

**From:** [Li, Michael \(CPC\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [JENSEN, KRISTEN \(CAT\)](#)  
**Subject:** Planning Department Response - CEQA Appeal - 1801 Mission Street  
**Date:** Tuesday, June 1, 2021 11:46:35 AM  
**Attachments:** [Appeal Response 1801 Mission Street 060121.pdf](#)

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Good Morning.

Please see the Planning Department's attached response to the CEQA appeal for the proposed project at 1801 Mission Street.

Thank you.

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# CATEGORICAL EXEMPTION APPEAL

**1801 Mission Street**

*Date:* June 1, 2021  
*To:* Angela Calvillo, Clerk of the Board of Supervisors  
*From:* Lisa Gibson, Environmental Review Officer, (628) 652-7571  
Michael Li, [michael.j.li@sfgov.org](mailto:michael.j.li@sfgov.org), (628) 652-7538

*RE:* **Planning Record No. 2020-010532PRJ**  
**Appeal of Categorical Exemption for 1801 Mission Street**

*Hearing Date:* June 8, 2021  
*Attachment(s):* None

*Project Sponsor:* Stephen Antonaros, Architect, (415) 864-2261  
*Appellant(s):* Ben Terrall, Cultural Action Network

## Introduction

This memorandum is a response to the letter of appeal to the board of supervisors (the board) regarding the planning department's (the department's) issuance of a categorical exemption under the California Environmental Quality Act (CEQA determination) for the proposed 1801 Mission Street project.

The department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the project on November 18, 2020 finding that the proposed project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption.

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

## Site Description and Existing Use

The project site, on the southeast corner of 14th and Mission streets, is occupied by a six-story residential building with ground-floor retail space. Construction of the existing building was completed in September 2020, and the retail space is currently vacant.

## Project Description

The proposed project is the establishment of an approximately 1,765-square-foot limited restaurant use/coffee shop in the vacant ground-floor retail space of the recently constructed six-story residential building on the project site.

## Background

On October 30, 2020, Stephen Antonaros (project sponsor) filed a building permit application with the Department of Building Inspection to establish a limited restaurant use/coffee shop in the existing vacant retail space at 1801 Mission Street. A limited restaurant use/coffee shop is a principally permitted use in the Urban Mixed Use zoning district.

On November 18, 2020, the planning department (the department) determined that the project was categorically exempt under CEQA Class 1 – Existing Facilities, and that no further environmental review was required.

On January 14, 2021, Ben Terrall, for the Cultural Action Network (Appellant) filed a Request for Discretionary Review of Building Permit Application No. 202010307806. On March 25, 2021, the planning commission (the commission) heard the Request for Discretionary Review. The commission took a Discretionary Review Action, approved the proposed project, and imposed the following conditions of approval:

- The project sponsor shall provide a multilingual menu.
- The project sponsor shall incorporate appropriate cultural art within the interior of the commercial space.
- The commission encourages the project sponsor to conduct additional community outreach with surrounding neighbors, nearby businesses, and the American Indian Cultural District.
- The commission encourages the project sponsor to hire new employees locally and acknowledges that previous employees will have the first right of refusal regarding employment. The commission encourages outreach with the City and County of San Francisco's Office of Economic and Workforce Development.

On April 26, 2021, Appellant filed an appeal of the categorical exemption determination.

## CEQA Guidelines

### Categorical Exemptions

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

CEQA Guidelines section 15301, Existing Facilities, or Class 1, establishes a categorical exemption for projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing

public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

In determining the significance of environmental effects caused by a project, CEQA Guidelines section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines section 15064(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

## Planning Department Responses

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

### **Response 1: The proposed project qualifies for a Class 1 categorical exemption under CEQA Guidelines section 15301. Section 15183 is not applicable.**

The department determined that the proposed project is categorically exempt under CEQA Guidelines section 15301, not CEQA Guidelines section 15183. Thus, Appellant's concerns that the project does not satisfy the criteria established by CEQA Guidelines section 15183, which pertains to community plan evaluations, are moot.<sup>1</sup>

As discussed above, the key consideration in the applicability of CEQA Guidelines section 15301 is whether the project involves negligible or no expansion of an existing use. The proposed project would establish a limited restaurant use/coffee shop in the existing vacant retail space without physically expanding the retail space. The project qualifies for a Class 1 categorical exemption pursuant to CEQA Guidelines section 15301, and none of the exceptions to issuance of a categorical exemption apply. Therefore, no further environmental review is required. Appellant has not provided substantial evidence demonstrating otherwise.

### **Response 2: The proposed project would not result in any significant physical environmental impacts.**

The proposed project would not displace an existing use because the retail space has been vacant since the existing building was completed in September 2020. Appellant's concerns regarding displacement and the proposed project's perceived threat to existing businesses in the project vicinity are related to gentrification, which is a socioeconomic impact rather than a physical environmental impact. Pursuant to CEQA Guidelines sections 15064(e) and 15131, economic and social impacts are separate from environmental impacts and are

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<sup>1</sup> On March 19, 2015, the department issued a Community Plan Exemption (CPE) pursuant to CEQA Guidelines section 15183 for a proposal to construct two mixed-use buildings, one at 1801 Mission Street and the other at 1863 Mission Street (the 2015 project). The department determined that the 2015 project was consistent with the development density established by the Eastern Neighborhoods Rezoning and Area Plans and therefore eligible for a CPE pursuant to CEQA Guidelines section 15183. The CPE for the 2015 project was not appealed to the board within 30 days of the issuance of the project's building permit in August 2017.

generally not studied in environmental analyses unless there is substantial evidence of related physical impacts on the environment. CEQA Guidelines section 15064(e) states in part:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project.

Appellant has not provided substantial evidence to support the claim that economic or social changes associated with implementation of the proposed project would result in significant physical environmental impacts.

As part of the proposed project's approval process, the commission considered whether the proposed project complied with the regulations of the planning code and was consistent with the objectives and policies of the General Plan, including the Mission Area Plan. As previously discussed under "Background," the commission's Discretionary Review Action imposed four conditions of approval on the proposed project to address Appellant's concerns regarding the proposed project's effects on the cultural identity of the neighborhood.

Although Appellant has not identified any evidence to support the claim that the project would result in environmental impacts associated with gentrification, the department provides the following information concerning the department's efforts to address the socioeconomic issues of racial and social equity, affordability, economic displacement, and gentrification.

The department agrees with Appellant that the Mission District (the Mission) is undergoing socioeconomic changes that are affecting existing residents, local small businesses, employment, and the character of the community. The COVID-19 pandemic has exacerbated many of these changes. The department is actively engaging with the community, elected leaders, and other City departments to undertake a series of policy and implementation efforts aimed at addressing socioeconomic issues. While economic displacement is a citywide phenomenon, the department recognizes the heightened effects are acutely felt by families and in communities of color, low-income communities, and neighborhoods that have historically been havens for immigrants and others seeking opportunity or freedom. The department is working together with other City agencies and community residents to develop a coordinated Recovery Strategies work program to provide immediate and ongoing measures to help address some of these challenges.<sup>2</sup>

The department is working on its Racial and Social Equity Action Plan, which aims to proactively advance equity in the department's internal and external processes such as community planning, policy development, resource allocation and process improvements. Phase 1, which focuses on internal functions such as hiring, promotions, discipline, etc. was adopted in 2019 and is currently being implemented. Phase 2 is currently under development and is anticipated to be presented to the Office of Racial Equity in 2022. The department's focus on racial and social equity was reaffirmed by the commission on June 11, 2020 by

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<sup>2</sup> <https://sfplanning.org/project/recovery-strategies>

Resolution No. 20738, which centers the department's work program and resource allocation on racial and social equity and directs the department to develop proactive strategies to address structural and institutional racism in collaboration with Black and American Indian communities and other communities of color. Internally, the department has established a Community Equity Division to elevate, prioritize and expand racial and social equity work within the department and in the community.

In addition, the department has been especially engaged in efforts in the Mission, working with former District 9 Supervisor Campos, current District 9 Supervisor Ronen, and the Mayor's Office to preserve the viability of the Latino community in the Mission. Efforts specific to the Mission include the 2016 Mission Interim Controls for Restaurants and Storefront Mergers in the Mission Interim Controls Area, the Mission Action Plan 2020 (MAP2020), the Calle 24 Special Use District, and the Calle 24 Special Area Design Guidelines, which became effective on December 1, 2019, as well as the Mission Street Formula Retail Restaurant Subdistrict, which became effective on January 31, 2020.

MAP2020 is one of the most robust department efforts to date regarding anti-displacement and is an unprecedented collaboration between the City family and Mission community organizations and residents. The department has taken an innovative approach to building a set of broad strategies to preserve, strengthen, and protect existing residents, community services, local businesses, and the Mission's unique character. Most strategies in MAP2020 are currently under implementation, including tenant business and nonprofit protection programs, process improvement measures, and prioritization of affordable housing projects in the pipeline. More information on MAP2020 and updates on current implementation efforts can be found in the third annual status report, which is available on the department's website.<sup>3</sup>

Other ongoing department efforts include development of a Community Stabilization Initiative, incorporation of Environmental Justice and equity policies into the General Plan, the Cultural Districts Initiative, and the Housing Affordability Strategies project. The Community Stabilization Initiative is a multi-agency effort to assess the City's existing portfolio of tools, unify fragmented efforts into one comprehensive inventory, and identify priorities for the future. The initiative seeks to mitigate the impacts of ongoing displacement and help vulnerable populations thrive and contribute to the City's economy and culture. The City's efforts to integrate Environmental Justice and equity into the General Plan elements is still in the early stages of development, but once adopted, would guide future City policies and decisions and tie in with other General Plan policy updates. The department is also supporting the City's Cultural Districts Initiative, led by the Mayor's Office of Housing and Community Development. The program's stated purpose is to: "formalize a collaborative partnership between the City and communities and bring resources and help in order to stabilize vulnerable communities facing or at risk of displacement or gentrification and to preserve, strengthen, and promote our cultural assets and diverse communities so that individuals, families, businesses that serve and employ them, nonprofit organizations, community arts, and educational institutions are able to live, work and prosper within the City."<sup>4</sup>

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<sup>3</sup> San Francisco Planning Department, *Mission Action Plan 2020, Annual Status Report 2020*. Available online at [https://default.sfplanning.org/Citywide/Mission2020/MAP2020\\_Status\\_Report\\_2020.pdf](https://default.sfplanning.org/Citywide/Mission2020/MAP2020_Status_Report_2020.pdf).

<sup>4</sup> San Francisco Board of Supervisors, Cultural Districts Program legislation, May 2018. Available online at <https://sfbos.org/sites/default/files/o0126-18.pdf>.

Additionally, the department has completed the Housing Affordability Strategies project that examines how San Francisco can improve housing affordability over the next 30 years, particularly for low- and moderate-income households. Through in-depth analysis of development feasibility and city policies, programs, and public investments, the Strategies serve to help residents, City staff, and policymakers determine how different policies and funding strategies can work together to address affordability and community stability in San Francisco. The report was released in March 2020.<sup>5</sup>

The department is working on the Housing Element Update for 2022, which will serve as the City's housing plan and is grounded in racial and social equity. The Housing Element builds on the Housing Affordability Strategies project and Community Stabilization Initiative and will include a range of stabilization policies and actions for Priority Geographies including the Mission. The department is conducting extensive outreach to communities to shape the plan.

## Conclusion

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

For the reasons stated above and in the November 18, 2020 CEQA determination, the CEQA determination complies with the requirements of CEQA, and the proposed project is appropriately exempt from environmental review pursuant to the cited exemption. The department therefore respectfully recommends that the board uphold the CEQA determination and deny the appeal.

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<sup>5</sup> San Francisco Planning Department, *San Francisco Housing Affordability Strategies*, March 2020. Available online at <https://sfplanning.org/housing-affordability-strategy>.