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July 23, 2025

Angela Calvillo
Clerk of the Board
Board of Supervisors of the City and County
of San Francisco
1 Dr. Carlton B. Goodlett Place, City Hall,
Room 244
San Francisco, CA 94102-4689

Re: Board File No. 250735, Appeal of 3-Lot Subdivision at 1979 Mission Street

Dear Board of Supervisors:

Our office represents 1979 Mission Street PSH Associates, LP (co-developers Mission Housing Development Corporation and Mission Economic Development Agency), the applicant for the approved affordable housing development at Mission and 16th Street that will construct 136 dwelling units with supportive services to serve vulnerable populations in the neighborhood and City at large. (the "Supportive Housing Project"). The development includes a subdivision of an existing parcel into three parcels, one of which will be occupied by the Supportive Housing Project.

On May 27, 2025, the Planning Department approved the Supportive Housing Project, authorizing the subdivision of 2970 16th Street into three new lots, the demolition of an existing two-story commercial building, and the construction of a new nine-story residential building. The Planning Department approval was in accordance with State laws requiring by-right approval of supportive housing projects in certain residential zones and protecting affordable housing developments from denial on the basis of non-objective criteria, such as concerns about neighborhood character and architectural style that are often weaponized to prevent affordable housing projects.

On June 25, 2025, pursuant to the City's Subdivision Ordinance, the Public Works Department issued a conditional approval of a tentative parcel map subdividing 2970 16th Street into three new lots – a procedural necessity for development of the Supportive Housing Project already approved by the Planning Department. On July 3, 2025, an appeal of Public Work's conditional approval of the tentative parcel map subdividing 2970 16th Street was filed, citing concerns about the Supportive Housing Project's design, the potential for the project to generate excessive traffic, and concerns about impacts on "neighborhood conditions."

The Board of Supervisors must deny this appeal. First and foremost, the purported issues the appeal cites are completely unrelated to the approval of the tentative map, which is solely intended to ensure compliance with the requirements of the City's Subdivision Ordinance. Moreover, even setting aside this disqualifying factor, the Supportive Housing Project's design is

in compliance with applicable City ordinances and applicable objective standards. The Planning Department correctly concluded that the Supportive Housing Project must be approved by right under State law. The Board of Supervisors may not grant the appeal unless the Supportive Housing Project would violate a written, objective and quantifiable public health or safety standard. No such standards are violated here. Even if the underlying project approval could be considered, State law requires the Board of Supervisors to affirm the Planning Department's decision and deny the appeal.

We urge the Board of Supervisors to deny the meritless appeal and ensure that sorely needed housing and supportive programs can move forward.

The Appeal Exceeds the Scope of the Public Works Department's Subdivision Map Approval

The appeal before the Board solely concerns the Public Works Department's approval of a tentative parcel map subdividing 2970 16th Street into three lots. As the Planning Department's July 21, 2025 response to the appeal explains, none of the issues raised by the appeal concern any of the criteria that the Public Works Department or the Planning Department consider in approving a tentative parcel map under the City's subdivision ordinance. Appellants do not contend, for instance, that the parcels created under the tentative parcel map do not conform to any City standards, or that the proposed subdivision map fails to comply with the requirements of local or State law. Instead, the appeal solely addresses aspects of the design of the future supportive housing building and subjective, speculative fears regarding the operation of said building, both of which concern the Planning Department's approval of the *building* on May 27, 2025. Appellants did not appeal the May 27, 2025 approval, and should not be permitted to hijack the subdivision map approval process to air grievances concerning matters that were never under the scope of the Public Works Department's review. The appeal must be denied because it does not raise any alleged deficiencies related to the conditional approval of the tentative parcel map.

The City Cannot Deny a Supportive Housing Project On the Basis of Appellants' Subjective Concerns.

Appellants' failure to raise any issues germane to the Public Works Department's consideration of the tentative parcel map is a sufficient reason for the Board to deny the appeal.

That said, even if the Board were to improperly entertain the issues raised by appellants, State law requires the City to approve the Supportive Housing Project. Under AB 2162 (Gov. Code §§ 65650-65656), all supportive housing projects are subject to streamlined by-right City review. The by-right review process limits the criteria that the City is permitted to consider when reviewing such projects. Under Government Code § 65651(b)(1), the City may only require the Supportive Housing Project to comply with the objective, written development standards and policies that apply to other multifamily development within the same zone. The City's guidelines for implementing AB 2162 clarify that City decisionmakers may not rely on any standards that require personal or subjective judgment in reviewing the Supportive Housing Project. (See Planning Director Bulletin No. 5 (attached)).

The appeal raises subjective concerns and does not identify any objective, written development standards or policies that could legally serve as a basis for denial of the requested project approvals.

While the appeal raises subjective concerns about height, massing, and building footprint, the Planning Department's July 21, 2025 response to the appeal establishes that the proposed building is far below the applicable 105 foot height standard. This is consistent with the Planning Department's findings in its initial May 27, 2025 approval of the Supportive Housing Project, which determines that the Project is in compliance with applicable development standards and policies in the General Plan, Mission Area Plan, and Planning Code. (May 27, 2025 Planning Approval Letter for 2025-002304PRJ at pp. 6-9). The May 27, 2025 Planning Approval Letter also includes findings authorizing the Supportive Housing Project use of State Density Bonus Law to waive development standards relating to building bulk (Planning Code § 270) and alter the rear yard setback requirements. (Planning Code § 134). To the extent appellants are suggesting that use of State Law Density Bonus waivers and concessions render the Supportive Housing Project inconsistent with objective bulk and setback standards, appellants' position is explicitly contrary to the City's guidance on AB 2162 implementation. (See Planning Director Bulletin No. 5 at p. 3 ["Any waivers, concessions, or incentives, conferred through the State Density Bonus Law are considered code-complying, and therefore are consistent with the objective standards of the Planning Code."]). The City's guidance is consistent with State Density Bonus Law requirements, which require the City to waive any development standards that "would physically preclude construction of that project as designed." (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)¹ Similarly, the appellants' discussion of "traffic and parking congestion" does not cite any objective, written development standards that the Supportive Housing Project are not addressed by the Planning Department's approval. Under Planning Code § 151.1, there are, in fact, no required parking space for any residential project in the Mission Street Neighborhood Commercial Transit (NCT) District.² The appellants' unsupported assertion that the Supportive Housing Project "will amplify issues of homeless, drug use, and crime" is not based on any development standard – it is precisely the type of personal or subjective judgment that AB 2162 is designed to remove from the approval process. The pages of cherry-picked articles that appellants have submitted along with their appeal have no bearing on the City's obligation to evaluate the Supportive Housing Project on the basis of objective development standards.

Lastly, appellants request that the City "hold a full environmental impact report on this proposed project at 1979 Mission." This requested course of action would be a flagrant violation of AB

¹ Under State Density Bonus Law (and the Housing Accountability Act), development standards that preclude the construction of the project as designed can be applied only if the project would have a "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." (Gov. Code, §§ 65589.5(d)(2), 65915(d)(3), 65915(e)(1).) Neither the appeal letter nor any other evidence in the record identifies any relevant objective standards or provides credible evidence of a public health or safety impact.

² Elimination of minimum parking requirements for this location advances the City's goal of encouraging dense, transit-oriented development in an area with excellent excess to transit. The project advances this policy goal, which is embodied in the objective development standards that the Planning Department correctly applied.

2162, which requires the City to ministerially approve the Supportive Housing Project for the purpose of avoiding the delay and expense of additional environmental review for development in a location that the City has already zoned for dense residential development. (See Gov. Code, § 65651(d)(1) [AB 2162 supportive housing is not a "project" subject to CEQA].)"

Granting the Appeal Would Violate the Housing Accountability Act.

The Housing Accountability Act restricts the ability of the City to deny a 100 percent affordable housing project. Under Government Code § 65589.5(d) the City may only deny the Supportive Housing Project if it determines that there is direct and unavoidable impact on public health or safety based on objective, identified written public health or safety standards, policies, or conditions. (Gov. Code, § 65589.5(d)(2).) Any action the Board takes to disapprove a required land use approval or entitlement needed to facilitate a housing project, including a tentative parcel map, is considered a denial. (Gov. Code § 65589.5(h)(6); *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1074.)

The appeal identifies no objective, written public health or safety standards that the Supportive Housing Project would violate. Therefore, under the Housing Accountability Act, the Board cannot grant the appeal without violating State housing law.³

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The Supportive Housing Project presents an invaluable opportunity for the City to increase its supply of supportive housing units and supportive programs. Policy 8 of the City's Housing Element specifically directs the City to expand permanent supportive housing options for vulnerable individuals and families, and Housing Element Action 8.6.2 directs the City to utilize and comply with the state-wide streamlining opportunities to expedite and increase the production of permanent supportive housing. The Planning Department has already determined that the Supportive Housing Project complies with all applicable development standards. We appreciate the City's adherence to its subdivision ordinance appeal procedures; however, the substance of this appeal is composed of precisely the type of nebulous and non-objective objections that have hindered the development of affordable and supportive housing projects throughout the City and the State. We urge the Board to continue its support for the development of affordable and supportive housing in the City and comply with its duty under State law. The Board should reject this meritless appeal.

Sincerely,



Claire H. Collins
Partner

³ Apart from the complete absence of evidence of any non-compliance with any objective standard in the record, the City determined the project to be complete on April 2, 2025 and did not identify any inconsistencies with objective standards within 30 days of that date. Any standard not identified by that date cannot serve as the basis for denial of the project under the Housing Accountability Act. (See Gov. Code, § 65589.5(j)(2)(A)(i).)