lower traffic impacts. Planning inexplicably chose to use "office" rather than "manufacturing" rates from the Transportation Impact Analysis Guidelines, even though the PEIR specifically stated that "PDR" was less impactful than "office" using the same Guidelines. The analysis using TSF Nexus Rates appears to cherry pick data, rather than doing the complete analysis. The Planning Department also chose the most intensive commercial use (restaurant) for nearly half of the non-PDR commercial space in the Metal Shed Alternative. The calculations are therefore unfairly skewed to make the Metal Shed Alternative appear more impactful under Transportation Impact Analysis rates when they would be actually be substantially less. Using the full set of motorized TSF rates for PDR, non-PDR commercial and residential shows that the Metal Shed Alternative will have the lowest impact on traffic. Without this impediment, the alternative would have been considered the environmentally superior alternative. For the foregoing reasons, the determination that the Metal Shed Reuse Alternative is infeasible and results in the same or higher traffic impacts is not supported by substantial evidence.

### ***Reduced Density Alternative***

The EIR states

The Reduced Density Alternative is identified as the environmentally superior alternative because it would “to some extent” meet the project sponsor’s basic objectives, while avoiding all but one of the traffic-related significant unavoidable impacts of the proposed project. This impact reduction would be achieved because the alternative would have fewer residential units and commercial space at the site compared to the proposed Project, and therefore have associated reductions in vehicle traffic compared to the proposed project. (DEIR pg. S-22.)

The EIR states that this alternative would include 273 residential units, 16,880 square feet of commercial space and have more open space that would total 56,850 square feet. (DEIR pg. S-23.) The Project would have 395 residential units, 24,968 square feet of commercial/ public space and 50,932 square feet of open space. A reduction of 122 residential units and 8,088 square feet of commercial space would mitigate the traffic impact to insignificance and produce 5,918 more square feet of open space. (RTC pgs. 131-157; Memo 8.) The chart at page S-25 also shows that the Reduced Density Alternative would mitigate the traffic impacts to insignificance. The EIR states that the financial feasibility of the Reduced Density Alternative is unknown. (DEIR pg. S-24.) As noted, an alternative need not meet every project objective to be considered feasible. Similar to the analysis of the Metal Shed Reuse Alternative, the developer’s study asserts the alternative would not yield sufficient profits to be considered feasible. As noted, the developer’s study utilized a flawed analysis to determine infeasibility and the determination of infeasibility is not supported.

### **Failure to Respond Adequately to Comments**

Responses should explain any rejections of the commentors’ proposed mitigations and alternatives. Evasive, conclusory responses and mere excuses are not legally sufficient. (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 355-360 (failure to adequately respond to any significant public comment is an abuse of discretion); Guideline §15088(b).) A general response to a specific question is usually insufficient. (*People v. County of Kern* (1976) 62 Cal.App.3d 761 [when a comment questioned the availability of water, a response was ruled inadequate when it stated that “all available data” showed underground water supplies to be sufficient]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4<sup>th</sup> 859 [specific comments regarding Eel River environmental setting and pending diversions required additional responses].) Comments from responsible experts or sister agencies that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. (*Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4<sup>th</sup> 1344, citing *Cleary v.*



*County of Stanislaus* (1981) 118 Cal.App.3d 348, 357.) The FEIR fails to conform to these requirements in responding to comments in the areas discussed below.

### **Cumulative Impacts**

The EIR's cumulative impacts analysis relies on the information regarding projected growth in the Eastern Neighborhoods Plan EIR (PEIR) cumulative impacts analysis that is eight years old and is now shown to be outdated. (Memo 2, Cumulative impacts and 4, PDR loss; Exhibit F [Monitoring Report]; RTC pgs. 158-164.) Given the unanticipated level of development in the Showplace Square/Potrero Hill Area, the assumption that cumulative impacts were addressed in the PEIR is no longer true. As a result, the EIR's analysis and determinations are materially flawed. In fact, the City already has more residential units constructed, entitled or in the pipeline for the Showplace Square/Potrero Area than were anticipated to be built in the area by the year 2025.

In 2008, the PEIR adopted a 3180 residential unit scenario for the Showplace Square/Potrero Hill area. (FEIR I.2-3.) The Project EIR states that as of February 23, 2016, 3315 units have been completed or are planned to complete environmental review within the area, whereas, additional analysis conducted for the 2010-2015 *Eastern Neighborhoods Monitoring Report* reveals that the Showplace/Potrero Hill Area actually had 4526 residential units under construction, entitled or under review. (FEIR IV.55) This is well in excess of the numbers analyzed in the PEIR and the figures used in the EIR. Notably, the *Monitoring Report* indicates that the entire Eastern Neighborhoods Area has exceeded those estimated in the PEIR (9785) by nearly 2000 units. (Exhibit F, Eastern Neighborhoods Monitoring Report 2011-2015 Draft Executive Summary pg. 7)

The Project EIR erroneously concludes:

Growth that has occurred within the Plan area since adoption of the *Eastern Neighborhoods PEIR* has been planned for and the effects of that growth were anticipated and considered in the *Eastern Neighborhoods PEIR*.

(FEIR IV.54)

The Project EIR claims that although the residential land use category is approaching projected levels, non-residential uses have not been exceeded. (RTC IV.54) However, the residential levels have been exceeded and the primary goal of the Eastern Neighborhoods Plan is to provide a balance between land uses, therefore, it is critical that the environmental review consider the impacts of this exceedence.

**At their core, the Eastern Neighborhoods Plans try to accomplish two key policy goals:**

- 1) They attempt to ensure a stable future for Production, Distribution and Repair (PDR) businesses in the city, mainly by reserving a certain amount of land for this purpose; and
- 2) they strive to provide a significant amount of new housing affordable to low, moderate and middle income families and individuals, along with “complete neighborhoods” that provide appropriate amenities for these new residents.

(Showplace Square/Potrero Hill Area Plan, pg. v.)

Because many of the assumptions regarding cumulative impacts in the underlying PEIR were based on unanticipated levels of residential development, the project EIR fails to adequately examine cumulative impacts.

Perhaps the most devastating failure of the Eastern Neighborhoods Plan for the Potrero Hill and Showplace Square residents has been the failure to provide the Community Benefits asserted in the PEIR and that are needed to enable, what amounts to, a near doubling of population. The Eastern Neighborhoods Plan took the long view, seeking to balance growth over a period of 25 years, but instead, growth is being compressed into several short years with almost no support for that growth. By relying on inaccurate assumptions regarding cumulative growth and together with the gap in adequate infrastructure provisions and benefits, the EIR does not address the level of development Potrero Hill has undergone and it's cumulative analysis fails as an informational document for this reason.

A Nexus Study was prepared in 2007 to determine the cost of the impacts identified in the PEIR with the idea that developers would pay impact fees to fund infrastructure improvements. Unfortunately, due to concerns that development would lag during the 2008 recession, impact fees were set at only 1/3 of the actual amount needed and adequate alternative funding sources have never been identified. The Showplace Square Potrero Plan included a mandate to provide four acres of new open space to accommodate expected growth. (Showplace Square/Potrero Hill Area Plan, pg. 51.) To date only one acre of public open space has been provided at Daggett Park, which is just enough to

provide open space for the 1000 new residents moving into 1010 Potrero. Finally, transit improvements were studied for an inadequate system that was already at capacity. Despite the Eastern Neighborhood Transit Implementation Planning Study (ENTRIPS) and the subsequent Transit Effectiveness Plan (TEP), the area has never received the transit improvements it needs.

A draft version of the EIR noted that the analysis in the EIR on this issue was based upon a “soft site” analysis and “not based upon the created capacity of the rezoning options (the total potential for development that would be created indefinitely.” The City attorney noted the legal vulnerability in that statement and proposed its deletion, stating that the EIR must consider the most conservative estimate of those effects and must also consider direct and indirect impacts of the Project. Citizens concur that the most conservative standard must be considered for review of indirect and cumulative impacts in order to satisfy CEQA’s full disclosure requirements and was not.

Regarding the issues relating to the cumulative loss of PDR, please refer to Memo 4.

#### **Inconsistency with Area Plans and Policies**

The FEIR fails to respond adequately to comments made about the Project’s inconsistency with area plans and policies, including the Showplace Square/Potrero Area Plan and the Urban Design and Housing Elements of the City’s General Plan. The EIR disregards established City policies and fails to adequately respond to comments regarding the Project’s conflicts with neighborhood scale and character, the requirement to provide adequate infrastructure, and the preservation of PDR uses. (RTC pgs. 38-44.)

Objective 3 of the San Francisco General Plan’s Urban Design Element requires: “Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.” The scale and density of the Project are substantially greater than existing surrounding Potrero Hill land uses and the project would be inconsistent with the established land use character of the neighborhood.

The Project conflicts with a number of Area Plan objectives including Objective 1.2 of the Showplace Square/Potrero Hill Area Plan, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character of Potrero Hill. Policy 3.1.6 of the Showplace Square/Potrero Hill Area Plan, states, “new buildings should epitomize the best in contemporary architecture, but should do so with a full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.” As proposed, the Project’s

16<sup>th</sup> Street building is inconsistent with the height, mass, and articulation of existing buildings in the Potrero Hill vicinity and provides little awareness of surrounding neighborhood structures.

Policy 2 of the City's General Plan states, "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." The Project is not consistent with this policy because its scale, mass, bulk and height are inconsistent with and will negatively impact established neighborhood development patterns and character. The proposed development is dramatically out of scale with nearby residences and small businesses.

The FEIR brushes off these and like comments on these critically important issues by broadly claiming that inconsistency with area plans does not relate to environmental impacts. (RTC pg. 43.) This is false; the reason EIRs are required to analyze a project's consistency with area plans is that inconsistency may result in impacts to, among other things, land use, traffic and circulation and influence the consideration of cumulative impacts. The FEIR fails to adequately respond to comments made about the inconsistency of the Project with area plans and policies concerning these issues.

### **Scale / Height / Density**

The scale, height, and density of the proposed Project (72 to 83 feet and 395 residential units) is inconsistent with numerous provisions of the Showplace/Potrero Hill Area Plan and the Final EIR fails to adequately respond to comments on this issue. (Memo 3; RTC pgs. 35-38.)

Prior analysis in the PEIR, relied upon by City Planning for all new development in the Eastern Neighborhoods, is now eight years old and did not adequately evaluate or anticipate a project of commensurate size, height, or density as the Project. All of the analyses completed for the PEIR anticipated a height on the Project parcel of 68 feet – not 72 to 83 feet as proposed by the Project. As shown in height maps, the PEIR actually anticipated and analyzed lower heights at the site of 40 feet to 45 feet.

In accordance with the Showplace Square/Potrero Hill Area Plan policy that calls for lowered heights on the south side of 16<sup>th</sup> Street, the underlying PEIR addresses heights rising 65 feet to 68 feet – but only on the north side of 16<sup>th</sup> Street – not the south side of 16<sup>th</sup> where the Project is proposed. Objective 3.1/Policies 3.1.1 & 3.1.2 state that heights should be adopted that respect, "the residential character of Potrero Hill", "Respect the natural topography of Potrero Hill", and that "Lowering heights from the north to the south side of 16<sup>th</sup> Street would help accentuate Potrero Hill." The Final EIR fails to adequately respond to

comments that the size and scope of the Project conflicts with policies that provide a mechanism to avoid land use impacts.

Assertions by City Planning that the density and height for the Project were adequately evaluated in the PEIR are inaccurate and misleading. In July of 2014, senior City Planner Wade Wietgreffe inaccurately cited information in the PEIR. Wietgreffe claimed the following.

... As noted on page C&R-5, the preferred project changed between publication of the Draft EIR and publication of the C&R document. Therefore, the C&R document analyzed the environmental effects from the proposed changes, as well as responding to comments received on the Draft EIR. Figure C&R-2 identifies the heights for the Eastern Neighborhoods Plan, which includes 68-foot designations along 16<sup>th</sup> Street.

In actuality, the PEIR addressed heights rising to 65-68 feet on the north side of 16<sup>th</sup> but not the south side of 16<sup>th</sup> Street, consistent with the Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16<sup>th</sup> Street. The PEIR cited a map showing frontages along 16<sup>th</sup> Street had been raised to 65 feet in comparison to Option B (one of the iterations of the project proposed for consideration in the PEIR) yet the analysis emphasized that the added height would remain on the *north* side of 16th Street (Showplace Square) and *not the south side of 16<sup>th</sup>* (Potrero Hill). As stated in "Changes by Neighborhood — Showplace Square/Potrero Hill" page 12:

No changes in height limits are proposed on Potrero Hill. The Preferred Project would establish height limits of 65 - 68 feet within the core of Showplace Square between US-101 and I-280, north of 16th and south of Bryant Streets." This statement is repeated on page C&R-21: "In Showplace Square/Potrero Hill plan area, height limits would be similar to those analyzed for Options B, with minor height increases (to 45 feet as opposed to 40 feet in the DEIR) proposed to areas north of Mariposa Street, between De Haro Street and Seventh/Pennsylvania Streets. Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-280, north of 16th and south of Bryant Streets.

The PEIR repeatedly uses the above phrasing regarding limiting the height increase to the north side of 16<sup>th</sup> and not the south side of 16<sup>th</sup> Street.

The PEIR did not address or analyze issues about heights or zoning at the Project site. As stated on page 147:

A number of comments were directed at the proposed rezoning and area plans, and do not address the adequacy or accuracy of the EIR. Because these comments do not address the adequacy or accuracy of the EIR, no responses are required.

As shown in the PEIR, the Project sponsor lobbied to overturn the proposed 40 to 45 foot height at the Project site stating:

Sixteenth Street should be designated a “transit corridor” with a height limit of 65 feet near Mission Bay and Interstate 280. Seventh Street should have a height limit of 55 feet.

### **Aesthetics / Public View Corridors and Scenic Vistas**

The EIR acknowledges that “views from surrounding public vantage points would be altered” but claims the Project need not consider aesthetic or views impacts because it meets the definition of a mixed-use residential project on an infill site within a transit priority area as defined by Public Resources Code section 21099(a). Nonetheless the EIR provided a curtailed analysis of aesthetics and views impacts. (Draft EIR S-2; RTC 36-38; 42-44; Memo 3.) While the Project is identified as being within a transit priority area, the area is admittedly underserved by transit and proposed upgrades to transit are tenuous, such that, the Project should not be exempted from review of aesthetics and views impacts. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to “relatively long headways between buses and indirect lines limits the usability of service” and that “steep topography of Potrero Hill and the discontinuous street network in some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

The Project’s single massive structure positioned at the base of Potrero Hill, along with its height, bulk, and massing will obscure a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. Potrero Hill, like San Francisco as a whole, is known for its dramatic City views and sweeping vistas. The height, bulk, and mass of the proposed Project would effectively wall off a large portion of lower Potrero Hill from public views of downtown enjoyed by neighborhood visitors for generations. Just like the recent campaign against “walling off” the waterfront, we believe Potrero Hill should be protected from “walls” of out-of-scale development.

This conflicts with long-standing City and state policies regarding protection of public scenic vistas. The Project is inconsistent with multiple Area Plan principles including provisions to “respect the natural topography of Potrero Hill”, to lower building “heights from the north to south side of 16th

Street” and to “promote preservation of other buildings and features that provide continuity with past development.” Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states:

San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.

As noted, the scale, height, and density of the Project (72 feet to 83 feet, including parapet and mechanical penthouses, and 395 residential units) are inconsistent with numerous terms set out in the Showplace/Potrero Hill Area Plan. Prior study contained in the PEIR, produced and relied upon by City Planning for all new development, is now eight-years old and did not adequately evaluate, analyze, consider or anticipate a specific project of the size, height, or density proposed by the developer at this location. All of the analyses completed for the Eastern Neighborhoods Plan anticipated a height on this parcel of 40 to 45-feet, not 83-feet as proposed by the Project.

The EIR failed to provide accurate and adequate 3-D modeling visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered by the Project sponsor for the EIR remain inadequate and do not accurately reflect the impact on scenic public vistas of a 72 to 83 foot high building in lower Potrero Hill. The visual simulations were effectively limited to a single North-South Street (Texas Street) and failed to include other North-South streets as well including Mississippi, Pennsylvania Streets, and Missouri Streets. (DEIR Chapter II, Project Description, pages II.26 – II.36.) Moreover, the Texas Street visuals are misleading because they are framed from a single vantage point in the middle of the roadway looking directly north and do not capture varied and wider angles, for example, from the north west). The significant impacts of added height due to roof top mechanical penthouses and massing are not presented.

The Project would also contribute to the cumulative loss of public view corridors. Review of photo simulations of building development in Potrero Hill over the past several years shows the significant and destructive impact on Potrero Hill’s cherished public view corridors. The continuing loss of public view corridors due to Mission Bay and 1010 16<sup>th</sup> Street Daggett/Equity Residential developments has been incremental but dramatic. The Project would contribute significantly to this continuing erosion of Potrero Hill’s public scenic view corridors.

The significant impacts on aesthetics, public views and cumulatively significant impacts have not been adequately evaluated in the EIR and the FEIR inadequately responds to comments on this issue.

### **Traffic / Transportation**

The PEIR, upon which the EIR relies, did not fully consider the traffic impacts of a residential project of this size at this location, thus the EIR's traffic analysis of direct and cumulatively significant impacts is inadequate and incomplete; the EIR fails to adequately consider or adopt feasible mitigation measures; and the findings are not supported by substantial evidence. (Memo 1; Exhibit F; RTC pgs. 59-63; 71-98; 101-107)

The PEIR's evaluation of traffic impacts extending to the year 2025, upon which the FEIR relies, were based on assumptions about the level of development that is now outdated. Most of the traffic counts studied in the TIS were from 2013 and 2014, before the UCSF hospital had opened. 14 intersections were studied but key intersections were left out along Mariposa Street and 17<sup>th</sup> Streets. Additional studies, completed in 2015 (FEIR, Appendix C) for five of the intersections also omitted the intersections along Mariposa and 17<sup>th</sup> Streets.

Although the proposed project is in a Transit Priority area, public transit service is inadequate with most commuters have to rely on other modes of travel. Traffic congestion in the immediate area of the project is already a fact of life, with multiple intersections operating at F levels. Contrary to the principles of the City's Transit First Policy, the project was granted an exception to the parking maximum requirement of .75. The TIS studies extrapolated 2025 cumulative conditions based on outdated growth assumptions and neglected to consider large projects such as the Warriors Arena. (Exhibit F.) Four intersections were identified in the DEIR as impacted, with no identified mitigations, while mitigations for a fifth were based on reasonable assumptions, with no supporting evidence.

As the record shows, Potrero Hill is poorly served by area transit, yet the EIR claims that the Project's traffic impacts are offset because the Project is located within a transit area and is "within close proximity to numerous transit routes." (DEIR III.11.)

The draft Showplace/Potrero Monitoring Report shows that transit use in the area is at 24%, lagging well behind the City as a whole. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to "relatively long headways between buses and indirect lines limits the usability of service" and that "steep topography of Potrero Hill and the discontinuous street network in



some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

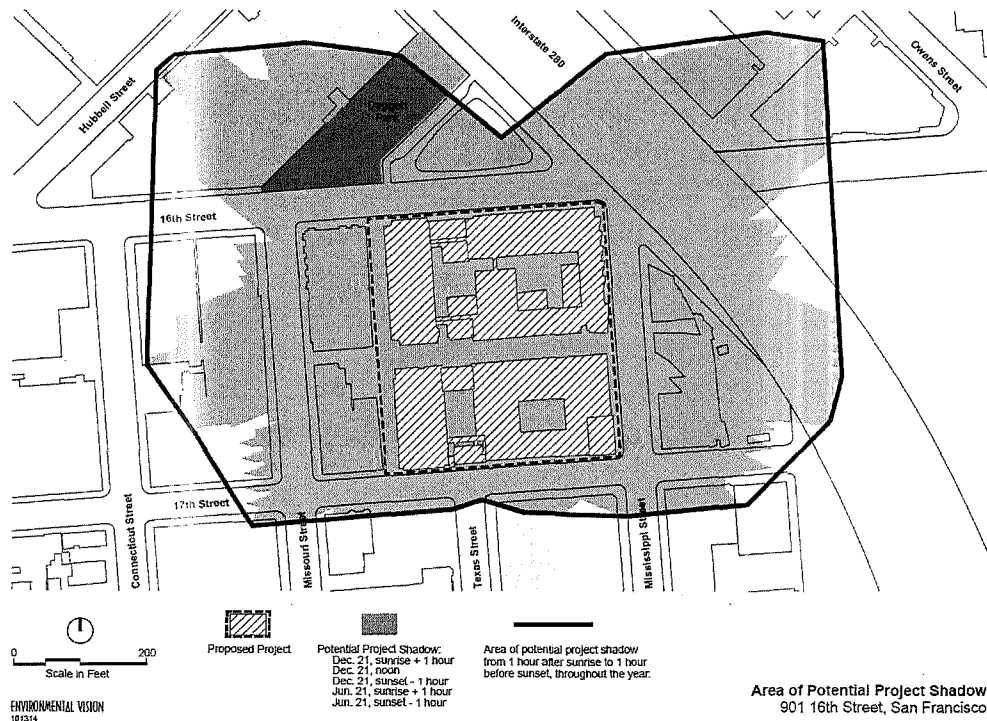
The *only* transit that is currently within a 5-minute walk from 901-16<sup>th</sup> Street is the temporary 55-16<sup>th</sup> route (which will eventually be replaced with the re-routed 22) and all other routes are nearly a half-mile or more away. The 10-Townsend (currently operating at or above capacity) and 19-Polk (which is expected to stop service to this area) are .4 miles away. Caltrain is .7 miles away and involves a walk over a steep hill (not the half mile claimed in the DEIR) and the T-Third is .5 miles away, a 9-minute walk. The 2.2 mile Transit to downtown (Montgomery and Market) takes an average of 30 minutes, excluding headways of 9-10 minutes or more; walking the route would take 43 minutes. While the 22 Fillmore will eventually become a BRT route and there are streetscape improvements slated for 16<sup>th</sup> Street, there is currently no other targeted funding to directly improve transit in the area or fill the need for better transit to serve a growing population. Impact fees have been reduced and partially replaced by the TSP (Transit Sustainability Program) that benefits the city as a whole but are inadequate to fully fund SFMTA deficits.

### **Open Space / Recreation / Shadow**

The Showplace Square / Potrero Hill Area is underserved in terms of open space. Citizens assert additional shadow on Daggett Park, the only area of new open space identified in the PEIR that serves this area, will add to the incremental shadowing of the park and compromise the neighborhood’s limited recreational opportunities. At 68+ feet, the proposed Project will individually and cumulatively cast shadow on the park; 1010 Potrero which surrounds Daggett park on the north, east and west sides, also casts shadows on Daggett Park. (RTC pgs. 175-179; Memo 7.)

Because of unanticipated growth in the Showplace/Potrero Area, cumulative impacts on Recreation were not anticipated in the Eastern Neighborhoods Plan. The studies in the PEIR were based on outdated population data, with acquisition policies based on need using population levels in the 2000 census. (PEIR IV.H. pg. 370.) The PEIR did not identify adequate funding sources to meet the needs of the Eastern Neighborhoods for either maintenance of existing parks and recreation facilities or for the acquisition of new open space. The Showplace Square/Potrero Hill Plan specifically called for four acres of new space for the Area: “Analysis reveals that a total of about 4.0 acres of new space should be provided in this area to accommodate expected growth.” But only one acre of new space has been provided, Daggett Park, so far.

A shadow study dated October 13, 2014 prepared by Environmental Vision found that the Project would cast shadows on nearby Daggett Park but determined that the amount of area shadowed by the Project is minimal, the duration of shadow is limited, and the amount of the sunlight to this type of open space is acceptable. (Motion 19645, pg. 31.)



The CPE Checklist identified new net shadow from the Project in the mornings between mid-fall and mid-winter. (CPE, pg. 44) It also identified cumulative shadowing that would result in the Park being “largely” shadowed from 8:00 to 11:00 AM between mid-fall and mid-winter and notes that the Project related net new shadowing would impact lawn areas during the morning hours but the Project would not “substantially” contribute to shadowing in the afternoon. The conclusion was made that the lack of substantial afternoon shadowing, would result in overall less than significant impacts despite the addition of substantial morning shadowing. The impact of cumulative shadow was not considered.

Because the Project adds new net and cumulative shadow to Daggett Park, the City should consider adoption of an alternative that reduces the height of the building along 16<sup>th</sup> Street and increases setbacks. Additionally the rooftop mechanical structures should be designed to minimize shadow and reduce overall height.

On the topic of Recreation, the Community Plan Exemption (CPE) Checklist states that the project is within the development projected under the Eastern Neighborhoods Plan and that there would be no unanticipated impacts. (CPE Checklist pg. 49.) The Final EIR reiterates this without adequately responding to concerns about excessive residential growth. The Final EIR states "Recreation was addressed in the CPE Checklist which determined that the proposed project would be within the development projected in the Eastern Neighborhoods Rezoning and Area Plans."

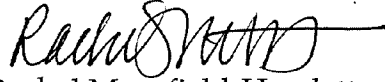
The shadowing of Daggett Park is in conflict with the General Plan provision, which protects open space from shadowing including the recommendation that "our parks and open space and their access to sunlight and vistas be protected from development." The Final EIR doesn't respond directly to stated concerns about this inconsistency, claiming that, "project related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts." (RTC pg. 179; PO-2.)

### **Cultural and Historic Resources**

The DEIR does not adequately or accurately address issues related to the historic merit and integrity of the existing metal warehouses. (RTC pgs. 113-126; Memo 5; 7/11/16 letter from historic expert Katherine Petrin.) The EIR rejects arguments supporting historic integrity of the metal buildings, including the research and opinion of highly respected architectural historian, Katherine Petrin. Petrin's expert testimony demonstrates these buildings remain historic despite alterations and company mergers over the years. In her compelling report, Petrin documents a strong case for finding historic integrity, among other things, she stated the Period of Significance was longer than City Planning's claim of 1906 – 1928, it should be extended through at least to mid 1947. While the steel warehouses may have been altered to some degree over the years, modifications in industrial spaces are to be expected given the utilitarian purpose of these buildings and the need for flexible space. Collectively, the Potrero Hill industrial complex contains the last remaining structures of the Pacific Rolling Mill, which began operating in the Central Waterfront in 1868 before reorganizing and relocating to Potrero Hill in the early 1900s. The buildings are also the last remaining extant structures of the merged companies, Judson Pacific Company (1928), and Judson Pacific Company (1945) in San Francisco. Petrin, along with numerous others, urged the adoption of the Metal Shed Reuse Alternative.

For the foregoing reasons, Citizens request the Board uphold the appeal.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Rachel Mansfield-Howlett', with a long horizontal flourish extending to the right.

Rachel Mansfield-Howlett

**Carroll, John (BOS)**

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**From:** Rodney Minott <rodneyminott@outlook.com>  
**Sent:** Monday, July 25, 2016 1:51 PM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** Fwd: Appeal 901 16th Street / 1200 17th Street, San Francisco, CA  
**Attachments:** 2016 0711 Appeal 901 16th St 1200 17th St Petrin.pdf; ATT00001.htm  
**Categories:** 160683

FYI

Begin forwarded message:

**From:** Katherine Petrin <petrin.katherine@gmail.com>  
**Subject:** Appeal 901 16th Street / 1200 17th Street, San Francisco, CA  
**Date:** July 12, 2016 at 1:27:47 AM PDT  
**To:** <Breedstaff@sfgov.org>, Rodney Minott <rodneyminott@outlook.com>  
**Cc:** <Eric.Mar@sfgov.org>, <Eric.L.Mar@sfgov.org>, <Mark.Farrell@sfgov.org>, Aaron Peskin <Aaron.Peskin@sfgov.org>, <katy.tang@sfgov.org>, <Jane.Kim@sfgov.org>, <Norman.Yee@sfgov.org>, <Scott.Weiner@sfgov.org>, <David.Campos@sfgov.org>, <Malia.Cohen@sfgov.org>, <John.Avalos@sfgov.org>

Honorable Supervisors:

Attached please find my letter in support of the appeal by Save the Hill of the approved project at the former Pacific Rolling Mill site located at 1200-1210 17<sup>th</sup> Street, San Francisco.

Thank you,  
Katherine Petrin

**Katherine Petrin Consulting**  
**Architectural History and Preservation Planning**  
**Maybeck Building**  
**1736 Stockton Street, Suite 2A**  
**San Francisco, California 94133**

[www.linkedin.com/pub/katherine-petrin/5/77/530/](http://www.linkedin.com/pub/katherine-petrin/5/77/530/)  
<http://sfntf.squarespace.com>

11 July 2016

San Francisco Board of Supervisors  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102

**Via Electronic Mail**

Re: Appeal 901 16<sup>th</sup> Street / 1200 17<sup>th</sup> Street, San Francisco, CA

Honorable Supervisors:

I will be unable to attend the Board of Supervisors' hearing on 26 July 2016 regarding the proposed project at the former Pacific Rolling Mill site located at 1200-1210 17<sup>th</sup> Street, San Francisco. Instead, I submit this letter, in support of the appeal, and to express my professional opinion that the Pacific Rolling Mill site qualifies for listing on the California Register of Historical Resources and should be treated as a historic resource.<sup>1</sup> Any future project should be designed to meet the *Secretary of the Interior's Standards for Rehabilitation*. Other, better project alternatives, including a "Preservation Alternative," have been favorably reviewed by the San Francisco Planning Department and should be considered going forward.

In 2014 I was retained by *Save the Hill*, a neighborhood organization, to analyze the issue of integrity with regard to the industrial structures situated on parts of Blocks 3949 and 3950 (APNs: 3949/001, 001A, and 002, and 3950/001), a 3.5 acre site. This complex, mostly comprised of large-scale, utilitarian warehouses, originally functioned as the foundries, sheds, machine shops, and offices of the Pacific Rolling Mill Company, at one time the West's largest steel fabricating concern.

The proposed project would demolish metal warehouses and temporary office buildings; preserve and rehabilitate brick office building; lot line adjustment to create two lots; and construct approximately 395 residential units and ground-floor commercial space in a 4-story building on 17th Street and a 6-story building on 16th Street. The proposed project would retain very little of the site's remaining historic character.

While dilapidated, these structures, industrial vernacular in style, retain a high degree of original material. In addition, they retain the original massing, architectural vocabulary, and overall expression of a large-scale industrial operation, coupled with the pared-down simplicity of utilitarian forms. Overall the steel-frame warehouses retain sufficient integrity to convey the historic significance of the Pacific Rolling Mill Company site during its period of significance, 1899-1947. Because the complex retains its original

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<sup>1</sup> I meet the *Secretary of the Interior's Historic Preservation Professional Qualifications Standards* in History and Architectural History. Since 2000 I have practiced in San Francisco as an Architectural Historian and Preservation Planner. As such, I regularly use the National Register and California Register criteria of evaluation for historic buildings. In the course of my work, I utilize local, state, and national preservation regulations and regularly prepare historic significance assessments for environmental review documents.

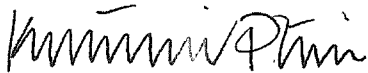
physical forms, industrial-scale volumes, and a large degree of original materials, including industrial sash windows and other elements, the property is sufficiently intact to convey its historical associations with the Pacific Rolling Mill Company.

These industrial vernacular style structures convey their characteristics and historical associations, as they existed during the period of significance, 1899-1947. The site was altered during its period of significance to accommodate the changing requirements of production of an ever-expanding successful enterprise. Alterations that pre-date 1947 were unpermitted and unrecorded. Alterations after 1947 have not obliterated the forms, massing, materials, or design of the Pacific Rolling Mill Company structures. As required by California Register criteria, the site retains enough of its historic character or appearance to be recognizable as a historical resource.

For a building to be considered a historic resource for purposes of the California Environmental Quality Act (CEQA), it must be determined to be historically significant and retain integrity. The Planning Department acknowledges that the site is historically significant at the local level under California Register Criterion 1 and 2. Because the Pacific Rolling Mill Company site also retains sufficient integrity to convey its historic significance, it meets the criteria for listing on the California Register of Historical Resources and should be treated as a historic resource. Any future project should meet the Secretary of the Interior's Standards for Rehabilitation.

I urge you to support the appeal of the approval of the proposed project and to acknowledge that a better project will result from the adoption of other, existing project alternatives.

Sincerely,



Katherine Petrin, Architectural Historian and Preservation Planner

Principal, Katherine Petrin Consulting  
1736 Stockton Street, Suite 2A  
San Francisco, California 94133

CC: Supervisor Eric Mar  
Supervisor Mark Farrell  
Supervisor Aaron Peskin  
Supervisor Katy Tang  
Supervisor London Breed  
Supervisor Jane Kim  
Supervisor Norman Yee  
Supervisor Scott Weiner  
Supervisor David Campos  
Supervisor Malia Cohen  
Supervisor John Avalos  
Save the Hill

## Carroll, John (BOS)

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**From:** Sean Angles <seanda@msn.com>  
**Sent:** Monday, July 25, 2016 1:46 PM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** SUPPORT APPEAL EIR 901 16th / 1200 17th Street (Corovan) on July 26

**Categories:** 160683

SUPPORT APPEAL EIR 901 16th / 1200 17th Street (Corovan) on Tuesday July 26

Dear Supervisors,

I urge you to approve our neighborhood's APPEAL of the Environmental Impact Report for 901 16th / 1200 17th Street (aka Corovan project).

Neighbors are frustrated by the total onslaught of overdevelopment which negatively impacts our quality of life around Potrero Hill.

None of the promised benefits of the Eastern Neighborhoods Plan has been delivered to us while accelerating residential construction already exceeds the projection of new units by 2025.

Specific to this 901 16th St project, the economic feasibility report written by Seifel Consulting unlawfully formulated a **FALSE LAND ACQUISITION PRICE** in order to disqualify the Environmentally Preferred Alternative which our community would support.

While opposing this EIR, the neighborhood is encouraged to support the environmentally preferred Metal Shed Reuse Alternative, under which all the warehouse buildings on the site (1210 17th Street/975 16th Street and 1200 17th Street) would be retained and reused.

I urge the Supervisors to order a 'time out' halt to this current proposal and all future projects in the Eastern Neighborhoods Potrero/Showplace Square areas until the cumulative negative impacts that are already underway and deteriorating our neighborhood's quality of life caused by current projects and construction-in-progress are assessed and mitigated.

Please SUPPORT our APPEAL and the environmentally preferred Metal Shed Reuse Alternative.

Thank you,

Sean Angles  
382 Arkansas Street  
San Francisco 94107  
[seanda@msn.com](mailto:seanda@msn.com)  
(415) 819 4480



## **Carroll, John (BOS)**

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**From:** Board of Supervisors, (BOS)  
**Sent:** Monday, July 25, 2016 1:34 PM  
**To:** BOS-Supervisors; BOS Legislation, (BOS)  
**Subject:** FW: Case 2011.1300E - 601 16th street project. - BOS File Number 160683 (July 26, 2016 meeting agenda #49)

**Categories:** 160683

**From:** Dennis Hong [mailto:dennisj.gov88@yahoo.com]  
**Sent:** Monday, July 25, 2016 12:58 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Jones, Sarah (CPC) <sarah.b.jones@sfgov.org>; Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>; Thomas, Christopher (CPC) <christopher.thomas@sfgov.org>  
**Cc:** Kim, Jane (BOS) <jane.kim@sfgov.org>; Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>  
**Subject:** Fw: Case 2011.1300E - 601 16th street project. - BOS File Number 160683 (July 26, 2016 meeting agenda #49)

**Good afternoon Honorable Members of the Board of SF Supervisors,**

Per your request of July 12, 2016, subject File Number 160683, 901 16th Street, I'm attaching my original comments (Oct 5, 2015) to both the SF Planning Department and the SF Planning Commission in support of this project. As of this date I still fully support this development. The only one regret I see, it is taking too long in getting these approvals, permits - processed. It is delaying the housing supply process up by taking additional time to build out our housing needs including the Mayor's established housing program. Granted the sponsor/s can't meet everyone's request, that's a given.

So let me continue on with this extended email. According to the RTC on this DEIR it appears that the developer and the sponsor has met with the community and the San Francisco Planning Commission on several occasions and presented this development and has received both favorable and negative comments, including responses to my Comments to this project.

With all that said, I look forward to your approval on this project and recommend it to be expedited in the planning/permit process

so it can be build out - so the City's housing goals can be met. This is just another fine project that will help meet the city housing problems.

If anyone has any comments or question to my comments on this project/subject you can reach me at [dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com)

Best Regards,

Dennis

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On Monday, October 5, 2015 2:45 PM, Dennis Hong <[dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com)> wrote:

Dennis J. Hong  
101 Marietta Drive  
San Francisco, CA. 94127

October 5, 2015

San Francisco Planning Department  
Atten: Miss. Sarah B. Jones, Environmental Review Officer  
1650 Mission Street, Suite 400  
San Francisco, CA. 94103

Subject: Case Number: 2011.1300E – 901 16<sup>th</sup> Street Project

Good afternoon Miss. Sarah Jones,

I am writing in full support of the 901 - 16<sup>th</sup> Street Project. This Project will revitalize this blighted industrial area and add great value to the cities current housing issues. The sponsor has done a wonderful job.

I have been a resident of San Francisco all my life – Sixty years-plus. Currently retired. Thank you for letting me have the opportunity to review and comment on this Project and several others in the past. It's always a pleasure reviewing and commenting on these professional EIR's. I appreciate all the professional efforts that are made in producing these documents.

My following comments are based on the above Draft Environmental Impact Report dated August 12, 2015. I understand the due date for submitting my comments were extended to October 5, 2015 at 5pm (today) and trust I did not miss a deadline to submit my comments.

Working with the community and the stakeholders are a key factor to any project. This Project shows all that.

It looks like this is mostly an industrial area and construction issues in this case are minimum, mostly - construction; work hours of construction, staging of materials, dust control, noise, vibration, safety barriers, street closures and etc.. However the project should still have a phone number with a contact names to call for concerns. This Project is also at the border line between the UCSF complex and makes a wonderful transition even if the 280 Freeway is not removed.

Include any comments made during any of the public Planning Commission meetings, especially ones made on September 17, 2015 (?).

Construction Phase, request that the Final EIR provide time lines of this Project with any other; proposed, concurrent or future projects that may impact this Project.

- a. A construction time line showing all ongoing/current or upcoming projects in the vicinity of this project, especially in the Mission Bay/UCSF complex.
- b. How will the possible tear down of the 280 Freeway impact this Project?
- c. The project has done an excellent job with the court yard/s and pedestrian promenade.
- d. I understand that CEQA does not require; any exterior visions, color, material or even a photosynthesis of the project. But I personally feel that this item helps sell a project to the community and should be included. As Architecture/design, color, material and etc is personal, but adds enormous value to any project. In this case the elevations and street views of this project does a good job with this issue.

X. In Conclusion: Based on my comments and evaluation of the DEIR I have concluded there is sufficient information and I fully support this Project and the DEIR.

I request that my comments be included in the Final EIR and be sent a hard copy of the "Comments and Responses (RTC).

Thanks to you, the Planning Department and the Board of Supervisors for working so hard on these projects. As requested, I will continue to review and comment on future projects as needed. Thank you for your consideration of my comments as part of the DEIR process. Should you have any questions regarding this

email/letter, please do not hesitate to contact me at [dennisj.gov88@yahoo.com](mailto:dennisj.gov88@yahoo.com).

PS: If there are compelling reasons why this project should not continue or be delayed, I would be interested to understand why.

Sincerely,

Dennis Hong

Cc: C. Thomas, Planning Commission, BoS

## Carroll, John (BOS)

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**From:** mike pfeffer <mike@mikepfeffer.com>  
**Sent:** Monday, July 25, 2016 12:36 PM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** Please appeal the Environmental Impact Report for 901 16th Street / 1200 17th Street  
**Attachments:** 7-15-16 901 16th Street appeal letter-2.pdf; ATT00001.htm  
  
**Categories:** 160683

Dear Supervisors,

I am writing to ask you to vote to appeal the certification of the Environmental Impact Report (EIR) on the Corovan project at 1200 7th and 901 16th Street.

I feel the EIR did not accurately assess the increasing traffic and inadequate transit concerns that continue to plague our ever-changing neighborhood of Potrero Hill. The underlying infrastructure is just not suited for current growth, not to mention the continued growth that this community will experience with projects like the nearby Warrior Stadium looming in the future.

I am including the letter that the lawyer for Save the Hill and Grow Potrero Responsibly submitted for your reference, which elaborates on the many faults in the certification of the EIR. I sincerely ask to you to support the appeal for all the reasons articulated in this document.

Thank you,

Mike Pfeffer  
Potrero Hill resident  
225 Mississippi St  
415.863.1770  
[mike@mikepfeffer.com](mailto:mike@mikepfeffer.com)

PROVENCHER & FLATT, LLP  
823 Sonoma Ave. Santa Rosa, CA 95404  
Phone: 707-284.2380 Fax: 707-284.2387

ATTORNEYS AT LAW  
Douglas B. Provencher  
Gail F. Flatt

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OF COUNSEL  
Janis H. Grattan  
Rachel Mansfield-Howlett  
Roz Bateman Smith

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

July 15, 2016

*Via Hand and Electronic Delivery*

**RE: Appeal of the certification of the EIR for the 901 16th Street and  
1200 17th Street Mixed Use Project**

Dear Members of the Board of Supervisors,

These comments are submitted on behalf of Appellants, Grow Potrero Responsibly and Save the Hill ("Citizens", hereafter).

The proposed Project is one of the largest projects to be proposed in the history of Potrero Hill; it is positioned at the gateway of the Potrero Hill community and covers 3.5 acres; and it has the capacity to alter the very nature of the Potrero Hill community.

The Environmental Impact Report (EIR) fails to adequately analyze impacts in the areas of cumulative impacts, traffic and circulation, transportation, aesthetics and views, shadows, land use, cultural and historic, and consistency with area plans and policies; fails to adequately review alternatives; and the Final EIR (sometimes referred to as the RTC or Responses to Comments) fails to respond adequately to substantive comments made on the Draft EIR. The Project EIR and Community Plan Exemption (CPE) tiers off of and relies upon the EIR prepared for the Eastern Neighborhoods Area Plan (PEIR; sometimes referred to as the EN Plan EIR). The PEIR did not provide for the impacts of a project at this site at this height and scale and with these traffic impacts; and it underestimated the level of development of residential units and the loss of Production, Distribution and Repair (PDR) uses throughout the Potrero Hill / Showplace Areas. The EIR is defective in its reliance on the PEIR in the areas that affect these issues.

Potrero Hill is poorly served by area transit, yet the developer asserts the Project's addition of 395 residential units, with admitted impacts to traffic and loss of PDR, is a transit friendly project merely because the site is located within a Transit Priority Area. Citizens will show that the EIR's reliance on this assertion is misplaced.

The Project admittedly results in impacts to traffic and circulation and loss of PDR. Two of the alternatives reviewed in the EIR substantially lessen or avoid these impacts and comment letters in the Final EIR show that there is overwhelming support for the adoption of this alternative. Planning's Findings assert alternatives are infeasible based upon a flawed developer study that used land value instead of land acquisition costs, which artificially reduced profits and skewed the feasibility analysis; neglected to include data about the Project that would allow a fair comparison of the costs and profits of the Project to the alternatives; and unnecessarily burdened alternatives with flaws that made them appear to result in more severe traffic impacts and less profit. When considering a project with admitted impacts, as here, the City is required to fairly consider and adopt feasible alternatives that would substantially reduce Project impacts prior to considering adoption of a Statement of Overriding Considerations and did not.

For ease of review, this letter summarizes the main facts and legal issues at stake in the appeal. The attached Memos augment the facts cited herein and offer extensive analysis on the issues of concern. **Exhibit E**, Memos 1-7: 1 Transportation; 2, Cumulative Impacts; 3, Public Views; 4, Loss of PDR; 5, Historic Resources; 6, Objectivity; 7, Shadows and Open Space; and 8, Alternatives. Citizens include the Draft Eastern Neighborhoods Monitoring Report, the TSF Nexus Study and the TIS traffic study, 2/20/15 Ed Lee letter, 2015 State of Local Manufacturing (SFMade), and evidence regarding historic resources and view corridors, in **Exhibit F** and information received from the City *via* a Public Records Act Record in **Exhibit G**.

### **Alternatives Analysis**

If a project will result in significant environmental impacts that will not be avoided or substantially lessened by mitigation measures, the agency must consider the environmentally superior alternatives identified in the EIR and find that they are "infeasible" before approving the project. (Pub. Res. Code § 21081(a)(3), *See also* CEQA Guidelines 14 Cal. Code Regs. § 15091(a)(3).) Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (Pub. Res. Code § 21061.1; Guidelines §15364.) The requirement for an infeasibility finding flows from the public policy that states:



It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...the Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

(Pub. Res. Code § 21002.) Reflecting this policy, Public Resources Code section 21081(a)(1)-(3) provides that if one or more significant impacts will not be avoided or substantially lessened by adopting mitigation measures, alternatives described in the EIR that can avoid or reduce the impact must be found infeasible if they are not adopted. Under this scheme, a public agency must avoid or reduce a project's significant environmental effects when it is feasible to do so. (Pub. Res. Code §§ 21002, 21002.1(b); 14 Cal. Code Regs §§ 15021(a) and 15091(a)(1).) As explained by the California Supreme Court in *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4<sup>th</sup> 105, 124, "Under CEQA, a public agency must . . . consider measures that might mitigate a project's adverse environmental impact and adopt them if feasible. (Pub. Res. Code §§ 21002, 21081.)" The Court reiterated "CEQA's substantive mandate that public agencies refrain from approving projects for which there are feasible alternatives or mitigation measures." (*Id.* at 134.) CEQA's substantive mandate was again underscored by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4<sup>th</sup> 341, and by the Court of Appeal in *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4<sup>th</sup> 86 and *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4<sup>th</sup> 1336.

Increased costs of an alternative do not equate to economic infeasibility: "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors (Goleta I)* (1988) 197 Cal.App.3d 1167, 1181. See also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736; *City of Fremont v. San Francisco Bay Area Rapid Transit District* (1995) 34 Cal.App.3d 1780 (addition of \$60 million in costs rendered subterranean alternative for BART extension infeasible.) In *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167, the court found that the record included no analysis of the comparative costs, profits, or economic benefits of scaled down project alternative and was insufficient to support finding of economic infeasibility. In *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4<sup>th</sup>

587, a project applicant's preference against an alternative does not render it infeasible. In *County of San Diego v. Grossmont Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 108, the court found that a community college's proportional share of cost of off-campus traffic mitigation measures could not be found economically infeasible in absence of cost estimates. In *Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322, the court found that an infeasibility finding based on economic factors cannot be made without estimate of income or expenditures to support conclusion that reduction of motel project or relocation of some units would make project unprofitable.

Here, the EIR has conceded significant traffic and circulation impacts and the Project's contribution to the cumulative loss of PDR; the EIR is thus required to adequately analyze a reasonable range of alternatives that reduce all potentially significant environmental impacts. Citizens assert that substantive comments on the Draft EIR provide the bases for finding substantial environmental impacts due to aesthetics and views, inconsistency with area plans, land use, growth inducing and cumulative impacts and shade and shadow of area parks.

When a project results in admitted environmental impacts, a lead agency cannot merely adopt a statement of overriding considerations and approve it; the agency must *first* adopt feasible alternatives and mitigation measures. (*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 185; *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341 ["CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible."])

#### ***Metal Shed Reuse Alternative***

The EIR identified a feasible alternative that Citizens argue, would reduce impacts to traffic and loss of PDR and yield sufficient profits, yet the EIR determined that the Metal Shed Reuse alternative is infeasible, asserting additional costs and loss of profit. Numerous residents and the Historic Preservation Commission offered extensive comments on the advantages of the alternative and recommended its adoption. (RTC pgs. 131-157; Memo 8; *see also* Memo 5, recommending adoption of the alternative as it relates to historic resources.) Citizens concur with this recommendation and encourage the Board to adopt the Metal Shed Reuse alternative.

The determination of infeasibility is based upon the recently submitted developer prepared financial study. Citizens reference Memo 3 that details the reasons why the alternative is feasible and shows how the developer's study is

inadequate and incomplete and fails to show that that additional costs or loss of profits would render the project impractical to proceed.

The developer's study cites to a targeted range of margins of profit but fails to provide actual cost and profit information. It is impossible to make an effective comparison without this information and runs counter to the requirements set forth for feasibility findings in *Citizens of Goleta Valley v. County of Santa Barbara (Goleta I)* (1988) 197 Cal.App.3d 1167.

Even using the target profit margin asserted by the developer, the alternative should be found feasible. The Planning Department stated that assessing feasibility was based upon land acquisition costs, whereas the developer's study used current "land value" instead of land cost data, thereby inflating the costs of the Project considerably. Utilizing land cost data, the Metal Shed Alternative meets the targeted 18%-25% profit margin cited by the developer. Other errors in the study include the use of outdated information regarding the value of rental square footage in PDR uses. The study assumed a \$2.50 per square foot value, whereas current figures are estimated at nearly twice that, at \$4.00/ square foot, thereby considerably devaluing the alternative's profit.

The EIR also fails to support its allegation that the greater percentage of PDR in the Metal Shed alternative would render higher traffic counts. The Final EIR does not adequately respond to comments asking why a lower density, PDR-focused project would not result in significantly lower traffic impacts. Planning inexplicably chose to use "office" rather than "manufacturing" rates from the Transportation Impact Analysis Guidelines, even though the PEIR specifically stated that "PDR" was less impactful than "office" using the same Guidelines. The analysis using TSF Nexus Rates appears to cherry pick data, rather than doing the complete analysis. The Planning Department also chose the most intensive commercial use (restaurant) for nearly half of the non-PDR commercial space in the Metal Shed Alternative. The calculations are therefore unfairly skewed to make the Metal Shed Alternative appear more impactful under Transportation Impact Analysis rates when they would be actually be substantially less. Using the full set of motorized TSF rates for PDR, non-PDR commercial and residential shows that the Metal Shed Alternative will have the lowest impact on traffic. Without this impediment, the alternative would have been considered the environmentally superior alternative. For the foregoing reasons, the determination that the Metal Shed Reuse Alternative is infeasible and results in the same or higher traffic impacts is not supported by substantial evidence.

### ***Reduced Density Alternative***

The EIR states

The Reduced Density Alternative is identified as the environmentally superior alternative because it would “to some extent” meet the project sponsor’s basic objectives, while avoiding all but one of the traffic-related significant unavoidable impacts of the proposed project. This impact reduction would be achieved because the alternative would have fewer residential units and commercial space at the site compared to the proposed Project, and therefore have associated reductions in vehicle traffic compared to the proposed project. (DEIR pg. S-22.)

The EIR states that this alternative would include 273 residential units, 16,880 square feet of commercial space and have more open space that would total 56,850 square feet. (DEIR pg. S-23.) The Project would have 395 residential units, 24,968 square feet of commercial/public space and 50,932 square feet of open space. A reduction of 122 residential units and 8,088 square feet of commercial space would mitigate the traffic impact to insignificance and produce 5,918 more square feet of open space. (RTC pgs. 131-157; Memo 8.) The chart at page S-25 also shows that the Reduced Density Alternative would mitigate the traffic impacts to insignificance. The EIR states that the financial feasibility of the Reduced Density Alternative is unknown. (DEIR pg. S-24.) As noted, an alternative need not meet every project objective to be considered feasible. Similar to the analysis of the Metal Shed Reuse Alternative, the developer’s study asserts the alternative would not yield sufficient profits to be considered feasible. As noted, the developer’s study utilized a flawed analysis to determine infeasibility and the determination of infeasibility is not supported.

### **Failure to Respond Adequately to Comments**

Responses should explain any rejections of the commentors’ proposed mitigations and alternatives. Evasive, conclusory responses and mere excuses are not legally sufficient. (*Cleary v. County of Stanislaus* (1981) 118 Cal.App.3d 348, 355-360 (failure to adequately respond to any significant public comment is an abuse of discretion); Guideline §15088(b).) A general response to a specific question is usually insufficient. (*People v. County of Kern* (1976) 62 Cal.App.3d 761 [when a comment questioned the availability of water, a response was ruled inadequate when it stated that “all available data” showed underground water supplies to be sufficient]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4<sup>th</sup> 859 [specific comments regarding Eel River environmental setting and pending diversions required additional responses].) Comments from responsible experts or sister agencies that disclose new or conflicting data, or opinions that the agency may not have fully evaluated the project and its alternatives, may not be ignored and there must be a good faith, reasoned analysis in response. (*Berkeley Keep Jets over the Bay Committee v. Board of Port Commissioners of the City of Oakland* (2001) 91 Cal.App.4<sup>th</sup> 1344, citing *Cleary v.*

*County of Stanislaus* (1981) 118 Cal.App.3d 348, 357.) The FEIR fails to conform to these requirements in responding to comments in the areas discussed below.

### **Cumulative Impacts**

The EIR's cumulative impacts analysis relies on the information regarding projected growth in the Eastern Neighborhoods Plan EIR (PEIR) cumulative impacts analysis that is eight years old and is now shown to be outdated. (Memo 2, Cumulative impacts and 4, PDR loss; Exhibit F [Monitoring Report]; RTC pgs. 158-164.) Given the unanticipated level of development in the Showplace Square/Potrero Hill Area, the assumption that cumulative impacts were addressed in the PEIR is no longer true. As a result, the EIR's analysis and determinations are materially flawed. In fact, the City already has more residential units constructed, entitled or in the pipeline for the Showplace Square/Potrero Area than were anticipated to be built in the area by the year 2025.

In 2008, the PEIR adopted a **3180** residential unit scenario for the Showplace Square/Potrero Hill area. (FEIR I.2-3.) The Project EIR states that as of February 23, 2016, **3315** units have been completed or are planned to complete environmental review within the area, whereas, additional analysis conducted for the 2010-2015 *Eastern Neighborhoods Monitoring Report* reveals that the Showplace/Potrero Hill Area actually had **4526** residential units under construction, entitled or under review. (FEIR IV.55) This is well in excess of the numbers analyzed in the PEIR and the figures used in the EIR. Notably, the *Monitoring Report* indicates that the entire Eastern Neighborhoods Area has exceeded those estimated in the PEIR (9785) by nearly 2000 units. (Exhibit F, Eastern Neighborhoods Monitoring Report 2011-2015 Draft Executive Summary pg. 7)

The Project EIR erroneously concludes:

Growth that has occurred within the Plan area since adoption of the *Eastern Neighborhoods PEIR* has been planned for and the effects of that growth were anticipated and considered in the *Eastern Neighborhoods PEIR*.

(FEIR IV.54)

The Project EIR claims that although the residential land use category is approaching projected levels, non-residential uses have not been exceeded. (RTC IV.54) However, the residential levels have been exceeded and the primary goal of the Eastern Neighborhoods Plan is to provide a balance between land uses, therefore, it is critical that the environmental review consider the impacts of this exceedence.

**At their core, the Eastern Neighborhoods Plans try to accomplish two key policy goals:**

- 1) They attempt to ensure a stable future for Production, Distribution and Repair (PDR) businesses in the city, mainly by reserving a certain amount of land for this purpose; and
- 2) they strive to provide a significant amount of new housing affordable to low, moderate and middle income families and individuals, along with “complete neighborhoods” that provide appropriate amenities for these new residents.

(Showplace Square/Potrero Hill Area Plan, pg. v.)

Because many of the assumptions regarding cumulative impacts in the underlying PEIR were based on unanticipated levels of residential development, the project EIR fails to adequately examine cumulative impacts.

Perhaps the most devastating failure of the Eastern Neighborhoods Plan for the Potrero Hill and Showplace Square residents has been the failure to provide the Community Benefits asserted in the PEIR and that are needed to enable, what amounts to, a near doubling of population. The Eastern Neighborhoods Plan took the long view, seeking to balance growth over a period of 25 years, but instead, growth is being compressed into several short years with almost no support for that growth. By relying on inaccurate assumptions regarding cumulative growth and together with the gap in adequate infrastructure provisions and benefits, the EIR does not address the level of development Potrero Hill has undergone and it's cumulative analysis fails as an informational document for this reason.

A Nexus Study was prepared in 2007 to determine the cost of the impacts identified in the PEIR with the idea that developers would pay impact fees to fund infrastructure improvements. Unfortunately, due to concerns that development would lag during the 2008 recession, impact fees were set at only 1/3 of the actual amount needed and adequate alternative funding sources have never been identified. The Showplace Square Potrero Plan included a mandate to provide four acres of new open space to accommodate expected growth. (Showplace Square/Potrero Hill Area Plan, pg. 51.) To date only one acre of public open space has been provided at Daggett Park, which is just enough to

provide open space for the 1000 new residents moving into 1010 Potrero. Finally, transit improvements were studied for an inadequate system that was already at capacity. Despite the Eastern Neighborhood Transit Implementation Planning Study (ENTRIPS) and the subsequent Transit Effectiveness Plan (TEP), the area has never received the transit improvements it needs.

A draft version of the EIR noted that the analysis in the EIR on this issue was based upon a “soft site” analysis and “not based upon the created capacity of the rezoning options (the total potential for development that would be created indefinitely.” The City attorney noted the legal vulnerability in that statement and proposed its deletion, stating that the EIR must consider the most conservative estimate of those effects and must also consider direct and indirect impacts of the Project. Citizens concur that the most conservative standard must be considered for review of indirect and cumulative impacts in order to satisfy CEQA’s full disclosure requirements and was not.

Regarding the issues relating to the cumulative loss of PDR, please refer to Memo 4.

#### **Inconsistency with Area Plans and Policies**

The FEIR fails to respond adequately to comments made about the Project’s inconsistency with area plans and policies, including the Showplace Square/Potrero Area Plan and the Urban Design and Housing Elements of the City’s General Plan. The EIR disregards established City policies and fails to adequately respond to comments regarding the Project’s conflicts with neighborhood scale and character, the requirement to provide adequate infrastructure, and the preservation of PDR uses. (RTC pgs. 38-44.)

Objective 3 of the San Francisco General Plan’s Urban Design Element requires: “Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.” The scale and density of the Project are substantially greater than existing surrounding Potrero Hill land uses and the project would be inconsistent with the established land use character of the neighborhood.

The Project conflicts with a number of Area Plan objectives including Objective 1.2 of the Showplace Square/Potrero Hill Area Plan, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character of Potrero Hill. Policy 3.1.6 of the Showplace Square/Potrero Hill Area Plan, states, “new buildings should epitomize the best in contemporary architecture, but should do so with a full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.” As proposed, the Project’s

16<sup>th</sup> Street building is inconsistent with the height, mass, and articulation of existing buildings in the Potrero Hill vicinity and provides little awareness of surrounding neighborhood structures.

Policy 2 of the City's General Plan states, "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." The Project is not consistent with this policy because its scale, mass, bulk and height are inconsistent with and will negatively impact established neighborhood development patterns and character. The proposed development is dramatically out of scale with nearby residences and small businesses.

The FEIR brushes off these and like comments on these critically important issues by broadly claiming that inconsistency with area plans does not relate to environmental impacts. (RTC pg. 43.) This is false; the reason EIRs are required to analyze a project's consistency with area plans is that inconsistency may result in impacts to, among other things, land use, traffic and circulation and influence the consideration of cumulative impacts. The FEIR fails to adequately respond to comments made about the inconsistency of the Project with area plans and policies concerning these issues.

### **Scale / Height / Density**

The scale, height, and density of the proposed Project (72 to 83 feet and 395 residential units) is inconsistent with numerous provisions of the Showplace/Potrero Hill Area Plan and the Final EIR fails to adequately respond to comments on this issue. (Memo 3; RTC pgs. 35-38.)

Prior analysis in the PEIR, relied upon by City Planning for all new development in the Eastern Neighborhoods, is now eight years old and did not adequately evaluate or anticipate a project of commensurate size, height, or density as the Project. All of the analyses completed for the PEIR anticipated a height on the Project parcel of 68 feet – not 72 to 83 feet as proposed by the Project. As shown in height maps, the PEIR actually anticipated and analyzed lower heights at the site of 40 feet to 45 feet.

In accordance with the Showplace Square/Potrero Hill Area Plan policy that calls for lowered heights on the south side of 16<sup>th</sup> Street, the underlying PEIR addresses heights rising 65 feet to 68 feet – but only on the north side of 16<sup>th</sup> Street – not the south side of 16<sup>th</sup> where the Project is proposed. Objective 3.1/Policies 3.1.1 & 3.1.2 state that heights should be adopted that respect, "the residential character of Potrero Hill", "Respect the natural topography of Potrero Hill", and that "Lowering heights from the north to the south side of 16<sup>th</sup> Street would help accentuate Potrero Hill." The Final EIR fails to adequately respond to



comments that the size and scope of the Project conflicts with policies that provide a mechanism to avoid land use impacts.

Assertions by City Planning that the density and height for the Project were adequately evaluated in the PEIR are inaccurate and misleading. In July of 2014, senior City Planner Wade Wietgreffe inaccurately cited information in the PEIR. Wietgreffe claimed the following.

... As noted on page C&R-5, the preferred project changed between publication of the Draft EIR and publication of the C&R document. Therefore, the C&R document analyzed the environmental effects from the proposed changes, as well as responding to comments received on the Draft EIR. Figure C&R-2 identifies the heights for the Eastern Neighborhoods Plan, which includes 68-foot designations along 16<sup>th</sup> Street.

In actuality, the PEIR addressed heights rising to 65-68 feet on the north side of 16<sup>th</sup> but not the south side of 16<sup>th</sup> Street, consistent with the Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16<sup>th</sup> Street. The PEIR cited a map showing frontages along 16<sup>th</sup> Street had been raised to 65 feet in comparison to Option B (one of the iterations of the project proposed for consideration in the PEIR) yet the analysis emphasized that the added height would remain on the *north* side of 16th Street (Showplace Square) and *not the south side of 16<sup>th</sup>* (Potrero Hill). As stated in "Changes by Neighborhood — Showplace Square/Potrero Hill" page 12:

No changes in height limits are proposed on Potrero Hill. The Preferred Project would establish height limits of 65 - 68 feet within the core of Showplace Square between US-101 and I-280, north of 16th and south of Bryant Streets." This statement is repeated on page C&R-21: "In Showplace Square/Potrero Hill plan area, height limits would be similar to those analyzed for Options B, with minor height increases (to 45 feet as opposed to 40 feet in the DEIR) proposed to areas north of Mariposa Street, between De Haro Street and Seventh/Pennsylvania Streets. Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-280, north of 16th and south of Bryant Streets.

The PEIR repeatedly uses the above phrasing regarding limiting the height increase to the north side of 16<sup>th</sup> and not the south side of 16<sup>th</sup> Street.

The PEIR did not address or analyze issues about heights or zoning at the Project site. As stated on page 147:

A number of comments were directed at the proposed rezoning and area plans, and do not address the adequacy or accuracy of the EIR. Because these comments do not address the adequacy or accuracy of the EIR, no responses are required.

As shown in the PEIR, the Project sponsor lobbied to overturn the proposed 40 to 45 foot height at the Project site stating:

Sixteenth Street should be designated a “transit corridor” with a height limit of 65 feet near Mission Bay and Interstate 280. Seventh Street should have a height limit of 55 feet.

### **Aesthetics / Public View Corridors and Scenic Vistas**

The EIR acknowledges that “views from surrounding public vantage points would be altered” but claims the Project need not consider aesthetic or views impacts because it meets the definition of a mixed-use residential project on an infill site within a transit priority area as defined by Public Resources Code section 21099(a). Nonetheless the EIR provided a curtailed analysis of aesthetics and views impacts. (Draft EIR S-2; RTC 36-38; 42-44; Memo 3.) While the Project is identified as being within a transit priority area, the area is admittedly underserved by transit and proposed upgrades to transit are tenuous, such that, the Project should not be exempted from review of aesthetics and views impacts. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to “relatively long headways between buses and indirect lines limits the usability of service” and that “steep topography of Potrero Hill and the discontinuous street network in some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

The Project’s single massive structure positioned at the base of Potrero Hill, along with its height, bulk, and massing will obscure a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. Potrero Hill, like San Francisco as a whole, is known for its dramatic City views and sweeping vistas. The height, bulk, and mass of the proposed Project would effectively wall off a large portion of lower Potrero Hill from public views of downtown enjoyed by neighborhood visitors for generations. Just like the recent campaign against “walling off” the waterfront, we believe Potrero Hill should be protected from “walls” of out-of-scale development.

This conflicts with long-standing City and state policies regarding protection of public scenic vistas. The Project is inconsistent with multiple Area Plan principles including provisions to “respect the natural topography of Potrero Hill”, to lower building “heights from the north to south side of 16th

Street” and to “promote preservation of other buildings and features that provide continuity with past development.” Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states:

San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.

As noted, the scale, height, and density of the Project (72 feet to 83 feet, including parapet and mechanical penthouses, and 395 residential units) are inconsistent with numerous terms set out in the Showplace/Potrero Hill Area Plan. Prior study contained in the PEIR, produced and relied upon by City Planning for all new development, is now eight-years old and did not adequately evaluate, analyze, consider or anticipate a specific project of the size, height, or density proposed by the developer at this location. All of the analyses completed for the Eastern Neighborhoods Plan anticipated a height on this parcel of 40 to 45-feet, not 83-feet as proposed by the Project.

The EIR failed to provide accurate and adequate 3-D modeling visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered by the Project sponsor for the EIR remain inadequate and do not accurately reflect the impact on scenic public vistas of a 72 to 83 foot high building in lower Potrero Hill. The visual simulations were effectively limited to a single North-South Street (Texas Street) and failed to include other North-South streets as well including Mississippi, Pennsylvania Streets, and Missouri Streets. (DEIR Chapter II, Project Description, pages II.26 – II.36.) Moreover, the Texas Street visuals are misleading because they are framed from a single vantage point in the middle of the roadway looking directly north and do not capture varied and wider angles, for example, from the north west). The significant impacts of added height due to roof top mechanical penthouses and massing are not presented.

The Project would also contribute to the cumulative loss of public view corridors. Review of photo simulations of building development in Potrero Hill over the past several years shows the significant and destructive impact on Potrero Hill’s cherished public view corridors. The continuing loss of public view corridors due to Mission Bay and 1010 16<sup>th</sup> Street Daggett/Equity Residential developments has been incremental but dramatic. The Project would contribute significantly to this continuing erosion of Potrero Hill’s public scenic view corridors.

The significant impacts on aesthetics, public views and cumulatively significant impacts have not been adequately evaluated in the EIR and the FEIR inadequately responds to comments on this issue.

### **Traffic / Transportation**

The PEIR, upon which the EIR relies, did not fully consider the traffic impacts of a residential project of this size at this location, thus the EIR's traffic analysis of direct and cumulatively significant impacts is inadequate and incomplete; the EIR fails to adequately consider or adopt feasible mitigation measures; and the findings are not supported by substantial evidence. (Memo 1; Exhibit F; RTC pgs. 59-63; 71-98; 101-107)

The PEIR's evaluation of traffic impacts extending to the year 2025, upon which the FEIR relies, were based on assumptions about the level of development that is now outdated. Most of the traffic counts studied in the TIS were from 2013 and 2014, before the UCSF hospital had opened. 14 intersections were studied but key intersections were left out along Mariposa Street and 17<sup>th</sup> Streets. Additional studies, completed in 2015 (FEIR, Appendix C) for five of the intersections also omitted the intersections along Mariposa and 17<sup>th</sup> Streets.

Although the proposed project is in a Transit Priority area, public transit service is inadequate with most commuters have to rely on other modes of travel. Traffic congestion in the immediate area of the project is already a fact of life, with multiple intersections operating at F levels. Contrary to the principles of the City's Transit First Policy, the project was granted an exception to the parking maximum requirement of .75. The TIS studies extrapolated 2025 cumulative conditions based on outdated growth assumptions and neglected to consider large projects such as the Warriors Arena. (Exhibit F.) Four intersections were identified in the DEIR as impacted, with no identified mitigations, while mitigations for a fifth were based on reasonable assumptions, with no supporting evidence.

As the record shows, Potrero Hill is poorly served by area transit, yet the EIR claims that the Project's traffic impacts are offset because the Project is located within a transit area and is "within close proximity to numerous transit routes." (DEIR III.11.)

The draft Showplace/Potrero Monitoring Report shows that transit use in the area is at 24%, lagging well behind the City as a whole. The PEIR noted that in the Potrero Hill/Showplace area, transit was subject to "relatively long headways between buses and indirect lines limits the usability of service" and that "steep topography of Potrero Hill and the discontinuous street network in

some parts of the subarea can also be limiting in terms of accessibility, as the closest stop may not be easily reached by a direct route.” (PEIR, IV. Environmental Setting and Impacts E. Transportation, pg. 257; Exhibit F.)

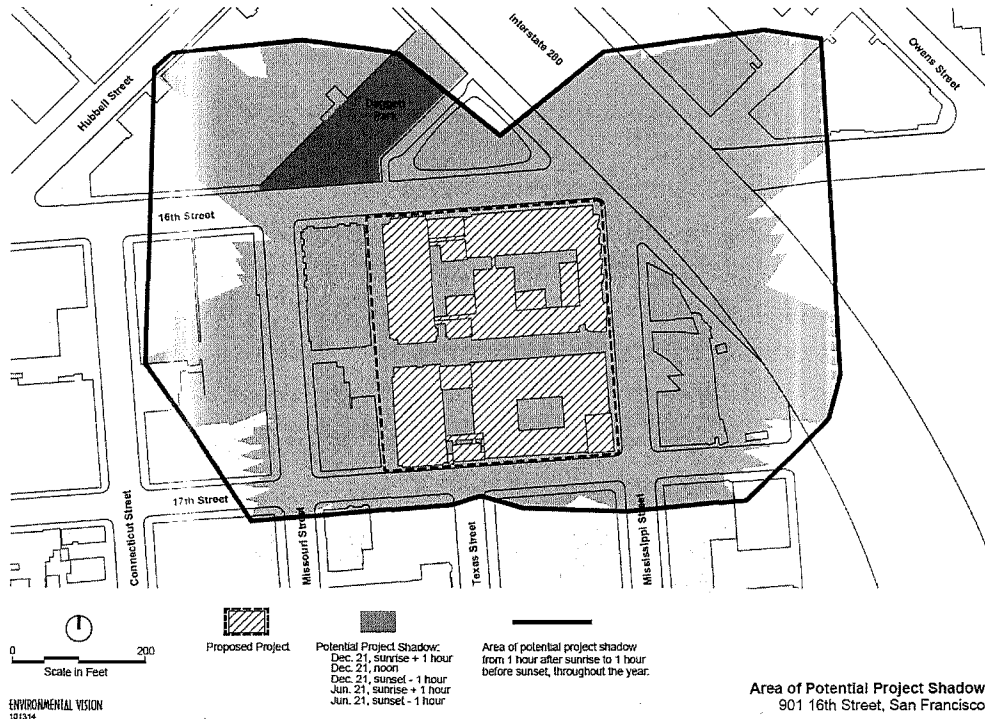
The *only* transit that is currently within a 5-minute walk from 901-16<sup>th</sup> Street is the temporary 55-16<sup>th</sup> route (which will eventually be replaced with the re-routed 22) and all other routes are nearly a half-mile or more away. The 10-Townsend (currently operating at or above capacity) and 19-Polk (which is expected to stop service to this area) are .4 miles away. Caltrain is .7 miles away and involves a walk over a steep hill (not the half mile claimed in the DEIR) and the T-Third is .5 miles away, a 9-minute walk. The 2.2 mile Transit to downtown (Montgomery and Market) takes an average of 30 minutes, excluding headways of 9-10 minutes or more; walking the route would take 43 minutes. While the 22 Fillmore will eventually become a BRT route and there are streetscape improvements slated for 16<sup>th</sup> Street, there is currently no other targeted funding to directly improve transit in the area or fill the need for better transit to serve a growing population. Impact fees have been reduced and partially replaced by the TSP (Transit Sustainability Program) that benefits the city as a whole but are inadequate to fully fund SFMTA deficits.

#### **Open Space / Recreation / Shadow**

The Showplace Square / Potrero Hill Area is underserved in terms of open space. Citizens assert additional shadow on Daggett Park, the only area of new open space identified in the PEIR that serves this area, will add to the incremental shadowing of the park and compromise the neighborhood’s limited recreational opportunities. At 68+ feet, the proposed Project will individually and cumulatively cast shadow on the park; 1010 Potrero which surrounds Daggett park on the north, east and west sides, also casts shadows on Daggett Park. (RTC pgs. 175-179; Memo 7.)

Because of unanticipated growth in the Showplace/Potrero Area, cumulative impacts on Recreation were not anticipated in the Eastern Neighborhoods Plan. The studies in the PEIR were based on outdated population data, with acquisition policies based on need using population levels in the 2000 census. (PEIR IV.H. pg. 370.) The PEIR did not identify adequate funding sources to meet the needs of the Eastern Neighborhoods for either maintenance of existing parks and recreation facilities or for the acquisition of new open space. The Showplace Square/Potrero Hill Plan specifically called for four acres of new space for the Area: “Analysis reveals that a total of about 4.0 acres of new space should be provided in this area to accommodate expected growth.” But only one acre of new space has been provided, Daggett Park, so far.

A shadow study dated October 13, 2014 prepared by Environmental Vision found that the Project would cast shadows on nearby Daggett Park but determined that the amount of area shadowed by the Project is minimal, the duration of shadow is limited, and the amount of the sunlight to this type of open space is acceptable. (Motion 19645, pg. 31.)



The CPE Checklist identified new net shadow from the Project in the mornings between mid-fall and mid-winter. (CPE, pg. 44) It also identified cumulative shadowing that would result in the Park being “largely” shadowed from 8:00 to 11:00 AM between mid-fall and mid-winter and notes that the Project related net new shadowing would impact lawn areas during the morning hours but the Project would not “substantially” contribute to shadowing in the afternoon. The conclusion was made that the lack of substantial afternoon shadowing, would result in overall less than significant impacts despite the addition of substantial morning shadowing. The impact of cumulative shadow was not considered.

Because the Project adds new net and cumulative shadow to Daggett Park, the City should consider adoption of an alternative that reduces the height of the building along 16<sup>th</sup> Street and increases setbacks. Additionally the rooftop mechanical structures should be designed to minimize shadow and reduce overall height.

On the topic of Recreation, the Community Plan Exemption (CPE) Checklist states that the project is within the development projected under the Eastern Neighborhoods Plan and that there would be no unanticipated impacts. (CPE Checklist pg. 49.) The Final EIR reiterates this without adequately responding to concerns about excessive residential growth. The Final EIR states "Recreation was addressed in the CPE Checklist which determined that the proposed project would be within the development projected in the Eastern Neighborhoods Rezoning and Area Plans."


The shadowing of Daggett Park is in conflict with the General Plan provision, which protects open space from shadowing including the recommendation that "our parks and open space and their access to sunlight and vistas be protected from development." The Final EIR doesn't respond directly to stated concerns about this inconsistency, claiming that, "project related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts." (RTC pg. 179; PO-2.)

### **Cultural and Historic Resources**

The DEIR does not adequately or accurately address issues related to the historic merit and integrity of the existing metal warehouses. (RTC pgs. 113-126; Memo 5; 7/11/16 letter from historic expert Katherine Petrin.) The EIR rejects arguments supporting historic integrity of the metal buildings, including the research and opinion of highly respected architectural historian, Katherine Petrin. Petrin's expert testimony demonstrates these buildings remain historic despite alterations and company mergers over the years. In her compelling report, Petrin documents a strong case for finding historic integrity, among other things, she stated the Period of Significance was longer than City Planning's claim of 1906 – 1928, it should be extended through at least to mid 1947. While the steel warehouses may have been altered to some degree over the years, modifications in industrial spaces are to be expected given the utilitarian purpose of these buildings and the need for flexible space. Collectively, the Potrero Hill industrial complex contains the last remaining structures of the Pacific Rolling Mill, which began operating in the Central Waterfront in 1868 before reorganizing and relocating to Potrero Hill in the early 1900s. The buildings are also the last remaining extant structures of the merged companies, Judson Pacific Company (1928), and Judson Pacific Company (1945) in San Francisco. Petrin, along with numerous others, urged the adoption of the Metal Shed Reuse Alternative.

For the foregoing reasons, Citizens request the Board uphold the appeal.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Rachel Mansfield-Howlett", with a horizontal line extending from the end of the signature.

Rachel Mansfield-Howlett



## Carroll, John (BOS)

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**From:** Rodney Minott <rodneyminott@outlook.com>  
**Sent:** Monday, July 25, 2016 12:30 PM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** support appeal for 901 16th!  
**Attachments:** 901 16th Appeal letter DL-.docx; ATT00001.htm

**Categories:** 160683

FYI

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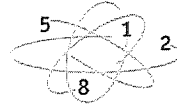
**From:** Deborah Lardie  
**Sent:** Monday, July 25, 2016 9:16 AM  
**To:** 'malia.Cohen@sfgov.org'  
**Subject:** Support Appeal for 901 16th!

Supervisor Cohen- I am asking your support to protect the Hill from yet another misplaced and oversized project. Please read attached letter and vote to uphold the Eastern Neighborhood Plan. You have a duty to do so.

Thank you.

Best Regards,  
Deborah

The Lardie Company  
[www.lardiecompany.com](http://www.lardiecompany.com)  
415-864-0770



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City and County of San Francisco  
Board of Supervisors  
San Francisco City Hall  
San Francisco, CA

Re: 901 16th Street and 1200 17th Street Mixed Use Project Appeal

July 25, 2016

Dear Supervisor,

I am writing **in support** of the above appeal and am requesting your **vote to uphold** development standards that benefit the residents of Potrero Hill and San Francisco.

The Environment Impact Review and process for this project was deeply flawed as outlined in the appeal. In brief:

- The project will greatly increase traffic at already congested intersections.
- The project will further erode an already overburdened Muni transit system.
- The scale and design of the project will further decrease views from Potrero Hill.
- The project will further contribute to over-building in the neighborhood in excess of the existing neighborhood plan. This growth has not been met with infrastructure and benefits.
- Environmentally and community friendly alternative plans were wrongly rejected as infeasible based on deeply flawed analysis that was not independent or accurate.
- The project includes inadequate open space and will shadow a near-by park.
- The EIR process and study lacks independence and objectivity due to developer influence.

City residents deserve consideration and representation by the Planning Department and governmental public servants who work for them. To approve plans that are not in compliance with approved neighborhood plans and that increase density without related and funded infrastructure is irresponsible at best. Please do your duty to the residents of Potrero Hill and San Francisco and send this project back to the drawing boards. We deserve better!

Sincerely,

Deborah Lardie, CPA  
Potrero Hill

## Carroll, John (BOS)

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**From:** Gosiengfiao, Rachel (BOS)  
**Sent:** Monday, July 25, 2016 11:36 AM  
**To:** BOS Legislation, (BOS)  
**Subject:** FW: Support Corovan Appeal

**Categories:** 160683

-----Original Message-----

**From:** Bob [mailto:gonzaleslaw@aol.com]  
**Sent:** Monday, July 25, 2016 10:44 AM  
**To:** BOS-Supervisors <bos-supervisors@sfgov.org>  
**Subject:** Support Corovan Appeal

Honorable supervisors:

Our family has lived, and owned our home, on Potrero Hill for more than 43 years. The proposed Corovan project, is a negative for the quality of life in our neighborhood.

We urge a yes vote on the appeal. Thank you for the consideration given our request.

Bob & Myrna Gonzales

Sent from my iPad

## Carroll, John (BOS)

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**From:** Rodney Minott <rodneyminnott@outlook.com>  
**Sent:** Monday, July 25, 2016 10:15 AM  
**To:** BOS-Supervisors; BOS Legislation, (BOS); BOS-Legislative Aides  
**Subject:** Fwd: Please Support Environmental Impact Appeal - 901 16th

**Categories:** 160683

FYI

Begin forwarded message:

**From:** Gayle Keck <gakeck@gmail.com>  
**Subject: Please Support Environmental Impact Appeal**  
**Date:** July 21, 2016 at 8:51:48 PM PDT  
**To:** [malia.cohen@sfgov.org](mailto:malia.cohen@sfgov.org)

Dear Supervisor Cohen,

I had the pleasure of supporting you in the last election, and now I hope you will support me - by voting in favor of the environmental appeal filed regarding the massive proposed project at 901 16th St./1200 17th St. (aka the Corovan Project).

Potrero Hill residents are deeply concerned about this project for a number of reasons:

1. The number of units in the project will bring us well over the 3180 units projected in the Eastern Neighborhoods Plan - while the city has failed to provide the promised community benefits we need to support a near-doubling of our population.
2. Unmitigated traffic impacts, in an area plagued by heavy traffic. This will create an even worse bottleneck.
3. The project as proposed will include an inadequate amount of open space and will shadow nearby Daggett Park.
4. There are far better alternatives. This huge, ugly building does nothing for the character of the neighborhood. A community-inspired lower density project proposal (the so-called "Metal Shed Reuse Alternative") was identified as environmentally superior and wrongly rejected as infeasible based on deeply flawed analysis paid for by the developer. The community-inspired alternative project also includes generous amounts of work space for artists and makers - a real feather in Potrero's cap.
5. Lack of objectivity. I was shocked to see hundreds of pages of heavily redacted city documents relating to this project. The EIR process and study have clearly been heavily manipulated and influenced by the developers and lack objectivity or independence.

Supervisor Cohen, we know that the city needs new housing units. But we shouldn't do it at the expense of a single neighborhood. Potrero is already bearing more than its share of new units - more than 1,000 beyond the Eastern Neighborhoods Plan. What's more, this site is a gateway to our community. It should serve as something we can be proud of, something architecturally significant - not another soulless modern structure.

Please support this appeal and the far, far better alternative offered up by your community.

Thank you,  
Gayle Keck  
412 Mississippi St.

+++++

Gayle Keck  
Freelance Writer Specializing in Travel & Food  
Honors: Lowell Thomas Award, ASJA Best Lifestyle Article, Travel Classics Contest Winner,  
Best Travelers' Tales books  
2015 Taste Awards Judge  
2015 International Chocolate Salon Judge  
Email: [GAKeck@gmail.com](mailto:GAKeck@gmail.com)  
Phone: 415-282-0950  
Writing clips: [GayleKeck.com](http://GayleKeck.com)  
Blog: [BeenThereAteThat.com](http://BeenThereAteThat.com)  
Consumer site: [FoodTourFinder.com](http://FoodTourFinder.com)  
Twitter: [BeenThere8That](#) & [SFRestoNews](#)

## Carroll, John (BOS)

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**From:** Rodney Minott <rodneyminott@outlook.com>  
**Sent:** Monday, July 25, 2016 10:13 AM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** Fwd: 901 16th ST / Corovan Project appeal - 26 July 2016 Board of Supervisors meeting

**Categories:** 160683

FYI

Begin forwarded message:

**From:** Daria Iaconi <daria\_is@yahoo.com>  
**Subject:** Cordovan Project appeal - 26 July 2016 Board of Supervisors meeting  
**Date:** July 20, 2016 at 3:02:59 PM PDT  
**To:** [malia.Cohen@sfgov.org](mailto:malia.Cohen@sfgov.org)  
**Cc:** [eric.L.Mar@sfgov.org](mailto:eric.L.Mar@sfgov.org), [mark.Farrell@sfgov.org](mailto:mark.Farrell@sfgov.org), [aaron.Peskin@sfgov.org](mailto:aaron.Peskin@sfgov.org),  
[katy.Tang@sfgov.org](mailto:katy.Tang@sfgov.org), [London.Breed@sfgov.org](mailto:London.Breed@sfgov.org), [jane.Kim@sfgov.org](mailto:jane.Kim@sfgov.org),  
[norman.Yee@sfgov.org](mailto:norman.Yee@sfgov.org), [scott.Wiener@sfgov.org](mailto:scott.Wiener@sfgov.org), [david.Campos@sfgov.org](mailto:david.Campos@sfgov.org),  
[John.Avalos@sfgov.org](mailto:John.Avalos@sfgov.org)

Board of Supervisors:

I am a lifelong Potrero Hill resident, having lived in an historic home on the edge of the 280 freeway from the time when the freeway did not exist until today. Suffice to say, my family and I have witnessed massive change over the many years we have lived on the Hill (since 1960). Change is okay; we have nothing against it but we do ask that change be mindful of the environment that will be most immediately impacted and beyond.

It should not be surprising to anyone who is versed in the history of Potrero Hill, let alone the city, that this community we call home has been over run, and continues to be, by ill-conceived monster projects that contribute more stress for the Hill's and Dogpatch's residents and businesses with increased traffic, noise and pollution—yes, pollution—and more.

The density and intensity of development in Potrero Hill has changed much of the community's character. Much of the new development has also contributed to a pace of life that is unsustainable due to lack of thoughtful balance, transportation options, parking, green space, etc. We simply ask that thought and thorough care go into any plan(s), especially of the proposed massive Corovan Project.

Thoughtful planning in a community should include the punctuation of buildings with spaces that allow for breathing and community, i.e. green space. We are being strangled with the density of building and loss of sight lines; the increased noise and traffic. All in all, life becomes more stressful, there is less beauty as light is reduced and views are, slowly but surely, stripped away.

Truly, the project, as set forth, is completely out of scale and character with Potrero Hill and its surrounding neighbors, let alone with any residential neighborhood that values a sustainable

balance versus the dehumanization that out-of-control building can bring with it.

I have been silent thus far because I have been either been in disbelief, overwhelmed, in shock or trusting that the general better senses of those involved would come to the fore. I suggest that those better senses would include addressing the issues outlined in the case letter, dated 15 July 2016, enumerating key arguments relative to the environmental impact report (EIR) and the Metal Shed proposal/option for the Corovan Project.

I respectfully ask that you uphold the appeal as submitted on behalf of appellants, Grow Potrero Responsibly and Save the Hill, (the Citizens).

Sincerely,

Daria Iaconi

(Potrero Hill)

**Carroll, John (BOS)**

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**From:** MG Hill <arkansasst@gmail.com>  
**Sent:** Monday, July 25, 2016 10:00 AM  
**To:** BOS Legislation, (BOS)  
**Subject:** Save the Hill

**Categories:** 160683

Stop this out of control project it will destroy our peace which I have enjoyed for 35 years. Marjorie Hill



**Carroll, John (BOS)**

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**From:** erin lampe <erinelampe@me.com>  
**Sent:** Monday, July 25, 2016 9:24 AM  
**To:** BOS Legislation, (BOS); BOS-Legislative Aides; BOS-Supervisors  
**Subject:** Support of Appeal of the certification of the EIR for the 901 16th Street and 1200 17th Street Mixed Use Project.

**Categories:** 160683

Dear to whom it may concern,

I am writing in support of the Appeal of the certification of the EIR for the 901 16th Street and 1200 17th Street Mixed Use Project. As long time SF resident I believe this project will hurt the neighbor and lose the charm and character of SF, and it destroy a historical building and the view, environment and neighborhood vibe. Mission bay and all other new buildings as already impacted the skyline, the parking and carbon footprint. Please keep some of charm and history of the city.

Best

Erin Lampe

1725 Turk sf apt 6

SF ca 94115

Sent from my iPhone