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# Environmental Impact Report Certification Appeal

## 3333 California Street Mixed-Use Project

**DATE:** November 4, 2019

**TO:** Angela Calvillo, Clerk of the Board of Supervisors

**FROM:** Lisa Gibson, Environmental Review Officer – (415) 575-9032
Kei Zushi, Senior Environmental Planner – (415) 575-9038

**RE:** Board of Supervisors File No. 191035
Planning Case No. 2015-014028ENV – Appeal of the Environmental Impact Report Certification for 3333 California Street Mixed-Use Project

**HEARING DATE:** November 12, 2019

**ATTACHMENTS:** A: San Francisco Planning Department, Supplemental Memorandum to the Planning Commission, Responses to Issues raised in August 28, 2019 letters submitted by the Laurel Heights Improvement Association of San Francisco, Inc., September 4, 2019
B: San Francisco Planning Department, Shadow analysis excerpt from *Initial Study for 3333 California Street Mixed Use Project, 2015-014028ENV*, April 25, 2018
C: San Francisco Planning Department, Site Plan Comparison, EIR Alternative C and LHIA Alternative and Variant

**PROJECT SPONSOR:** Don Bragg, Laurel Heights Partners, LLC; (415) 857-9324

**APPELLANT:** Kathryn Devincenzi, President, Laurel Heights Improvement Association of San Francisco, Inc.; (415) 221-4700

### INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the San Francisco Board of Supervisors (the board) regarding the certification of a final environmental impact report (FEIR) under the California Environmental Quality Act (CEQA) for the 3333 California Street Mixed-Use Project (the proposed project). The FEIR was certified by the San Francisco Planning Commission (the commission) on September 5, 2019. The appeal to the board was filed on October 7, 2019 by Kathryn Devincenzi, President of the Laurel Heights Improvement Association of San Francisco, Inc. (hereinafter appellant).

The appeal letter was timely filed on October 7, 2019 and is part of board file 191035. The FEIR, which consists of the draft environmental impact report (draft EIR) and the responses to comments document, were provided to the clerk of the board on November 7, 2018 and August 22, 2019, respectively. The decision before the board is whether to uphold the certification of the FEIR by the commission and deny the appeal, or to overturn the commission's decision to certify the FEIR and return the project to the planning department (hereinafter department) for additional review.

For the reasons set forth in this memorandum, the FEIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. It provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project. Accordingly, the department respectfully recommends that the board uphold and affirm the commission's certification of the FEIR.

**SITE DESCRIPTION AND EXISTING USE**

The 3333 California Street project site is approximately 10.25-acres (or approximately 446,490 square feet). The project site occupies Lot 003 on Assessor's Block 1032 in San Francisco's Presidio Heights neighborhood in the northwest portion of San Francisco. The irregularly shaped parcel is bounded by California Street to the north (an approximately 730-foot-long frontage), Presidio Avenue to the east (an approximately 280-foot-long frontage), Masonic Avenue to southeast (an approximately 422-foot-long frontage), Euclid Avenue to the south (an approximately 348-foot-long frontage), and Laurel Street/Mayfair Drive to the west (an approximately 742-foot-long frontage).[1]

The project site contains a Midcentury Modern corporate campus constructed originally for the Fireman's Fund Insurance Corporation (FFIC) in 1957. The site contains an office building and an annex building designed by Edward B. Page set in a Midcentury Modern landscape designed by Eckbo, Royston & Williams. The office building is designed in the Midcentury Modern architectural style and features low-scale reinforced concrete construction with prominent floor plates that form projecting eaves at each floor and a glass curtain wall with a regular rhythm of aluminum frame windows that constitute the majority of the façade. The project site was constructed in three distinct phases with Edward B. Page designing the original buildings along with their subsequent additions that included horizontal and vertical expansions of the main building and the service building in 1964 and 1966.

Along California Street, the project site is bordered by an approximately 10-foot-tall brick wall with a pedestrian entrance and curb cut for the California Street entrance. The brick wall is set back 5 feet from the north property line, with a planting strip in the setback. At the corner of Laurel and California streets, the brick wall joins with the one-story annex building (approximately 14,000 gross square feet) to wrap around the corner and along Laurel Street. It continues to border the project site to the west, with a pedestrian entrance and curb cut for the Mayfair Drive entrance. South of the Mayfair entrance, the wall is set back behind a formally landscaped, stepped slope and terminates immediately north of the Laurel Street entrance. The existing office building has a brick perimeter wall along its Presidio Avenue and Masonic Avenue frontages and is set back at least 36 feet from the east (Masonic Avenue) property line.

[1] The two-story building that houses the SF Fire Credit Union, is located on a separate triangular-shaped lot at the northeast corner of Assessor's Block 1032 (corner of California Street and Presidio Avenue), and is not part of the project site.

The eastern portion of the project site has a substantial number of mature trees, landscaping, and open space. Approximately 63 percent of the site is covered by buildings or other impermeable surfaces (e.g., internal roadways and surface parking lots) and 37 percent is landscaping or landscaped open space. The project site's topography exhibits a generally southwest-to-northeast trending downslope.

The project site is developed with a four-story, 455,000-gross-square-foot office building including a three-level, 212-space, 93,000-gross-square-foot partially below-grade parking garage at the center of the site; a one-story, 14,000-gross-square-foot annex building at the corner of California and Laurel streets; three surface parking lots with a total of 331 spaces connected by internal roadways; two circular garage ramp structures leading to below-grade parking levels; and landscaping or landscaped open space. The campus serves as the primary location for UCSF's office and limited laboratory uses for its social, behavioral, and policy science research departments.[2]

**PROJECT DESCRIPTION**

The project variant analyzed in the FEIR is now the preferred project and was approved by the commission on September 5, 2019. It will be referred to as the project herein. The project would redevelop the project site with a mix of residential, retail, child care, open space, and parking uses. The existing 14,000-gross-square-foot annex building, surface parking lots and garage ramp structures would be demolished, and the existing 455,000-gross-square-foot office building at the center of the site would be partially demolished and adaptively reused for residential uses as two separate buildings, vertically expanded to include one to two new levels (proposed building heights of 80 and 92 feet respectively). Thirteen new buildings ranging in height from 37 to 67 feet would be constructed along the perimeter of the site as follows: three multi-story buildings (residential, child care, and ground-floor retail uses) along California Street between Laurel Street and Presidio Avenue; a single multi-story building (residential uses) along Masonic Avenue; a single multi-story building (residential and ground-floor retail uses) near the intersection of Euclid and Masonic avenues; seven multi-story duplexes along Laurel Street; and a multi-story residential building near the intersection of Laurel Street and Mayfair Drive. Overall, the proposed project would include 744 dwelling units within 977,437 gross square feet of residential floor area; 34,496 gross square feet of ground-floor retail area; a 14,665-gross-square-foot child care center; 401,234 gross square feet of parking with 857 parking spaces; and 236,000 square feet of open areas. Parking would be provided in four below-grade parking garages and seven individual, two-car parking garages accessed from one driveway off of Laurel Street. New public pedestrian walkways are proposed through the site in a north-south direction between California Street and the intersection of Masonic and Euclid avenues approximately along the line of Walnut Street, and in an east-west direction between Laurel Street and Presidio Avenue along the line of Mayfair Drive.

**BACKGROUND**

On March 29, 2016, Laurel Heights Partners, LLC (hereinafter project sponsor) filed an application for the proposed project with the planning department for a CEQA determination. The application was revised and refiled on March 6, 2017 and included a variant to the proposed project.

[2] UCSF anticipates moving services and staff at the Laurel Heights Campus to other UCSF locations, such as the Mission Bay or Parnassus campuses, prior to commencement of any construction activities on the project site. The specific timeline for this move is not known.

Pursuant to the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the department, as lead agency, published and circulated Notice of Preparation of an Environmental Impact Report (NOP) and Notice of a Public Scoping Meeting on September 20, 2017. The NOP solicited comments regarding the scope of the environmental impact report (EIR) for the proposed project. The NOP and its 30-day public review period were advertised in a newspaper of general circulation in San Francisco and mailed to governmental agencies, organizations and persons interested in the potential impacts of the proposed project. Prior to the close of the public review period (October 20, 2017), the department held a public scoping meeting on October 16, 2017, at the Jewish Community Center of San Francisco at 3200 California Street. Comments received during the scoping process were considered in preparation of the initial study and draft EIR.

An initial study was issued on April 25, 2018, analyzing the potential environmental impacts of the proposed project and project variant. The analysis of potential environmental impacts utilizes significance criteria that are based on the San Francisco Planning Department Environmental Planning Division guidance regarding the environmental effects to be considered significant. The department's guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications. Based on the analysis in the initial study, as well as detailed analyses and reports prepared in support of the environmental analysis, a draft EIR was published on November 7, 2018. Written public comment was received during the 62-day public comment period from November 8, 2018 through January 8, 2019, and a public hearing was held before the planning commission on December 13, 2019, at which time public testimony on the draft EIR was received.

The department then prepared a responses to comments document (RTC) that includes copies of all of the comments received on the draft EIR. The RTC was published on August 22, 2019 and addresses environmental issues raised by written comments received during the public comment period and oral and written comments received at the public hearing for the draft EIR. The RTC contains additional analysis that clarifies and expands upon the draft EIR contents. In particular, the planning department prepared RTC Section 2 that presents revisions and clarifications to the project description with discussion to support that the impact conclusions in the draft EIR would not change as a result of project revisions. In addition, the RTC provides the department's responses to the public comment received, and RTC Section 6 contains revisions to the text of the draft EIR in response to comments received or based on additional information that became available during the public review period as well as corrections of minor errors in the draft EIR. Following publication of the RTC the project sponsor determined that the preferred project will be the project variant. The planning commission certified the FEIR on September 5, 2019.

After publication of the RTC and prior to the commission's certification of the FEIR, the appellant submitted a comment letter on August 28, 2019. The department reviewed the August 28, 2019 letter and provided a supplemental response on September 4, 2019 (hereafter supplemental response - Attachment A to this appeal response) which was provided to the commission ahead of the certification hearing. In addition, the appellant submitted a comment letter to the commission at the September 5, 2019 hearing, a letter to the director of public works regarding the approval of tentative map at the September 18, 2019 public works hearing, and a comment letter to the San Francisco Municipal Transportation Agency Board of Directors on October 1, 2019. To the extent any of these letters raise issues related to environmental impacts of the project, they are responded to in prior department responses as indicated below, or are responded to in this appeal response.

**STANDARDS OF ADEQUACY FOR CERTIFICATION OF AN EIR**

Under San Francisco Administrative Code Section 31.16(c)(3), the grounds for appeal of an EIR are limited to whether the EIR complies with CEQA, including whether "it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct." The Commission's adoption of CEQA Findings (including associated mitigation measures) and a Statement of Overriding Considerations (e.g., rejecting alternatives on the basis of their financial infeasibility and inability to meet project objectives and the finding of overriding benefits of the project) is part of the approval of the Conditional Use Authorization and Planned Unit Development for the project by the Planning Commission, and is therefore not within the scope of what is appealable to the Board of Supervisors as set forth in Administrative Code Section 31.16(c)(3).

The standards for adequacy of an EIR are set forth in CEQA Guidelines Section 15151, which states:

> "An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure."

San Francisco Administrative Code Section 31.16(b)(6) provides that in reviewing an appeal of a CEQA decision, the Board of Supervisors "shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions."

**PLANNING DEPARTMENT RESPONSES**

The 347-page appeal letter of October 7, 2019 includes a cover letter, copies of Planning Commission Motion No. 20512, Planning Commission Motion No. 20513, the CEQA Findings, a 68-page appeal letter, and eight exhibits (Exhibits A-H). The appeal letter contains 18 points expressing the general bases for the appeal. For the most part, the topics of concern raised in the appeal letter are not new in that the concerns have previously been raised during the environmental review process for the project. Therefore, the concerns are addressed in the responses below with references to the EIR, RTC, and the department's supplemental response to concerns raised in the August 28, 2019 comment letter on the EIR (Attachment A).

**Response 1 (Appellant Point 1, pp. 1-7): The EIR adequately: (1) evaluates the project's impacts on the identified historic resource (i.e., the existing on-site office building and associated landscape; (2) identifies a significant historic resource impact; (3) identifies feasible mitigation measures; and (4) develops partial and full preservation alternatives to reduce and/or eliminate the significant historic resource impact. The department's analysis is based on substantial evidence; the appellant has not met its burden to demonstrate otherwise.**

The appellant contends that the EIR did not adequately review potential modifications to the proposed project, including design revisions to the project, which the appellant asserts should have been included as mitigation measures in order to reduce impacts to historic resources. The department responded to a substantially similar set of concerns raised on the draft EIR (see RTC pp. 5.D.14-5.D.16 and RTC p. 5.H.11). In particular, the department conducted analysis to determine the historic resource status of the project site. Based on the background consultant-prepared *Historic Resource Evaluation, Part I – 3333 California Street* (HRE), the department issued a determination in the form of a *Historic Resources Evaluation Response* (HRER) confirming that the project site is eligible for listing in the California Register of Historical Resources under Criterion 1 (events) and Criterion 3 (design/construction) for its association with the broad pattern of development in San Francisco as a corporate campus adapted to the urban environment, as well as for its architecture as a Midcentury Modern building designed by Edward B. Page set within a Midcentury Modern landscape designed by Eckbo, Royston & Williams.[3] The HRER confirmed that the project site is considered a historic resource under CEQA, and determined that the proposed project would result in a significant adverse impact to the historic resource.

That determination was carried forward to and elaborated upon in the EIR's impact evaluation. The EIR summarizes the HRER analysis of the proposed project's conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards). The Secretary's Standards analysis concluded that removal of landscape elements that convey the project site's history as a corporate campus, construction of new buildings on formerly open and/or landscaped space at the project site, and changes to the massing and character-defining features of the office building would substantially alter the physical characteristics of 3333 California Street that convey its historic significance and that justify its inclusion in the California Register. As such the EIR concluded the proposed project would cause a substantial adverse impact on 3333 California Street and would be considered a significant impact under CEQA.

Due to the finding that the proposed project would cause a significant impact to the identified historic resource, the EIR considered and included feasible mitigation measures to reduce impacts to the historic resource. The Department included mitigation measures requiring Historic American Building Survey documentation (HABS) and a Public Interpretation program, which are standard historic preservation mitigation measures that ensure the building and landscape will be documented and that the history and historic significance of the historic resource will be interpreted for the public. The department acknowledged in the EIR that these mitigation measures do not reduce impacts to a less-than-significant level, but determined that they would meaningfully provide information to the public now and in the future about the historic resource. These mitigation measures are feasible and fully enforceable, and have been made conditions of project approval. (CEQA guidelines section 15064.5 (b)(4)).

The appellant suggests, citing CEQA guidelines section 15064.5(b)(3), that the EIR was required to identify and describe design changes as mitigation measures that conform to the Secretary's Standards. This is incorrect. CEQA guidelines section 15064.5(b)(3) serves a different function, explaining that modifications that conform with the Secretary's Standards generally mitigate a historic resource impact to a less-than-significant level. It does not require that a project meet the Secretary's Standards or be

[3] Subsequent to the department's evaluation, the State Historic Resources Commission determined that the project site is eligible for inclusion in the National Register of Historic Places. Based on this determination, the project site is automatically listed on the California Register of Historical Resources.

modified through mitigation to do so. Among other reasons, meeting the Secretary's Standards may not be feasible or fully enforceable. As discussed on RTC pp. 5.D.8-5.D.9 and RTC pp. 5.D.14-5.D.16, the review of potential impacts to the identified on-site historic resource and identification of feasible mitigation measures that would reduce, but not eliminate, the significant unavoidable impact of the proposed project to this historic resource was accurate, adequate, and thorough and met all departmental requirements, including a conformance evaluation with the Secretary's Standards.

Because the EIR concluded that impacts to the historic resource would be significant, and that proposed mitigation measures would not reduce the impact to a less-than-significant level, the EIR explored a reasonable range of alternatives that would feasibly attain most of the basic project objectives and that would avoid or substantially lessen the significant effects of the project. Six alternatives were evaluated in the EIR, including the No Project Alternative (Alternative A), four preservation alternatives that represent gradual intensities of change to the existing building and project site (alternatives B-E), and the Code Conforming Alternative (Alternative F). As stated on RTC p. 5.H.9, the EIR includes, on EIR pp. 6.5-6.10, a summary of the scoping process for the alternatives, describing it as an iterative process directed by members of the Architectural Review Committee (ARC) of the Historic Preservation Commission and supported by the technical expertise of the department's preservation staff, the project sponsor, and the project sponsor's preservation architect, Page & Turnbull. Evaluation of the alternatives included a review of each one for conformance with the Secretary's Standards and a determination of how each alternative retained the identified character-defining features of the historic resource (see EIR pp. 6.40-6.41 for Alternative B [Full Preservation – Office], EIR pp. 6.78-6.80 for Alternative C [Full Preservation – Residential], EIR pp. 6.113-6.114 for Alternative D [Partial Preservation – Office], and EIR pp. 6.148-6.149 for Alternative E [Partial Preservation – Residential]). Alternatives B and C are full preservation alternatives that would reduce the significant impact to the historic resource to a less-than-significant level by limiting development on the site and retaining most of the office building. Alternatives D and E are partial preservation alternatives that would reduce the significant historic resource impact, but not to a less-than-significant level, because these alternatives would allow for increased development on the north and west portions of the site along with additional modifications to the office building. The Code Conforming Alternative, Alternative F, would still materially alter the physical characteristics of the site and result in a significant historic resource impact.

During the environmental review process, the appellant provided several alternatives to the project. These alternatives and the timeframe when they were submitted to the department for consideration are summarized in Table 1.

**Table 1. Alternatives Proposed by Appellant**

| Alternative | Short Name | Date submitted |
|---|---|---|
| Community Full Preservation Alternative | LHIA Alternative | January 8, 2019 - Draft EIR comment |
| Community Full Preservation Alternative Variant | LHIA Variant | January 8, 2019 - Draft EIR comment |
| Community Preservation Lookalike Variant | Lookalike Variant | August 28, 2019 - Supplemental EIR comment<br>October 7, 2019 – CEQA Appeal Letter |
| Community Full Preservation Alternative Variant 2 | LHIA Alternative Variant 2 | August 28, 2019 - Supplemental EIR comment letter<br>October 7, 2019 – CEQA Appeal Letter |

The appellant provided a preservation alternative and variant during the draft EIR public comment period. The alternative and variant proposed by the LHIA were not included in the EIR as they were determined not to be considerably different from an alternative in the EIR (see Response 2 below). After the close of the draft EIR public comment period, the appellant provided two additional alternatives, to which the department prepared a supplemental response (see the appellant's August 28, 2019 letter) – the Community Preservation Lookalike Variant (Lookalike Variant) and Community Full Preservation Alternative Variant 2 (LHIA Alternative Variant 2). As stated on pp. 1-5 of the department's supplemental response (Attachment A), the two new alternatives suggested by the appellant after the close of draft EIR public comment period are not considerably different from Alternatives D and E in the EIR and similarly would not reduce the historic resource impact to a less-than-significant level (See comparison site plans in Exhibits A and B to Attachment A of this response). As further explained here and in Response AL-l on RTC pp. 5.H.6-5.H.17, the EIR analyzed a reasonable range of alternatives pursuant to CEQA Guidelines section 15126.6(a) that feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any of the identified significant impacts of the project. CEQA does not require that an EIR consider every conceivable alternative or permutation or combination of alternatives.

The appellant further contends that certain individual design modifications could have been identified as mitigation and imposed on the project as a condition of approval to reduce the significant historic resource impact. Appellant previously submitted the modifications noted in the appeal letter in other submittals, but only as a package - as a proposed alternative - without specifying individual design modifications that would substantially or clearly lessen any significant historic resources impacts. CEQA states that a "public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would ***substantially lessen*** [emphasis added] any significant effects the project would have on the environment."[4] Similarly, the standard for recirculation of an EIR prior to certification includes within the definition of "significant new information" requiring recirculation "a

[4] CEQA Guidelines Section 15021(a)(2). See also CEQA Guidelines Section 15126.4(a)(1), which states that "[A]n EIR shall describe feasible mitigation measures which could minimize significant adverse impacts . . . ."

feasible project alternative or mitigation measure considerably different from others previously analyzed would ***clearly lessen*** [emphasis added] the significant environmental impacts of the project, but the project's proponents decline to adopt it."[5] As discussed in greater detail below, the individual design modifications now being proposed by the appellant as mitigation would neither substantially, nor clearly, lessen the significant historic resource impact of the proposed project.

In considering whether individual design modifications would reduce the significant historic resource impact, the whole of the resource, including the existing office building and integrated landscape, needs to be considered. The historic resource occupies a 10.25-acre site. It is a Midcentury Modern corporate campus that consists of the existing office building, service annex, parking facilities, and the surrounding integrated landscape. As articulated in the HRER, there are numerous character-defining features that contribute to the ability of the historic resource to convey its significance. For the same reason that the building itself is not significant without the surrounding landscape, no single element of the landscape is significant without the surrounding integrated landscape components and building that form the site.

The design modifications proposed by the appellant are similar to those incorporated into the project alternatives that were previously submitted by the appellant. These alternatives were analyzed on the department's supplemental response (Attachment A, pp. 2-5). None of these design modifications, if implemented individually as mitigation measures, would eliminate the project's historic resource impact.

For example, one design modification suggested by the appellant as a proposed mitigation measure and included in the Lookalike Variant is to reduce the height and add upper floor setbacks to the proposed Laurel Duplexes. The modifications proposed for the Laurel Duplexes to reduce the height of these buildings (which are within the existing 40-foot height limit) and include upper floor setbacks would not reduce the historic resource impact because this change does not result in the retention of any character-defining features of the resource. Reduction of the duplexes' height to match the height of the homes across Laurel Street does nothing meaningful to substantially or clearly lessen impacts to the historic resource, which is the existing building integrated with the landscape. Under the Lookalike Variant, approximately 50 percent of the office building would still be demolished to allow for the construction of the Euclid Building. Additionally, in the Lookalike Variant, all of the surrounding character-defining landscape features of the site would all but be eliminated through the construction of the six new buildings on the site (in addition to the Laurel Duplexes).

Another design modification referenced in the Lookalike Variant is to reduce the proposed Euclid Building footprint (by setting back approximately 30 feet from the south side) or eliminate the two proposed Laurel Duplexes closest to Euclid Avenue. Similar to the above explanation, the reductions in proposed building footprint or removal of two proposed buildings would not substantially or clearly lessen impacts on character-defining features of the larger site, which includes the existing building and integrated designed landscape. Approximately 50 percent of the office building would still be demolished to allow for the construction of the Euclid Building. Additionally, all of the surrounding character-defining landscape features of the site would all but be eliminated through construction of the six new buildings (in addition to the Laurel duplexes) on the site.

[5] CEQA Guidelines Section 15088.5(a)(3).

Similarly, a modified project with a ground-level passageway through the existing office building or a single-story vertical additional to the existing office building - two design modifications included in the Lookalike Variant - would not substantially or clearly lessen the significant historic resource impact in a way that would allow the resource to continue to convey its historic character. The modified project would still require removal of the L-shaped wing of existing office building to allow for construction of the Euclid Building and the surrounding site would still be developed with six new buildings on the site (in addition to the Laurel duplexes). Similar to the above proposed design changes, reducing the height of the addition or incorporating a ground level passageway would not substantially or clearly lessen impacts to the historic resource in any meaningful manner.

In summary, the discrete design modifications cited by the appellant in the broader context of its proposed alternatives would not substantially or clearly lessen impacts to the historic resource in any meaningful way due to the size of the project site and the nature of the affected historic resource (the existing building and landscaped area as a Midcentury Modern corporate campus). In consideration of the size of the site and the nature of the historic resource, the department considered a package of modifications that as a group form a preservation alternative to the proposed project, rather than multiple, individual mitigation measures, just as the appellant did when it proposed its alternatives. As discussed above, the department developed two full preservation alternatives to eliminate the significant historic resource impact and two partial preservation alternatives that reduce but do not eliminate the significant historic resource impact to a less-than-significant level. Including alternatives in an EIR is an acceptable way to analyze how to mitigate a project's significant and unavoidable impacts under CEQA. In proceeding this way, the department included two full and two partial preservation alternatives in the EIR.

The appellant contends that the EIR's failure to identify and describe the design modifications suggested by the appellant as mitigation measures was prejudicial because it omitted information that would have been important to the decisionmakers as to measures which could reduce the significant impact of the proposed project on the historic resource. The appellant does not explain how the alleged omission of the information in the EIR was prejudicial. Project modifications substantially similar to the appellant's suggested design modifications were presented as part of the project alternatives proposed by the appellant to the planning commission, and were analyzed in the department's supplemental response (Attachment A), as discussed above. In certifying the EIR as accurate and in compliance with CEQA (and approving the project), the planning commission reviewed and explicitly or implicitly rejected the appellant's alternatives at its September 5, 2019 hearing regarding EIR certification, and subsequent project approval. Therefore, the EIR is adequate as an informational document because it adequately describes the modifications suggested by the appellant under CEQA.

The appellant has not met its burden to demonstrate that the EIR's analysis of historic resources impacts did not follow all applicable procedural and substantive requirements set forth in CEQA, the CEQA Guidelines, or Chapter 31 of the Administrative Code. The department identified feasible and fully enforceable mitigation measures that reduce impacts to historic resources while acknowledging that impacts are still significant with mitigation. The department analyzed four preservation alternatives that clearly demonstrate proposed modifications to the project that would reduce or eliminate the project's historic resource impacts. These preservation alternatives were rejected as infeasible in the planning commission's CEQA Findings, as were the appellant's alternatives. Additionally, the appellant has not met its burden to demonstrate that the department's application of the Secretary's Standards as part of its

evaluation of the proposed project and in development of preservation alternatives was flawed. The department's analysis is based on substantial evidence; the appellant has not demonstrated otherwise. Thus, there is no evidence to support the appellant's request to overturn certification of the FEIR for this issue.

**Response 2 (Appellant Point 2, pp. 7-8): The EIR is adequate and analyzed a reasonable range of alternatives to the proposed project as required under CEQA. The alternatives proposed by the appellant were appropriately not included in the alternatives chapter of the FEIR.**

The appellant contends that the EIR is not adequate because it did not include the two alternatives submitted by the appellant in comments on January 8, 2019, nor did it include the two additional alternatives submitted by appellant on August 28, 2019 after publication of RTC, nor in general an alternative that would include 744 residential units. The appellant further contends that the San Francisco Public Works' (public works) analysis of the physical feasibility of the two January 8, 2019 alternatives submitted in comments on the draft EIR (discussed further below) is flawed and premised on incorrect assumptions or misstatements made by the project sponsor. The appellant also cites the fact that public works did not provide the computer-aided design (CAD) drawings for the existing office building in response to the appellant's Public Records Act request as a basis to show that the public work's feasibility analysis was flawed. As discussed in greater detail below, these contentions are without merit, and the appellant has not met its burden to demonstrate that the alternatives analysis was inadequate.

*Reasonable Range of Alternatives in the EIR*

The EIR analyzed a reasonable range of alternatives pursuant to CEQA Guidelines section 15126.6(a) that feasibly attain most of the basic objectives of the project while avoiding or substantially lessening the identified significant impacts of the project. In addition to the No Project Alternative, the EIR presents four preservation alternatives and a code-conforming alternative (for a total of six alternatives). The department responded to substantially the same set of concerns that additional alternatives should be considered in the EIR in RTC Response AL-1: Range of Project Alternatives on RTC pp. 5.H.6-5.H.11. In addition, as stated in Response 1 above, and in the department's supplemental response (see Attachment A, pp. 7-8), CEQA does not require that an EIR consider every conceivable alternative or permutation or combination of alternatives; nor does it require that an alternative analysis include an alternative with the same exact number of dwelling units as the project.

Table 1 above lists the names of alternatives submitted by the appellant during the environmental review process as well as the date of submittal for each. The appeal letter includes clarifications regarding the descriptions of the Lookalike Variant and the LHIA Alternative Variant 2 (see Exhibit E, Statement by Richard Frisbie, of the appeal letter) and updates the appellant's Secretary of Interior's Standards Compliancy Evaluation report[6] (Exhibit N of the appeal letter). The appellant's clarifications and updates are minor and do not materially change the EIR's analysis or provide substantial evidence that the EIR failed to analyze a reasonable range of alternatives. Thus, the additional information in the appeal letter does not require additional response.

[6] This report evaluates three proposed designs: 1) the proposed project (and project variant); 2) Alternative C in the Draft EIR; and 3) Community Preservation Alternative.

*San Francisco Public Works Analysis of LHIA Alternative and Variant*

The department engaged public works architects to assess the physical feasibility of alternatives proposed by the appellant during the environmental review process. The department previously responded to substantially the same set of concerns in the appellant's letter dated August 28, 2019 regarding the accuracy of the public works' analysis. Please see the department's supplemental response (Attachment A, pp. 7-8). As stated there, a public works architect reviewed the August 28, 2019 information submitted by the appellant and concluded that the information in that letter did not alter its prior conclusions that the LHIA Alternative and its variant could not be constructed as presented by the appellant. Response AL-2 on RTC pp. 5.H.62-5.H.67 summarizes the department's consideration of the LHIA Alternative. The department determined that it was not necessary to include that alternative in the EIR because it is considerably similar to Alternative C in the EIR as well as because of public works' determination that the alternative could not be constructed as proposed. See Attachment C for a comparison of the site plans for EIR Alternative C and the LHIA Alternative.

Public works concluded that the LHIA Alternative Variant could provide only up to 576 residential units and 323 parking spaces (not the 744 residential units and 460 parking spaces claimed by LHIA). Public works also concluded that the LHIA Alternative would provide mostly small units (studios, junior one-bedroom units, and one-bedroom units) and thus would not meet the unit mix requirements of planning code section 207.7.[7] Contrary to the appellant's assertions, public works' analysis did not rely on information submitted by the project sponsor as it relates to the feasibility analysis; rather, public works conducted its own independent analysis as addressed in the department's supplemental response (Attachment A, pp. 7-8). Additionally, CAD drawings of the existing building at the site were used by public works staff to aid their feasibility analysis. Public works supplemented its response to the appellant's September 27, 2019 Public Records Act request (Record Request #19-3976) on October 10, 2019 by forwarding the CAD drawings in its files to the appellant.

**Response 3 (Appellant Point 3, pp. 8-14): The project description did not change substantially during the environmental review process, commencing with the publication of the Notice of Preparation of an EIR (NOP) through the certification of the FEIR. Minor revisions and clarification to the project description during the response to comments process do not affect the accuracy or adequacy of the environmental analysis in the EIR.**

The appellant contends that the project description is not accurate or stable because it changed over time; and that, as a result, the environmental impact analysis is inadequate, precluding meaningful review by decision-making bodies and the public. The appellant raised similar concerns related to a stable project description in comments on the draft EIR. As stated on RTC pp. 5.B.38-5.B.39, the descriptions of the project presented in the NOP (published September 20, 2017), the initial study (published April 25, 2018), and the draft EIR (published November 7, 2018) are internally consistent and have included a description of the project variant with 744 residential units since the NOP. The changes described and analyzed in RTC Section 2, Revisions and Clarifications to the Project Description, i.e., site circulation changes along Laurel Street, reduction in off-street parking associated with reduction in size of the proposed retail uses, and the elimination of retail use along Euclid Avenue, do not constitute material or substantial changes to the project and did not prevent the public or decisionmakers from informed participation in the decision-

[7] Planning Code Section 207.7 requires no less than 25 percent of a project's total units to have two or more bedrooms and no less than 10 percent of the total units to have three or more bedrooms.

making process. These changes were analyzed in the RTC, and the department determined that the EIR impact conclusions would not be altered with these minor revisions to the project.

Specific issues raised by the appellant (and not included in its previous comment letters) as support for their contention that the public was not afforded a meaningful opportunity to comment on the project or its impact because of changes to the project, are as follows:

- identification of the project variant in the EIR as the preferred project
- introduction of revisions and clarifications to the project description
- details of the proposed special use district not disclosed (e.g., flexible retail)
- details of the development agreement related to affordable housing not disclosed

*3a. The project variant (Approved Project) was described in the Notice of Preparation of an EIR, the Initial Study, and Draft EIR.*

The public had sufficient opportunity to comment on the environmental impacts of the project variant, which is the project that was approved by the planning commission at its September 5, 2019 hearing. The NOP (published September 20, 2017) identified that there would be a project variant with a different development program in the Walnut Building, up to 186 residential units instead of office use, for a total of 744 units in the variant. The project description in the initial study (published on April 25, 2018) and draft EIR (published on November 7, 2018) includes a description of the project variant, including a table of its characteristics, a site plan, and an elevation and section for the Walnut Building (as proposed under the project variant). The impact analyses in the initial study and EIR analyzed both the proposed project and project variant. Thus, the appellant's contention that the project variant was not adequately studied, and its plan set was introduced for the first time in July 2019 is not correct.

*3b. Revisions and clarifications to the project were timely disclosed.*

The project and variant were described in detail for both the initial study and the draft EIR. Revisions to the project introduced in the RTC were within the scope of the analysis in the EIR. Additionally, the description of the minor changes to the proposed project and impact analysis provided in RTC Section 2 found that:

- there would not be any new significant impacts beyond those already identified in the draft EIR;
- the changes would not increase the severity of any of the proposed project's impacts identified in the draft EIR;
- mitigation measures identified in the draft EIR and the initial study would continue to be required in order to reduce or avoid the significant environmental impacts of the proposed project; and
- no new or modified measures would be required to mitigate the significant impacts identified for the proposed project (as revised) in either the draft EIR or the initial study.

Thus, the appellant's contention that the minor changes introduced during the responses to comments phase of the environmental review process were not available for public review is not correct. The RTC was published on August 22, 2019, – 14 days prior to the September 5, 2019 FEIR Certification Hearing.

*3c. The proposed special use district was disclosed and adequately analyzed in the EIR.*

The appellant contends that the "flexible retail" and "social service and philanthropic" uses allowed under the proposed special use district were not described in the EIR and that, as a result, the project's transportation, noise, and air quality impacts were not adequately analyzed. As noted in the department's supplemental response to substantially the same concern, the transportation, noise and air quality analyses in the EIR cover the zoning provisions of the special use district (see Attachment A, pp. 9-10). Travel demand estimates for retail uses allowed under the flexible retail designation are a function of the size of the retail space, not the number of retail businesses that could occupy the same retail space. That is, the travel demand analysis uses a *rate* of trip generation based on the retail use's square footage, not a flat number per business. Thus, no change in the analysis results would be expected with flexible retail uses. As further noted in the department's supplemental response, social service and philanthropic uses would yield fewer daily persons trips per 1,000 square feet (between 23 and 67) than the retail uses (between 150 and 600) that were analyzed in the EIR for the proposed project (see Attachment A, Table 1 on p. 9 and Table 2 on p. 10). As stated in the department's supplemental response, there is no substantial evidence in the record or provided by the appellant that supports the assertion that social service and philanthropic uses would generate more trips per 1,000 square feet than the retail uses analyzed in the EIR for the proposed project. Even if there were substantial evidence to support the appellant's assertion, the department's analysis is considered valid as it is based on the department's own substantial evidence. Under the project, the proposed uses in the Walnut Building would be retail and child care uses. The uses occupying any of the ground floor space designated in the EIR as retail could be social service and philanthropic uses. Furthermore, the amount of retail square footage in the approved project (approximately 35,000 gross square feet) is approximately 14,000 gross square feet less than the amount studied in the draft EIR. Therefore, as stated in the department's supplemental response (see Attachment A, p. 10), the total person trips generated by the flexible retail and social service and philanthropic uses would be less than the number of person trips studied for this same amount of non-residential space in the EIR. Accordingly, if the spaces are occupied by social services and philanthropic uses, the EIR would conservatively overstate the number of expected total person trips.

*3d. The development agreement section regarding the provision of affordable housing was adequately described in the EIR.*

The appellant contends that the affordable housing component of the proposed project is not described in sufficient detail in the EIR. For example, the appellant asserts that the proposed land transfer associated with the Walnut Building was never subject to a formal comment period. Whether the Walnut building is owned by the project sponsor or the city (as may result under certain circumstances under provisions of the development agreement), the environmental impacts associated with construction of the Walnut building as well as the impacts related to operation of the development program (ground-level retail, child care, and 186 residential units) have been addressed in the EIR. The appellant's contention that public comment on the proposed affordable housing provisions of the development agreement should occur as part of the environmental review is not correct. As stated on RTC p. 5.B.21, the department responded to a substantially similar concern. The affordable housing component of the proposed project is described in the initial study (see pp. 118-119) and the EIR (see pp. 2.10, 2.12, 2.106, and 3.11). As discussed, the amount of on-site affordable housing would, at a minimum, meet the requirements of section 415 of the planning code. As explained on p. 2.106 of the EIR, the project sponsor entered into negotiations on a development agreement with the city to set forth the parties' written agreement

regarding the provision of affordable housing among other community benefits such as public open space at the site. The project sponsor's commitment with respect to the amount of affordable housing to be developed as part of the proposed project would be reflected in actions taken by the board in approval of a development agreement. Where a development agreement does not change the total number and unit mix of proposed housing units in the project, such as in the case for this project, changes in the details of the development agreement, such as the amount of affordable senior housing to be constructed, do not result in physical environmental changes that trigger additional environmental review and do not rise to the level of "significant new information" pursuant to CEQA guidelines section 15088.5(a). In this context, "significant new information" would need to include a disclosure showing that "(1) a new significant environmental impact would result from the project . . . or (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance."[8] This did not occur here, and all project revisions were appropriately analyzed in the RTC against this CEQA standard. As such, the specific details of the development agreement do not introduce material changes to the project that would require further environmental review.

In summary, none of the revisions made to the project description after circulation of the draft EIR gives rise to "significant new information" under CEQA. Nor do they represent fundamental changes to the project description, contrary to the appellant's statement. The department described these revisions in RTC Section 2, and in its supplemental response, and explained why none of these changes constituted "significant new information" pursuant to CEQA.

The project description was stable and consistent throughout the environmental review process. The department's environmental analysis for the proposed project is based on substantial evidence. The appellant has not met its burden to demonstrate otherwise. All other concerns raised in relation to this topic are not CEQA issues but concerns regarding the commitments related to the ultimate production of affordable housing; therefore, they are not addressed in this response.

**Response 4 (Appellant Point 4, pp. 14-15): The project objectives were clearly described in the EIR and were considered in the process for the development of project alternatives pursuant to CEQA Guidelines sections 15124 and 15126.6.**

The appellant contends that the project objectives were narrowly construed and defined with ambiguous and subjective terms, but contends that they include too much detail, such as "high quality walkable," "high quality and varied architectural and landscape design . . . ," or "substantial," effectively precluding consideration of other alternatives.

Similar concerns were raised by the appellant in comments submitted on the draft EIR and addressed on RTC pp. 5.B.33-5.B.37. As stated on RTC p. 5.B.34, CEQA Guidelines section 15124 provides that the project description of an EIR shall include a statement of objectives that describes the underlying purpose of the project and that lead agencies have broad discretion to formulate project objectives.[9] Under CEQA, objectives could be too narrow if they would effectively preclude consideration of a reasonable range of

[8] CEQA Guidelines Section 15088.5(a)(1)-(2).

[9] See *California Oak Found. v. Regents of Univ. of Cal.* (2010) 188 Cal. App.4th 227, 276.

alternatives.[10] This is not the case here. The objectives listed in the EIR provide adequate context and information about the project sponsor's goals so as to allow the lead agency to develop both mitigation measures and a reasonable range of alternatives to be evaluated in the EIR. The objectives generally reflect the project's goals/purpose while being in compliance with or consistent with City policy considerations for mixed use development on a commercial corridor. The department reviewed the objectives and did not find them overly narrow such that development of both mitigation measures and a reasonable range of alternatives to the project would be precluded.

The appellant claims the project objectives listed on EIR p. 2.12 are ambiguous and subjective. At the same time, the appellant argues the project objectives are too detailed. However, the appellant has not explained how the project objectives are ambiguous or subjective, or conversely how the objectives are too detailed, such that the public would find the objectives misleading or ambiguous for use by the department in their development of alternatives to the project in the EIR.

**Response 5 (Appellant Point 5, pp. 15-20): The shadow analysis in the initial study follows the department's procedures which focus the analysis of shadow impacts on whether or not new shadow would substantially affect the use and enjoyment of outdoor recreation facilities or other public areas, and adequately and accurately determined that they would not create significant impacts.**

The appellant contends that the shadow analysis in the initial study was not conducted properly because it does not correctly identify potentially affected properties and uses an incorrect standard to determine the potential shadow effects of the proposed project; the appellant asserts that the severity of shadow impacts was thus incorrectly characterized as less than significant rather than potentially significant. Similar concerns were raised in a separate letter submitted by the appellant September 5, 2019.

The appellant is incorrect regarding the department's CEQA shadow analysis procedures. Under the department's procedures, shadow analysis is required for the new project shadow on public open space under the jurisdiction of a public agency, such as the Recreation and Park Commission, and publicly accessible private space that is formally designated for public use. The project site is privately owned and not formally designated for public use. Although UCSF as the project site tenant currently grants public access to certain areas of the site, and that access would remain with the project, these spaces would remain privately owned with the project.[11] As such, these spaces are not analyzed for shadow impacts for the purpose of CEQA. However, for information purposes, the initial study prepared for the project provided a description of how onsite publicly accessible open spaces would be shaded. The department explained these procedures on RTC pp. 5.J.52-5.J.53.

As stated in the RTC, the shadow analysis in the initial study summarizes the findings from the *Shadow Analysis Report for the Proposed 3333 California Street Mixed-Use Project* (Shadow Analysis Report), a technical background study conducted in accordance with the planning department's shadow analysis procedures. The shadow analysis summarizing the findings of this study is provided in the Initial Study, attached as Attachment B to this response. As stated there, the standard used in the shadow analysis for determining the significance of shadow impacts under CEQA is whether the proposed project would

[10] See *N. Coast Rivers Alliance v. Kawamura* (2015) 243 Cal. App. 4th 647, 668.

[11] At the start of the environmental review process, UCSF owned the project site and granted public access to certain areas of the site, but the areas were not formally designated as public open space.

create new shadow in a manner that substantially affects the use and enjoyment of public outdoor recreation facilities or other public areas including sidewalks.

As shown in the shadow analysis (Attachment B, pp. 156-160 of the initial study), the proposed project would not increase the amount of shadow on Laurel Hill Playground or any other City-owned park or open space in the vicinity of the site (e.g., Presidio Heights Playground); nor would it increase the amount of new shadow on adjacent sidewalks, including on the east side of Laurel Street, above levels that are common and generally expected in developed urban environments. As such, the proposed project would result in a less-than-significant shadow impact. No mitigation measures are required.

*Existing On-Site Open Areas Redeveloped as New On-Site Open Spaces*
As stated above, the appellant is mistaken that project shadow on the onsite open spaces is required to be analyzed under CEQA. For informational purposes, the initial study (Attachment B, pp. 155-156) describes how conditions within these spaces would change with the proposed project. As stated there and reiterated on RTC p. 5.J.53, the spaces along Euclid Avenue, Laurel Street, and Presidio Avenue near Pine Street and Masonic Avenue are not formally designated public parks or open spaces, although they are used informally by the neighborhood as open space.

For the reasons discussed above, in the initial study, and in the responses to comments document, the department's conclusion that the project would not result in a significant impact with respect to shadows on existing public parks and sidewalks is based on substantial evidence. The appellant has not demonstrated otherwise.

**Response 6 (Appellant Point 6, pp. 20-27): The CEQA Findings rejecting alternatives are adequate and properly supported by substantial evidence in the record of proceedings.**

The appellant claims that the CEQA Findings rejecting alternatives are inadequate and not supported by substantial evidence. Administrative Code section 31.16(b) does not grant a right to appeal the planning commission's CEQA findings because those findings are not part of the planning commission's certification of the FEIR. Rather, an appeal under section 31.16 is limited to "whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct." (San Francisco Admin. Code § 31.16(c)(3).) To the extent the appellant's allegations challenge the information in the EIR, the department provides the following response.

*6a. (Appellant Point 6, pp. 21-27): Substantial evidence to support the findings is available in the record of proceedings.*

The CEQA Findings are presented as Attachment A to Planning Commission Motion No. 20512 and are available in the Board file 191035. The CEQA Findings adopted by the planning commission (hereafter findings) are based on substantial evidence in the entire record for this project, not only the statements in the findings document. The project's administrative record includes the draft EIR, the RTC document, the appendices for all issued documents, the sources cited throughout all of these documents, and the department's supplemental response. The entire record of proceedings is available in the Planning Department's Case Files, Case No. 2015-014028ENV/MAP/PCA/DVA/CUA, as well as on the project's AB

900 Record of Proceedings website (AB900Record.com), and the entire record was made available to the Planning Commission for its consideration of any actions on the project.
The record supports the selection of a range of alternatives specifically focused on reducing significant impacts on historic resources as well as significant transportation and noise impacts, while meeting most of the project objectives identified on EIR p. 2.12. The alternatives selection process is described in the EIR in Chapter 6, on pp. 6.6-6.8 and 6.9, and discussed further in the RTC Section H, Alternatives, in Response AL-1: Range of Project Alternatives (see particularly RTC pp. 5.H.8-5.H-9 and 5.H-11).

The findings present appropriate statements regarding feasibility of the alternatives and mitigation measures that are supported by substantial evidence in the record. The appellant provides no citation or evidence for the proposition that the CEQA findings are based on an improper legal standard. Under CEQA, an agency may approve a project with significant effects on the environment if the agency finds that specific economic, legal, social, technological, or other considerations make the mitigation measures or alternatives identified in the EIR infeasible. (Pub. Resources Code § 21081(a)(3) and (b).) These considerations may include, among other factors, a failure of the mitigation measures or alternatives to meet project objectives, inconsistency with agency goals and policies, or economic infeasibility.

*6b. (Appellant Point 6, pp. 20-21): Construction timeframe was not a basis for rejecting alternatives.*

The appellant questions the 15-year duration of the development agreement. The information presented in the EIR on pp. 2.91 and 2.93, and further discussed in the RTC in Response PD-1: Construction Duration, Phasing and Staging, and Development Agreement on RTC pp. 5.B.9-5.B-10 clarifies the relationship between the construction period and the potential development and development agreement timeframe. Those sections of the EIR and RTC explain, based on documentation from the project sponsor's construction contractor, that the project could be fully built out in 7 years if construction were continuous, and that a 15-year timeframe in the development agreement takes into consideration economic conditions that may affect how the site is built out. Thus, as noted in the EIR and RTC, construction would not occur continuously for 15 years.

The appellant states that the LHIA Alternative or LHIA Variant could be constructed in approximately 4 years (appeal letter p. 21), suggests that this is more "reasonable" than the construction period for the proposed project or the alternatives analyzed in the EIR, and implies that the construction timeframe of the LHIA Alternative/Variant versus the timeframe of the proposed project weighs in favor of the LHIA Alternatives over the project. A similar assertion was addressed in RTC Response AL-2: Laurel Heights Improvement Association of San Francisco, Inc.'s (LHIA) Alternative, on RTC pp. 5.H.56 and 5.H.66. In the appellant's comment letter on the draft EIR presenting the LHIA Alternative, the construction timeframe for the alternative was asserted to be approximately 3 years. However, public works architects in the Bureau of Architecture, in their independent analysis of the LHIA Alternative, concluded that a three-year construction period would be "challenging" because it would require concurrent construction of all buildings and parking garages, and with excavation, construction, and renovation occurring across the site at the same time, construction staging locations would be very limited (RTC p. 5.H.66, and Public Works Independent Peer Review p. 13 [located in RTC Vol.2, Attachment D]). This conclusion is based on the City staff's professional judgment and experience as well as their knowledge of the City's permit process and building code requirements. The appellant, in this appeal, increases the construction time period for its alternatives (the LHIA Alternative, its variant, and LHIA Variant 2) from 3 years to approximately 4 years (appeal letter p. 21). Full buildout of Alternative C, Full Preservation – Residential

Alternative, which provides for a development program similar to that presented in the LHIA Alternative, was estimated to take approximately 5.5 years (see Table 6.1: Comparison of Characteristics of the Proposed Project, Project Variant, and EIR Alternatives, on EIR p. 6.13).

In any event, the findings appropriately did not separately identify the construction period for each of the alternatives studied in the EIR, or the appellant's alternatives as a basis for determining feasibility or rejecting alternatives, because, as shown in Table 6.1 starting on EIR p. 6.13, the construction periods for all of the alternatives would be similar and are reasonable.

*6c. (Appellant Point 6, pp. 20-22): No additional feasible mitigation measures are available to substantially or clearly lessen or eliminate impacts on historic resources.*

The findings appropriately state that mitigation measures have been identified that would lessen but would not eliminate the significant impacts on a historic resource. As explained in Response 1 above, in consideration of the complex nature of the historic resource including the large site and office building integrated with the landscape, design revisions to substantially or clearly lessen significant historic resource impacts of the project would more meaningfully consist of multiple measures that as a whole would comprise an alternative. Therefore, the feasible mitigation measures requiring archival documentation of the historic resource and development of an interpretive program regarding the history of the site would serve to reduce the impact, these measures would not reduce the significant impact to a less-than-significant level. However, multiple alternatives that would eliminate (i.e., mitigate) or substantially or clearly lessen this impact were developed and analyzed in the EIR, two full preservation alternatives and two partial preservation alternatives. CEQA requires consideration of mitigation measures or alternatives to reduce or eliminate significant environmental impacts. When a proposed project must be substantially changed in order to reduce a significant impact to a less-than-significant level, although those changes might be identified as a series of mitigation measures, it is also reasonable to identify a group of design revisions as an alternative to the project and analyze that alternative in the EIR. This is what was done for the 3333 California Street Mixed-Use project. See also, Response 1.

*6d. (Appellant Point 6, pp. 21-26): The findings regarding provision of an open connection between the project site and the surrounding community are supported by substantial evidence.*

There is substantial evidence supporting the finding that Alternatives B, C, and E do not provide an open connection to the surrounding community (CEQA Findings pp. 45, 49, and 56). The findings state that these alternatives "…would fail to extend the neighborhood urban pattern and surrounding street grid into the site…" because Walnut Walk would not be fully constructed under these alternatives and Alternative B also would not construct Mayfair Walk. Thus, these alternatives would not meet one of the project objectives identified on EIR p. 2.13:

- Open and connect the site to the surrounding community by extending the neighborhood urban pattern and surrounding street grid into the site through a series of pedestrian and bicycle pathways and open spaces, including a north-south connection from California Street to Euclid Avenue that aligns with Walnut Street and an east-west connection from Laurel Street to Presidio Avenue.

See Table 6.3: Ability of Alternatives to Meet Basic Project Objectives, on EIR p. 6.18, showing that Alternative B would not meet this objective and Alternatives C and E would only partially meet the objective. The ability to meet project objectives is discussed in the EIR on pp. 6.37 for Alternative B, 6.75-6.76 for Alternative C, and 6.144-6.145 for Alternative E. See also the description and analysis of Alternative B regarding pedestrian access through the site on EIR pp. 6.37 and 6.46; the description and analysis of Alternative C regarding pedestrian access through the site on EIR pp. 6.75 and 6.85; and the description and analysis of Alternative E regarding pedestrian access through the site on EIR pp. 6-142 and 6.155. Each of these descriptions shows that these alternatives would not meet or not fully meet the project objective of extending the neighborhood urban pattern of the surrounding street grid into the project site.

The ability of Alternative B to meet project objectives is also discussed in RTC Section 5.H: Alternatives, under Response AL-1: Range of Project Alternatives. This discussion includes, on RTC p. 5.H.15, issues related to the difficulty of making a pedestrian connection through the retained office building, cross-referencing the response in RTC section 5.B, Project Description, on pp. 5.B.25-5.B.28.

The discussion of Alternative C in RTC Section 5.H: Alternatives, in Response AL-3: EIR Alternative C Full Preservation – Residential Alternative, explains on RTC p. 5.H.84 that the southern portion of Walnut Walk would not be developed under that alternative, nor would a pathway through the building be developed because making the pathway open to the public raises privacy and security concerns for the proposed residential units within the existing building.

The same privacy and security concerns arise if the "existing ADA compliant portal" that the appellant suggests (see appeal letter p. 22) is to be included in the preservation alternatives, because that "portal" would be a 15-foot-tall by 20-foot-wide opening through the retained building that could provide direct access to private residential hallways and lobbies.[12] The suggested internal portal through the building would not provide an open-air walkway directly through the project site between California Street and Masonic and Euclid avenues that would clearly be publicly accessible and extend the existing urban pattern in a north-south direction through the site, unlike the proposed Walnut Walk included in the project, as discussed on pp. 3 and 5 of the department's supplemental response (Attachment A).

In addition, as noted above, merely including a portal through the existing building without including additional changes to the project site, such as reduced development along California or Laurel streets, (as included in Alternatives B and C) would neither eliminate, nor substantially or clearly lessen the impact to the historic resource.

[12] The letter from the University of California San Francisco (UCSF) cited in the appeal letter (Exhibit M) does not provide evidence of an existing public passageway through the existing building, because, as the UCSF letter explains on the first page, the doors and gates that would provide access are locked and the doors are accessible only to UCSF employees who have been issued UCSF access cards.

*6e. (Appellant Point 6, pp. 21-24): Terms such as "active use," "active ground floor retail," and "neighborhood-friendly uses" are defined in the Planning Code and are consistently used in the EIR.*

The CEQA Findings statement, on p. 45,[13] that Alternative B would "fail to provide active ground floor retail uses or activated neighborhood-friendly spaces along adjacent streets" and a similar statement about Alternative C on p. 49 of the findings, are supported by substantial evidence in the record, contrary to the appellant's assertions. A similar statement is made about Alternative E (p. 56 of the findings) but only regarding this alternative's limited activated neighborhood-friendly spaces along adjacent streets, as this alternative includes ground floor retail along California Street. These findings are also supported by substantial evidence.

The appellant states that the findings for Alternatives B and C regarding active ground floor uses and active neighborhood-friendly spaces (e.g., appeal letter p. 22 and p. 23) are ambiguous and conclusory because the findings do not explain the meaning of these terms. Common dictionary definitions of the term "active" include "characterized by action," "marked by vigorous activity" and "busy."[14] The Planning Code defines "active use" in section 145.1(b)(2), as follows: "An 'active use' shall mean any principal, conditional, or accessory use that, by its nature, does not require non-transparent walls facing a public street or involves the storage of goods or vehicles," such as a parking garage. Subsection (A) states that on the ground floor residential uses are considered active if more than 50 percent of the linear residential street frontage at that level feature walk-up dwelling units with direct pedestrian access to a public sidewalk. Subsection (C) states that building lobbies are active uses when they comprise specified portions of the building frontage. Subsection (D) identifies specified public uses as active uses.

The EIR consistently uses the term "active use" to mean a use that helps enliven fronting streets by providing spaces where activity and engagement can occur, rather than property frontages consisting of a wall or similar barrier (as under existing conditions). The description of Alternative B, Full Preservation – Office Alternative, on EIR pp. 6.21 and 6.31 explains that there would be no ground-floor use to activate the California street frontage in this alternative because it would retain the existing 10-foot-tall perimeter wall along California and Laurel streets. In its discussion of the ability of Alternative B to meet project objectives, the EIR states on p. 6.37: "This alternative would not provide active ground floor retail uses or activated neighborhood-friendly spaces along the adjacent streets, and therefore would not achieve Objective 5." In addition, Alternative B would not include the Masonic Building nor the Laurel Duplexes along Laurel Street (see, e.g., EIR Figure 6.2 on EIR p. 6.30), and thus would not include the residential uses nor create neighborhood-friendly spaces there, unlike the project that would activate these streets with residential units having direct pedestrian access to a public sidewalk. See also Attachment A, p. 3 of the department's supplemental response.

Similarly, the discussion of Alternative C, Full Preservation – Residential Alternative, in RTC Section 5.H: Alternatives, Response AL-3: EIR Alternative C: Full Preservation – Residential Alternative, on RTC p. 5.H.87, uses the term "activated neighborhood-friendly space" to mean that the space would activate the adjacent sidewalks with visitors coming to and from those buildings. The RTC document explains that

[13] Page numbers cited here are from the CEQA Findings presented as Attachment A to Planning Commission Motion No. 20512 and therefore may differ from page numbers cited in the appeal letter

[14] Merriam Webster Dictionary. 2019. Online at https://www.merriam-webster.com/dictionary/active. Accessed November 1, 2019.

Alternative C would have less residential and retail space along California Street than the proposed project. In addition, Alternative C would not include duplexes along Laurel Street but would retain the existing parking lot and driveway entrance (see Figure 6.5 on EIR p. 6.67); therefore, it would have less activated space adjacent to this street. Alternative C also would not include the Masonic Building and would not create neighborhood-friendly spaces along Masonic Avenue (unlike the proposed project), instead maintaining the existing retaining walls and berms that physically separate the site from the surrounding sidewalk and neighborhood. Thus, the record contains descriptions of what active ground floor uses are and what activated neighborhood-friendly space is and supports the findings that Alternatives B and C would provide less active ground floor space and less activated neighborhood-friendly space than would the project.

The fact that there is ground-floor retail space elsewhere in the neighborhood, as described in the appeal letter, in reference to Alternatives B and C (see pp. 22-24), does not change the accuracy of the findings that these alternatives would provide no or substantially less ground-floor retail and/or office space along California Street and/or provide less active neighborhood-friendly spaces along the site perimeter than the approved project. The listings in the appeal letter of other retail locations in the neighborhood do not support a statement that the finding for each of these alternatives is either ambiguous or lacks substantial evidence, as the appropriate comparison is between the approved project and the alternatives analyzed in the EIR, not between the project and/or any project alternative and the existing surrounding uses. Nor does the presence of an existing café hidden within the interior of the project site not visible from any street provide any evidence that the findings rejecting Alternative B (appeal letter p. 22) or Alternative C (appeal letter p. 23) are unsupported.

*6f. (Appellant Point 6, pp. 23 and 26): Substantial evidence in the record supports the finding that the project alternatives meet the city's general plan goals and related policies with respect to housing.*

The appellant contends that the findings related to project alternatives and the project objective to provide housing (including affordable housing) that meets City goals and is consistent with the housing element of the general plan and the regional housing needs allocation (see bullet 3 on EIR p. 2.12) are not supported by substantial evidence. Table 6.1 on EIR pp. 6.13-6.14 presents the differences between the project (the project variant) and each of the alternatives, providing the estimated total unit count and unit mix for each. As stated on p. 46 of the findings, there are many city policies and objectives in both the housing and transportation elements of the general plan related to the production and siting of housing, as well as the type of housing (affordable, family-friendly, etc.). These policies and objectives also promote other City objectives such as the transit first policy and the goal to limit single-occupancy vehicle trips. These goals, policies, and objectives are listed on EIR pp. 4.C.32-4.C.34. Furthermore, planning code section 207.7 requires that at least 25 percent of residential units be two-bedroom units or larger (see RTC p. 5.H.64). As stated on RTC p. 5.B.34, lead agencies have broad discretion to formulate project objectives[15] and the objectives listed on EIR p. 2.12 provide adequate context for the project sponsor's goals to allow the lead agency to develop an appropriate range of alternatives to be evaluated in the EIR. As the department stated on p. 6 in its supplemental response to substantially the same concern submitted on August 28, 2019 (see Response 2, above), CEQA does not require that an EIR analyze every conceivable alternative or other alternatives with the exact same number of residential units, 744, as the project. In any event, no alternative was rejected for its inability to meet any one of the project objectives.

[15] See *California Oak Found. v. Regents of Univ. of Cal.* (2010) 188 Cal. App.4th 227, 276.

Rather, each alternative was rejected as infeasible based on its inability to meet multiple project objectives, stated city goals and policies, and other factors.

*6g. (Appellant Point 6, pp. 24 and 26): Substantial evidence in the record supports the finding that Alternatives C and E would not provide as much open space as the proposed project.*

The appellant contends that the findings for one of the full and one of the partial preservation alternatives (specifically, Alternatives C and E) regarding the provision of multiple, varied, and interconnected on-site open spaces to maximize pedestrian accessibility (see bullet 8 on EIR p. 2.12) are not supported by substantial evidence. As discussed on EIR pp. 2.83-2.86 (and illustrated on Figure 2.29) the proposed open space program provides multiple and varied on-site open space destinations such as California Plaza, Cypress Square, Euclid Green, and Presidio Overlook; and provides complete north-south and east-west pedestrian pathways that connect to the neighborhood and interconnect the new on-site hardscape and green spaces. Under Alternatives C and E, there would not be as much new open space as under the project because improvements would not be introduced on the southern portion of the site such as improvements to the lawn along Euclid Avenue between Laurel Street and Masonic Avenue, the lower portion of the north-south pedestrian pathway (Lower Walnut Walk), and Corner Plaza in order to preserve most or all of the existing building. Because all (Alternative C) or most (Alternative E) of the existing building would be preserved, they would provide fewer types or varieties of open spaces (active and passive) under these alternatives (C and E), and the open spaces would not be as interconnected, and therefore, as accessible for pedestrians as under the project.

In conclusion, the appellant fails to meet its burden to demonstrate that the CEQA findings are inadequate or unsupported by substantial evidence.

**Response 7 (Appellant Points 7, 8, 9, and 18, pp. 28-43 and pp. 67-68): The EIR accurately and adequately addresses inconsistencies of the project with applicable plans and policies, including those related to preservation of historic resources, neighborhood character, and zoning controls.**

The appellant's assertions that the project would be inconsistent with established policies of the general plan, the housing element, the urban design element, the residential design guidelines and zoning controls, including those in Planning Commission Resolution 4109, were previously raised as comments on the draft EIR and reiterated in letters submitted on August 28, 2019 and September 5, 2019. The department responded to substantially the same concerns (see RTC pp. 5.C.19 through 5.C.22 and the department's supplemental response [Attachment A, p. 11]). Inconsistencies and/or conflicts with established policies in the general plan, including the priority policies and those in the housing and urban design elements that relate to preservation of historic resources and the existing housing and neighborhood character, as well as inconsistencies and/or conflicts with zoning controls, are disclosed in the EIR. See EIR pp. 3.1-3.6 for a discussion of inconsistencies with the general plan and its elements; and pp. 3.6-3.11 for a discussion of inconsistencies with the planning code including the priority policies, zoning, height, the special use district, and Planning Commission Resolution 4109. The EIR's analysis complies with the requirement in CEQA Guidelines section 15125(d) that the EIR "discuss any inconsistencies between the proposed project" and applicable plans.

The EIR analyzes the physical environmental effects that would result from development of the proposed project to determine the significance of such impacts on the environment. To the extent that the project

would be inconsistent with applicable plans, policies, or zoning controls, those inconsistencies are identified in EIR Chapter 3, Plans and Policies, which includes a review of local and regional plans and policies against the details of the proposed project, pursuant to CEQA Guidelines section 15125(d). Inconsistencies in and of themselves are not significant environmental impacts. The physical environmental changes as a result of the project, including those that would arise as a result of conflicts with plans and policies as noted above, are analyzed in the EIR or initial study under appropriate physical topics. For example, the conflict with priority policy 7 (preservation of landmark buildings and historic buildings) is disclosed in Chapter 3 on EIR pp. 3.11 to 3.12 and in Section 4.B, Historic Architectural Resources (EIR pp. 4.B.34 to 4.B.35). The physical environmental change that would result from this conflict is analyzed in Section 4.B, Historic Architectural Resources under Impact CR-1 (pp. 4.B.41 to 4.B.47).

The appellant has not met its burden to demonstrate with substantial evidence support for its claims that the EIR was deficient in its disclosure of potential conflicts with established plans and policies and that these asserted deficiencies rendered inadequate the subsequent analysis of any physical environmental changes that would result from such a conflict. Thus, the environmental impact analysis in the EIR is accurate and adequate and allowed for informed public participation. All other concerns raised in relation to this topic do not address the adequacy of the EIR and are therefore not addressed in this response.

**Response 8 (Appellant Point 10, pp. 45-50): The initial study analysis of geology and soils relied on the information in the preliminary geotechnical investigation. The EIR adequately analyzed the project impacts and found that the project would not result in individual or cumulative significant impacts with respect to geology and soils. The department's determination is based on substantial evidence; appellant has not demonstrated otherwise.**

The appellant contends that the depth and extent of excavation needed for implementation of the project would be so great that it would result in significant geology and soils impacts related to the loss of topsoil, changes to the topography of the site, and increased exposure to geologic hazards due to the presence of unstable soils. The appellant further contends that the recommended measures from the preliminary geotechnical investigation be identified as project mitigation and that they should be imposed as conditions of project approval. The physical environmental impacts of the excavation as well as new construction were fully described and analyzed in the initial study (see pp. 205-212). Additionally, the project is required to comply with the state and local building code, which ensures the safety of all new construction in the City. These concerns were previously raised by the appellant in comments on the initial study and the draft EIR. The department's response is presented on RTC pp. 5.J.94-5.J.109.

For a response to comments related to erosion and loss of topsoil see the department's response on RTC pp. 5.J.105-5.J.107. As stated, loss of topsoil would be an environmental concern if such an action resulted in the removal of soil strata that supports sensitive habitat, agriculture or open space, which would not be the case at this site due to modifications over time and the fact that the site is not sensitive habitat. In addition, once constructed there would be landscaped open areas throughout the site (see RTC pp. 2.21-2.23, and 5.B.20). Thus, the initial study correctly did not identify the loss of topsoil as an environmental impact.

For a response to comments related to topography and loss of unique geologic features see the department's response on RTC pp. 5.J.102-5.J.103 and 5.J.108-5.J.109. As stated, the general topography of the site would remain similar to existing conditions with minor changes related to site grading and terracing to support the adaptive reuse of the existing building and development of the Masonic and Euclid Buildings, and the presence of Laurel Hill would remain evident. As further stated on RTC p. 5.J.108 Laurel Hill is not a unique geologic feature[16] thus, no impacts were identified (see initial study pp. 212-215).

For a response to comments related to increased exposure to geologic hazards see the department's response on RTC p. 5.J.101. The analysis of geologic hazards in the initial study relied on the regulatory process provided by the state and local building code overseen by the San Francisco Department of Building Inspection (building department) as well as information in the preliminary geotechnical investigation. However, a preliminary geotechnical investigation is not an analysis of physical environmental effects under CEQA. The scope of a geotechnical report is specified in the building code (California Code of Regulations, Title 24, Part 2, Volume 2, Chapter 18, Section 1803 Geotechnical Investigations). Although recommendations from the preliminary geotechnical investigation are often best management practices, they are not mitigation measures developed to address a significant physical environmental effect of the project, and are not labeled as mitigation measures in the preliminary geotechnical investigation, contrary to the implication on p. 50 of the appeal letter. As stated in the department's response, a design-level geotechnical report would be prepared as part of the building permit process. Thus, regardless of the proposed depth and extent of excavation or the recommended shoring systems or type of foundation systems, the building department would review each building permit application for all buildings proposed for demolition, alteration, or new construction, and project construction documents (addenda) for compliance with the building code and conformance with the recommendations in the design-level geotechnical report. Therefore, the geotechnical report recommendations are not mitigation measures. In summary, as noted on RTC pp. 5.J.101-5.J.104, the review of the building permit application and plans pursuant to the building department's implementation of the building code, including administrative bulletins, and local implementing procedures (which include information sheets), as well as and state laws, regulations, and guidelines, would ensure that the project would have no significant impacts related to soils (including groundwater) or other geological hazards.

Thus, the appellant is incorrect in asserting that the initial study did not evaluate effects of the project on geology and soils. The appellant has not supported their contention that the project would result in significant physical environmental impacts related to geology and soils because of any site-related concerns or considerations.

**Response 9 (Appellant Point 11, pp. 50-55): The project would not result in significant biological resources impacts related to the loss of trees nor would the project conflict with local tree protection policies and ordinances.**

[16] Unique geologic or physical feature is one that embodies distinctive characteristics of any regional or local geologic principles, provides a key piece of information important to geologic history, contains minerals not known to occur elsewhere in the county, and/or is used as a teaching tool.

The appellant contends that the project would result in a significant biological resource impact due to the loss of trees and that it would conflict with local tree protection plans or policies. These concerns were previously raised by the appellant in comments on the initial study and the EIR. The department's response is presented on RTC pp. 5.J.84-5.J.89.

The initial study describes the proposed tree removal on pp. 66-70 and 73-74. The impact analysis is provided on pp. 197-203 of the initial study, and, as indicated on pp. 202-203, the proposed project would be consistent with the substantive standards and requirements for tree removal and replacement set forth the City's Urban Forestry Ordinance. As discussed on RTC pp. 5.J.85-5.J.86, removal and replacement of street trees and significant trees was part of the major encroachment permit recommended by public works after a noticed public hearing and adopted by the board of supervisors by ordinance.

Removal of significant trees is not a prohibited action and therefore not in conflict with the ordinance. Additionally, to further clarify that the proposed project would be consistent with the standards of the Urban Forestry Ordinance, the department's response in the RTC included new text for EIR Section 4.F, Initial Study Supplement (see RTC p. 5.J.87). Furthermore, the department's response reiterated the project sponsor's goal of retaining up to ten mature trees, including some that may have been present when the Laurel Hill Cemetery was redeveloped as the Fireman's Fund office campus (see RTC p. 5.J.88). None of the ten mature trees are among the 19 on-site significant trees to be removed.

In its October 7, 2019 letter to appeal the public works' approval of the proposed tentative map associated with the proposed project, the appellant claims that the project would conflict with the biodiversity resolutions passed by the board, department of environment, and planning commission. The appellant states that a member of the native plant society performed a survey on the project site and found nine species of birds on site, including three breeding bird species. This information does not demonstrate that the EIR is inadequate. Even if protected bird species are present at the project site, the project, with the implementation of mitigation measure M-BI-1, would not result in a significant impact to these species under CEQA. This is because, as discussed on initial study pp. 200-201, the project would implement Mitigation Measure M-BI-1: Preconstruction Nesting Bird Surveys and Buffer Areas intended to protect nesting birds and their nests. The department determined that the implementation of Mitigation Measure M-BI-1 would reduce the project's potentially significant impact on nesting birds under the Migratory Bird Treaty Act and California Fish and Game Code to a less-than-significant level by ensuring that project activities would not result in the take of an active nest.

The department determined that the proposed project would not conflict with local tree protection policies or ordinances protecting biological resources, such as San Francisco's Urban Forestry Ordinance. Thus, as stated on RTC p. 5.J.87, the mitigation measures identified by the appellant would not be required because there is no identified significant impact. This determination was based on substantial evidence in the record; the appellant has not met its burden to demonstrate otherwise.

**Response 10 (Appellant Point 12, pp. 55-57): The department's conclusion that the proposed project would not result in significant biological resources impacts related to habitat modifications that could impact nesting migratory birds is supported by substantial evidence; appellant has not demonstrated otherwise.**

The appellant contends that the project would result in a significant biological resource impact due to the loss of habitat and the effect that construction of new buildings would have on birds. These concerns were previously raised by the appellant in comments on the initial study and the EIR. The department's response to these comments is presented on RTC pp. 5.J.91-5.J.94.

The initial study (see pp. 197-202) describes the changes to the site, acknowledges the loss of habitat and its significant impact on nesting birds, and identifies Mitigation Measure M-BI-1 (Preconstruction Nesting Birds Survey and Buffer Areas) as mitigation that could reduce the impact on nesting migratory birds to a less-than-significant level. However, as stated on initial study p. 199 and RTC p. 5.J.92, the loss of habitat resulting from the project was not identified as an impact on candidate, sensitive, or special status species because the trees were not identified as habitat suitable for such species. This determination was made based on review of the California Natural Diversity Database, which did not include any recorded sightings of such species on the site (see p. 5.J.92). The project site is a developed corporate campus. As further explained on p. 5.J.92, there are more attractive options for nesting birds in the immediate area (e.g., the Presidio of San Francisco and Golden Gate Park). Furthermore, new on-site habitat (including landscaped areas and up to 250 newly planted trees) developed over the project development period could be used by nesting birds, with birds potentially returning to the site and its immediate area when a building or group of buildings and associated landscape are completed or at the end of the overall construction period.

As stated on pp. 201-204 of the initial study and reiterated in response to substantially the same concerns about bird strikes, planning code section 139, and planning commission resolution 9212 that were previously raised by the appellant in comments on the draft EIR (see RTC pp. 5.J.93-5.J.94), the project would comply with the requirements in the Standards for the Bird-Safe Buildings (planning code section 139) and would have less-than-significant biological resource impacts with mitigation. The appellant's concerns regarding modifications from planning code section 139 requirements related to bird-safe glazing that can be granted by the Zoning Administrator have been addressed on RTC p. 5.J.93. The project sponsor has committed to use bird-safe glazing on all feature-related hazards[17] (see RTC p. 5.J.93).

The appellant has not provided any evidence that demonstrates that the department erred in determining that the project would result in less-than-significant bird-related impacts with mitigation due to the loss of habitat, construction-related activities, or building features. Thus, as stated on RTC p. 5.J.94, with adherence to all mandatory planning code requirements and implementation of Mitigation Measure M-BI-1, the proposed project would not interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors.

**Response 11 (Appellant Point 13, pp. 57-59): The project would not result in significant impacts related to hazards and hazardous materials because the project would be required to comply with state and local regulations to remediate hazards and hazardous materials.**

The appellant contends that the EIR did not disclose a comprehensive inventory of lists of hazardous sites on which the project site may be listed pursuant to Government Code Section 65962.5. The appellant

[17] Feature-related hazards include free-standing glass walls, wind barriers, skywalks, balconies, and greenhouses on rooftops that have unbroken glazed segments 24 square feet and larger in size. Feature-related hazards can occur throughout the city.

further contends that the site mitigation plan required pursuant to article 22 of the health code (the Maher Ordinance) should have been disclosed as a mitigation measure. The department previously responded to substantially the same concerns raised by the appellant in comments on the initial study and the EIR (see RTC pp. 5.J.116-5.J.125).

The department (on RTC p. 5.J.123) indicated that regulatory databases in the *Phase I Environmental Site Assessment* were reviewed and that the lists of hazardous sites on which the site is included were disclosed in both the NOP on p. 36, the initial study on pp. 229-231 and 238-239, and the EIR on p. 4.F.6. In addition to the Leaking Underground Storage Tank Sites list, the site is listed on other lists compiled pursuant to Government Code Section 65962.5, as discussed on draft EIR p.4.F.6, in compliance with CEQA section 21092.6. The appellant has not provided evidence that demonstrates that the information about the project site's presence on these lists is incomplete or that the analysis of hazards and hazardous materials is inadequate.

In Section 4.F, Initial Study Supplement, in the EIR as well as in the RTC (see RTC pp. 5.J.121-5.J.125), the department explained why the site mitigation plan is not a mitigation measure. For purposes of CEQA, mandatory compliance with provisions of the Maher Ordinance and other required regulatory actions are not identified as "mitigation measures." The required actions are disclosed in the EIR and adherence is mandatory and overseen by responsible departments and agencies. Required project compliance with state and local codes such as the public works code; public health department implementing procedures; and state laws, regulations, and guidelines would ensure that the proposed project would have less-than-significant impacts related to hazards and hazardous materials. The appellant has not provided evidence that demonstrates that the required site mitigation plan has not been disclosed or that the analysis of hazards and hazardous materials is inadequate.

**Response 12 (Appellant Point 14, pp. 59-60): The EIR identifies all feasible construction noise mitigation measures and delineates the requirements of Article 29 of the San Francisco Police Code and other regulations related to construction noise. The efficacy of the identified mitigation measures is supported by substantial evidence; appellant has not demonstrated otherwise.**

The appellant contends that the department's response to substantially the same noise-related concerns (see RTC pp. 5.F.15-5.F.19) did not provide substantial evidence supporting the department's decision not to incorporate the appellant's suggested measures as conditions of approval. The appellant further suggests that measures proposed by the appellant should have been incorporated as mitigation because the construction noise impact could not be reduced to a less-than-significant level with implementation of Mitigation Measure M-NO-1 (Construction Noise Control Measures), shown in EIR pp. 4.D.42-4.D.43. The appellant's suggested measures include the incorporation of mandatory compliance with Article 29 of the Police Code (the San Francisco Noise Ordinance); continuous noise monitoring; limitations on night noise permits; a request for an on-call qualified professional to conduct noise monitoring upon receipt of noise-related complaints; equipment storage requirements; and various requests for notifications regarding noise complaints, monitoring records, and verification of compliance with requirements of the noise ordinance.

For purposes of CEQA, mandatory compliance with provisions of the San Francisco Noise Ordinance and other required regulatory actions are not identified as "mitigation measures." The required actions are disclosed in the EIR and adherence is mandatory and overseen by responsible departments and agencies

(see EIR pp. 4.D.17-4.D.18, 4.D.36-4.D.37, and 4.D.47). This information is reiterated in the response on RTC pp. 5.F.16- 5.F.17. As indicated on EIR p. 4.D.42 (bullet 7 under Mitigation Measure M-NO-1) and reiterated in Response NO-4, on RTC p. 5.F.16, the construction manager would monitor construction noise continuously. As stated in that response, the noise control measures identified in Mitigation Measure M-NO-1 could be enhanced or augmented by a qualified acoustical consultant in coordination with the department to take advantage of improvements in technology such as new equipment and/or muffling techniques and physical sound barriers. Furthermore, minor changes to Mitigation Measure M-NO-1 were added to address the appellant's previously submitted concern in comments on the draft EIR about the length of daily construction activities. The department's response also addressed suggested measures related to nighttime work, the request for an on-call noise monitor, the various notification requests, and equipment storage. None of the suggested measures put forth by the appellant in their previously submitted comments would effectively reduce the substantial temporary increase in construction noise from the simultaneous use of the two loudest piece of construction equipment beyond that already discussed in the EIR.

The department's responses to comments on the EIR related to the appellant-suggested measures to reduce construction noise are thorough, provide a good-faith response to the concerns raised, and are based on substantial evidence. However, as stated above, and on RTC 5.F.16, the construction noise control measures identified in Mitigation Measure M-NO-1 could be enhanced and/or augmented in the future to further reduce construction noise if new technologies become available in the future. The appellant has not met its burden to demonstrate that its proposed noise mitigation was required to be implemented.

**Response 13 (Appellant Point 15, pp. 60-62): The EIR adequately evaluates the effects of all the proposed land uses on vehicle miles traveled (VMT), identifies a significant VMT impact, and provides mitigation that would reduce the impact to a less-than-significant level by reducing the parking supply of the land use that would result in a significant VMT impact (retail).**

The appellant contends that the EIR lacks substantial evidence supporting the VMT analysis. In addition, The appellant states the department's response to essentially the same set of concerns raised by the appellant in comments on the draft EIR and in letters submitted on August 28, 2019 and September 5, 2019 is not adequate because the literature cited focuses only on the net new vehicle travel demand of the office or retail land uses and neglects to address the net new vehicle trips generated by the other uses. The appellant further states that the department incorrectly focused on the parking supply as the cause of the substantial additional VMT; that the EIR fails to consider net new vehicle trips generated by other uses to determine if considerable additional VMT would be generated by the project; and that the EIR lacks substantial evidence to support the standard used to come to a significance determination with respect to VMT. In addition, the appellant states that the EIR lacks substantial evidence to support the VMT impact finding or to support the finding that the reduction of the retail parking supply to a rate reflective of the neighborhood parking rate for retail land uses would be effective mitigation.

In prior response to these same issues, the department provided an overview of the VMT methodology, approach to analysis, and impact conclusions in the Master Response on RTC pp. 4.19 through 4.49. The Master Response delineates the requirements of the transportation analysis under CEQA, the role of VMT in the transportation analysis, VMT efficiency metrics and thresholds of significance, and the findings of the VMT analysis. The EIR describes the approach to the analysis of VMT on EIR pp. 4.C.48-4.C.52 and

provides a literature review on the influence of parking on VMT on EIR pp. 4.C.74-4.C.76. The impact analysis on EIR pp. 4.C.74-4.C.81 includes information on existing VMT by land use for transportation analysis zone 709 (the project site) and a site-specific assessment of VMT for the proposed residential, retail, and non-residential (office and child care) land uses based on the existing and proposed neighborhood parking rates for each of the proposed land uses. Thus, the type and size of each proposed land use, as well as their corresponding on-site parking spaces, were considered in the VMT analysis. The EIR analysis conforms with state and local requirements and guidelines about VMT analysis and is supported by substantial evidence. The EIR found that the proposed retail land use would generate substantial additional VMT because it would provide retail parking at a substantially greater rate per 1,000 square feet than the neighborhood parking rate (see EIR p. 4.C.78-4.C.80); and that Mitigation Measure M-TR-2: Reduce Retail Parking Supply on EIR p. 4.C.80 would reduce the impact to a less-than-significant level.

The department's response also provided information regarding the methodology for VMT efficiency metrics with respect to retail use and for VMT and its relation to vehicular parking on RTC pp. 4.30-4.35 and 4.39-4.49. Although the existing retail VMT as presented on Table 4.C.3 (EIR p. 4.C.8) is shown as VMT by employee the retail efficiency metric accounts for VMT by visitors. Furthermore, the literature review on RTC pp. 4.41-4.45, supplementing the review provided in the EIR on pp. 4.C.74-4.C.76, augments the evidence in support of the finding that dedicated off-street parking is linked to more driving and that reducing parking supply is an effective mitigation strategy. Thus, the appellant's claim that the significant VMT impact related to the retail land use was solely premised on the parking supply is not correct. As noted, among the factors affecting travel behavior is presence of parking, development density, and diversity of land uses, and SF-CHAMP accounts for most of these factors in estimating VMT. However, SF-CHAMP is not sensitive enough to account for site-specific information such as the amount of parking provided on a site. It is for this reason that the project-specific VMT analysis evaluates the proposed parking rates by land use against the neighborhood parking rates for each proposed land use as a means to determine if a project would generate substantial additional VMT. As discussed on EIR p. 4.C.76, reducing parking supply is one of the most effective transportation demand management measures available as mitigation. Thus, the finding that the VMT impact of the proposed project would be reduced to a less-than-significant level with implementation of Mitigation Measure M-TR-2: Reduce Retail Parking Supply is supported by substantial evidence.

The responses to comments are thorough, provide a good-faith response to the concerns raised, and are based on substantial evidence. The appellant has not provided evidence that would rebut the department's determination that the VMT methodology, significance threshold, approach to analysis, impact conclusion, or efficacy of the identified mitigation were based on substantial evidence, and accordingly has failed to meet its burden.

**Response 14 (Appellant Point 16, pp. 62-64): The EIR correctly estimates travel demand generated by the proposed uses, and evaluates the project effects on VMT related to the proposed loading zones on the adjacent streets, accounting for transportation network companies (TNCs), as appropriate.**

The appellant contends that the EIR did not correctly estimate the net new vehicle trips that the proposed uses would generate. The appellant further contends that the VMT methodology did not account for the vehicle trips that would be generated by the introduction of five new on-street loading zones in the context of the increasing number of transportation network companies (TNCs) within the city that would

serve the project's residents. Therefore, the appellant contends that the EIR did not accurately estimate the additional VMT that would be generated by the proposed project because the transportation analysis relied solely on the comparison of existing parking rates by land use per 1,000 square feet to the proposed parking rates.

The department responded to this same concern in a Master Response on RTC pp. 4.1-4.49. Concerns regarding the impact of TNCs and circling TNC drivers are addressed in subsection B.3, Trip Generation Estimates, under the subheading "Passenger Loading Demand Comparison" on RTC pp. 4.7-4.8, and subsection B.7, Loading Demand under the subheading "Passenger Loading Demand – Transportation Network Company Vehicles" on RTC pp. 4.15-4.16. Concerns regarding the effects on trip generation related to the proposed loading zones are addressed in subsection B.7, Loading Demand under the subheading "Commercial Loading" on RTC p. 4.15. As stated on EIR pp. 4.C.51-4.C-52, based on guidance from the state Office of Planning and Research, minor street changes such as the removal of off- or on-street parking spaces or the adoption, removal, or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, preferred/reserved parking permit program) would not result in a substantial or measurable increase in VMT. The department's response describes how the passenger loading demand analysis in the EIR for the proposed project assumed that all trips designated as "other" under the *2002 SF Guidelines* were taxi/TNC trips and estimated a higher peak period loading demand than would be assumed under the *2019 TIA Guidelines.* Thus, TNCs were considered in the transportation analysis. Also, the analysis provided in the EIR using the *2002 SF Guidelines* provided a conservative estimate of trips that would occur by TNCs. The department's response (see RTC pp. 4.14-4.16) also describes how the demand for commercial and passenger loading zones is generated by the land uses that those spaces would serve; no substantial evidence exists that the provision of the spaces in and of itself would create additional demand or generate additional vehicle trips by delivery vehicles or TNCs.

The department's response to these concerns also included a literature review covering, among other studies, *TNCs Today* and *TNCs and Congestion* (see RTC pp. 4.35-4.39). As stated, the VMT estimates for the project site are well below the VMT threshold of significance. No recent studies allow for an "apples-to-apples" comparison of using TNC vehicle types in a CEQA VMT analysis because of the limitations of the existing available data with respect to household travel behavior and the lack of available data related to TNC trips external to San Francisco. The department provided, for informational purposes only, a hypothetical response for an "apples-to-apples" comparison (see RTC pp. 4.38-4.39). As stated there, even conservatively assuming that all increases in VMT from 2010 (4.9 million miles) to 2016 (5.6 million miles) in San Francisco were attributable to TNCs, the increase in daily VMT per San Francisco population would have been only five percent under such a hypothetical scenario. Thus, any VMT increase from the increased prevalence of TNCs would not change the EIR VMT conclusion. The department's impact determination is based on the department's good faith interpretation of the best available data related to TNCs and travel behavior, the existing low levels of VMT at the site, and the *2002 SF Guidelines* generally *overestimated* the number of vehicle trips to and from a site even accounting for the increase of for-hire vehicles."[18]

[18] San Francisco Planning Department. Summary of Changes Memorandum, February 14, 2019, p. 3, http://default.sfplanning.org/publications_reports/TIA_Guidelines_Summary_of_Changes_Memo.pdf, accessed October 15, 2019.

The appellant has not substantiated its claim that the travel demand estimates for the proposed project do not account for proposed project's loading demand. In particular, the appellant claims there is loading demand related to re-striping of on-street parking spaces for loading but provides no evidence in support of this claim. Nor has the appellant substantiated that the basis for analyzing the effects of TNCs on VMT is inaccurate and thus, resulting in a flawed conclusion related to the effects on VMT. Furthermore, the EIR did find a significant VMT impact related to the retail land use and identified a reduction to the amount of off-street parking dedicated to retail use as feasible mitigation that would reduce the impact to a less-than-significant level. The appellant has not demonstrated any deficiencies in the substantial evidence upon which the department premised its findings related to existing VMT, or the substantial evidence on how VMT increases were estimated in the EIR, and accordingly has failed to meet its burden.

**Response 15 (Appellant Point 17, pp. 65-67): The greenhouse gas emissions analysis in the initial study follows the department's standard approach and relies upon a qualified Greenhouse Gas Reduction Strategy and mandatory implementation of requirements in city ordinances.**

The appellant contends that the greenhouse gas emissions analysis did not provide specific information as to how the various requirements of the City's Greenhouse Gas (GHG) Reduction Strategy would be implemented and, as a result, failed to adequately analyze the project-level and cumulative impacts of the proposed project. These comments, as well as substantially similar comments submitted in the August 28, 2019 letter, do not raise different issues from those addressed in the RTC (see Responses GHG-1: Methodology, GHG-2: Accuracy of GHG Calculations, or GHG-3: General GHG Concerns on RTC pp. 5.J.7 to 5.J.43.).

The GHG analysis in the initial study adequately presents the impacts of the proposed project with respect to greenhouse gas emissions under CEQA (see initial study pp. 146-150). The City's use of a qualitative threshold for the greenhouse gas emissions analysis in CEQA documents is supported by substantial evidence and was upheld in *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 150. Furthermore, the City's Greenhouse Gas Compliance Checklist for Private Development (dated April 5, 2018 and included in the administrative record as footnote 130 of the initial study) provides additional information related to how the proposed project would meet each of the applicable state and local requirements identified on the GHG Compliance Checklist. For purposes of CEQA, compliance with provisions of the state laws and regulations and local ordinances is mandatory, and is overseen by responsible departments and agencies; these requirements are disclosed in the initial study. As documented in the department's Strategies to Address Greenhouse Gas Emissions, November 2010, and in the Greenhouse Gas Reduction Strategy Update, July 2017, compliance with these requirements has been shown to effectively reduce GHG emissions.[19] Project compliance with state and local laws, regulations, and guidelines would ensure that the proposed project would have less-than-significant impacts related to greenhouse gas emissions. The appellant has not provided evidence that demonstrates that the greenhouse gas emissions analysis is inadequate.

[19] These documents are, and have been, available on the planning department's website at https://sfplanning.org/project/greenhouse-gas-reduction-strategies#info, accessed October 15, 2019.

**CONCLUSION**

For all of the reasons provided in this appeal response, the FEIR complies with the requirements of CEQA, CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, provides an adequate, accurate, and objective analysis of the potential environmental impacts of the project. The appellant has not demonstrated that FEIR is insufficient as an informational document, or that the planning commission's certification of the FEIR was not supported by substantial evidence in the record. Therefore, the department respectfully recommends that the board uphold the planning commission's certification of the FEIR and deny the appeal.

# Attachment A

## September 4, 2019
## Planning Department Supplemental Response
## to August 28, 2019 Laurel Heights Improvement Assn Letter

SAN FRANCISCO
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**DATE**: **September 4, 2019**

**TO:** **President Melgar and Members of the Planning Commission**

**FROM:** **Kei Zushi, Wade Wietgrefe, and Justin Greving, Environmental Planning**

**RE:** **3333 California Street Mixed Use Project (Case No. 2015-014028ENV) Responses to Issues Raised in August 28, 2019 Letters Submitted by The Laurel Heights Improvement Association of San Francisco, Inc.**

After the Responses to Comments document (RTC) was published on August 22, 2019, the Laurel Heights Improvement Association of San Francisco, Inc. (LHIA) submitted two additional and late comment letters regarding the 3333 California Street Mixed-Use Project. Under CEQA Guidelines section 15207, the department need not respond to late comments. Nevertheless, the department provides the following information related to the late comments.

Both letters are dated August 28, 2019. In this memorandum, the department refers to the letter containing ten identified issues with exhibits A through EE as "Letter 1." "Letter 2" with exhibits A through C5 clarifies, supplements, and modifies the discussion of an alternative previously submitted by LHIA on January 8, 2019.

Letter 1 raises some issues which are not related to CEQA or the certification of the EIR, and this memorandum does not respond to those issues.[1] As noted more particularly below, many of the environmental issues in Letter 1 were previously addressed in the EIR or in the Responses to Comments. LHIA has not presented any new information that would alter the department's conclusions in the EIR as explained in more detail below. Where new environmental issues are raised, LHIA's comments are summarized with a brief response by the department.

In this memorandum, the term "proposed project" refers to the revised project variant analyzed in the EIR and under consideration for approval on September 5, 2019, unless otherwise noted.

## Alternatives

CEQA Guidelines section 15126.6(a) requires that lead agencies consider a reasonable range of potentially feasible alternatives to the project that feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any of the identified significant impacts of the project. CEQA does not require that an EIR consider every conceivable alternative or permutation or combination of alternatives. As discussed in Response AL-l on RTC pages 5.H.6 to 5.H.17, the 3333 California Street Mixed-Use Project EIR includes a reasonable range of alternatives. In addition to the No Project Alternative, the EIR presents five alternatives. The supplemental comment letters request consideration of two additional alternatives, and the Planning Department, Environmental Planning's responses are below.

[1] Specifically, this memorandum does not address issues related to the proposed development agreement (Letter 1, item 4); application of the Residential Design Guidelines (Letter 1, item 7); or Planning Commission authorization regarding heights and setbacks (Letter 1, item 8).

1. **In Letter 1, item 1: LHIA presents a new alternative called the Community Preservation Lookalike Variant (Lookalike Variant), and requests consideration of this alternative by the Planning Commission. However, this alternative is considerably similar to Alternative E: Partial Preservation – Residential Alternative analyzed in the EIR.**

LHIA states that the Lookalike Variant would provide the same number of new residential units as the proposed project (744 units) and approximately 20,000 more gross square footage than the project. According to LHIA, the Lookalike Variant would be constructed in less than four years. LHIA also states that the Lookalike Variant utilizes approximately 90 percent of the project sponsor's proposed buildings, designs, and locations. As described, the Lookalike Variant would: 1) convert the interior of the main building to residential use and retain the existing 1,500-gross-squre-foot (gsf) café, 11,500-gsf childcare center, and 5,000-gsf office space; and 2) construct three new residential buildings (Plaza A, Plaza B, and Walnut buildings) along California Street, the new Mayfair building near the intersection of Mayfair Drive and Laurel Street, five new townhomes along Laurel Street, and the new Euclid building along Euclid Avenue. The proposed Masonic Building included in the proposed project would not be constructed in the Lookalike Variant. The Walnut Building would be 7-stories-tall and its footprint would be expanded to include a triangular area next to the SF Fire Credit Union, whereas the Walnut Building would be 6-stories-tall in the proposed project. The Euclid Building would be 35,000 gsf smaller than what is proposed under the project, and it would be configured differently in that it would include a 30-foot setback from Euclid Green compared to the project. Under the Lookalike Variant, the childcare facility would be located in Center Building B instead of in the Walnut Building, as proposed in the project, with an outdoor play area directly south of the existing structure. The Lookalike Variant would not include retail uses.

LHIA states that the Lookalike Variant would include approximately two levels of parking in a single new underground parking garage. LHIA letter does not specify the number of parking spaces that would be provided in the Lookalike Variant. The Lookalike Variant would include a new first-floor-level, 15-foot-tall (at level one), 20-foot-wide Walnut passage, which would run through the first floor of the main building, opening up into a 35-foot-wide, 75-foot-long landscaped center court mid-building (approximately at 35 feet into the building) and leading onto the Walnut Walk alongside Eckbo Terrace and onto Masonic Avenue.

The Lookalike Variant is considerably similar to Alternative E: Partial Preservation – Residential Alternative analyzed in the EIR. See Exhibit A attached, which provides the site plans for Alternative E and the LHIA Lookalike Variant for comparison. Specifically, the Lookalike Variant and Alternative E would: 1) modify the existing main building by removing the south wing and the northern extension of the east wing and convert it to residential use; 2) construct three buildings along California Street; 3) reduce the size of Euclid building by removing the south side of the building (reduction of approximately 35,000 gross square feet compared to the proposed project) to retain the landscape features located at the southeast portion of the site; and 4) construct the five Laurel Duplexes, similar to the proposed project and Alternative E, which would construct seven duplexes on Laurel Street. Two fewer duplexes would enable a larger Euclid Green under the Lookalike Variant. As stated, the Masonic Building would not be constructed under either Alternative E or the Lookalike Variant.

The Lookalike Variant would not reduce the historic resource impact to a less-than-significant level; like Alternative E, the Lookalike Variant would be a partial preservation alternative. Similar to Alternative E, the Lookalike Variant would not fully conform to the Secretary of the Interior's Standards, and it would materially impair the physical characteristics of the historic resource that justify the resource's inclusion in the California Register of Historical Resources. Similar to Alternative E, the Lookalike Variant would alter the existing office building and result in loss of the historic landscaped open space on the project site. In addition, similar to Alternative E, the Lookalike Variant would alter the most prominent views of the project site from the east on Pine Street and from the south on Masonic Avenue. The minor modifications proposed in the Lookalike Variant, such as the removal of two Laurel Duplexes closest to Euclid Green or the additional size added to the Walnut building, would not make it considerably different from Alternative E.

As discussed on EIR pp. 6.148-6.151, the EIR concludes that Alternative E would reduce the magnitude of the historic resources impact compared to the proposed project or project variant, but not to a less-than-significant level. This is because Alternative E would, on balance, materially alter the physical characteristics of the project site that convey its historic significance. For the reasons above, the Lookalike Variant would reduce but not eliminate the significant and unavoidable historic resource impact.

Further, the Lookalike Variant would not achieve some of the key project objectives. First, due to the size and location of the uses presented in the Lookalike Variant, the alternative would not satisfy the primary objectives of the proposed project or project variant to create a "high quality, walkable, mixed-use community within the project site that connects with and complements the existing neighborhood commercial uses." The Lookalike Variant would contain only a very small amount of non-residential uses, and those uses would be "hidden" within the main building and not be visible from the nearby streets. Unlike the Lookalike Variant, Alternative E would meet this objective by providing a mix of uses (except for the office use) similar to that of the proposed project, and would provide retail uses along California Street, where they would be accessible to the general public and visually connected to the retail uses on California Street on either side of the project site. In addition, the Lookalike Variant would only partially meet the objective of opening and connecting the site to the surrounding community by extending the neighborhood urban pattern because it would not provide a north-south connection similar to Walnut Walk as proposed under the proposed project, which is a fully open connection. With only a 15-foot-tall and 20-foot-wide opening at level one (15 feet high), the main building would still create a visual barrier in the north-south direction. Finally, unlike the proposed project, the Lookalike Variant would not help turn Masonic Avenue into a neighborhood street, as opposed to an arterial street, because the Lookalike Variant would not construct the Masonic building which would contribute to the creation of neighborhood-friendly space by providing stoops for residential units along its building frontage.

Thus, the Lookalike Variant is not considerably different from Alternative E included in the EIR and would not eliminate the project's significant and unavoidable historic resource impact.

2. **In Letter 1, item 1: LHIA requests the Commission consider a variant to alternatives previously submitted on January 8, 2019, the Community Full Preservation Alternative Variant 2 (Community Variant 2). However, this alternative is considerably similar o Alternative D: Partial Preservation – Office Alternative analyzed in the EIR, except for the proposed use in the main office building.**

LHIA states that the Community Variant 2 would provide the same number of new residential units as the project (744 units) and would be constructed in less than four years. According to LHIA, the Community Variant 2 would: 1) convert the interior of the main building to residential use and retain the existing 1,500-gsf café, 11,500-gsf childcare center, and 5,000-gsf office space; and 2) construct three new residential buildings (California Front, California Back, and Walnut buildings) along California Street, the new Mayfair building near the intersection of Mayfair Drive and Laurel Street, five new townhomes along Laurel Street, and the new Euclid building along Euclid Avenue. The proposed Masonic Building included in the proposed project would not be constructed in the Community Variant 2. The Community Variant 2 would not include retail uses.

The Community Variant 2 would include an approximately two-level, underground parking garage along California Street and a total of approximately 558 on-site parking spaces. The Community Variant 2 would include a new first-floor-level, 15-foot-tall (at level one), 20-foot-wide Walnut passage, which would run through the first floor of the main building, opening up into a 35-foot-wide, 75-foot-long landscaped center court mid-building (approximately at 35 feet into the building) and leading onto the Walnut Walk alongside Eckbo Terrace and onto Masonic Avenue.

The Community Variant 2 is physically similar to Alternative D: Partial Preservation – Office Alternative that is analyzed in the EIR to address the proposed project's significant historic resource impacts. See Exhibit B attached, which compares the site plans for Alternative D and Community Variant 2. Specifically, like Alternative D, the Community Variant 2 would: 1) modify the existing building by demolishing the northerly extension of the east wing and adding a one-story addition; and 2) allow for the construction of buildings along California Street including a larger Walnut building (larger than under the proposed project or Alternative D), a Mayfair building, and five Laurel Duplexes along Laurel Street. Community Variant 2 would not include construction of a Masonic building. Unlike Alternative D which would retain office use in the existing office building, the Community Variant 2 would convert the remaining building to residential use. However, the massing and footprint of the structures on site under the Community Variant 2 would be physically similar to those under Alternative D.

As discussed on EIR pp. 6.113-6.115, the EIR concludes that Alternative D would reduce the magnitude of the historic resource impact compared to the proposed project or project variant, but not to a less-than-significant level. While Alternative D would retain most of the office building's character-defining features, it would demolish elements of the historic landscape on the northern and western areas of the site as well as portions of the brick perimeter wall and integrated planters along California and Laurel Streets. Prominent views of the site from east on Pine Street and from the south on Masonic and Presidio avenues would be preserved, but the

view through the project site from Laurel Street would be altered with new development. Therefore, Alternative D would, on balance, materially alter the physical characteristics of the project site that convey its historic and architectural significance and is considered a partial preservation alternative.

Similar to Alternative D, the Community Variant 2 would not reduce the project or project variant's historic resources impacts to a less-than-significant level for several reasons. Like Alternative D, the Community Variant 2 would minimally alter the existing office building, but it would result in loss of elements of the historic landscape on the project site that convey its historic and architectural significance and that justify its inclusion in the California Register. In addition, similar to Alternative D, the Community Variant 2 would alter one prominent view of the project site from the west on Laurel Street, while maintaining two other views, from the east on Pine Street and from the south on Masonic Avenue. Given the physical similarities between Alternative D and the Community Variant 2, the impacts to historic architectural resources from the Community Variant 2 would be the same and as stated in the EIR on p. 6.115. The historic resource impact, although reduced, would remain significant and unavoidable.

Further, the Community Variant 2 would not achieve some of the key project objectives. First, due to the size and location of the uses presented in the Community Variant 2, the alternative would not satisfy the primary objectives of the proposed project or project variant to create a "high quality, walkable, mixed-use community within the project site that connects with and complements the existing neighborhood commercial uses." Alternative D would partially meet this objective by redeveloping the project site to a lesser degree than the proposed project. Similarly, Community Variant 2 would contain only a very small amount of non-residential uses, and those uses would be "hidden" within the main building and not be visible from the nearby streets. In addition, the Community Variant 2 would only partially meet the objective of opening and connecting the site to the surrounding community by extending the neighborhood urban pattern, because it would not provide a north-south connection similar to Walnut Walk as proposed under the proposed project, which is a fully open connection. With only a 15-foot-tall and 20-foot-wide opening at level one (15 feet high), the Community Variant 2 would continue to create a visual barrier in the north-south direction. Alternative D would partially meet this objective because it would provide only Mayfair Walk and not Walnut Walk, which is an open, north-south connection on the project site. Finally, unlike the proposed project, the Community Variant 2 would not help turn Masonic Avenue into a neighborhood street, as opposed to an arterial street, because the Community Variant 2 would not construct the Masonic building which would contribute to the creation of neighborhood-friendly space by providing stoops for residential units along its building frontage.

Thus, the Community Variant 2 is not considerably different from Alternative D included in the EIR and would not eliminate the significant and unavoidable historic resource impact.

**3. In Letter 1, item 3, LHIA states the EIR is inadequate because it does not include an alternative with 744 units.**

As discussed on pages 5.H.54 through 5.H.67 of the Responses to Comments document, the department has determined that the LHIA's Community Full Preservation Alternative Variant (referred to as the LHIA Variant in the EIR) submitted on January 8, 2019 is not required to be included as an alternative in the EIR for several reasons. First, the LHIA Variant is considerably similar to Alternative C in the EIR in that the LHIA Variant would avoid the proposed project's significant impacts on the historic architectural character of the existing office building and loss of prominent primary views of character-defining features of the site from Presidio Avenue, Masonic Avenue, and Pine Street that would occur with the proposed project. Second, the LHIA Variant would not attain several of the objectives of the proposed project, including that the project proposes to create a mixed-use development that encourages walkability and convenience by providing a substantial mix of uses. Finally, licensed architects at the department of public works, bureau of architecture, determined that the LHIA Variant could not be constructed as described in the LHIA's January 8, 2019 letter. The public works' analysis concluded that the LHIA Variant could provide only up to approximately 576 residential units, and 323 parking spaces without additional excavation. In addition, the LHIA Variant would not be able to meet the unit mix requirements in the Planning Code section 207.7. Therefore, the department determined that the LHIA Variant is considerably similar to Alternative C. In addition, the public works review and analysis further support not including the alternative as an EIR alternative, although it is discussed in the RTC.

With Letter 2, the LHIA has supplemented and clarified information regarding the LHIA Variant. This information does not alter the overall conclusion the department reached as discussed in more detail in item 4 below.

As discussed in items 1 and 2 above, even if it were possible for the Lookalike Variant and Community Variant 2 to include 744 residential units, neither one of these alternatives would reduce the project's significant historic resource impacts to a less-than-significant level. This is because these alternatives would alter the existing on-site structure and landscape in a manner that would impair the property's ability to convey its historic significance as a Mid-Century Modern corporate campus, similar to Alternatives D and E.

CEQA does not require that an EIR analyze an alternative that would provide exactly the same number of units as the project, and does not require that an EIR analyze every conceivable alternative. The EIR analyzed six alternatives including the No Project alternative. The alternatives studied in the EIR were developed to reduce or avoid significant and unavoidable impacts of the project, particularly the project's historic resource impact, while achieving most of the basic project objectives. Thus, the EIR includes a reasonable range of alternatives, is adequate, and is not required to analyze an alternative that would provide 744 residential units under CEQA.

## San Francisco Public Works Analysis

**4. In Letter 2, LHIA clarifies, supplements, and modifies its discussion of the LHIA Alternative and its variant submitted January 8, 2019. However, the supplemental information does not alter the department's determination that these community-proposed alternatives are considerably similar to Alternative C in the EIR. In addition, Public Works' analysis finds these alternatives are not physically feasible.**

As discussed in Response AL-2 on Responses to Comments (RTC) pages 5.H.54 to 5.H.69, the department reviewed and considered the LHIA Alternative and its variant. Most attachments to supplemental Letter 2 consist of information previously submitted by LHIA and already considered and analyzed by San Francisco Public Works as part of the RTC analysis. New information provided in the August 28, 2019 letters includes Exhibit F to Letter 1, Preservation Alternative – Feasibility Evaluation prepared by TreanorHL and dated August 20, 2019 and Exhibit 4 to Letter 2, Calculation of Residential Square Footage. Public Works has preliminarily reviewed the supplemental information and determined that it does not alter the prior conclusion summarized in Response AL-2 in the RTC. In addition, Public Works offers the following comments.[2]

a) The passageway proposed to be constructed through the existing main building may require stairs and an elevator due to an existing two-story grade difference from the north side of the building to the terrace. If this passageway were located further east, then the one-story grade difference would still require stairs and an elevator.

b) The Feasibility Evaluation (Exhibit F to Letter 1) shows that the existing main building incudes 362,300 gross square feet and 253,610 net square feet at 70-percent efficiency. As discussed in the August 15, 2019 Public Works letter, the existing office building includes 458,259 gross square feet. After subtracting areas for parking, the auditorium, childcare, café and elevator shafts, there is 271,154 usable square feet for residential use, which is the amount that the efficiency percentage should have applied to and not 362,300. Rather than using an efficiency factor, Public Works analyzed the CAD[3] files for more accurate estimates and subtracted 91,090 square feet for corridors and all areas more than 50 feet from windows, resulting in 180,064 square feet for residential units based on analysis of the CAD files for the building. At 798 square foot average unit size per community alternative, there would be 226 units.

c) In calculating the unit breakdown in the existing main building, TreanorHL appears to have used only square footage available in the building without accounting for unit

[2] San Francisco Public Works, *Email from Vito Vanoni, AIA, Senior Architect & Technical Manager, to Kei Zushi, San Francisco Planning Department*, Comments on TreanorHL's August 20, 2019 Preservation Alternatives - Feasibility Evaluation, September 4, 2019.

[3] CAD stands for computer-aided design and refers to software used in art and architecture and engineering and manufacturing to assist in precision drawing.

configuration. The depth of the building is an important factor in the analysis that TreanorHL did not appear to consider. Due to the 144-foot depth of the main portion of the building, an overwhelming majority of units would be too narrow for 1-bedroom, 2-bedroom or 3-bedroom units; most units would be studios or junior 1-bedrooms.

d) Adding two lightwells at all floors in the existing main building may not be feasible due to conflicts with existing structural shear elements. The western light court proposed by LHIA in the main building may not be possible because the area appears to have shear walls at all four sides on all floor levels. The eastern light court proposed in the main building may be possible only at top two floors because there appear to be structural shear elements on all four sides at the lower levels.

e) Richard Frisbie states in Exhibit O to Letter 1 that two adjacent flats in the California Front and Back buildings would share one elevator, one mechanical shaft, and one common stairway. The 6 California Back buildings less than 55 feet deep would still have efficiencies less than 50% which may not be feasible. In addition, there would still be 14 elevators and 14 stairs extending into parking which reduces the efficiency of the single-story parking.

f) In calculating the number of residential units that can be provided in the California Front and Back buildings, TreanorHL uses 85-percent efficiency. The 85-percent efficiency is unrealistic because it may account for horizontal circulation but it would not account for the thickness of exterior walls, stairways, elevators, elevator control rooms, mechanical shafts, corridors, trash rooms, and ground floor entry lobbies, which under industry standards should not be included in calculating the usable residential space.

The clarification and supplemental information provided in the August 28, 2019 letters regarding the number of elevators and stairs in the California Front and Back buildings in the LHIA Alternative would increase the available space for residential units and for parking spaces in the underground garage, but not such that the number of units or parking spaces provided would vary substantially from the Public Works' conclusion in its August 15, 2019 letter. Public Works found that the largest shortfall in LHIA Alternative's estimated number of units would be within the existing main building due primarily to portions of the first and second floor being below grade and thus unable to accommodate residential units. With respect to LHIA's assertions regarding efficiency metrics used, Public Works' use of 70- to 74-percent efficiency is based on industry standards, and the sources of the expertise cited in Exhibit O to Letter 1 are unclear. For these reasons, the Public Works' analysis constitutes substantial evidence to support a conclusion that the LHIA Alternative and its variant are not physically feasible, and the August 28, 2019 commenter letters do not change this conclusion.[4]

[4] San Francisco Public Works, *Email from Vito Vanoni, AIA, Senior Architect & Technical Manager, to Kei Zushi, San Francisco Planning Department*, Comments on TreanorHL's August 20, 2019 Preservation Alternatives - Feasibility Evaluation, September 4, 2019.

## Transportation, Air Quality, and Noise

5. **Letter 1, item 2: The EIR adequately analyzes the physical environmental effects of the proposed project including transportation, air quality, and noise impacts associated with flexible retail use under CEQA. The EIR analysis covers the zoning provisions in the Special Use District (SUD), including the allowable flexible retail and social service or philanthropic facility uses.**

**Transportation**
The EIR assesses the impacts from a range of uses. The commenter does not provide any evidence that flexible retail and social service or philanthropic facilities uses would likely result in an increase in vehicle trips than the proposed uses described in the EIR.

When discussing retail uses for projects generally, including the proposed project, at the time environmental review begins the project sponsor typically does not know all future retail tenants who would occupy the proposed buildings. Therefore, the department provides different trip generation rates for different types of retail to capture the potential impacts of projects. This approach yields conservative (more impactful) trip generation rates. The rates are based on empirical data collection.

The draft EIR analyzed 54,117 square feet of retail for the proposed project, consisting of three different types: retail, sit-down restaurant, and composite restaurant. Table 1 shows the size of retail and associated rates and person trips used in the draft EIR.

**Table 1**

| **Retail Type** | **Size (square feet)** | **Person Trip Generation Rate per 1,000 square feet** | **Total Person Trips** |
|---|---|---|---|
| Retail | 40,004 | 150 | 6,000 |
| Sit-down restaurant | 4,287 | 200 | 857 |
| Composite restaurant | 9,826 | 600 | 5,896 |
| **TOTAL** | **54,117** | **n/a** | **12,753** |

Source: Draft EIR, Appendix D, Travel Demand Memorandum, Tables 4 and 5

The rates are per 1,000 square feet of space. They are not calculated based on the number of businesses within the space as suggested by the commenter. As a space becomes larger, it can accommodate more employees and visitors. Therefore, a 1,000-square-foot space with one business would be estimated to have the same number of person trips as a 1,000-square-foot space with two businesses, like in a flexible retail use setting.

Second, no substantial evidence exists that a social service or philanthropic community use would generate more trips per square feet than the retail types listed in the EIR. The planning code

defines this type of use as an "Institutional Community Use providing assistance of a charitable or public service nature, and not of a profit-making or commercial nature." The planning code defines an Institutional Community Use as a "subcategory of Institutional Uses that includes Child Care Facility, Community Facility, Private Community Facility, Job Training, Philanthropic Administrative Services, Religious Institution, Social Service or Philanthropic Facility, and Public Facility." Table 2 lists the person trip generation rates that the department used in environmental review documents for types of uses within this category. All rates are well below the lowest retail person trip generation rates shown in Table 1.

**Table 2**

| **Retail Type** | **Person Trip Generation Rate per 1,000 square feet** | **Source** |
|---|---|---|
| Child Care Facility | 67 | 3333 California Draft EIR, Appendix D, Travel Demand Memorandum, Table 4 for Daycare Center |
| Community Facility | 23 | Potrero Hope SF EIR, Appendix 4.7A, Table 3-1[5] |
| Religious Institution | 34 | 950 Gough Street TIS, Table 10[6] |

Lastly, the project sponsor seeks approval for approximately 35,000 square feet or approximately 19,000 square feet less than that studied in the draft EIR. Thus, even if flexible retail and social service or philanthropic community uses would have a higher trip generation *rate* than the retail types listed in the EIR, which is speculative, the total person trips generated from these retail types would not be higher than the person trip amounts studied in the EIR.[7]

All other transportation-related comments are summaries of prior comments and are addressed in the Responses to Comments document.

**Noise and Air Quality**

The estimated trip generation informs the analysis of a project's operational air quality and noise impacts. As discussed above, the transportation impact analysis for the proposed project used appropriate transportation generation rates. Thus, the EIR adequately analyzes the project's operational impacts with respect to noise and air quality.

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[5] CDM Smith, Potrero HOPE Transportation Study, Draft #4, Case No. 2010.0515!, October 11, 2012, http://sfmea.sfplanning.org/Potrero%20Hill%20FEIR%20-%20Appendix%204.7.pdf, accessed September 4, 2019.

[6] CHS Consulting Group, Transportation Impact Study – Final Report for 950 Gough Street Project, Prepared for City and County of San Francisco Planning Department, Case No. 2012.0506!, April 25, 2014.

[7] The remaining 35,000 square feet of retail would need an average generation rate of approximately 364 person trips per 1,000 square feet to exceed the total number of retail person trips studied in the EIR. This is over 2 times the general retail rate. 35,000 square feet/12,753 person trips = 364 person trips per 1,000 square feet.

## Other CEQA Issues

**6. Letter 1, item 5: The comment states the EIR failed to describe the project's inconsistency with San Francisco General Plan as to preservation of historical resources and neighborhood character.**

An EIR is required to discuss inconsistencies between the project and applicable general plan, specific plan, and regional plans. The project or variant's potential inconsistencies are described in Chapter 3 of the EIR, starting on page 3.1.

**7. Letter 1, item 6: The Planning Department correctly applied the Secretary of the Interior's Standards to the project under CEQA.**

The comment states that the department failed to appropriately apply Planning Department's Bulletin No. 21 and the Secretary of the Interior's Standards to the project during project design. The comment is incorrect. The department determined the project site is a historic resource and conducted CEQA as required given the historic resource determination. Department preservation staff directed that an analysis of project impacts to historic resources should be evaluated, determined that there would be a significant an unavoidable impact, and oversaw development and analysis of full and partial preservation alternatives which were fully disclosed in the EIR.

**8. Letter 1, item 9: The EIR adequately analyzes the project's impacts with respect to greenhouse gas emissions under CEQA.**

The EIR adequately analyzes the project's impacts with respect to greenhouse gas emissions under CEQA as provided in the initial study attached as Exhibit B to the EIR. The City's use of a qualitative threshold for greenhouse gas analysis for CEQA is supported by substantial evidence and was upheld *Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 150. Certification of a project as an Environmental Leadership Development Project (or an AB 900 project) pursuant to Chapter 6.5 of CEQA requires that the project not result in net new greenhouse gas emissions. The state has determined that this requirement will be met for this project.[8] The greenhouse gas emissions analysis pursuant to AB 900 certification is a separate analysis from that conducted for CEQA. The comments in the August 28, 2019 letter do not raise different issues from those addressed in Responses GHG-1 Methodology, GHG-2 Accuracy of GHG Calculations, or GHG-3 General GHG Concerns on pages 5.J.7 to 5.J.43.

**9. Letter 1, item 10: The EIR accurately analyzes the project's and project variant's inconsistencies with current zoning controls.**

The EIR analyzes the physical environmental effects of the project and/or its variant. To the extent that the project or variant is inconsistent with current zoning controls, those inconsistencies are

[8] On January 30, 2019, the California Air Resources Board (CARB) issued Executive Order G-18-101 determining that the proposed project or project variant would not result in any net additional GHGs with payment of offsets for purposes of certification under AB 900.

identified in Chapter 3 of the EIR, and public comments received on that chapter are address in the RTC on pages 5.C.1 to 5.C.27.

## Other Issues

The EIR analyzes the physical environmental effects of the project and/or its variant in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. The construction phasing and duration were accounted for in background technical reports prepared for the environmental review of this project.

## Conclusion

As stated above under CEQA Guidelines section 15207, the department need not respond to late comments on an EIR. Nevertheless, the department responded to the comments submitted one week ago. Based on the above information, the letters submitted by LHIA on August 28, 2019 do not raise any issues that have not been analyzed in the Final EIR, nor would they require consideration of additional alternatives to the project.

# Exhibit A: Comparison of Alternative E and LHIA Lookalike Variant

**Alternative E: Partial Preservation – Residential Alternative**

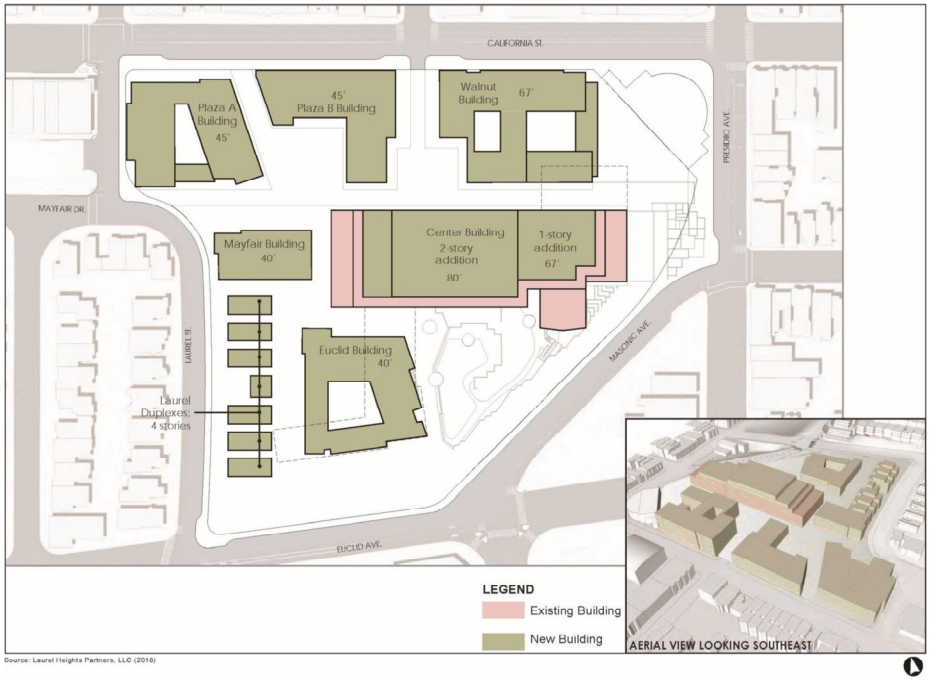


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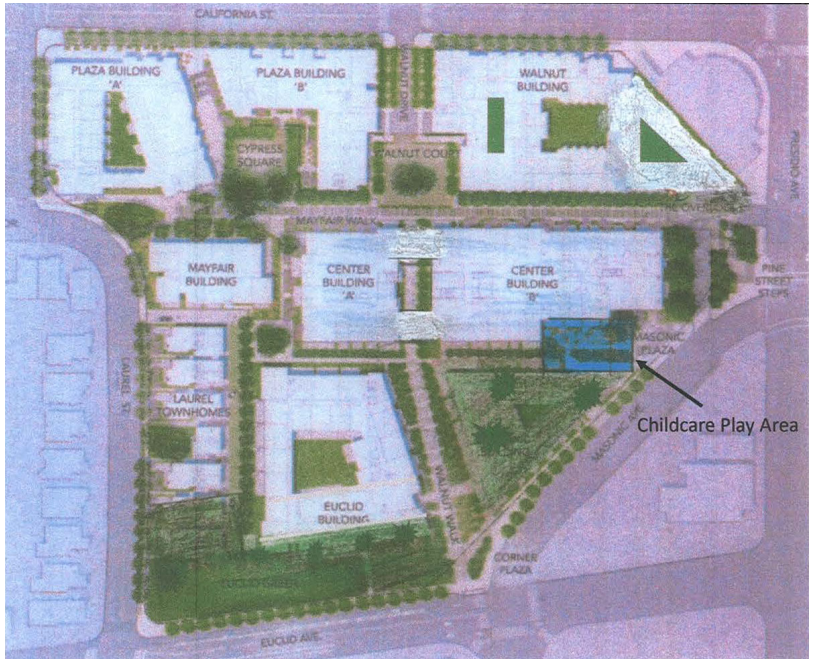
FIGURE 6.11: ALTERNATIVE E: PARTIAL PRESERVATION - RESIDENTIAL ALTERNATIVE SITE PLAN

**LHIA Lookalike Variant**



# Exhibit B: Comparison of Alternative D and LHIA Variant 2

**Alternative D: Partial Preservation – Office Alternative**

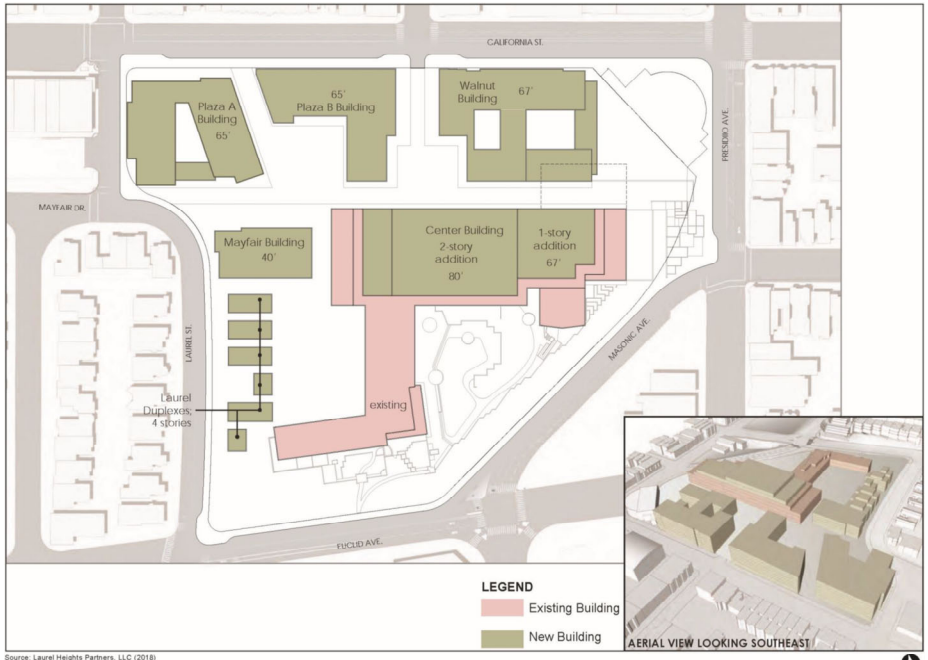



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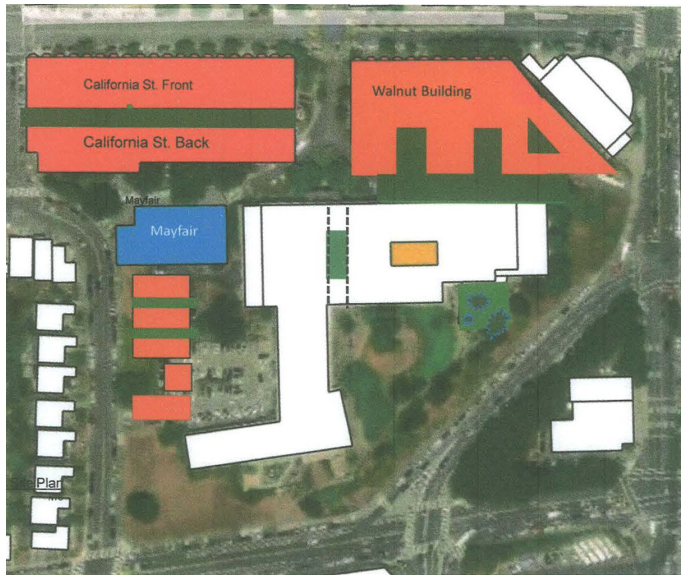
FIGURE 6.8: ALTERNATIVE D: PARTIAL PRESERVATION - OFFICE ALTERNATIVE SITE PLAN

**LHIA Variant 2**



# Attachment B

## Shadow Analysis Excerpt from 2015-014028ENV Initial Study for 3333 California Street Mixed Use Project

conditions on the proposed Euclid Green would not be substantially affected by the proposed development.

**Impact C-WS-1: The proposed project or project variant, in combination with past, present, and reasonably foreseeable future projects in the project site vicinity, would not result in a cumulatively considerable contribution to cumulative wind impacts. (*Less than Significant*)**

As discussed above under Impact WS-1, wind impacts of the proposed project or project variant are not expected to exceed the city's wind hazard criterion at any location. Wind from past, present, and reasonably foreseeable future projects within the project vicinity (see Section B, Project Setting, and Figure 36, pp. 94-99) has no potential to combine with wind impacts of the proposed project or project variant to result in a significant cumulative wind impact on public areas due to these projects' scale, distance from the project site, and/or the nature of the foreseeable project (e.g., transportation improvement projects that would have no impact related to wind under CEQA). Accordingly, no significant cumulative wind impact is anticipated to which the proposed project or project variant, and the other identified cumulative projects in the vicinity could contribute. No mitigation is necessary. This topic will not be discussed in the EIR.

**Impact WS-2: The proposed project or project variant would not create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas. (*Less than Significant*)**

This subsection discusses the shadow impacts of the proposed project and project variant on outdoor recreation facilities and other public areas in the vicinity of the project site.

**Approach to Analysis**

The threshold for determining the significance of shadow impacts under CEQA is whether the proposed project or project variant would create new shadow in a manner that substantially affects the use and enjoyment of outdoor recreation facilities or other public areas. The analysis of shadow impacts takes into account usage of the open space; time of day and year of project shadow; physical layout and facilities affected; the intensity, size, shape, and location of the shadow; and the proportion of open space affected.

To evaluate the impact of the proposed project or project variant on outdoor public areas, a shadow modeling study was completed using a 3D computer model of the proposed project and project variant, existing and proposed parks, and the existing urban environment to simulate levels of shading from one hour after sunrise through one hour before sunset on four representative times of year: the winter solstice (when sun is the lowest in the sky and shadows are the longest at any given time of day), the spring/fall equinox (shadow on spring equinox behaves identically to that on the

fall equinox), and the summer solstice (the longest day of the year, when the sun is highest in the sky and shadows are the shortest at any given time of day).[132]

For the layout of the proposed new and adaptively reused buildings, see Figure 3 (proposed project) and Figure 32 (project variant), pp. 5 and 83. For elevations and views of the proposed new development see Figures 4 through 21 on pp. 18-20, 25-31, 34, 37, 38, 40, 43, 45, 47, and 49 for the proposed project and Figure 33, p. 84, for the project variant (Walnut Building only).

Shadow from the proposed project would be ephemeral over the course of a day[133] and year[134] and would generally move from west to east in a clockwise sweep radiating from the project site. Figure 37: Extent of Net New Project Shadow Throughout the Day and Year illustrates areas that would be shaded at some point during the day over the course of the year. White unbuilt open areas, such as backyards, on this figure represent areas that would not be shaded by the proposed project at any time during the day (one hour after sunrise and one hour before sunset) due to shadow from existing structures, or represent areas that are outside of the maximum reach of project shadow. The darker areas on the figure would be frequently shaded by the proposed project while lighter areas would be less frequently shaded, and the lightest areas would be occasionally shaded.

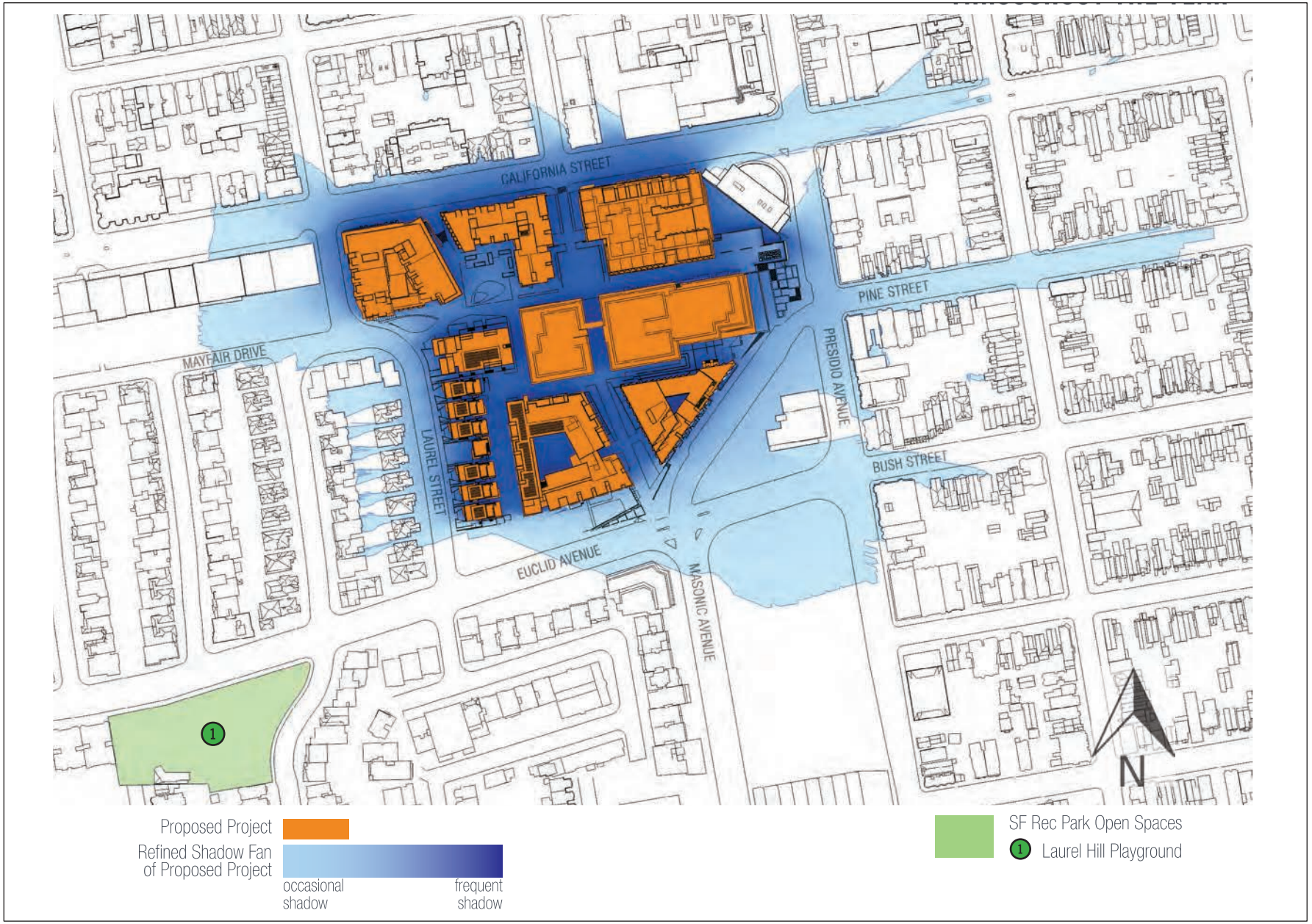
**Recreation and Park Department Properties**

Planning Code section 295 generally prohibits new structures over 40 feet in height that would cast additional shadows on open space that is under the jurisdiction of the San Francisco Recreation and Park Commission between one hour after sunrise and one hour before sunset, at any time of the year, unless that shadow would not result in a significant adverse effect on the use of the open space.

[132] PreVision Design, Shadow Analysis Report for the Proposed 3333 California Street Mixed-Use Project Per SF Planning Code Section 295 and CEQA Standard, November 3, 2017.

[133] Throughout a day, shadows of objects on the surface of the earth move in the opposite direction from the position of the sun in the sky (relative to the earth). Shadows are longest at sunrise and sunset when the sun is lowest in the sky and shortest at midday when the sun is highest in the sky. At sunrise, when the sun is in the eastern sky, shadows point westward. As the morning progresses, shadows sweep eastward while growing shorter as the sun appears to travel westward while rising in the sky. At midday shadows point northward and are at their shortest. From midday, shadow continues to sweep eastward while growing longer through the afternoon and into the early evening until sunset.

[134] Project shadow to the northwest of the project site represents shadow in the morning around the winter solstice. Project shadow to the north of the project site represents shadow around midday with the longest shadow around the winter solstice, and the shortest shadow around the summer solstice. Project shadow to the northeast of the project site represents project shadow in the late afternoon around the winter solstice. Project shadow to the west and east of the project site represent project shadow in the morning and early evening, respectively, at the spring and summer equinoxes. Project shadow to the southwest of the project site represent shadow in the early morning around the summer solstice.




Source: Prevision Design (2017)

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**FIGURE 37: EXTENT OF NET NEW PROJECT SHADOW THROUGHOUT THE DAY AND YEAR**

Laurel Hill Playground is the nearest San Francisco Recreation and Park Commission property to the project site. It is a 1.42-acre (61,768-square-foot) urban park, located about 370 feet to the southwest of the project site along the south side of Euclid Avenue. The proposed project or project variant would not create any new shadow on this park at any time throughout the year. There are no other San Francisco Recreation and Park Commission properties that are within, or near, the potential reach of shadow under the proposed project or project variant. For these reasons, the proposed project or project variant would have a less-than-significant shadow impact on San Francisco Recreation and Park Commission property, and no mitigation measures are necessary.

In addition, there are no other public parks or open spaces owned by other city agencies that are within, or near, the potential reach of shadow under the proposed project or project variant. Thus, the proposed project or project variant would have a less-than-significant shadow impact on public parks or open spaces, and no mitigation measures are necessary.

**Nearby Streets and Sidewalks**

The proposed project or project variant would create new shadow on nearby streets and sidewalks at times of day and year when these areas would not already be shaded by existing buildings in the area.

Around the winter solstice, during the early- and mid-morning hours the proposed project or project variant would shade Laurel Street to the west of the project site. During the early morning through late afternoon, the proposed project or project variant would shade California Street north of the project site. During the mid-afternoon until one hour before sunset, the proposed project or project variant would shade Presidio Avenue, Pine Street, and Euclid Avenue east of the project site.

Around the spring and fall equinoxes, during the early-morning hours the proposed project or project variant would shade Laurel Street to the west of the project site and California Street north of the project site. By mid-morning through midday, project shadow would retreat to the east sidewalk of Laurel Street and the southern side of California Street. By late afternoon, shadow would retreat to the south sidewalk of California Street and would shade Presidio Avenue, Pine Street, and Euclid Avenue to the east of the project site until one hour before sunset.

Around the summer solstice, during the early-morning hours, the proposed project or project variant would shade Laurel Street to the west of the project site and the south sidewalk of California Street north of the project site. By mid-morning through midday, project shadow would retreat to the east sidewalk of Laurel Street and would continue to shade the south sidewalk of California Street until late afternoon. By late afternoon project shadow would begin to shade Euclid Avenue, Pine Street, and Presidio Avenue east of the project site, advancing further eastward and southward until one hour before sunset. Under the project variant, the impact of shadow on nearby streets and sidewalls would be similar to that described for the proposed project except that, due to the increased height of the Walnut Building under the project variant, the potential reach of Walnut Building shadow

would be proportionately greater than that of the proposed project (67 feet tall, or 22 feet taller than the 45-foot-tall Walnut Building under the proposed project). At any time during the day or year, the potential reach of the Walnut Building's shadow under the project variant would be about 50 percent longer than that of the Walnut Building under the proposed project.

Shadow from the proposed project or project variant on nearby sidewalks would be transitory in nature. Overall, the proposed project or project variant would not increase the amount of shadow on the sidewalks above levels that are common and generally expected in developed urban environments. For these reasons, the proposed project or project variant would have a less-than-significant shadow impact on the use of streets and sidewalks in the project vicinity, and no mitigation measures are necessary.

**Conclusion**

As discussed above, the proposed project or project variant would not create new shadow that substantially affects existing outdoor recreation facilities or other public areas. This impact would be less than significant, and no mitigation is necessary. This topic will not be discussed in the EIR.

Impacts of the proposed project's or project variant's shadow on existing open space currently open to the public, on proposed new common open space within the project site that would be open to the public, and on privately owned, privately accessible open spaces are discussed below for informational purposes.

**Existing Open Space Currently Open to the Public**

At the perimeter of the project site there are two existing open green spaces to which UCSF currently grants public access. One is at the corner of Euclid Avenue and Laurel Street (proposed Euclid Green), extending eastward along Euclid Avenue. The other is located just north of the Masonic Avenue, Presidio Avenue, and Pine Street intersection (proposed Presidio Overlook and Pine Street Steps and Plaza). As stated above, these spaces are not formally designated parks or open spaces although they are used informally as open space by the neighborhood. As open spaces within the proposed project or project variant, they are not considered environmental resources that are part of the existing environment for the purposes of CEQA. As such, no shadow analysis is required for the purpose of CEQA, but a description of how conditions within these spaces would change with the proposed project or project variant is provided for informational purposes. Decision-makers may consider the usability and comfort of these spaces independent of the environmental review process under CEQA, as part of the decision to approve, modify, or disapprove the proposed project or project variant.

Under the proposed project and project variant, the proposed Euclid Green would be developed as common open space that would be open to the public. Due to the location of this open space at the southern perimeter of the project site and south of the existing and proposed buildings, shadow on

this area under the proposed project or project variant would be similar to that of the existing open space at this location. The space would remain sunny, or mostly sunny, for most of the day throughout the year. Around the summer solstice (June 21) the proposed project or project variant would cast shadows on this open space in the early morning between 6:45 a.m. and 7 a.m. and again in the late afternoon beginning at about 5 p.m. Around the winter solstice (December 20) there would be no shadow from the proposed project or project variant but the hillside and existing residential building across Euclid Avenue shade this open space in the morning until about 11 a.m. and again in the afternoon beginning at about 3 p.m. Around the fall equinox (September 20) there would be no shadow from the proposed project or project variant but the existing residential buildings across Laurel Street would shade this open space in the early evening beginning at about 6 p.m.

The other existing open green space within the project site to which UCSF currently grants public access is just north of the Masonic Avenue, Presidio Avenue, and Pine Street intersection. Under the proposed project and project variant, this area would be reconfigured to become the publicly accessible Presidio Overlook and Pine Street Steps and Plaza. Due to the location of this open space at the eastern perimeter of the project site east of the existing and proposed buildings, shadow on this area under the proposed project or project variant would be similar overall to that of the existing open space at this location. It would remain sunny from mid-morning through mid-afternoon throughout the year.

**Proposed Common Open Space within the Project Site**

The proposed project or project variant includes construction of a network of proposed new common open spaces, walkways, and plazas within the project site in areas that are not now accessible the public, but would be with implementation of the proposed project or project variant. These proposed areas would be shaded mostly by proposed new buildings for much of the day and year. As open spaces that would be newly developed as part of the proposed project or project variant, they are not considered environmental resources that are part of the existing environment for the purposes of CEQA. Shadow on these spaces would not interfere with any existing recreational use or with any pre-existing expectations for sunlight on these future spaces. No discussion of the proposed project's or project variant's shadow impacts on its proposed common open spaces to be developed as part of the proposed project and project variant and to be available for public use is required under CEQA. However, the decision-makers may consider the usability and comfort of these spaces independent of the environmental review process under CEQA, as part of the decision to approve, modify, or disapprove the proposed project or project variant.

**Privately Owned, Privately Accessible Open Spaces**

Privately owned, privately accessible open spaces include back yards, courtyards, balconies, and roof decks of nearby buildings. A project would be considered to have a significant impact related to the topic of shadow if the project were to "create new shadow in a manner that substantially

affects outdoor recreation facilities or other *public* areas" (emphasis added). Privately owned, privately accessible open spaces are not considered public areas. Shadow on private open spaces and private property, in general, is a common and expected occurrence in a densely populated city such as San Francisco. The proposed project's or project variant's shadow on private open spaces is not considered a significant effect on the environment for the purposes of CEQA. However, the decision-makers may consider special concerns related to shadow, independent of the environmental review process under CEQA, as part of the decision to approve, modify, or disapprove the proposed project or project variant.

The Jewish Community Center of San Francisco (JCCSF) expressed concern about the potential impact of project shadow on its roof deck and courtyard.[135] Based on model testing the proposed project and project variant would at no time cast any net new shadow on the JCCSF's roof deck and courtyard.[136]

**Impact C-WS-2: The proposed project or project variant, in combination with past, present, and reasonably foreseeable future projects in the project site vicinity, would not result in a cumulatively considerable contribution to cumulative shadow impacts. (*Less than Significant*)**

As discussed above under Impact WS-2, shadow from the proposed project or project variant would not reach any offsite publicly accessible recreation facilities or open spaces (other than sidewalks). In addition, shadow from reasonably foreseeable cumulative projects within the project vicinity (see Section B, Project Setting, and Figure 36, pp. 94-99) has no potential to combine with shadow of the proposed project or project variant on offsite recreation facilities due to their distance from the project site and/or the nature of the foreseeable project (e.g., roadway work that would have no impact related to shadow on public open space or other public spaces under CEQA). Accordingly, no significant cumulative shadow impact would result from the cumulative scenario to which both the proposed project or project variant and the other identified cumulative project would contribute.

For these reasons, the proposed project or project variant, in combination with past, present, and reasonably foreseeable future projects in the project vicinity, would not result in a cumulative shadow impact, and no mitigation is necessary. This topic will not be discussed in the EIR.

[135] Salgado, Craig, Chief Operating Officer, Jewish Community Center of San Francisco, letter to Julie Moore, San Francisco Planning Department, Response to Notice of Preparation for 3333 California Street Project, October 20, 2017, p. 2.

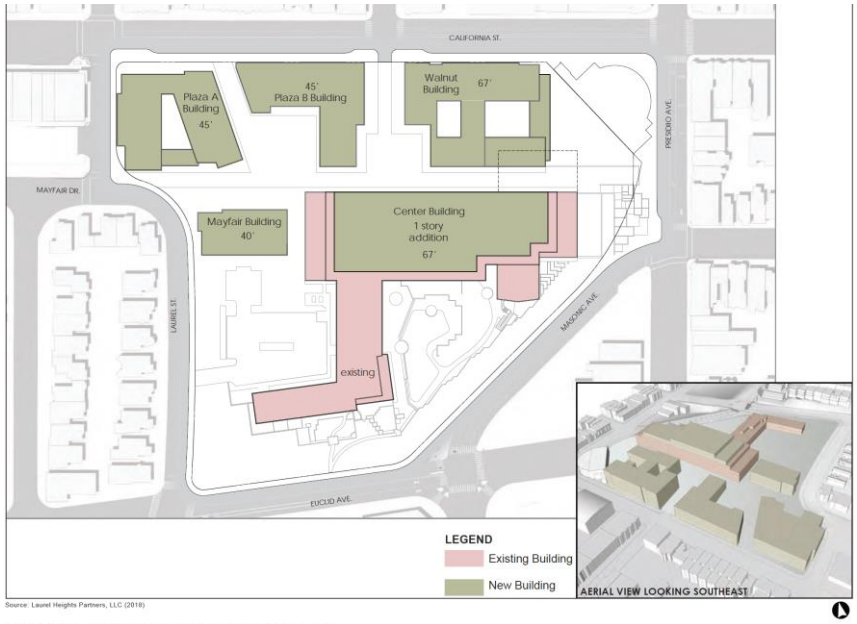
[136] Phillips, Adam, PreVision Design, email correspondence with Peter Alexander Mye, SWCA Environmental Consultants, November 2, 2017.

# Attachment C

## Site Plan Comparison
## EIR Alternative C and LHIA Alternative and Variant

# Attachment C: Site Plan Comparison, EIR Alternative C and LHIA Alternative and Variant

## Alternative C: Full Preservation – Residential Alternative




Source: Laurel Heights Partners, LLC (2018)

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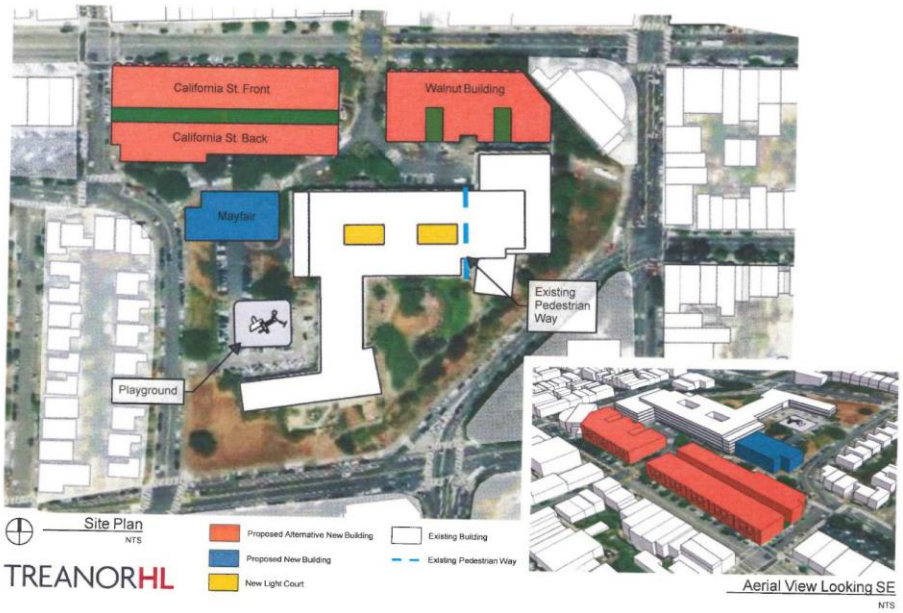
FIGURE 6.5: ALTERNATIVE C: FULL PRESERVATION - RESIDENTIAL ALTERNATIVE SITE PLAN

## LHIA Alternative and Variant*




*The LHIA Variant and LHIA Alternative have the same building footprints. Under the LHIA Variant, the height of the proposed Walnut Building is 67 feet (40 feet under the LHIA Alternative).